



Trinity Multi Academy Trust

Policy:	Whistleblowing Policy
Date or review:	December 2022
Date of next review:	December 2025
Lead professional:	Head of HR
Status:	Statutory

1. Purpose of policy and guiding principles

- 1.1. Whistleblowing is the reporting of certain types of suspected wrongdoings or dangers at work which are in the public interest.
- 1.2. A 'whistleblower' is a worker who raises a genuine concern in good faith relating to the above. In the context of this policy a worker is:
 - Employees of the trust on either a permanent, fixed term or casual basis
 - Placements, such as a trainee teacher
 - Agency workers
 - Contractors
- 1.3. A whistleblower is protected under the Public Interest Disclosure Act 1998 (PIDA), as incorporated into the Employment Rights Act 1996. PIDA makes it unlawful to subject a worker to negative treatment or to dismiss them because they have made a protected disclosure. In order to qualify for protection under PIDA, the whistleblower must:
 - Provide information of a concern held, that they 'reasonably believe' shows wrongdoing set out in the law (see Appendix 1 for details of concerns that are classed as a protected disclosure under PIDA).
 - 'Reasonably believe' that the concern is in the public interest
 - Raise their concern in accordance with the law, either internally to their employer or externally to an outside body'

'Reasonable belief': A whistleblower does not need to be right about their concern nor prove it. They simply need to show that they have some reasonable basis or grounding for believing there has been some wrongdoing. That is enough and it will not matter if the whistleblower is later shown to be mistaken.

- 1.4. The purpose of the policy is to:
 - Encourage employees in the trust to feel confident in raising serious concerns and to question and act upon their concerns.
 - Provide avenues for employees to raise those concerns and receive feedback on any action taken.
 - Ensure that employees receive a response to their concerns and that they are aware of how to pursue them if they are not satisfied.
 - Reassure employees that they will be protected from possible reprisals or victimisation for making a protected disclosure.

2. Key aims of this policy

- 2.1. Create an ethical, open culture: write, publish and communicate a code of conduct and ethics.
- 2.2. Uphold the right to disclose a concern: the individual member of staff has the right to disclose a concern/issue.
- 2.3. Ensure safe routes for communications of concerns: ensure everyone is aware of what to do and the appropriate person to notify in the event of serious concerns.
- 2.4. Protect the 'whistleblower': make it clear that the trust will support and not discriminate against employees, provided any claim is made in good faith and based on a reasonable belief.
- 2.5. Ensure a fair and impartial investigative procedure: make sure that the trust responds to the concern by focusing on the problem, rather than denigrating the messenger.
- 2.6. Safeguard against abuse of the procedure: ensure that the malicious raising of unfounded allegations is recognised as a disciplinary offence.
- 2.7. Review: ensure there is a review mechanism using the comments and experience of those who may have had reason to invoke the whistleblowing procedure.

3. Links with other policies or legislation

- 3.1. Trinity Multi Academy Trust will treat all employees equally, in accordance with our Equality Policy.

- 3.2. The Public Interest Disclosure Act 1998 is designed to protect 'whistleblowers' from detriment and unfair dismissal. The people protected by the act include workers, employees, third party contractor staff, agency workers and work experience providers.
- 3.3. Students may also have information which should be raised in the public interest and there should be proper procedures in place for them to air their concerns; e.g. a students' complaint procedure.
- 3.4. This policy should also be read in conjunction with the Staff Code of Conduct.
- 3.5. This policy provides guidance as to what falls under the scope of whistleblowing. If an employee has a concern that does not fall within the scope of this policy such a personal grievance (which is not in the public interest), the trust grievance policy should be referred to.

4. Consultation

- 4.1. This policy has been developed in consultation with recognised Trade Unions.
- 4.2. The policy was approved after consultation and agreement with the recognised Trade Unions.

5. Procedure

- 5.1. All parties need to agree that the issue raised will be kept confidential while the procedure is being undertaken.

5.2. Reporting a concern

- The Representor (the person raising the concern) should raise the concern with the Principal, CEO or other senior manager within the trust. If the concern involves the Principal, then the Chair of Governors should be the first point of contact. If the concern involves the CEO, the Chair of the Board of Directors should be the first point of contact.
- The concern may be done orally or in writing. Who and how the concern is raised will depend on the seriousness of the matter
- The Representor may also make a disclosure via their trade union in order to further maintain confidentiality. In this circumstance the employee making the disclosure will still be protected under the Public Interest Disclosure Act 1998 (PIDA). The trade union representative to whom the employee approaches will also have protection given to complainants under PIDA – provided they act in accordance with this procedure.
- Any concern raised in writing should set out the background and history of the concern, giving names, dates and places where possible. The employee should also outline why they are concerned about the situation.
- Where an anonymous disclosure occurs, the disclosure will be accepted and treated in the same manner as one being raised by a named individual. Where an employee wishes to make an anonymous disclosure, they are advised to provide as much information as possible within their written disclosure to facilitate an investigation. Managing anonymous disclosures, can at times be more difficult to investigate as there is not the option to seek further information during investigation, and representers cannot be contacted to discuss the.

5.3. Responding to the concern

- An Assessor will be appointed to investigate the concerns raised. The Assessor will be an appropriately skilled and experienced individual, knowledgeable in the area concerned.
- The Representor will receive a formal acknowledgement of their concern and invited to attend an initial interview with the appointed Assessor. This interview will usually be within ten working days of receipt of the concern, or earlier if there is an immediate danger to loss of life or serious injury. At this interview the Representor may be accompanied by a recognised trade union representative or a work colleague. The Assessor may be accompanied by a member of the trust staff to take notes.
- The meeting will be of an exploratory nature: the Assessor will obtain as much information as possible, and the Representor will be provided the opportunity to share their concerns, and any supporting information.

- The Assessor will, where required, undertake any investigation required to fully understand the concerns raised. This may include speaking with other members of staff (in which case, each member of staff would be provided with the right to be accompanied to the meeting by a trade union representative or work colleague), collation of documents (such as emails or letters) or reviewing CCTV footage.
- The Assessor will make every effort to complete their investigation and notify the Representor, in writing of the outcome of the investigation. This should be done within 10 working days of the initial meeting with the Representor. Where this is not possible, the Assessor should ensure they communicate this with the Representor, including the reasons for any delay and likely completion dates.

6. Outcomes

- 6.1. The Assessor will recommend to the Principal or CEO (or Chair of Governors / Board of Directors) one or more of the following:
- Action that needs to be taken by the trust, such as a change in practice or policy, or potential disciplinary action against a member of staff
 - The matter be further investigated by an agreed and appropriate external organisation.
 - The matter be reported to the Department for Education or other government agency.
 - The matter be reported to the Police.
 - If the matter does not fall under the trust's whistleblowing procedure, the appropriate route for the member of staff to pursue the matter.
- 6.2. The grounds on which no further action is taken include:
- The Assessor is satisfied that, on the balance of probabilities, there is no evidence that malpractice within the meaning of this policy has occurred, is occurring, or is likely to occur.
 - The Assessor is satisfied that the Representor is not acting in good faith.
 - The matter concerned is already the subject of proceedings under one of the trust's other procedures or policies.
 - The matter concerned is already the subject of legal proceedings, or has already been referred to the Police, the external auditors, the Department for Education or other public authority.
- 6.3. The recipient of the recommendation will ensure that it is implemented, unless there is good reason for not doing so, in whole or in part. Where the recommendations of the assessor are not to be implemented, this will be reported to the Trust Audit Committee.
- 6.4. The Representor's identity will be kept confidential unless the Representor otherwise consents, or unless there are grounds to believe that the Representor has acted maliciously. In the absence of such consent or grounds, the Assessor will not reveal the identity of the Representor except:
- Where the Assessor is under legal obligation to do so.
 - Where the information is already in the public domain.
 - On a strictly confidential basis to a professionally qualified lawyer for the purpose of obtaining legal advice.
 - Where it is essential that the Representor provides evidence at a disciplinary hearing or other proceedings.
- 6.5. All responses to the Representor will be made in writing and sent to the Representor's home address. If the Representor has not had a response within the above time limits or a mutually agreed time limit, or they are dissatisfied with the response they have received from the Assessor, they may wish to escalate their concerns in writing to an individual who has not already been involved in the case and in a more senior position to that of the Assessor. For example, this may be the CEO, Chair of Governors, Chair of the Board of Directors, or another senior leader based in any of the trusts locations.
- 6.6. The Representor may at any time disclose the matter on a confidential basis to a professionally qualified lawyer for the purpose of taking legal advice.
- 6.7. The trust will ensure the Representor is protected from any form of victimisation or discrimination.

7. Malicious accusations

- 7.1. If following the investigation, it has been determined that deliberately false or malicious accusations have been made by a Representer, this will be dealt with under the academy's disciplinary procedure.

8. External Disclosure

- 8.1. Whistleblowing to an external source without first going through the internal procedure is inadvisable without compelling reasons, however there may be occasions when an employee does wish to make an external disclosure. In making an external disclosure, the employee will not lose their rights under the Public Interest Disclosure Act 1998 (PIDA) and detailed in section 1.3 of this policy.
- 8.2. A reason may be that the Representer is not content with the conclusion of the Assessor or an escalation of their concerns.
- 8.3. The external sources which could be used are:
- Department of Education
 - Member of Parliament
 - National Audit Office
 - Health and Safety Executive
 - Environment Agency
 - Police
 - A Prescribed Person (prescribed persons are mainly regulators and professional bodies. A complete list can be found at: <https://www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies>)
- 8.2 If an employee is considering making an external disclosure they are advised to seek independent advice prior to taking this course of action, which can be found by contacting the charity Protect (formerly known as Public Concern at Work) on 020 3117 2520. This charity will be able to advise individuals whether, in their opinion, the disclosure to an outside body is advisable, would be appropriate, and under what circumstances they should consider contacting an outside body and how. Employees are also encouraged to speak with the Trade Union before making an external disclosure.

9. Roles and responsibilities

9.1. The role of the CEO/Principal

- The role of CEO is to ensure that this policy is applied fairly and consistently across the trust.
- The Principal will ensure that this policy is available to Governing Bodies to review and adopt.
- The role of Principal is to ensure that this policy is applied fairly and consistently across their academy.
- The Principal will delegate roles appropriately to senior leaders, ensuring that training is provided as required.

9.2. The role of the Governing Body

- The Governing Body will monitor, evaluate and review policies in line with statutory and best practice guidelines.
- Commit to ensure that this policy is applied consistently and fairly.
- Ensure that employees are aware of the whistleblowing procedure.
- Apply the relevant stages of the procedure and comply with the statutory requirements.
- Ensure that full and accurate records are kept of all meetings and investigations, where necessary.

9.3. The role of the employee/other staff

- The Head of HR is responsible for providing advice and guidance within this policy and employment (or other) case law. The Head of HR will also ensure that full and accurate records are kept of all investigations and formal meetings, and they can be made available, when necessary.
- All staff have a responsibility to meet the requirements of this policy, and to raise concerns if they suspect any wrongdoing or danger at work.

10. Monitoring and evaluation

- 10.1. The Board of Directors will review this policy at least every three years and assess its implementation and effectiveness. This policy will be promoted and implemented throughout the academy.
- 10.2. Any reviews to this policy will be in consultation with staff, including representatives of unions and associations recognised by the academy.
- 10.3. This process will be treated with confidentiality wherever possible.

Appendix 1

Concerns that are deemed to be a protected disclosure (and therefore are covered under the Public Interest Disclosure Act (1998) are:

- A criminal offence, for example fraud
- Someone's health and safety are in danger
- Risk or actual damage to the environment
- A miscarriage of justice
- The organisation is breaking the law (including breaches of statutory requirements, contractual requirements, common law obligations or an administrative law requirement)
- You believe someone is covering up the wrongdoing of any of the above