



Zest Academy Trust

Whistleblowing policy

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Person Responsible: COO

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Zest Academy Trust, Waterloo Road, Blackpool, FY4 3AG
T 01253 315370 E admin@zestacademytrust.co.uk W www.zestacademytrust.co.uk

CEO Mark Hamblett

Registered in England No. 8087508 Company Limited by Guarantee

Introduction

This policy applies to all employees and those in governance within the Trust. Other individuals performing functions in relation to the Trust, such as agency employees and contractors, are encouraged to use it.

It is important to the Trust that any fraud, misconduct or wrongdoing by employees or those in governance of the Trust is reported and properly dealt with. The Trust therefore encourages all individuals to raise any concerns that they may have about the conduct of others in the Trust or the way in which the Trust is run. This policy sets out the way in which individuals may raise any concerns that they have and how those concerns will be dealt with.

The Trust is committed to the highest possible standards of openness, probity and accountability. In line with that commitment we encourage employees and others with serious concerns about any aspect of the Trusts work to come forward and voice those concerns without fear of reprisals. This policy document makes it clear that the employee can do so without the fear of victimisation, harassment, subsequent discrimination or disadvantage.

This whistleblowing policy is intended to encourage and enable staff to raise serious concerns **within** the Trust rather than overlooking a problem or blowing the whistle outside.

These procedures are in addition to the Trusts complaints procedures and other statutory reporting procedures. All employees are responsible for making others aware of the existence of this policy.

Background

The law provides protection for employees who raise legitimate concerns about specified matters. These are called "qualifying disclosures". A qualifying disclosure is one made in the public interest by an employee who has a reasonable belief that:

- a criminal offence;
- a miscarriage of justice;

- an act creating risk to health and safety;
- an act causing damage to the environment;
- a breach of any other legal obligation; or
- concealment of any of the above;

is being, has been, or is likely to be, committed. It is not necessary for the employee to have proof that such an act is being, has been, or is likely to be, committed - a reasonable belief is sufficient. The employee has no responsibility for investigating the matter - it is the Trusts responsibility to ensure that an investigation takes place. An employee who makes such a protected disclosure has the right not to be dismissed, subjected to any other detriment, or victimised, because he/she has made a disclosure.

The Trust encourages employees to raise their concerns under this procedure in the first instance. If an employee is not sure whether or not to raise a concern, he/she should discuss the issue with his/her line manager or a member of the Senior Leadership Team.

Principles

- Everyone should be aware of the importance of preventing and eliminating wrongdoing at work. Employees should be watchful for illegal or unethical conduct and report anything of that nature that they become aware of.
- Any matter raised under this procedure will be investigated thoroughly, promptly and confidentially, and the outcome of the investigation reported back to the employee who raised the issue.
- No employee will be victimised, harassed or discriminated against for raising a matter under this procedure. This means that the continued employment and opportunities for future promotion or training of the employee will not be prejudiced because he/she has raised a legitimate concern.
- Victimisation or harassment of an employee for raising a qualified disclosure will be a disciplinary offence.
- If misconduct is discovered as a result of any investigation under this procedure the organisation's disciplinary procedure will be used, in addition to any appropriate external measures.
- Maliciously making a false allegation is a disciplinary offence.
- An instruction to cover up wrongdoing is itself a disciplinary offence. If told not to raise or pursue any concern, even by a person in authority such as a manager,

employees should not agree to remain silent. They should report the matter to a Head of School, Chair of Academy Council or Chair of the Trust.

Aims of the Policy

The Policy is designed to ensure that employees can raise concerns about wrongdoing or malpractice within the Trust without fear of victimisation, subsequent discrimination, disadvantage or dismissal.

It is also intended to encourage and enable employees to raise serious concerns **within** the Trust rather than ignoring a problem or 'blowing the whistle' outside.

This Policy aims to:

- encourage the employee to feel confident in raising serious concerns and to question and act upon concerns about practice
- provide avenues for the employee to raise concerns and receive feedback on any action taken
- allow the employee to take the matter further if the employee are dissatisfied with the Academy's response; and
- reassure the employee that the employee will be protected from reprisals or victimisation for whistleblowing in good faith.
- encourage employees to feel confident in raising serious concerns at the earliest

Scope of the policy

This Policy is intended to enable those who become aware of wrongdoing in the Trust affecting some other person or service, to report their concerns at the earliest opportunity so that they can be properly investigated.

The Whistleblowing policy is not intended to replace existing procedures:

- If an employee's concern relates to their own treatment as an employee, they should raise it under the existing grievance or harassment procedures
- If a parent has a concern about educational provision provided to their child, it should be raised as a complaint to the Academy.

Safeguards

Harassment or Victimisation

The Trust is committed to good practice and high standards and wants to be supportive of employees.

The Trust recognises that the decision to report a concern can be a difficult one to make, not least because of the fear of reprisal from those responsible for the malpractice. The Trust will not tolerate harassment or victimisation and will do what it lawfully can to protect the employee when the employee raises a concern they genuinely believe to be true.

This does not mean that if the employee are already the subject of disciplinary or redundancy procedures, that those procedures will be halted as a result of the employee's whistleblowing.

Confidentiality

The Trust will do its best to protect the employee's identity when the employee raises a concern and do not want their name to be disclosed. It must be appreciated that the investigation process may reveal the source of the information and a statement by the employee may be required as part of the evidence, particularly if the Police or External Bodies become involved. In order to take effective action, the Academy will need proper evidence which may be required to stand up to examination in Courts or Tribunals.

Anonymous Allegations

This policy encourages the employee to put their name to the allegation. Concerns expressed anonymously are much less powerful, but they will be considered at the discretion of the Trust.

In exercising the discretion, the factors to be taken into account would include:

- the seriousness of the issues raised
- the credibility of the concern; and
- the likelihood of confirming the allegation from attributable sources.

Untrue Allegations

If the employee makes an allegation in the reasonable belief that it is made in the public interest and the employee genuinely believes is true, but it is not confirmed by the investigation, no action will be taken against the employee. If, however, the employee makes malicious, false or vexatious allegations, for example to cause trouble or annoyance or to discredit the Trust, an investigation will take place to determine whether disciplinary action is taken.

Support for Employees

Employees who raise concerns or who are the subject of an investigation can access confidential counselling through Schools Advisory Well-being Service.

How to Raise a Concern within your individual Academy

As a first step, the employee should normally raise concerns with the employee's immediate manager or a member of the Senior Leadership Team. This depends, however, on the seriousness and sensitivity of the issues involved and who is thought to be involved in the malpractice. For example, if the employee believes that management is involved, the employee should approach the Head of School, Chair of Academy Council or Chair of the Trust.

Concerns are better raised in writing. The employee is invited to set out the background and history of the concern, giving names, dates and places where possible, and the reasons why the employee is particularly concerned about the situation. If the employee does not feel able to put their concern in writing, the employee can telephone or meet the appropriate officer.

Waterloo Primary Academy telephone: 01253 315370

email

Admin@waterloo.blackpool.sch.uk

Head of School

Jenny.Brown@waterloo.blackpool.sch.uk

Contact details of the Trust

Email

Admin@zestacademytrust.co.uk

CEO Mark Hamblett

Mark.Hamblett@zestacademytrust.co.uk

Chair of Zest Academy Trust Philip Thompson

Philip.Thompson@zestacademytrust.co.uk

The earlier the employee expresses the concern, the easier it is to take action.

Although the employee is not expected to prove the truth of an allegation, the employee will need to demonstrate to the person contacted that there are sufficient grounds for their concern.

The employee may invite a companion, who may be from the employee's trade union or professional association, or a work colleague to raise a matter on their behalf. The employee may also have such a companion to represent them at any meeting which is held relating to their concern.

How the Trust/School will respond

The Trust will respond to the employee's concerns. It should be noted that that testing out the employee's concerns is not the same as either accepting or rejecting them.

The action taken by the Trust will depend on the nature of the concern as determined by the designated monitoring officer. The Trust could decide that the matters raised may:

- be investigated internally
- be referred to the Police
- be referred to the external Auditor

- form the subject of an independent inquiry

In order to protect individuals and the Trust, initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it should take.

The overriding principle, which the Trust will have in mind, is the public interest. Concerns or allegations, which fall within the scope of specific procedures (for example, child protection or discrimination issues), will normally be referred for consideration under those procedures.

Some concerns may be resolved by agreed action without the need for investigation. If urgent action is required this will be taken before any investigation is conducted.

Within ten working days of a concern being received, the employee's immediate manager, Head of School, Chair of Academy Council or Chair of the Trust, depending upon who the employee has approached, will write to the employee:

- acknowledging that the concern has been received
- indicating how it proposes to deal with the matter if possible at such an early stage
- giving an estimate of how long it will take to provide a final response if possible at such an early stage
- telling the employee whether any initial enquiries have been made, and
- telling the employee whether further investigations will take place, and if not, why not.

The amount of contact between the officers considering the issues and the employee will depend on the nature of the matters raised, the potential difficulties involved and the clarity of the information provided. If necessary, further information will be sought from the employee.

When any meeting is arranged, off-site if the employee so wishes; the employee has the right to be accompanied by the employee's chosen companion. This may be a union or professional association representative or a work colleague but cannot be an individual who is involved in the area of work to which the concern relates.

The Trust will do what it lawfully can to minimise any difficulties that the employee may experience as a result of raising a concern. For instance, if the employee is required to give

evidence in criminal or disciplinary proceedings, the Trust will advise the employee about the procedure. The Trust cannot provide legal representation for the employee.

If an investigation is required

The Trust/Head of School will arrange an investigation into the matter

The investigation may involve the employee and other individuals involved giving a written statement.

Any investigation will be carried out in accordance with the normal Trust investigation principles

The employee's statement will be taken into account, and he/she will be asked to comment on any additional evidence obtained.

The person who carried out the investigation will then report to the Head of School, who will take any necessary action, including reporting the matter to the Board and any appropriate government department or regulatory agency.

If disciplinary action is required, the person who carried out the investigation will report the matter to the Trust/Head of School and the disciplinary process will be followed.

On conclusion of any investigation, the employee will be told the outcome of the investigation and what the Trust has done, or proposes to do, about it. If no action is to be taken, the reason for this will be explained

How can the Concern be taken Further?

This policy is intended to provide the employee with an avenue to raise concerns **within** the Trust. The Trust hopes the employee will be satisfied. If the employee is not, and if the employee reasonably believes that the appropriate action has not been taken, he/she should report the matter to the proper authority, the following are possible contact points:

- the District Auditor;
- Audit Commission Anti-Fraud and Corruption Unit;

- the Police;
- HM Revenue & Customs;
- the Financial Services Authority;
- the Office of Fair Trading;
- the Health and Safety Executive;
- the Environment Agency;
- the Director of Public Prosecutions; and
- the Serious Fraud Office.

If the employee does take the matter outside the Trust, the employee should ensure that they do not disclose confidential information to those other than listed above. The employee should check with the Head of School about that.

It will be safe to raise a concern with any of the above provided that:-

- (a) the employee make the disclosure in the public interest
- (b) the employee reasonably believe that the information disclosed, and any allegation contained in it, are substantially true
- (c) the employee does not make the disclosure for the purposes of personal gain.

If the employee make allegations which the employee has no grounds to believe are true, or maliciously or for personal gain then the employee could face defamation proceedings or a prosecution for wasting Police time. If the employee decides to address their concerns by going to the Press or the media then the employee may face defamation proceedings if the employee's allegations are unfounded.

The Responsible Officer

The CEO/Head of School, as Monitoring Officer has overall responsibility for the maintenance and operation of this policy. That officer maintains a record of concerns raised and the outcomes and will report as necessary to the Trust. If the employee requests it, the Head of School will do what he/she lawfully can to protect the employee's identity,

but the employee should realise that he may be obliged to disclose it to the Police or the External Auditor or the Courts.

The Law

This policy has been written to take account of the Public Interest Disclosure Act 1998, which protects employees making disclosures about certain matters of concern, where those disclosures are made in accordance with the Act's provisions. The Act is incorporated into the Employment Rights Act 1996, which already protects employees who take action over, or raise concerns about, health and safety at work.

This Policy **does not** prevent an employee from taking their own legal advice.

Review

This policy will be annually reviewed in consultation with the ECC and the GJNCC. Any amendment to it will be notified to employees in writing by the Trust and such written advice will inform employees as to the date when any amendment comes into effect. This may be by means of the Trusts intranet or via use of notice boards.

Log No	Details of Concern raised and what is relates to	Action/Outcome