



ST. MARY'S
ACADEMY TRUST

St Mary's Academy Trust (SMAT)

Whistleblowing Policy



Every child, Every family and
Every day underpins all our work.

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St Mary's Academy Trust (SMAT) Whistleblowing Policy

1. Introduction

St Mary's Academy Trust are committed to conducting its business with honesty and integrity and expects all employees and those associated with the Trust to maintain high standards in accordance with their contractual obligations and Trust policies and procedures.

However, all organisations face the risk of things going wrong from time to time, or of unknowingly harbouring illegal or unethical conduct. A culture of openness and accountability is essential to prevent such situations occurring or to address them when they do occur.

This policy is not a substitute for normal line management processes but is an addition to them. Initially employees should consider using their normal line management structure for raising concerns. This policy should only be used for the purposes of raising concerns about wrongdoing and is not a substitute or alternative for existing procedures, such as the Grievance and Disciplinary Procedures or the Complaints Procedure.

2. Aims

- To encourage employees to report suspected wrongdoing as soon as possible, in the knowledge that their concerns will be taken seriously, investigated as appropriate, and that their confidentiality will be respected.
- To provide guidance as to how to raise concerns.
- To reassure employees that they should be able to raise genuine concerns in good faith without fear of reprisals, even if they turn out to be a mistaken.

This policy takes account of the Whistleblowing Arrangements Code of Practice issued by the British Standards Institute and Public Concern at Work.

This policy does not form part of an employee's contract of employment and is not intended to have contractual effect. It is provided for guidance to all members of staff within the Trust and the Trust reserves the right to amend its content at any time.

This Policy reflects the Trusts current practices and applies to all individuals working at all levels of the organisation, including the Members, Trustees, Local Committee Members, members of the Senior Leadership Team, employees, consultants, contractors, trainees, and includes part-time and fixed-term workers.

3. Examples of Whistleblowing (In line with the Public Interest Disclosure Act 1998)

- Criminal activity
- Child protection and/or safeguarding concerns
- Miscarriages of justice
- Danger to health and safety
- Damage to the environment
- Failure to comply with any legal or professional obligation or regulatory requirements
- Financial fraud or mismanagement
- Negligence

- Breach of the school's internal policies and procedures including the Code of Conduct
- Conduct likely to damage the Trust's reputation
- Unauthorised disclosure of confidential information
- The deliberate concealment of any of the above matters

A 'whistle blower' is a person who raises a genuine concern in good faith relating to any of the above. If an employee has genuine concerns related to suspected wrongdoing or danger affecting any of the Trust's activities (a whistleblowing concern) they should report their concerns in accordance with this policy.

This policy should not be used for complaints relating to an employee's own personal circumstances, such as the way they have been treated at work. In these cases, it would be appropriate to follow the Grievance Procedure.

If employees are uncertain whether something is within the scope of this policy, they should seek advice from the Off Payroll Accounting Officer SMAT/CEO-HCAT or Manager/Headteacher/Head of School and if the matter is in relation to an alleged wrongdoing by the Off Payroll Accounting Officer SMAT/CEO-HCAT to seek the advice of the Chair of Trustees or if the Manager/Headteacher/Head of School is involved to seek advice from the Off Payroll Accounting Officer SMAT/CEO-HCAT.

4. How to Raise a Whistleblowing Concern

The Trust hopes that in many cases employees will be able to raise any concerns with their Line Manager, speaking to them in person or putting the matter in writing if they prefer. They may be able to agree a way of resolving a concern quickly and effectively. In some cases, they may refer the matter to the Off Payroll Accounting Officer SMAT/CEO-HCAT or the Local Committee for consideration.

However, where the matter is more serious, or it is felt that line management has not addressed the concerns, or the preference was not to raise it with them for any reason, contact should be made with one of the following:

- The Off Payroll Accounting Officer SMAT/CEO-HCAT
- Manager/Headteacher/Head of School
- The Chair of the Trust

When raising a concern, it is helpful to set out the background and history of the concern, providing names, dates, places and amounts where possible and giving reasons for their concerns. Absolute proof is not required; however, they will need to demonstrate reasonable grounds for the allegation.

The Manager/Headteacher/Head of School if appropriate will arrange a meeting with the 'whistle blower' as soon as practicable to discuss their concerns. They will record sufficient details to enable the matter to be thoroughly investigated.

As a minimum the Manager/Headteacher/Head of School will record the name of the employee but also indicate whether the individual wishes his or her identity to remain confidential if this is possible and dependent upon the nature of the concern.

In some cases, it will not be possible to maintain confidentiality and the Manager/Headteacher/Head of School should explain this to the employee. In such instances the employee will have the choice of either withdrawing the complaint or agreeing to his/her identity becoming known to enable the concern to be investigated effectively.

Employees may bring a colleague or trade union representative to any meetings held in accordance with this policy. This right to be accompanied at the meeting does not extend to family members or a solicitor. They must respect the confidential nature of the disclosure and any subsequent investigation.

The Manager/Headteacher/Head of School will take notes and produce a written summary of the concern raised and provide the 'whistle blower' with a copy as soon as practicable after the meeting. The Manager/Headteacher/Head of School will also aim to give the "whistle blower" an indication of how they propose to deal with the matter.

However, depending upon the seriousness and sensitivity of the issues involved and who is suspected of the malpractice, it may not be appropriate to contact the Manager/Headteacher/Head of School. Where this is the case, the employee should report their concerns directly to the Off Payroll Accounting Officer SMAT/CEO-HCAT or the Chair of the Local Committee.

5. Investigation and Outcome

Once an employee has raised a concern, the appropriate person will carry out an initial assessment to determine the scope of any investigation. The appropriate person will inform the 'whistle blower' of the outcome of the initial assessment of the case. The employee raising the concern may be required to attend additional meetings to provide further information.

In most cases the appropriate person will investigate the concerns raised. In rare cases the Trust may appoint an investigator or team of investigators including senior staff with relevant experience of investigations or specialist knowledge of the subject matter. The investigator(s) may make recommendations for change to enable the Trust to minimise the risk of future wrongdoing.

The investigation team will aim to keep the employee informed of the progress of the investigation and potential timescale for completion. However, sometimes the need for confidentiality may prevent the investigators from giving specific details of the investigation or any disciplinary action which may be taken as a result of the findings.

The employee is required to treat any information about the investigation as strictly confidential and will be asked not to discuss any details of the case with anyone other than the investigating team. A member of the school/Trust leadership team not involved in the case will be assigned to support the employee as appropriate.

If the investigation team concludes that a 'whistle blower' has made false allegations, maliciously, in bad faith or with a view to personal gain, the 'whistle blower' will be subject to disciplinary action in accordance with the Trust Disciplinary Procedure.

Whilst the Trust cannot always guarantee the outcome an employee is seeking, they will deal with the concern fairly and in an appropriate way. If the employee is not happy with the way in which his or her concern has been handled, he or she can raise it with one of the other key contacts outlined in the policy.

There are no rights of appeal against any decisions taken under this policy. However, an employee or the Manager/Headteacher/Head of School will have the right to refer the case to the Chair of the Local Committee or Board of Trustees as appropriate for review.

6. Confidentiality

The Trust hopes that employees will feel able to voice whistleblowing concerns openly under this policy. However, if an employee wants to raise his or her concern confidentially, the Trust will endeavour to keep his or her identity private in so far as it is possible to do so when following this policy and procedure. If it is necessary for the investigating team to know the 'whistle blower's' identity, the Off Payroll Accounting Officer SMAT/CEO-HCAT/Manager/Headteacher/Head of School will discuss this with the employee first.

The Trust does not encourage employees to make disclosures anonymously. Proper investigation may be more difficult or impossible if the Trust cannot obtain further information. It is also more difficult to establish whether allegations are credible and have been made in good faith. If the 'Whistle blower' is concerned about possible reprisals should their identity be revealed, they are advised to come forward to one of the contacts listed above and appropriate measures can be made to safeguard the individual.

If the policy is misused, for example by making malicious or repeated unsubstantiated complaints against colleagues, this could give rise to action under the Trust Disciplinary Procedure. If the Manager/Headteacher/Head of School knows or has a suspicion that an employee comes into this category, then they should take advice from the Off Payroll Accounting Officer SMAT/CEO-HCAT who will help to determine what action should be taken.

If an employee is in doubt, advice can be sought from 'Public Concern at Work', an independent whistleblowing charity, who offer a confidential helpline. Their contact details are:

Public Concern at Work (Independent whistle blowing charity)

Helpline: 020 7404 6609 E-mail: whistle@pcaw.co.uk Website: www.pcaw.co.uk

Protection and support for 'whistle blowers'

It is understandable that 'whistle blowers' are sometimes worried about possible repercussions. The Trust aims to encourage openness and will support employees who raise genuine concerns in good faith under this policy, even if they turn out to be mistaken.

Employees will not suffer any detrimental treatment resulting from raising a concern in good faith. Detrimental treatment would include dismissal, disciplinary action, threats, or other unfavourable treatment connected with raising a concern. If an employee believes that he or she has suffered any such treatment, he or she should inform the Manager/Headteacher/Head of School immediately. If the matter is not remedied the member of staff should raise it formally using the Trust Grievance Procedure.

Employees must not threaten or retaliate against 'whistle blowers' in any way. Anyone involved in such conduct will be subject to disciplinary action.

All employees are responsible for the success of this policy and should ensure that they use it to disclose any suspected danger or wrongdoing.

7. Safeguarding

If an employee suspects that there is a serious safeguarding issue that they feel the Manager/Headteacher/Head of School is not taking seriously or that they believe there is a serious safeguarding issue involving the Manager/Headteacher/Head of School, then the employee should in the first instance contact the Off Payroll Accounting Officer SMAT/CEO-HCAT or Chair of the Local Committee.

If the employee still believes that the issues haven't been resolved, they can then contact – ***The Local Authority Designated Officer (LADO) on 01226 772400 or 01226 772519***

Concerns against Local Committee Members/Trustees

If a concern against a Local Committee Member is received, then this will be treated in the same way as any other concern. It will receive the same serious consideration. The concern will be raised by the Manager/Headteacher/Head of School with the Off Payroll Accounting Officer SMAT/CEO-HCAT who will decide how the case should proceed.

If a concern against a Trustee is received, then this will be treated in the same way as any other concern. It will receive the same serious consideration. The concern should be raised with the Off Payroll Accounting Officer SMAT/CEO-HCAT, who will discuss the allegations with the Chair of Trustees who will decide how the case should proceed.

If the concern is against the Chair of Trustees, then clearly this process cannot be followed. In such circumstances, the concern should be reported directly to the Off Payroll Accounting Officer SMAT/CEO-HCAT who will decide in consultation with the Safeguarding Trustee (with responsibility for whistleblowing matters) how the case should proceed. In normal circumstances such a concern would be referred to the Department for Education for consideration.

External Disclosures

The aim of this policy is to provide an internal mechanism for reporting, investigating, and remedying any wrongdoing in the workplace. In most cases employees should not find it necessary to alert anyone externally.

The law recognises that in some circumstances it may be appropriate for employees to report their concerns to an external body such as a regulator. It will very rarely if ever be appropriate to alert the media. We strongly encourage employees to seek advice as detailed in this policy before reporting a concern to anyone external to the organisation.

However, the Education and Skills Funding Agency can be contacted should this be necessary by post at Ministerial and Public Communications Division, Department for Education, Piccadilly Gate Store Street, Manchester, M1 2WD or via this link

<https://customerhelpportal.education.gov.uk/>

Or

The Local Authority Designated Officer (LADO) on 01226 772400 or 01226 772519

8. Key Legislation

The Public Interest Disclosure Act 1998 stands to protect individuals from victimisation that may result from raising a concern in good faith. It does this by affording protection to individuals who raise concerns in accordance with certain criteria. Similarly, the Act also describes where protection will not be available when a disclosure is made in certain ways.

Protected Disclosures

Protection will be afforded to an individual where the concern is made in good faith and has been raised in the first instance within the Trust or to a Solicitor in the process of obtaining legal advice.

Any concern raised in good faith to the Off Payroll Accounting Officer SMAT/CEO-HCAT, Manager/Headteacher/Head of School, or the Chair of Trustees, or to an individual's own management will, all things being equal, qualify as a protected disclosure. Other circumstances where protection through the Act is applicable are where a disclosure is made to a prescribed Regulatory Body (i.e., Health and Safety Executive).

Protection would also be afforded albeit in exceptional circumstances, where the individual raised a concern outside the Trust where they have a real and reasonable fear that they would suffer victimisation or that the information would be concealed or indeed the matter is exceptionally serious. In the event of an individual being dismissed or victimised, the Act allows that individual the right to compensation at an employment tribunal.

Unprotected Disclosures

Any disclosure not meeting the criteria for protection will be unprotected. This means for example that an individual making a malicious disclosure or one made to the media will not be protected.

The provisions of the 1998 Act address the implications that an employee may otherwise face under their contract of employment from making a disclosure. Individuals should also be aware that any person about whom a disclosure is made may have rights under the common law of defamation if that disclosure contains anything that is not accurate. However, the common law defence of defamation will normally apply where any person in making a disclosure that is not accurate acts in good faith and without malice. Any specific legal advice as to an employees' own position should be obtained independently.

9. Data Retention

We will only retain personal data in respect of a disclosure for as long as necessary to fulfil the purposes we collected it for, including for the purposes of satisfying any legal, accounting, or reporting requirements.

To determine the appropriate retention period for personal data, we consider the amount, nature and sensitivity of the personal data, the potential risk of harm from unauthorised use or disclosure of your personal data, the purposes for which we process your personal data and whether we can achieve those purpose through other mean, and the applicable legal requirements.

Please note that in certain circumstances we retain personal data received in connection with a particular charity even after a person's involvement with a charity has ended and after the charity is no longer registered.

10. The Legal Basis for Processing your Information

The legal basis on which we process this information when we receive a request is set out below.

Categories of Personal Data:

- Identity details
- Contact details

Personal Data (Article 6(1) GDPR):

- (c) processing is necessary for compliance with legal obligation to which the controller is subject
- (e) processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controlled

Special Category data/criminal conviction data:

Article 9(2) GDPR – (g) Processing is necessary for reasons of substantial public interest, on the basis of Union or Member State law which shall be proportionate to the aim pursued, respect the essence of the right to data protection and provide for suitable and specific measures to safeguard the fundamental rights and the interests of the data subject.

Conditions under Part 2 of Schedule 1 of the Data Protection Act 2018:

- Statutory etc and government purposes
- Preventing or detecting unlawful acts
- Protecting the public against dishonesty etc
- Regulatory requirements relating to unlawful acts and dishonesty etc

11. Data Impact Assessment

At all stages of this procedure data obtained will be used only for the purpose for which it is intended and will be stored securely with restricted access to those involved in the process. Following the process data will be stored on the electronic personal file for the duration of the employees' employment with the Trust and for 6 years thereafter. The data will be destroyed at this time using a confidential shredding service.

12. Equality and Diversity

This policy has been impacted assessed by HR during the policy review process.