

# CITY ACADEMY NORWICH

## Whistleblowing Policy and Procedure

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**WHISTLEBLOWING POLICY AND PROCEDURE**

# Contents

- 1. Policy Statement..... 3
- 2. Policy Aims & Objectives ..... 3
- 3. Legal requirements ..... 3
- 4. Definitions ..... 4
- 5. Scope ..... 5
- 6. General points about raising a concern ..... 5
- 7. Procedure for raising concerns ..... 6
- 8. Investigations into concerns ..... 6
- 9. Assessment stage ..... 6
- 10. Appeal stage ..... 7
- 11. Record Keeping and Reporting..... 7
- 12. References to related policies..... 8
- 13. Contact..... 8
- 14. Equal Opportunities Statement ..... 8

## 1. Policy Statement

City Academy Norwich is committed to treating all allegations of malpractice seriously and will support concerned employees, doing everything possible to maintain confidentiality and protect them from reprisals provided that concerns have been raised using this procedure and the employee has acted in good faith.

This procedure is not a substitute for normal line management processes but an addition to them. Staff should always first consider using normal line management for raising concerns.

This procedure is only for the purpose of raising concerns about wrongdoing and is not a substitute or alternative for existing procedures such as the grievance and disciplinary procedures for staff or the complaints procedure.

The procedure outlined in this policy should be used where other existing procedures feel inappropriate, or when the staff member feels inhibited going through the normal line management channel.

Staff should immediately speak with the Headteacher if they believe a colleague has:

- Behaved in a way that has or may have harmed a child
- Possibly committed a criminal offence against or related to a child
- Behaved towards a child or children in a way that indicates they are unsuitable to work with children, this can include 'grooming.'

In this case the headteacher will report the concern to the LA designated officer. If staff are worried about the conduct of the headteacher, staff may approach the LA designated officer directly.

## 2. Policy Aims & Objectives

The purpose of this policy is to encourage and provide the procedure for City Academy Norwich employees, temporary staff, consultants and contractors to raise and discuss genuine concerns relating to serious malpractice. Examples of serious malpractice could include but are not exclusive to:

- Unaddressed risks to students and staff
- Maltreatment of students (including discrimination)
- A criminal offence
- Fraud and financial malpractice
- Failure to comply with a legal or professional obligation
- Miscarriage of justice
- Unaddressed health and safety risks
- Damage to facilities, systems or the environment
- Deliberately concealing information relating to any of the above.
- That the environment, has been, is being, or is likely to be, damaged.
- Creating or ignoring a serious risk to the radicalisation of young people and vulnerable adults under the Prevent Duty.

## 3. Legal requirements

3.1 The Public Interest Disclosure Act 1998 became effective on 1 January 1999. Its purpose is to provide the procedures for staff to raise their concerns relating to

serious malpractice within their organisation in a responsible way and at an early stage.

- 3.2 The Act provides protection from victimisation and dismissal, provided that concerns have been raised in accordance with the Act.
- 3.3 The Public Interest Disclosure Act protects disclosure if the employee can show one of the following:
- that a criminal offence has been committed, is being committed or is likely to be committed;
  - that a person has failed, is failing or is likely to fail to comply with any legal obligation to which he/she is subject;
  - that a miscarriage of justice has occurred, is occurring or is likely to occur;
  - that the health and safety of any individual has been, is being or is likely to be damaged. It must indicate a greater danger than is associated with normal practices; or a danger that is not usually associated;
  - that information tending to show any issue/event falling within any one of the preceding paragraphs has been, is being or is likely to be deliberately concealed.
- 3.4 The Enterprise and Regulatory Reform Act 2013 (sections 17-20) introduced a series of changes to the Public Interest Disclosure Act 1998, which strengthens the protection for whistleblowers, expressly requiring disclosures to be in the public interest and making employers liable for bullying of disclosers by colleagues.

## 4. Definitions

**Whistleblowing** - The term whistleblowing can be defined as raising a concern about a wrong doing within an organisation. The concern must be a genuine concern about a crime, criminal offence, miscarriage of justice, unaddressed dangers to health and safety and the environment – and the cover up of any of these.

**The discloser** – the individual raising the concern.

**In good faith** - means to raise a concern honestly so that the concern can be addressed. A disclosure made in good faith to the employer will be protected if the whistleblower has a reasonable belief the information tends to show that the malpractice has occurred, is occurring or is likely to occur.

**Definition of a 'worker'** – means, in accordance with the Employment Rights Act 1996 section 230(3), summarised as an individual who has entered into or works under (or, where the employment has ceased, worked under)— (a)a contract of employment, or (b)any other contract, whether express or implied, whether oral or in writing, whereby the individual undertakes to do or perform personally any work or services for another party to the contract

And, in accordance with section 43K of the same Act, summarised as an individual who (a)works or worked for a person was introduced or supplied to do that work by a third person e.g. an agency.

For the full legal definition, please refer to the legislation.

## 5. Scope

This Policy applies to all permanent or temporary employees, Governing Body Members and contractors of City Academy Norwich.

It should be noted that, whilst the process for raising a concern covered by this policy is available to all employees, governors, members and contractors, the protection afforded by the Public Interest Disclosure Act 1998 applies only to individuals defined as a 'worker' by section 230(3) and 43K of the Employment Rights Act 1996.

## 6. General points about raising a concern

- 6.1 All concerns raised through the whistleblowing procedure must meet the criteria in section 2. General concerns relating to bullying or harassment, grievances or safeguarding should be made by following the relevant City Academy Norwich policies (see section 12). To report a health and safety incident please refer to the Incident and Accident Reporting procedure.
- 6.2 All concerns should be raised at an early stage using the procedure in section 7.
- 6.3 Concerns must not be taken outside City Academy Norwich, other than as stated in section 10. Complaints made to the media or other bodies may actually hamper a speedy, full and professional investigation of the serious concern raised.
- 6.4 Concerns should be raised if they are in the public interest, which includes the interests of City Academy Norwich, staff and / or students. (See 3.4).
- 6.5 The discloser's identity will be kept confidential. However, if a concern results in disciplinary or legal action, the discloser may be required to give evidence.
- 6.6 Employees will not be disciplined for raising concerns in good faith, through this procedure.
- 6.7 City Academy Norwich will not tolerate any harassment or victimisation of employees who make disclosures. If, at any stage of this procedure an employee feels that they are being subject to informal or formal coercion, pressure, bullying, harassment or victimisation due to making a disclosure, they should raise this matter, in writing, to the Trust HR Director. (see section 13 for contact details).
- 6.8 This Whistleblowing policy and procedure is not to be used for anonymous complaints or for the purpose of furthering any private dispute. Disclosers are encouraged to identify themselves when raising a concern. If an anonymous disclosure is made, City Academy Norwich will not be in a position to notify the individual to explain the outcome of action taken by City Academy Norwich. Anonymity also means that City Academy Norwich will have difficulty in investigating such a concern. City Academy Norwich reserves the right to determine whether to apply this procedure in respect of an anonymised disclosure in light of the following considerations: the seriousness of the issues raised in the disclosure; the credibility of the concern; and how likely it is that the concern can be confirmed from attributable sources.
- 6.9 It is a serious disciplinary offence to:
  - deliberately raise unfounded allegations;
  - victimise or harass a member of staff for raising their concerns;
  - actively deter a member of staff from raising a genuine concern.

## 7. Procedure for raising concerns

7.1 Concerns (that meet the criteria listed in section 2) should be raised verbally or in writing (declaring any personal interest) to the relevant member of staff's immediate line manager or head of department, making it clear that he/she is using the Whistleblowing procedure. However, City Academy Norwich recognises that because of the seriousness or sensitivity of some issues, together with the knowledge of whom the member of staff thinks may be involved, may make this difficult or impossible.

7.2 If the discloser does not feel able to raise the concern with their line manager or head of department they should raise the concern verbally or in writing (declaring any personal interest) to:

- The Headteacher of City Academy Norwich

If the concern relates to the Headteacher the concern should be raised with the BET Group CEO who is contactable via 01428 725904 Ext: 314 or the Local Authority Duty Desk on 01603 307797. A Duty Advisor will give advice and guidance on next steps.

If the concern relates to the BET Group CEO, the concern should be raised with the Trust HR Director contactable via 01428 725904 Ext: 206 or the Local Authority Duty Desk on 01603 307797. A Duty Advisor will give advice and guidance on next steps.

At the time the concern is raised, the discloser should make it clear that he/she is using the Whistleblowing procedure.

7.3 Any concerns raised with line managers or heads of department as part of this procedure should be raised verbally or in writing (declaring any personal interest) to:

- The Headteacher of City Academy Norwich or the BET CEO / the Local Authority Duty Desk, see contact details for both above (if the concern relates to the Headteacher)

or if the concern relates to the BET Group CEO, to:

- Trust HR Director or the Local Authority Duty Desk, see contact details for both above

It should be made clear that the concern is raised as part of the Whistleblowing procedure.

7.4 Confidential advice is available from Public Concern at Work, a registered charity which advises on serious malpractice in the workplace (0207 404 6609).

## 8. Investigations into concerns

8.1 City Academy Norwich will treat all disclosures seriously and sensitively and will fully investigate the matter.

8.2 The discloser will be interviewed, in confidence, by the Headteacher, BET Group CEO or Trust HR Director with whom the concern was raised. If the Local Authority Duty Desk has been contacted a Duty Advisor will advise on next steps. The discloser may be accompanied to this interview, by a work colleague or trade union representative for support purposes only. Any person accompanying a discloser to an interview must not be involved in the proceedings relating to the concern or be involved in the concern itself.

- 8.3 If the concern raised relates to an accusation of potential misconduct, the identified person will be interviewed to give an account of the issue.
- 8.4 If the concern relates directly to the activities of the Headteacher, the investigation will be undertaken by the BET Group CEO and the Chair of Governors.
- 8.5 If the concern relates directly to the activities of the BET Group CEO, or a Trustee / Director / Governing Body Member, the investigation will be undertaken by the Chairperson of the BET Board and the Trust HR Director. The Chairperson, at his/her discretion, may also ask an independent third party to undertake the investigation.
- 8.6 If the concern relates directly to the Chairperson of the Board, Trust HR Director will consult with Trustees of the BET Board to determine an appropriate investigatory solution, which may include involving an independent third party.
- 8.7 The person undertaking the investigation will provide the discloser with a response within ten working days, although in complex matters this may be an initial response pending further investigations.

## 9. Assessment stage

- 9.1 Following the initial interview(s), an assessment of what action should be taken will be made by the staff member (or Duty Advisor in the case of the Local Authority Duty Desk being contacted) in receipt of the disclosure.

9.1.1 If the assessment is made that the concern can be resolved quickly (ie within one working week) it will be brought to the attention of the appropriate member of the management team for resolution and the discloser will be notified of this. This may lead to the implementation of other formal City Academy Norwich procedures, e.g. Disciplinary Procedure.

9.1.2 If the assessment is made that the concern is of a complex nature, it will be referred to the BET CEO or the Headteacher for further investigation. In the case of a referral to the CEO or Headteacher, the discloser will be notified within ten working days.

- 9.2 In the event of a decision that no action will be taken following interviews and/or investigation, the discloser will be given a written explanation of the reasons for this decision.

## 10. Appeal stage

- 10.1 If the discloser wishes to appeal against a decision not to take action, they may do so in writing to the Chairperson of the Governing Body, within five working days of receipt of the outcome of the investigation. If the Chairperson has been involved in any investigation, the appeal will be passed to two independent Trustees of the BET Board. The Chairperson, at his/her discretion, may also ask an independent third party to undertake the appeal.

- 10.2 If the discloser, after exhausting the Internal Appeal process, considers that their concern has not been dealt with and settled appropriately then they may contact an appropriate external body such as:

- the Police

- any of the Group's external Auditors
- The Charity Commission
- Ofsted (Whistleblower hotline for reporting safeguarding concerns: 0300 123 3155 (Monday to Friday from 8.00am to 6.00pm).)
- a relevant examination or other assessment body
- a relevant funding agency or
- the local authority or safeguarding body contactable via the Local Authority Duty Desk on 01603 307797 or if the advice is to make a referral to LADO then the form should be completed. Direct contact details for the LADO are- e-mail: LADO@norfolk.gov.uk or telephone 01603 223473.
- Skills Funding Agency
- local elected politician
- a practising solicitor or barrister.

If the discloser seeks advice outside of the BET Group, they must be careful not to breach any confidentiality obligations or damage the BET's reputation in so doing.

## 11. Record Keeping and Reporting

- 11.1 A confidential record of any concern raised using this procedure, its nature and the outcome of the investigation will be kept centrally by the Trust HR Director.
- 11.2 Previous records may be used for cross-referencing and monitoring purposes when looking at future concerns.
- 11.3 Concerns raised using this procedure will be reported annually to the relevant Audit Committee.

## 12. References to related policies

- Financial regulations
- Safeguarding
- Health & safety
- Grievance
- Dignity at Work
- Incident and accident reporting

## 13. Contact

Please contact the Trust HR Director for advice on any aspect of this policy and procedure.

Contact details:

Trust HR Director, 01428 724 324 ext 206

## 14. Equal Opportunities Statement

This policy and procedure has been assessed against the nine protected characteristics outlined in the Equality Act 2010 and no apparent disadvantage to equal opportunities has been determined.

If you have any comments or suggestions in relation to equal opportunities of this policy or procedure please contact the policy holder.