DDAT
Derby Diocesan Academy Trust

Whistleblowing Policy

February 2020

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Statement of intent

Derby Diocesan Academy Trust (DDAT) is committed to open and honest communication and ensuring the highest possible standards in integrity – we will always treat whistleblowing as a serious matter.

In line with the Trust's commitment to openness, probity and accountability, all members of staff are encouraged to report concerns. This policy will work to ensure that, if an employee sees or suspects that something is wrong, they will raise this with the Trust. This is known as "blowing the whistle" – a phrase that is used throughout this policy and should be viewed as a positive action of speaking up.

This policy seeks to ensure that any person suspecting malpractice knows how to raise concerns and what procedures are in place to deal with the concern.

Where this policy necessitates personal or special category data to be processed, it will be done so in accordance with the Trust's Data Protection Policy.

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1. Legal framework

This policy has due regard to all relevant legislation including, but not limited to, the following:

- Public Interest Disclosure Act 1998
- Employment Rights Act 1996

This policy has been created with regard to the following guidance documents:

- ESFA (2019) 'Academies financial handbook 2019'
- GOV.UK (2015) 'Whistleblowing for employees'
- DfE (2014) 'Whistleblowing procedure for maintained schools'
- Sir Robert Francis (2015) 'Freedom to speak up report'

This policy operates in conjunction with the following Trust policies:

- Disciplinary Policy and Procedure
- Complaints Procedures Policy
- Data Protection Policy

2. Introduction

The Public Interest Disclosure Act 1998 (PIDA) protects employees who "blow the whistle" where the

employee reasonably believes that the disclosure falls within the remit of the prescribed person or body and that the information and any allegations are substantially true.

Disclosures made under this procedure will be monitored for statistical purposes as required under the PIDA. The details of any disclosure will remain confidential.

The Chief Executive Officer (CEO) is the first point of contact for whistleblowing queries. If the allegation is related to the CEO, the concern will be raised with the Chair of the Trust Board.

Any member of the school community or the general public is able to "blow the whistle"; however, the PIDA only protects employees. Section 7 includes further details on how whistleblowing affects non-employees.

3. Definitions

Whistleblowing: Whistleblowing is when an employee reports suspected wrongdoing, or 'qualifying disclosures', at work to their employer.

Qualifying disclosures: As outlined by the PIDA, qualifying disclosures pertain to when any of the following takes place:

- A criminal offence has been committed, is likely to be committed or is being committed • A person has failed, is failing or is likely to fail to comply with any legal obligation to which they are subject
- A miscarriage of justice has occurred, is occurring or is likely to occur
- The health or safety of any individual has been, is being or is likely to be endangered •
The environment has been, is being or is likely to be damaged
- Information tending to show any matter falling within any of the preceding points has been, is being or is likely to be deliberately concealed

In the public interests means that an individual acted outside of their own personal interest – they acted for more than personal gain. It is not necessary for the disclosure to be of interest to the entire public. The following considerations are often used as a test to establish whether something is within the scope of public interest:

- The number of people in the group whose interests the disclosure served • The nature of the interests and the extent by which individuals are affected by the wrongdoing disclosed
- The nature of the wrongdoing disclosed
- The identity of the alleged wrongdoer

Blacklisting refers to an individual who is being refused work because they are viewed as a whistleblower.

Grievancesinvolve someone filing a complaint because they personally have been mistreated in some way – the person making the complaint will have a direct interest in the outcome. It is important to understand the difference between raising a grievance and blowing the whistle.

4. Roles and responsibilities:

The Trust Board will be responsible for:

- Establishing and agreeing the whistleblowing procedure.
- Monitoring the effectiveness of this policy and undertaking any necessary reviews, e.g. in relation to good practice recommendations or changes in legislation.
- Ensuring all members of the school community have access to this policy. •

Investigating, in liaison with the CEO, any concerns that are raised.

- Ensuring this policy provides an open and transparent framework where members of the schools' community can raise their concerns.
- Taking the necessary action against members of staff following an investigation into any alleged malpractice.
- Ensuring that the minutes of the Trust board include a record of the school's whistleblowing arrangements and who, both internally and externally, staff members should report concerns to.
- Appointing one Trustee and one member of staff to act as points of contact for staff members when reporting concerns (see section 2).

The CEO will be responsible for:

- Ensuring all members of staff have read and understood this policy.
- Receiving, investigating and responding to any concerns that have been raised by the school community.
- Being the first point of contact regarding whistleblowing.

The chair of the Trust Board will be responsible for receiving any concerns raised about the CEO.

All members of the school and Trust community will be responsible for:

- Raising any concerns that meet the definitions in section 3 of this policy. •

Being truthful and reasonable with any concerns that they have.

- Not raising malicious or unfounded concerns.

5. Scope

This policy will:

- Give confidence to members of the school and Trust community when raising concerns about conduct or practice that is potentially illegal, corrupt, improper, unsafe or unethical, or which amounts to malpractice or is inconsistent with Trust standards and policies.
- Provide members of the school and Trust community with avenues to raise concerns. • Ensure that members of the school and Trust community receive a response to the concerns they have raised and feedback on any action taken.
- Offer assurance that members of staff are protected from reprisals or victimisation for whistleblowing action undertaken in good faith and within the meaning of the PIDA.

This policy will not be confused with the procedure on dealing with harassment at work or the Trust's Disciplinary Procedures.

Under this policy, any of the following can raise a concern:

- Employees of the Trust
- Employees of contractors working for the schools or Trust, for example, agency staff, builders

and drivers
- Employees of suppliers
- Voluntary workers working with the school or Trust
- A trainee, such as a student teacher
- Pupils
- The wider community
- Governors

6. Harassment and victimisation of staff

The Trust recognises that the decision to report a concern can be a difficult one to take, not least because of the fear of reprisal from those responsible for the malpractice or from the Trust as a whole; however, the Trust will not tolerate any such harassment or victimisation and will take appropriate action to protect staff who raise a concern in good faith.
Staff are protected in law by the PIDA, which gives employees protection from detriment and dismissal where they have made a protected disclosure, providing the legal requirements of the Act are satisfied, e.g. the disclosure was in the public interest.

Any member of staff who victimises or harasses a member of staff as a result of their having raised a concern in accordance with this policy will be dealt with under the Trust's Disciplinary Policy and Procedure.

7. Non-employees

The PIDA and the Employment Rights Act 1996 **do not** protect non-employees as far as whistleblowing is concerned.

Irrespective of the above, the Trust will not allow harassment, dismissal or exclusion for any non employee who raises a genuine concern.

Where an individual feels that they have been unfairly treated following blowing the whistle, they should make a complaint under the Trust's Complaints Procedures Policy.

Governors are not employees and, while they are responsible for ensuring there is a whistleblowing procedure in place, they are not protected under the PIDA.

8. Good practice principles

The Trust will implement the core whistleblowing principles, as outlined in the 'Freedom to speak up report', to ensure that whistleblowing procedures are fair, clear and consistent.

The Trust will implement a **culture of change** by ensuring the following principles are reflected in our ethos and values – there will be a culture:

- Of safety in DDAT schools.
- Where people feel confident with raising concerns.
- Free from bullying.
- Of visible leadership.
- Of valuing staff.

- Of reflective practice.

By providing a clear procedure for mediating and resolving cases, as outlined in section 9, the Trust will ensure that all cases are efficiently handled. This procedure includes:

- How to raise and report concerns.
- How investigations will be conducted.
- How the school will mediate and resolve disputes.

The Trust will implement **measures to support good practice** by ensuring adherence to the following principles:

- Offering relevant training to staff
- Providing the necessary support to staff
- Providing support to staff who are seeking alternative employment
- Being transparent
- Being accountable
- Conducting an external review of any concerns raised, where necessary •

Undertaking regulatory action as required

We will ensure there are **particular support measures in place for vulnerable groups** by adhering to the following principles:

- Ensuring non-permanent staff are taught, and receive training on, the same principles as permanent staff
- Ensuring students and trainees are subject to all the safeguarding and whistleblowing principles
- Ensuring staff from ethnic minorities are supported, as they may feel particularly vulnerable when raising concerns
- Ensuring staff are empowered and protected, enabling them to raise concerns freely

9. Procedure

When raising concerns, individuals will express them in writing to the CEO.

If an individual is raising a concern about the CEO, they should express their concerns in writing to the chair of the Trust Board. Where this is the case, the chair of the Trust Board will take on the CEO's duties outlined in section 10.

When individuals raise their concern, they will include the following information as far as possible:

- The background and history of the concern
- Any relevant names, dates and places
- The reasons for the concern

DDAT encourages individuals to let their identity be known when they raise concerns, as anonymous concerns can be challenging to investigate.

Individuals who would like to seek professional and confidential advice should contact Protect, a registered charity that advises on whistleblowing queries. The Protect website can be accessed here

(www.protect-advice.org.uk), or they can be contacted on 020 31172520.

Once an individual has raised a concern, the Trust will be responsible for investigating it.

In certain instances, it may be appropriate for the individual to raise the concern with an outside agency, e.g. the police, depending on the severity of the concern. Equally, it may be appropriate for the individual to request that their trade union raises the matter.
If a member of staff feels they should report a concern to the ESFA, they should use the online contact form.

The Trust, or the appropriate external agency, will acknowledge receipt of a disclosure but, unless additional information is required, will not contact or engage in dialogue with the whistleblower, as this may undermine the legitimacy of the investigation outcome.

10. Next steps

The CEO will write to the individual within 10 working days of an initial meeting to confirm that the concern has been received, as well as to indicate proposals for dealing with the matter.

The initial stage will be an interview with the whistleblower, and then an assessment of further action will be discussed. During this initial stage, the CEO will establish if:

- There are grounds for a concern and that it is genuine.
- The concern was raised in accordance with this policy.

During the initial interview, the CEO will request the individual puts their concern in writing, if they have not already done so. The CEO will write a summary of the concern if the individual is unable to put it in writing.

The CEO will explain the following to anybody raising a concern:

- How they will communicate with the complainant throughout the process. It should be noted, the need for confidentiality may prevent the Trust giving the complainant specific details of any necessary investigation or any necessary disciplinary action taken as a result of the concern.
- That the complainant's identity will be kept confidential from the alleged wrongdoer. • That the Trust Board will do everything in its power to protect the complainant from discrimination.
- That if the concern is genuine, even if the concern is not confirmed, no disciplinary action will be taken against the complainant.
- If clear evidence is uncovered that the complainant's concern is malicious or unfounded, disciplinary action may be brought against them.

If an investigation is carried out, the whistleblower will be informed of the final outcome.

A record will be kept of the seriousness of the issues raised and the credibility of the concern. All records will be kept confidential and will be stored in line with the Trust's Data Protection Policy.

It may be possible for the concern to be resolved by simply agreeing the necessary action or explaining procedures to the alleged wrongdoer; however, depending on the severity and nature of the concern, it may:

- Be investigated by management, an internal audit, an external investigator or through the disciplinary process.
- Be referred to the police or an external auditor.
- Form the subject of an independent inquiry.

If the investigating officer needs to talk to the whistleblower, they are permitted to be accompanied by a trade union representative, a professional association representative, a friend or a fellow member of staff not involved in the area of work that the concern relates to. This person will provide support only and will not be allowed to become involved in the proceedings.

A record will be made of the nature and outcome of the concern. The purpose of this is to ensure that a central record is kept which can be cross-referenced with other complaints to monitor any patterns of concern across the school and to assist in monitoring the procedure.

The whistleblower will be informed of the results of the investigation, and any action that is proposed will be subject to third party rights. Where action is not taken, the individual will be given an explanation.

11. What the Trust asks of you

The purpose of this policy is to enable individuals to raise concerns in confidence, without any fear of reprisal; therefore, it is imperative that whistleblowers:

- Do not take the concern outside the Trust, e.g. gossiping.
- Declare any personal interest in the matter, as the policy is designed to be used in the interest of the public and not for individual matters.

12. Appeal process

If no action is to be taken and/or the individual is not satisfied with the way the matter has been handled, they can make a complaint under the Trust's Complaints Procedure Policy.

13. Unfair treatment

An individual can take a case to an employment tribunal if they feel that they have been treated unfairly as a result of whistleblowing.

Further information can be sought from the Citizen's Advice Bureau, the whistleblowing charity Protect, or from an individual's trade union.

Any claims of unfair dismissal needs be made within three months of the investigation ending.

14. Monitoring and review

The Trust board will review this policy annually, ensuring that all procedures are up-to-date – the next review date for this policy is the Spring Term 2021.

Any changes made to this policy will be communicated to all members of staff.