

# **Whistleblowing Policy**



**Description:** This policy enables employees to raise their concerns and to receive feedback about the outcome of any ensuing investigation but not the detail of the investigation or any actions taken. It allows employees to take the matter further if they are dissatisfied with the response and protects employees from reprisals or victimisation for “whistleblowing” made in good faith.

**Implementation Date:** September 2018

## **I Policy Statement**

- 1.1 The academy is committed to the highest standards of openness, honest and accountability. It encourages employees to raise promptly any serious concerns they may have about the activities of employees, governors or external organisations in relation to their dealings with the academy.
- 1.2 Whistle blowing is the reporting by employees or ex-employees, of wrongdoing such as fraud, malpractice, mismanagement, breach of health and safety law or any other illegal or unethical act either on the part of management, the Governing Body or by fellow employees.
- 1.3 This policy has been introduced in line with the Public Interest Disclosure Act 1998 which enables employees to raise issues of concern in an appropriate manner.

## **2 Purpose**

- 2.1 This policy aims to:
  - Encourage employees to feel confident in raising concerns
  - Establish a fair and impartial investigative procedure
  - Provide avenues for employees to raise concerns and receive appropriate feedback
  - Ensure that employees receive a response to concerns and are aware of how to pursue them if they are not satisfied
  - Ensure that employees will be protected from any reprisals or victimisation by the academy, provided that there is reasonable belief that the matter disclosed tends to show wrongdoing and that the disclosure has been made in an appropriate manner and in good faith

## **3 Scope**

- 3.1 This policy covers concerns that fall outside the scope of the grievance policy and may be used by all employees at the academy to raise concerns where the well-being of others or the academy itself is at risk.
- 3.2 The employee’s concern may be about something that:
  - Is potentially unlawful
  - Is against the academy’s policies
  - Amounts to improper conduct, bad practice or potential fraud or corruption
  - Seems likely to cause damage or harm to a member of the public, the academy or its staff
  - “covers up” an issue
- 3.3 The whistleblowing policy is designed to sit alongside KAA’s complaints policy and procedure. Concerns which should be raised through these routes are:

- Employment related issues (KAA Grievance Policy and Procedure)
- Complaints about employees and Governors (KAA Schools Complaints Procedure)

## **4 Confidentiality**

- 4.1 The identity of employees who raise concerns will be protected as far as is practicable. However, investigations may, out of necessity, reveal the source of the information and statements made by the employee(s) who raised the issue comprising part of the formal evidence.
- 4.2 Employees are encouraged to put their names to any allegations made. Concerns expressed anonymously will be considered at the discretion of the Principal, taking into account:
- The seriousness of the issues raised
  - The credibility of the concern
  - The likelihood of the allegation being substantiated
  - Untrue allegations
- 4.3 If an allegation is made in good faith, but is not upheld by the investigation, no action will be taken against the employee who raised the concern. However, employees who make malicious or vexatious allegations may be subject to disciplinary action.
- 4.4 Employees have the right to disclose a concern/issue if the academy does not deal with the matter. However, the duty of fidelity is implied by the law in every contract of employment and prohibits employees from disclosing employers' confidential information, unless it is in the public interest that information is disclosed or unless the Academy fails to properly consider or deal with the issue.
- 4.5 If an employee makes a disclosure on one or more of the matters listed in paragraph 3.2 and they have a reasonable belief that the concern is real and they are acting in good faith, the employee will not suffer any detriment, even if after investigation it transpires that the concern is unfounded. KAA will not tolerate the harassment or victimisation of any employee raising a genuine concern.
- 4.6 If the situation arises where the academy is unable to resolve the concern without revealing the employee's identity (for instance because the employee's evidence is needed in court), the academy will discuss with the employee how the matter should proceed. However, it must also be stated that if an employee chooses not to disclose their identity it will be much more difficult for us to look into the matter or to protect your position or to give you feedback. Accordingly, while we will consider anonymous reports, it will not be possible to apply all aspects of this policy for concerns raised anonymously.

## **5 Equal Opportunities**

- 5.1 The whistleblowing procedure must always be applied in accordance with employment law and KAA's equal opportunities policy.

## **6 Responsibilities**

- 6.1 The Principal has overall responsibility for the control and management of the whistleblowing policy, except in circumstances where he/she is the subject of any investigation.

## **7 Timing**

- 7.1 The procedure should normally be conducted within the timescales laid down in this document. However, if there is a valid reason to do so, timescales can be varied. If this is initiated by management, the employee should be given an explanation if this occurs and informed when a response or meeting can be expected. Delays should not normally exceed 10 working days.

## **8 Internal procedure**

### **Stage one – raising a concern**

- 8.1 The employee (the Representer) raising the concern should do so orally or in writing to the Principal. The employee has the right to have the matter treated confidentially. It is important that the employee provides as much detail as possible (including specific names, dates and places where known).
- 8.2 If the Principal believes the concern to be genuine and that it is appropriate to use the Whistleblowing procedure, the Principal should contact the Chair the Governing Body (the Assessor).
- 8.3 The Chair of Governors is the named Trustee for Whistleblowing. They can be contacted through the Clerk to Governors Anna Machin ([a.machin@kaa.org.uk](mailto:a.machin@kaa.org.uk)).
- 8.4 Should it be alleged that the Chair of the Governing Body is involved in the alleged malpractice, a member of the SLT should be asked to act as Assessor.
- 8.5 If the Representer feels unable to raise their concern with the Principal in the first instance, they may contact the Assessor direct. If this occurs, the Representer will be asked to justify why they feel unable to raise the concern with the Principal.
- 8.6 Employees who raise an issue in good faith under this policy are protected by the Public Interest Disclosure Act 1998 from any repercussions on their present position or future career. The Act does not protect anyone who is acting maliciously, making false allegations or who is seeking personal gain.
- 8.7 Where concerns are of a serious nature, employees have the right to raise issues directly with the police or other relevant agency as they see fit.
- 8.8 Where an employee is concerned that the Governing Body is acting or proposing to act unreasonably or has failed to discharge its duties, this can be raised with the Secretary of State for Education.

### **Stage two – the meeting**

- 8.9 The Assessor will interview the Representer within ten working days, in confidence, or earlier if there is an immediate danger to loss of life or serious injury and will:

- Obtain as much information as possible from the Representer about the grounds for the belief of malpractice
- Consult with the Representer about further steps which could be taken
- Inform the Representer of appropriate routes if the matter does not fall within the KAA Whistleblowing Procedure
- Report all matters raised under this procedure to the appropriate designated governor

8.10 At the interview with the Assessor, the Representer may be accompanied by a recognised trade union representative or a work colleague. The Assessor may be accompanied by a note taker.

### **Stage three – the outcome**

8.11 Within ten working days of the interview, the Assessor will recommend to the Principal one or more of the following:

- The matter be investigated internally by the school
- The matter be investigated by the external auditors appointed by the school
- The matter be reported to the Department for Education
- The matter be reported to the police
- The matter be subject of an independent inquiry

To protect the individual and the academy, initial enquiries will be made to determine whether an investigation is appropriate and what form it should take. Some concerns may be resolved by agreed action without the need for investigation.

8.12 The grounds on which no further action is taken may include:

- The Assessor is satisfied that, on the balance of probabilities, there is no evidence that malpractice has occurred, is occurring or is likely to occur
- The Assessor is satisfied that the Representer is not acting in good faith
- The matter is already (or has been) the subject of proceedings under one of the academy's other procedures or policies eg: child protection or unlawful discrimination will normally be dealt with under those policies and procedures.
- 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

8.13 Should it be alleged that the Principal is involved in the alleged malpractice, the Assessor's recommendation will be made to the appropriate designated governor.

8.14 The recipient of the recommendation (either the Principal or appropriate designated governor) will ensure that it is implemented unless there is good reason for not doing so in whole or in part. Such a reason will be reported to the next meeting of the Governing Body.

8.15 The conclusion of any agreed investigation will be reported by the Assessor to the Representer in writing within twenty eight working days as to the outcome of any investigation but not the detail of the investigation or any action taken against another employee.

8.16 If the Representer has not had a response within the above time limits, he or she may appeal to the school's external auditors, but will inform the Assessor before doing so.

8.17 The Representer may at any time disclose the matter on a confidential basis to a solicitor for the purpose of taking legal advice.

## **9 External contacts**

- 9.1 Within the Academy all staff have a duty of confidentiality. The duty of confidentiality is implied by the law in every contract of employment and prohibits employees from publicly disclosing employers' confidential information, unless it is in the public interest that the information is disclosed or unless the Academy fails to follow required procedures. Other legal restrictions on the disclosure of information, for example under data protection legislation, may also apply.
- 9.2 Whistleblowing to an external agency without first going through the internal procedure is a breach of the Academy's Code of Conduct. The external agencies which may be used if disclosure is permitted under paragraph 6.1 are:
- 9.2.1 Department for Education (EFA). (In these circumstances, the DfE/EFA will assess whether all school processes have been applied and that the Assessor has done everything possible to resolve the issue. If this is not the case, the DfE/EFA will refer the matter back to the Assessor);
  - 9.2.2 Member of Parliament;
  - 9.2.3 National Audit Office;
  - 9.2.4 Health and Safety Executive;
  - 9.2.5 Police.
- 9.3 Whistleblowing to the media is not appropriate or permitted in any circumstances.

## **10 Responsible Officer**

- 10.1 The Chair of Governors has overall responsibility of the maintenance and operation of this policy. He/she must maintain a record of concerns raised and their outcomes and will report, as necessary, to the Governing Body.

## **11 Malicious Accusations**

A deliberately false or malicious accusation made by a Representor is a disciplinary offence and will be dealt with under the Academy's disciplinary procedure, as well as potentially exposing the Representor to legal liability.

## **12 Review**

- 12.1 This Policy will be reviewed by the Governing Body on a 2-yearly cycle and must be ratified by the Chair of Governors and Principal.