



# **St Mary's Academy Trust**

## **Whistleblowing Policy**

**Date Agreed by Committee:** 11<sup>th</sup> September 2023

**Date to be Reviewed:** 11<sup>th</sup> September 2024

## 1. Introduction

- 1.1 The Public Interest Disclosure Act 1998 (PIDA) makes it unlawful to subject a worker to neglective treatment or to dismiss them because they have raised a whistleblowing concern. Disclosures made under this procedure will be monitored for statistical purposes as required under the PIDA. The details of any disclosure remain confidential.
- 1.2 Any member of the local community or general public can raise a concern; however, this should be done using the Trust's Complaints Procedure. The PIDA only protects employees.

*The Trust has noted the requirements of the Modern Slavery Act 2015. We are determined that there shall be no modern slavery or human trafficking in St. Mary's Academy Trust. Our policies evidence our commitment to act ethically and with integrity throughout the organisation. A report of concern in relation to those matters can be made under the protection of the Whistleblowing Policy.*

## 2. Scope

2.1 This policy will: -

- Demonstrate the Trust's commitment to the highest possible standards of openness, probity, and accountability
- Explain how an employee or stakeholder should raise a concern within the Trust
- Give confidence when raising concerns about conduct or practice that is potentially illegal, corrupt, improper, unsafe, or unethical, which amounts to malpractice or is inconsistent with Academy standards and policies
- Provide avenues to raise concerns
- Ensure that whistleblowers 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 taking whistleblowing action undertaken in good faith and within the meaning of the PIDA

***Where the whistleblowing relates to harm or potential harm to children or young people the Trust's Safeguarding procedure must be followed.***

## 3. Who Can Raise a Concern?

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

- Employees/governors/members of the Trust
- Apprentices and trainees
- Employees of contractors working for the Trust, including agency workers
- Volunteers working with the Trust or its schools

***With reference to the above, the PIDA only protects the Trust's employees; however, the Trust will never challenge or victimise a non-employee for raising concerns. It is important to the Trust that any fraud, misconduct, or wrongdoing by employees, Governors or board members of the Trust are reported and properly dealt with.***

#### **4. Qualifying Procedures**

4.1 As outlined by (PIDA) 1998, qualifying disclosures pertain to when any of the following take place:

- A disclosure must generally be presented within 3 months of the act complained about
- A criminal offence has been committed, is likely to be committed or is being committed
- A person or the Trust has failed, is failing or is likely to fail to comply with any legal obligation to which they are / it is 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
- A person or persons are believed to be covering up wrongdoing
- Information tending to show any matter falling within any of the preceding points has been, is being or is likely to be deliberately concealed
- An employee who makes such a protected disclosure has the right not to be dismissed, subjected to any detriment, or victimised because they have made a disclosure

#### **5. Whistleblowing Contacts**

5.1 The initial points of contact to report concerns are:

***Tamara Gulliver, Acting Chief Executive Officer, telephone 01226 282721, email [t.gulliver@smat.org.uk](mailto:t.gulliver@smat.org.uk)***

***Tracey Rodgers, Chair of Trust, telephone 01226 282721, email [t.rodgers@smat.org.uk](mailto:t.rodgers@smat.org.uk)***

5.2 Staff can choose from any one of the above Whistleblowing Officers to raise their initial concerns. The Whistleblowing Officers will seek to assist an employee to raise a concern effectively and any subsequent changes in the named Officers will be communicated accordingly.

#### **6. How to Raise a Concern**

6.1 Employees are encouraged to raise concerns as early as possible to make it easier to take effective action.

6.2 When reporting a concern, employees are urged to consider who, given the nature of the concern, they should report it to.

6.3 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, you will need to demonstrate reasonable grounds for the allegation.

**6.4 The concern can be raised as follows:**

- Contacting one of the above-named officers by telephone or email
- Clicking [here](#) or if you have a QR Scanner by scanning the image at the end of the policy
- Writing to the above Officers at:

St Mary's Academy Trust  
1 Fountain Parade  
Mapplewell  
Barnsley  
S75 6FW

6.5 Employees are encouraged to provide their name when raising a concern, as concerns expressed anonymously are much less powerful than those that are attributed to a named individual. However, anonymous allegations will be considered and investigated at The Trust's discretion.

6.6 In exercising their discretion, the factors considered would include:

- The seriousness of the issues raised
- The credibility of the concern
- The likelihood of confirming the allegation from attributable sources

## **7. How the Trust will Respond**

7.1 The action taken by The Trust will depend on the nature of the concern. The matters raised may:

- Be investigated solely by the recipient, either the Acting Chief Executive Officer or the Chair of Trust in the first instance
- The recipient may be required to further investigate the concern in conjunction with other Trust employees or with representatives of the Board where applicable
- Be investigated internally by an appropriately skilled and experienced individual, knowledgeable in the area concerned
- Be referred to an External Auditor or Ombudsman
- Form the subject of an independent enquiry

- 7.2 To protect individuals, The Trust's initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it should take. Concerns or allegations that fall within the scope of specific procedures (for example, child protection or discrimination) will normally be referred for consideration under those procedures.
- 7.3 Some concerns may be resolved by agreed action without the need for investigation.
- 7.4 Within ten working days of the concern being received (excluding anonymous concerns) the individual with whom the employee raised the matter will write to the employee:
- Acknowledging the concern has been raised
  - Indicating how it is proposed that the matter be dealt with
  - Giving an estimate of how long it will take to provide a final response
  - Telling the employee whether initial enquiries have been made
  - Telling the employee whether further investigations will take place, and if not, the reason why
- 7.5 The amount of contact between the individual(s) considering the issues and the employee who raised the concern 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 in a discreet manner.
- 7.6 When any meeting is arranged, the individual has the right to be accompanied by a union or workplace representative. The meeting can be 'off site', if requested.
- 7.7 The Trust will take steps to minimise any difficulties which the individual may experience as a result of raising a concern and provide any appropriate support. For instance, if the employee is required to give evidence in disciplinary or criminal proceeding, The Trust will advise/provide support as required.
- 7.8 The Trust accepts that the individual needs to be assured that the matter has been addressed. Thus, subject to legal constraints, the individual will be informed as to what action has been taken to correct working practices where they have been found to be at fault by the investigation.

## **8. Alternative Ways of Raising Issues**

- 8.1 Where a staff member feels unable to raise an issue with their employer, or feels that their genuine concerns are not being addressed, other whistleblowing channels are open to them:
- General guidance on whistleblowing can be found via: <https://www.gov.uk/whistleblowing>
  - The NSPCC's **What You Can Do to Report Abuse** dedicated helpline is available as an alternative route for staff who do not feel able to raise concerns regarding child protection failures internally or have concerns about the way a concern is

being handled by their school. Staff can call 0800 028 0285 – the line is available from 8:00 AM to 8:00 PM, Monday to Friday and email: [help@nspcc.org.uk](mailto:help@nspcc.org.uk)

## **9. Safeguards**

### **9.1 Harassment or Victimisation**

9.1.1 The Trust will not tolerate harassment or victimisation and will take the appropriate action to attempt to protect individuals who raise a concern in good faith. However, this does not mean that if an individual raising a concern is already the subject of other employment procedures e.g., disciplinary or redundancy, that those procedures will be halted or suspended.

### **9.2 Confidentiality**

9.2.1 The Trust will respect confidentiality and all steps will be taken to ensure that confidentiality is maintained throughout the process, however, an individual's identity may have to be disclosed if legal proceedings are undertaken. In no circumstances will an individual's identity be revealed before they are consulted.

### **9.3 Allegations**

9.3.1 If an individual makes an allegation in good faith, but it is not confirmed by the investigation, no action will be taken against that individual.

9.3.2 If, however, an individual makes malicious or vexatious allegations, disciplinary action may be taken against them.

9.3.3 In determining whether an individual has acted maliciously and/or in a vexatious manner the investigator will consider whether the individual was motivated to make the allegation(s) simply out of a desire to pursue a personal vendetta or grudge.

## **10. The Public Interest Disclosure Act 1998**

10.1 This Act became Law on 2nd July 1999. Its purpose is 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.

### **10.2 Protected Disclosures**

10.2.1 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.

10.2.2 Any concern raised in good faith to one of the Whistleblowing Officers 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).

10.2.3 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.

### **10.3 Unprotected Disclosures**

10.3.1 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.

10.3.2 This Act is a complicated piece of legislation. Individuals are however encouraged to seek specific advice from their Trade Union or own solicitor.

10.3.3 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 defense of defamation will normally apply where any person in making a disclosure that is not accurate acts in good faith and without malice. Again, any specific legal advice as to an employees' own position should be obtained independently.

## **11. How the Matter can be Taken Further**

11.1 This policy is intended to provide staff with an avenue to raise concerns within The Trust. We hope anyone invoking this procedure will be satisfied with the response given. If not, the employee should indicate this to the Chair of The Trust. If the staff member feels it is right to take the matter outside the organisation, the following are possible contact points:

- Relevant professional bodies or regulatory organisations
- The relevant ombudsman
- The employee's solicitor
- The Police

## 12. Data Retention

12.1 We will only retain your personal data 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.

12.2 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.

12.3 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.

## 13. 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 controller

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



## **14. Data Impact Assessment**

14.1 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.

## **15. Equality and Diversity**

15.1 This policy has been impacted assessed by a Board representative. However, if on reading this policy you feel there are any equality and diversity issues, please contact HR who will, if necessary, ensure the policy is reviewed.

## **16. The Audit Committee**

16.1 In accordance with its Terms of Reference for the oversight of the internal control and governance framework of The Trust, the Audit Committee will review this Policy and consider its effectiveness through a process of annual review.

Note: St Mary's Academy Trust comprises: St Mary's CE Primary, All Saints Academy, Queens Road Academy, West Meadows Primary, Darton Primary, The Mill Academy, Royston St John Baptist CE Primary, Dodworth St John Baptist CE Primary, and Elsecar Holy Trinity CE Primary.

