



Derby Diocesan Academy Trust

Whistleblowing Policy

December 2023

Approved by the Trust Board on: 18th December 2023

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1. Introduction

The 1998 Public Interest Disclosure Act inserted provisions into the Employment Rights Act 1996 to give protection to 'whistle-blowers' who raise concerns, by making a protected disclosure, about serious fraud or malpractice at their place of work against victimisation or dismissal, provided they have acted in a responsible way in dealing with their concerns.

For the disclosure to be protected by the law it must be made to the right person and in the right way. Staff must have a reasonable belief that:

- any disclosure of information is in the public interest
- any disclosure of information is being made to the correct 'prescribed person'
- any information disclosed is substantially true

2. Purpose and Scope

The Derby Diocesan Academy Trust (DDAT) is committed to operating with honesty and integrity. We expect all colleagues to operate on this basis and to adhere to the trust's policies, procedures and code of conduct. Fraud, misconduct or wrongdoing will not be tolerated.

The aim of this policy is to encourage colleagues to report suspected wrongdoing. It aims to establish a fair and impartial investigative procedure and ensure that staff receive a response to concerns and are aware of how to pursue them if they are not satisfied.

Any colleague raising a concern under this policy will not be treated less favourably for raising concerns as outlined in this procedure. This means that any colleague who raises a concern under this policy will not be subjected to a detriment nor will they be dismissed for doing so. This policy applies to employees of DDAT, referred to in this policy as colleagues including employees, agency workers, trainees or anyone who is, or was, subject to a contract to undertake work or services for DDAT.

The policy and procedures apply to all colleagues, regardless of length of service, but do not form part of the contract of employment and can be varied from time to time.

This policy enables DDAT to comply with the Public Interest Disclosure Act 1998 and the Public Interest Disclosure (Prescribed Persons) Order 2014. The whistle-blowing procedure is intended to cover major concerns that may fall outside the scope of

DDATs other procedures e.g. health and safety. These include (this list is not exhaustive):

- a criminal offence
- a miscarriage of justice
- risk or actual damage to the environment
- breach of a legal obligation
- a danger to health and safety
- a deliberate concealment of any of the above

3. When to raise a concern through the Whistle-blowing policy

If the disclosure is made to DDAT, it must be in the public interest and the person making the complaint ("the whistle-blower") has a reasonable suspicion that the alleged malpractice has occurred, is occurring or is likely to occur.

When raising a concern through the whistle-blowing policy the whistle-blower should either

- reasonably believe that they would be victimised if they raised the matter internally or to a regulatory body
- reasonably believe that evidence is likely to be concealed or destroyed
- have already raised the concern with the DDAT

If the disclosure is made to other external bodies and is of an "exceptionally serious" nature – which in a school setting could include, say, the alleged abuse of children or vulnerable adults in a school's care or corruption, then the whistle-blower will not be required to:

- believe that they will be subject to a detriment for raising the disclosure internally
- believe that the evidence is likely to be concealed or destroyed.
- have raised the matter concerned internally first

4. Rights of the Whistle-blower

A colleague who has a reasonable belief that wrongdoing has, or may be committed, and raises a genuine concern relating to any of the above is a whistle-blower and is protected under this policy. DDAT will also treat every disclosure in confidence, and only reveal the identity of the person making it if absolutely necessary (e.g. if required in connection with legal action).

All colleagues are encouraged to use this policy to raise genuine concerns and will not be treated less favourably for doing so, even if they are mistaken in their belief.

Any colleague who raises a concern under this policy will not be subjected to a detriment, nor will they be dismissed for doing so. Any colleague who believes that they have been subjected to a detriment for raising a complaint should raise the matter with the DDAT's CEO or Chair of the Board of Trustees. Victimisation of a whistle-blower by any other colleague for raising a concern under this policy will in itself constitute a disciplinary offence.

This policy does not deal with any complaints relating to a colleague's own treatment at work or own contract of employment. Those matters should be raised under the Grievance Procedure or the Bullying and Harassment procedure, as appropriate.

An exception to this will be when the matter of concern arises from the colleague's own treatment at work that is arising from the whistle-blowing matter they have raised previously.

5. Employer Responsibility

As the employer of staff in the schools, DDAT has overall legal responsibility for ensuring that the trust has a whistle-blowing policy. The board of trustees is responsible for the running of DDAT and will maintain a record of concerns raised and outcomes in a format that will not compromise confidentiality. DDAT recognises that the decision to report a concern can be a difficult one not least because of fear of reprisals from those responsible for the alleged failure or malpractice. DDAT does not tolerate harassment or victimisation and will take all necessary action to protect staff members when a concern is raised, being conscious of its vicarious liability for any employee's conduct should this amount to victimisation of a whistle-blower.

6. Raising a Concern – Internal Procedure

Concerns are most appropriately raised in writing; **a form for recording the concern is available for use at Appendix 1**. Any submission should set out the background and history of the problem, giving names, dates and places where possible. The submission should also clarify the reason why there is felt to be particular concern about the situation and should include sufficient grounds for this concern. It is advised that the earlier a concern is raised the easier it is to take action. Staff are encouraged to involve their trade union or professional association and may be accompanied by a recognised trade union representative or work colleague during any meetings, with reasonable time off from work being permitted for this purpose. It should be noted that should any staff member making a disclosure under the terms of the whistle-blowing policy already be subject to

disciplinary, grievance or redundancy procedures, these procedures will not be halted as a result of any disclosure.

The staff member should raise their concern with the Executive Headteacher / Headteacher / Head of School or if the complaint is about the Executive Headteacher / Headteacher, with the CEO or if about the CEO, with the Chair of Trustees. If the complaint is about the Local Governing body/ Board of trustees, it should be raised with the Chair of DDAT (or, if this is felt inappropriate, with the most relevant of the external bodies identified in section 7). Contact details:

- Executive Headteacher / Headteacher / Head of School – contact appropriate school (details on school website)
- CEO – Email: sarah.clark@ddat.org.uk
Address: Top Floor Unit 3 Endcliffe Mount, Deepdale Business Park, Ashford Road, Bakewell, Derbyshire DE45 1GT
- Chair of Trustees – Email: Sarah.Charles@ddat.org.uk
Address: Top Floor Unit 3 Endcliffe Mount, Deepdale Business Park, Ashford Road, Bakewell, Derbyshire DE45 1GT

(Note – if raising a concern through a letter then please send to the person concerned at the school address in an envelope marked ‘private and confidential’).

7. Raising a Concern – External Procedure

Whistle-blowing to an external body without initially going through the internal procedure is inadvisable without compelling reason. Compelling reasons could be the involvement of senior management or serious health and safety issues.

The following bodies are the external regulatory authorities (‘prescribed persons’) who are most likely (within an educational setting) to be contacted in accordance with legal protection for whistle-blowers should a staff member feel that it is appropriate to take the matter outside of the DDAT (the list is not exhaustive):

- Ofsted – <https://www.gov.uk/government/organisations/ofsted/about/complaints-procedure>
- Ofqual – <https://www.gov.uk/government/organisations/ofqual/about/complaints-procedure>
- National Audit Office – <https://www.nao.org.uk/contact-us/>

- The Citizens Advice Bureau
- Relevant professional bodies or regulatory organisations
- The Local Government Ombudsman
- The Information Commissioner
- A relevant voluntary organisation
- The Police
- Health and Safety Executive
- The Education Funding Agency

Members of Parliament also qualify as 'prescribed persons'.

If you are unsure whether to use the Whistle Blowing Policy or you want independent advice at any stage, you are advised to contact:

- A relevant trade union or professional association
- The independent charity Protect on **020 3117 2520** <https://protect-advice.org.uk/>

Further information is available here: www.gov.uk/whistleblowing

If a member of staff does not feel able to raise concerns in the ways outlined above, they should consult the Public Disclosure Act for information.

8. Investigating the concern

The action taken by the Executive Headteacher / Headteacher / Head of School, CEO or Chair of Trustees will depend on the nature of the concern. The concern will be logged by the CEO, or the Chair of the Trust if the concern relates to the CEO. The matters may be subject to:

- internal investigation
- referral to the police
- referral to other external enforcement agencies
- consideration of the academy trust's disciplinary procedure should it relate to an employee (or employees)

An initial assessment should be made to decide whether an investigation is appropriate and, if so, what form this should take and whether independent experts are required. Concerns or allegations that fall within the scope of other specific procedures (such as child protection) will normally be referred for consideration under those procedures.

It may be possible to resolve some concerns by agreed action without any requirement for an investigation. Within 10 working days of a concern being

received, the Executive Headteacher / Headteacher / Head of School, CEO or Chair of Trustees will write to the staff member:

- acknowledging receipt of the concern
- indicating how it proposes to deal with the matter
- giving an estimate of length of time to provide a response
- indicating whether an initial enquiry has been made
- indicating whether further investigations will take place

When a concern is received by the Executive Headteacher / Headteacher / Head of School, CEO/Chair of the Trust - referred to from here as the 'recipient' - they will:

- Meet with the person raising the concern within a reasonable time. The person raising the concern may be joined by a trade union or professional association representative
- Get as much detail as possible about the concern at this meeting, and record the information. If it becomes apparent the concern is not of a whistle-blowing nature, the recipient should handle the concern in line with the appropriate policy/procedure
- Reiterate, at this meeting, that they are protected from any unfair treatment or risk of dismissal as a result of raising the concern. If the concern is found to be malicious or vexatious, disciplinary action may be taken (see section 10 of this policy)
- Establish whether there is sufficient cause for concern to warrant further investigation. If there is:
 - o The recipient should then arrange a further investigation into the matter, involving the local governing body and/or trustees, if appropriate. In some cases, they may need to bring in an external, independent body to investigate. In others, they may need to report the matter to the police
 - o The person who raised the concern should be informed of how the matter is being investigated and an estimated timeframe for when they will be informed of the next steps

Outcome of the investigation

Once the investigation – whether this was just the initial investigation of the concern, or whether further investigation was needed – is complete, the investigating person(s) will prepare a report detailing the findings and confirming whether or not any wrongdoing has occurred. The report will include any recommendations and details on how the matter can be rectified and whether or not a referral is required to an external organisation, such as the local authority or police.

They will inform the person who raised the concern of the outcome of the investigation, though certain details may need to be restricted due to confidentiality.

Beyond the immediate actions, the CEO, trustees and other staff if necessary will review the relevant policies and procedures to prevent future occurrences of the same wrongdoing.

Whilst we cannot always guarantee the outcome sought, we will try to deal with concerns fairly and in an appropriate way.

The amount of contact between the person who considers the above issues and the staff member bringing 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.

Subject to legal and confidentiality restraints, the staff member will receive information about the outcomes of any investigations.

9. Confidentiality

Anyone bringing a whistle-blowing concern will be protected as far as possible. The investigation process, may, however, reveal the source of the information and a statement may be required as part of the evidence. If, however, the staff member does not wish to disclose their identity it could make it difficult to proceed with the matter.

Anonymous allegations will be considered but they may not be investigated or pursued

Following discussions, staff may consider raising a matter if there are two or more individuals who have had the same experience or have the same concerns. Care and judgement must, however, be exercised in all cases. Due consideration must be given to whether there are reasonable grounds for concern.

10. Untrue or Malicious Allegations

If an allegation is made in the public interest but is not confirmed by any subsequent investigation, no action will be taken against the staff member making the disclosure. However, malicious or vexatious allegations could lead to disciplinary action including proceedings for gross misconduct.

Appendix 1

Report Form to Be Used For Public Interest Disclosures

Name of School:

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|---|--|
| Name: (staff member making report - not compulsory but you are encouraged to insert your name) | |
| Persons reported: | |
| Concerns reported: (give full details of the background to the concern including names, dates and places; reasons why you are concerned – attach separate sheet if necessary) | |
| Date: | |
| Signed: (if name appears above) | |