



**KING EDWARD VI
FOUNDATION
BIRMINGHAM**

Educational excellence for our City



**KING EDWARD VI
ACADEMY TRUST
BIRMINGHAM**

Whistleblowing Policy and Procedure

<i>Responsible Board/Committee</i>	Academy Trust Board Foundation Board
<i>Policy Type</i>	Central Policy (Group A)
<i>Policy Owner</i>	Risk
<i>Statutory</i>	Yes
<i>Publish Online</i>	Yes
<i>Date Adopted</i>	November 2021
<i>Last Review Date</i>	March 2023
<i>Review Cycle</i>	3 Years
<i>Next Review Date</i>	May 2024
<i>Expiry Date</i>	December 2024
<i>Version</i>	3

1. Policy Statement

- 1.1 The Staff and Governors/Trustees of the Foundation seek to run all aspects of business and activity with full regard for high standards of conduct and integrity. In the event that members of staff, parents, governors or the school community at large become aware of activities which give cause for concern, the Schools have established the following whistleblowing policy, or code of practice. This will act as a framework to allow concerns to be raised confidentially and provides for a thorough and appropriate investigation of the matter to bring it to a satisfactory conclusion.
- 1.2 The Foundation are committed to tackling fraud and other forms of malpractice and treat these issues seriously. They recognise that some situations may be extremely sensitive and have therefore developed a system which allows for the confidential raising of concerns within the school environment but also has recourse to an external party outside the management structure.
- 1.3 The Foundation are committed to creating a climate of trust and openness so that a person who has a genuine concern or suspicion can raise the matter with full confidence that the matter will be appropriately considered and resolved.
- 1.4 The provisions of this policy apply to matters of suspected fraud and impropriety and not matters of more general grievance which would be dealt with under the grievance procedures.

2. Introduction

- 2.1 The purpose of this policy is to set out a framework outlining The Schools of King Edward VI in Birmingham the 'Foundation Charity') and the King Edward VI Academy Trust's (the 'Academy Trust') (collectively the 'Foundation') approach to whistleblowing.
- 2.2 All persons employed by the Foundation are under an obligation implied in their contract of employment to give honest and faithful service to their employer. This includes an obligation not to disclose to external sources any trade secrets or confidential information acquired during the course of employment or act in a manner that will undermine the mutual trust and confidence on which the employment relationship is based. The Public Interest Disclosure Act 1998 (PIDA) complements those obligations by providing protection to employees for disclosures made in the public interest of certain specific types of information, which in most cases will be of a confidential nature.
- 2.3 This Policy is designed to deal with disclosure of information by an employee that relates to some danger, bribery, corruption, fraud or other unlawful or unethical conduct in the workplace. Employment legislation governs the making of disclosures concerning workplace activities and is intended to protect employees who blow the whistle on bad practice from being subjected to any detriment or from being unfairly dismissed as a result. This Policy is available to all employees who discover something they feel that they should pass on in the interests of the public. All types of wrongdoing are included whether they are acts committed by fellow employees, faults in School procedures or oversights

which should be rectified. The Policy should be used even in the event that the act or omission causing you concern has finished or has not yet started.

- 2.4 This Policy enables employees and other persons working for the Foundation or on our premises, together with suppliers and those providing services under a contract with the Foundation, to confidentially voice concerns over suspected malpractice or wrongdoing.

3. Definitions

- 3.1 The Schools of King Edward VI in Birmingham (the 'Foundation Charity') (registration no. 529051) charity, comprises of the two Independent Schools and the Foundation Office. The King Edward VI Academy Trust Birmingham (the 'Academy Trust') (registration no. 10654935) incorporates the Academies. (The Foundation Charity and the Academy Trust are collectively the 'Foundation'.)
- 3.2 In this Policy 'Employee' means any person employed by or who volunteers (i.e., Governors and Trustees) for the Foundation Charity or the Academy Trust. For the avoidance of doubt, this definition includes all personnel training on the King Edward's Consortium initial teacher training programmes.

4. Legislation

- 4.1 The European Convention on Human Rights was incorporated into UK law by the Human Rights Act 1998, and the Public Interest Disclosure Act 1998 (PIDA) which reflects article 10 of the Convention in providing the right to freedom of expression. The PIDA came into force on 2 July 1999 and offers a framework of protection against victimisation or dismissal for workers who blow the whistle on criminal behaviour or other wrongdoing. Further provisions were introduced by the Enterprise and Regulatory Reform Act 2013.
- 4.2 Keeping Children Safe in Education applies a statutory duty for schools to provide a mechanism in which individuals are able to raise concerns about poor or unsafe practice and potential failures in a school's safeguarding regime and that such concerns will be taken seriously by the senior leadership team.
- 4.3 The term 'whistleblowing' has no legal definition within EC or UK law; however, it has been used to describe incidents where an employee (which for these purposes includes not only employees but workers and other staff members) reports some alleged wrongdoing within an organisation. In this policy 'whistleblowing' means the reporting of suspected misconduct, illegal acts or failure to act within the Foundation.

5. Employer Responsibilities

- 5.1 As an employer it is good practice to create an open, transparent and safe working environment where workers feel able to speak up. A whistleblowing policy shows an employer's commitment to listen to the concerns of workers. By having clear policies and procedures for dealing with whistleblowing, an organisation demonstrates that it welcomes information being brought to the attention of management. This is also demonstrated by the following:

- Recognising workers are valuable ears and eyes
- Getting the right culture
- Training and support
- Being able to respond
- Better control
- Resolving the wrongdoing quickly

5.2 The Heads of the Schools are responsible for ensuring that this policy is communicated to all staff and the CEO to all Foundation Office staff.

6. When might the Whistleblowing Policy apply?

6.1 Concerns to be reported under this Policy may relate to something which involves an issue in the public interest where the individual raising the concern has reasonable belief that is either happening, has taken place, or is likely to happen in the future.

6.2 A “qualifying disclosure” means any disclosure of information which, in the reasonable belief of the member of staff making the disclosure, tends to show one or more of the following:

- I. that a criminal offence has been committed, is being committed or is likely to be committed, e.g., fraud and deceit, manipulation of accounting records and finances, decision-making for personal gain, abuse of position;
- II. that a person has failed, is failing or is unlikely to comply with any legal obligation to which he is subject (i.e., the School is breaking the law) - e.g., not having appropriate insurance, inappropriate use of school assets or funds, serious breaches of procedures which may advantage a particular party (e.g., tampering with tender documentation, failure to register a personal interest);
- III. that a miscarriage of justice has occurred, is occurring or is likely to occur;
- IV. that the health or safety of any individual has been, is being or is likely to be endangered;
- V. that the environment has been, is being or is likely to be damaged; or
- VI. that information tending to show any matter falling within any one of the preceding paragraphs has been, is being or is likely to be deliberately concealed.

6.3 This policy also applies to behaviour likely to bring the Foundation into disrepute or to attract public opprobrium.

6.4 The Whistleblowing Policy is not intended to replace existing procedures:

- If your concern relates to your own treatment as an employee, you should raise it under the existing grievance or harassment procedures
- If a person has a concern about services provided to him/her, it should be raised via the Complaints Policy

6.5 If in the course of investigation any concern raised in relation to the above matters appears to the investigator to relate more appropriately to a grievance, bullying or harassment, or discipline, those procedures will be invoked, instead of or, where appropriate, in addition to this procedure.

7. Raising a Concern

- 7.1 If an employee experiences something in the workplace which they perceive to be wrongdoing, it is important that the concern is raised straight away. Proof is not required as this is the Foundation's responsibility to acquire. The employee must, however, have a reasonable belief that disclosing the information is in the public interest before raising a concern using the procedure set out in this Policy.
- 7.2 The whistleblower should raise the matter internally in the first instance to allow those school staff and governors/trustees in positions of responsibility and authority the opportunity to right the wrong and give an explanation for the behaviour or activity.
- 7.3 A number of individuals have been designated specifically to deal with such matters and the whistleblower is invited to decide which of the individuals would be the most appropriate person to deal with the matter.

For school-based staff:

Head of Department/Line Manager; or

Chief Master/Principal/Head Teacher; or

Chair of Governors of the school concerned; c/o the Foundation Office, Edgbaston Park Road, Birmingham, B15 2UD, or

Governance Manager, c/o the Foundation Office, Edgbaston Park Road, Birmingham, B15 2UD cosec@ske.uk.net.

For staff not attached to any school or for matters not pertaining to any school:

Head of Department/Line Manager; or Chief Executive Officer; or

Governance Manager, c/o the Foundation Office, Edgbaston Park Road, Birmingham, B15 2UD cosec@ske.uk.net; or

The Chair of the Foundation Audit Committee; c/o the Foundation Office, Edgbaston Park Road, Birmingham B15 2UD;

The Chair of the Academy Trust Audit Committee; c/o the Foundation Office, Edgbaston Park Road, Birmingham B15 2UD;

The Chair of the Academy Trust Board; c/o the Foundation Office, Edgbaston Park Road, Birmingham B15 2UD (for Academies); or

The Chair of the Foundation Board; c/o the Foundation Office, Edgbaston Park Road, Birmingham B15 2UD.

7.4 Provided that this Policy is used appropriately and correctly, you will not suffer any detriment as a result of reporting the wrongdoing. A failure to follow this Policy may however make the disclosure unreasonable and the protection given to you by this Policy may be lost.

7.5 The whistleblower may prefer to raise the matter in person, by telephone, by email or in written form marked private and confidential and addressed to one of the above individuals. All matters will be treated in strict confidence and anonymity will be respected wherever possible.

7.6 Procedures for dealing with such matters have been developed and will be applied and every effort will be made to respect the confidentiality of the whistleblower. This Policy ensures that relevant external bodies are informed if necessary.

8. Bypassing the Procedure

8.1 In extreme circumstances (where you have a reasonable belief that: the School will subject you to detriment or a cover-up is being mounted by the School or you have not received a response to your allegation) you will have the right to raise your concern directly with a relevant and appropriate outside body. This may however cause damage to the School and its reputation as well as constitute a breach of your own duty of confidentiality towards the School and this action should only be taken in extreme circumstances and after careful thought.

9. Outside Body

9.1 If you do not receive a response within seven days you shall be entitled to notify a relevant and appropriate body outside the School which may include:

- the Local Authority Designated Officer
- Children's Social Care;
- the NSPCC Whistleblowing Helpline;
- the Health and Safety Executive;
- the Environment Agency;
- the Information Commissioner;
- the Department for Education (DfE);
- the Department for Business, Enterprise and Regulatory Reform;
- the Police;
- the Charity Commission;
- the Office for Standards in Education, Children's Services and Skills (Ofsted).

10. The Media

10.1 Even where extreme circumstances are thought to exist, you should under no circumstances approach a commercial body or the media with details of the suspected wrongdoing. If you approach any such body and / or where your concern is disclosed for personal gain, the School may consider this to be gross misconduct and immediate disciplinary action may be taken against you. Any individual who approaches the media

before following due process as set out in this policy is unlikely to be protected by whistleblowing law.

11. Independent Advice and Further Reading

- 11.1 Individuals who feel unsure about whether or how to raise a concern or want confidential advice can contact the independent charity Protect on 020 3117 2520 or email whistle@protect-advice.org.uk. Their lawyers can give free confidential advice on how to raise a concern about serious malpractice at work.
- 11.2 Free information and advice can also be obtained from the Advice, Conciliation and Arbitration Service (ACAS) – Telephone: 0300 1231 100.
- 11.3 Additional information is available at www.gov.uk/whistleblowing, within 'Keeping Children Safe in Education' (DfE).
- 11.4 There may be occasions, for whatever reason where the whistleblower feels uncomfortable about reporting the matter within the organisation. There are other ways, some of which are set out in law, that a worker may make a disclosure without losing their rights under whistleblowing law. One option for external disclosures of this type is Prescribed Persons. Prescribed Persons are mainly regulators and professional bodies but include other persons and bodies such as MPs.
- 11.5 The Prescribed Persons Order 2014 sets out a list of over 60 organisations and individuals that a worker may approach outside their workplace to report suspected or known wrongdoing. The organisations and individuals on the list have usually been designate as prescribed persons because they have an authoritative or oversight relationship with the sector, often as a regulatory body. The relevant contacts for the Foundation are:

The Charity Commission for England and Wales - about the proper administration of charities in England and Wales and of funds given or held for charitable purposes in England and Wales. Charity Commission
Tel: 0300 066 9197

Email: whistleblowing@charitycommission.gsi.gov.uk
www.charitycommission.gov.uk

Secretary of State for Education - about matters relating to the following educational institutions in England: Independent schools (including academies and free schools).
Ministerial and Public Communications Division Department for Education Piccadilly Gate
Store Street Manchester M1 2WD
Tel: 0370 000 2288
Online contact form: www.education.gov.uk/contactus

12. What information to include when raising a concern

- 12.1 When raising a concern under this procedure, an employee should provide the following information where possible:
- the nature of the concern and its key elements, •

- when it happened,
- who was involved.

12.2 In addition to details of the concern, an employee should try to provide the following information:

- the background and reason behind the concern;
- whether they have already raised a concern with anyone and the response;
- any other relevant dates;
- if applicable, any personal interests must be declared from the outset.

12.3 It is important that matters are not investigated by employees themselves. Proof is not needed, just a reasonable, honest belief that wrongdoing has occurred or is likely to occur.

13. Appointing an investigating officer

13.1 The appropriate investigator should possess all the following:

- An ability to investigate objectively without bias.
- No stake in the outcome. The investigator should not have a personal relationship with the involved parties. The outcome should not directly affect the investigator's position within the organization.
- Skills that include prior investigative knowledge and working knowledge of employment laws
- Strong interpersonal skills to build a rapport with the parties involved and to be perceived as neutral and fair.
- Attention to detail.
- The right temperament to conduct interviews.

14. Investigation

14.1 All investigations will be conducted sensitively, as quickly as possible, and under this procedure. The investigation should be concluded within two months of the matter being raised, though some scenarios may result in a longer timeframe. While the Foundation cannot guarantee that the outcome will be as the employee may wish, the matter will be handled fairly and in accordance with this Whistleblowing Policy.

14.2 The individual listed in Section 7 to whom the concern has been raised will establish and record the basis of the concerns, establish if the concerns fall under this Policy and appoint an appropriate impartial Investigating Officer to carry out the investigation.

14.3 The Chief Executive Officer will be informed of all reported disclosures and the actions being taken unless it is inappropriate to do so. The whistleblower will remain confidential in this instance.

14.4 The Investigating Officer, along with the individual the whistleblowing was reported to, will seek to establish the facts of the matter and assess whether the concern is justified and can be resolved internally.

- 14.5 Within five working days of a concern being received, the appointed Investigating Officer must write to the employee and include the information listed below, as appropriate:
- Acknowledging that the concern has been received
 - Request a meeting to establish further details
 - The employee may choose to be accompanied by a work colleague or a union representative at the meeting.
 - If the employee prefers, the meeting can be conducted over the telephone or virtually rather than in person face to face.
- 14.6 The Investigating Officer will arrange a meeting with the whistleblower to establish the facts and understand:
- The background and history of the concerns to obtain as much information as possible.
 - Names, dates and places (where known)
 - The reasons why the employee is particularly concerned about the situation and the grounds for their belief of malpractice
 - Consults with the employee about further steps which could be taken
- 14.7 At the meeting the Investigating Officer should explain to the employee:
- The name/role of the investigator appointed
 - What steps s/he intends to take to address the concern
- 14.8 Once all relevant information has been obtained from the whistleblower the Investigating Officer will determine whether the disclosure meets the definition of a 'disclosure' under this policy and if so, what form the investigation should take, and if any external agencies need to be informed i.e., Police, DfE, Charity Commission, ICO. Some concerns may be resolved by agreed action without the need for formal investigation. If urgent action is required, this may be taken before any investigation is conducted. The decisions and actions will be recorded.
- 14.9 The Investigating Officer may seek support from the Governance Manager when carrying out an investigation.
- 14.10 If no investigation is appropriate the Investigating Officer shall write to the employee within three working days of the decision giving full details. Where a disclosure falls outside the scope of this Policy, the Foundation will advise the whistleblower of this and consult with them in respect of taking the matter further, if appropriate. Where an investigation will proceed the Investigating Officer shall write to the whistleblower explaining:
- How s/he will communicate with the employee during and at the end of the process and that a written response will be sent out within ten working days
 - Likely timescales
 - That their identity will be protected as far as possible, but should the investigation into the concern require the employee to be named as the source of the information, that this will be discussed with the employee before their name is disclosed
 - That the School will do all that it can to protect the employee from discrimination and/or victimisation
 - That the matter will be taken seriously and investigated

immediately • That if the employee's concern, though raised in good faith, is not confirmed by the investigation, no punitive action will be taken against them • If clear evidence is uncovered during the investigation that s/he has made a malicious or vexatious allegation, disciplinary action may be taken against them

- 14.11 The investigation may confirm the allegations to be unfounded in which case the Foundation will deem the matter to be concluded and s/he will be expected not to raise the concern again, unless new evidence becomes available
- 14.12 The grounds on which no further action is taken may include: • The concern does not fall within this Policy; • The Investigating Officer is satisfied that, on the balance of probabilities, there is no evidence that malpractice has occurred, is occurring or is likely to occur; • The matter is already (or has been) the subject of proceedings under one of the school's other procedures or policies; • The matter concerned is already the subject of legal proceedings, or has already been referred to the police, an external investigator, the Department for Education or another public authority.
- 14.13 It may be necessary, with anonymous allegations, to consider whether it is possible to take any further action. When making this decision, the Investigating Officer should take the following factors into account: • The seriousness of the issue(s) raised • The credibility of the concern(s) • The likelihood of confirming the allegation(s) from attributable sources
- 14.14 Any investigation may involve third parties to provide further information, advice or assistance, for example involvement of other members of school staff, the school's external auditors, legal or personnel advisors, the police, the Department for Education, the Charity Commissioner.
- 14.15 Records will be kept of work undertaken and actions taken throughout the investigation. The Investigating Officer will consider how best to report the findings and what corrective action needs to be taken which may include some form of disciplinary action or third party referral such as the police.
- 14.16 Where a longer period is needed for investigation, the member of staff will be informed in writing the reason for the delay and an estimated timescale. Any information provided about the investigation must be treated as confidential. In some cases, the need for confidentiality may prevent the Foundation from providing specific details of the investigation and/or outcomes. 1
- 14.17 The whistleblower will be informed of the results of the investigation and the action taken to address the matter. Depending on the nature of the concern or allegation and whether or not it has been substantiated, the matter will be reported to the appropriate Governing Body/committee.

15. Reporting Outcomes

- 15.1 Subject to any legal constraints, the whistleblower will be informed in writing by the Investigating Officer of the final outcome of any investigation, including how the matter

has been addressed and any recommendations for further action, within ten working days of the completion of the investigation. If there are legal constraints, e.g., a criminal investigation, the whistleblower will receive sufficient information about the outcome of any investigation to enable them to be informed that the concern has been dealt with.

- 15.2 The Audit, Risk and Compliance Committee will be informed of all reported disclosures and the actions being taken unless it is inappropriate to do so. The whistleblower will remain confidential in this instance.
- 15.3 A copy of all documents relating to any investigation will be passed to the Governance Manager for filing. Investigation files are retained for five years.
- 15.4 If the whistleblower is dissatisfied with the conduct of the investigation or resolution of the matter or has genuine concerns that the matter has not been handled appropriately, the concerns should be raised with the Investigating Officer in the first instance and if these concerns remain unresolved then the whistleblower should contact Governance Manager or the Chair of the relevant Governing Body/Chair of the Foundation Board/Chair of the Academy Trust Board as appropriate.

16. Respecting Confidentiality

- 16.1 Wherever possible the Foundation seeks to respect the confidentiality and anonymity of the whistleblower and will as far as possible protect him/her from reprisals. They will not tolerate any attempt to victimise the whistleblower or attempts to prevent concerns being raised and will consider any necessary disciplinary or corrective action appropriate to the circumstances. However, whilst confidentiality will be maintained as far as possible, in some circumstances, the law may require the identity of the whistleblower to be made known.
- 16.2 Individuals who raise concerns reasonably, responsibly and in the appropriate manner will not be penalised in any way and will be protected from harassment and victimisation. This will still apply if an individual raises a concern based on information given to them in confidence.

17. Anonymous Allegations

- 17.1 Individuals are encouraged to come forward in good faith with genuine concerns with the knowledge they will be taken seriously.
- 17.2 This Policy encourages individuals to put their name to allegations whenever possible. If individuals choose not to disclose who they are it will be much more difficult for the Foundation and Academy Trust Whistleblowing Policy Page 12 of 15 Foundation to protect the individual's position. Any action taken to look into an anonymous disclosure and the ability to ask follow up questions or provide feedback will be limited if the whistleblower cannot be contacted. Anonymous whistleblowers may seek feedback through a telephone appointment or by using an anonymised email address.

- 17.3 That said, anonymous disclosures are preferable to silence about serious wrongdoing or danger and will still be appropriately investigated if sufficient specific information is provided to enable this to happen.

18. Whistleblowing by members of the public

- 18.1 Unlike disclosures by employees, PIDA does not offer legal protection for disclosures made by members of the public. However, the Foundation will take reasonable and appropriate action to protect members of the public when they make a disclosure.
- 18.2 The Foundation considers that any disclosure made by members of the public in respect of serious misconduct should be handled in the same way as disclosures made by employees.
- 18.3 Once a disclosure from a member of the public has been received by the Foundation, it will be handled in the same way as a disclosure made by a whistleblower under PIDA.

19. Raising Unfounded Malicious Concerns

- 19.1 Employees are encouraged to raise concerns when they believe there to potentially be an issue. If an allegation is made in good faith, but the investigation finds no wrongdoing, there will be no disciplinary action against the member of staff who raised the concern.
- 19.2 If, however, an allegation is shown to be deliberately invented or malicious, the trust will consider whether any disciplinary action is appropriate against the person making the allegation.

20. Conclusion

- 20.1 Existing good practice within the Foundation in terms of their systems of internal control, both financial and non-financial, and the external regulatory environment in which the organisation operates ensure that cases of suspected fraud or impropriety rarely occur. This whistleblowing policy is provided as a reference document to establish a framework within which issues can be raised confidentially internally and if necessary, outside the management structure. This document is a public commitment that concerns are taken seriously and will be actioned.
- 20.2 The Whistleblowing Policy is intended to provide employees with a procedure for raising concerns and resolving these within the School. If an employee is not satisfied with the response, the Investigating Officer should ensure that s/he is made aware with whom s/he may raise the matter externally:
- Recognised trade union
 - Relevant professional bodies or regulatory organisations;
 - A solicitor
 - A prescribed body with whom staff can raise concerns with

20.3 The Investigating Officer should stress to the employee that if s/he chooses to take a concern outside the School, it is the employee's responsibility to ensure that confidential information is not disclosed, i.e., confidential information, in whatever format, is not handed over to a third party.