



# Community First Academy Trust

## **Whistle-Blowing Policy**

**Compliant with the GDPR**

**Community First Academy Trust**  
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**ADOPTED AT THE MEETING OF TRUSTEES**

**CHAIR OF BOARD: Mr J Pugh**

This is a Trust-wide policy adopted and reviewed by either the Trust Board or Finance Committee and relates to all schools that are partners within the Trust.

Specific Academy policies, e.g. curriculum policies will be found on the individual school websites.

**Date: August 2018**

**Planned Review Date: August 2020**

# Community First Academy Trust

## Whistle-Blowing Policy

### Introduction

The Public Interest Disclosure Act 1998 was enacted to ensure a climate of greater frankness between employers and workers so that irregularities can be identified and addressed quickly, and to strengthen employment rights by protecting responsible workers who blow the whistle about wrongdoing or failures in the workplace. The policy set out in this document applies those statutory provisions to the administration of the Trust and its schools.

This Policy also applies to the Directors, Governors, management and staff.

Employees are often the first to realise that something seriously wrong may be happening within the Trust or one of its schools. However, they may not express their concerns either because they feel that speaking up would be disloyal to their colleagues or to their employer or because they fear harassment or victimisation. In these circumstances, it may be easier to ignore the concern than to report what may just be a suspicion of malpractice.

Community First Academy Trust is committed to the highest possible standards of openness, probity and accountability. In line with that commitment it encourages employees and others with serious concerns about any aspect of the work of the Academy or one of its schools to come forward and voice those concerns. It recognises that certain cases will have to proceed on a confidential basis. This policy makes it clear that staff can do so without fear of reprisals and is intended to encourage and enable staff to raise serious concerns within the Academy; rather than overlooking a problem or publicly disclosing the matter.

### Aims and scope of this policy

This policy aims to:

- Provide avenues for you to raise concerns and receive feedback on any action taken;
- Allow you to take the matter further if you are dissatisfied with the response of the academy / school;
- Re-assure employees that they will be protected from reprisals or victimisation for whistle-blowing in good faith.

This policy covers concerns that fall outside the scope of other procedures. It is not intended as recourse against financial or business decisions made by the Academy / school. Nor is it an alternative to well-established disciplinary or grievance procedures. It may however overlap with other Academy policies for dealing with complaints, with Board or management Code of Conduct and with protocols for good working relationships within the Academy / school.

Concerns raised under this Whistle Blowing Policy should be about something that is, or may be;

- Unlawful or a criminal offence; or
- A breach of legal obligation; or
- A miscarriage of justice; or
- Mistreatment or abuse of a client or member of the public for whom the school has a responsibility; or
- In disregard of legislation governing health and safety at work; or
- Seeking undue favour over a contractual matter or a job application; or

- Against the academy / school or Finance Regulations; or
- Amounts to improper conduct or unauthorised use of public funds; or
- Has led to or could lead to damage to the environment; or
- A deliberate cover up of information tending to show any of the above.

***(The list above is for guidance only and is not intended to be comprehensive)***

## **Safeguards**

### **Harassment or Victimisation**

The Trust recognises that the decision to report a concern can be a difficult one to make, not least because of the fear of reprisal from those responsible for the malpractice. The Trust will take action to protect you when you raise a concern in good faith. It will not tolerate any resulting harassment or victimisation (including informal or indirect pressures) and will treat this as a serious disciplinary offence which will be dealt with under the proper procedures.

Any investigation into an allegation of malpractice will not influence or be influenced by any disciplinary or redundancy procedures which already affect you.

### **Confidentiality**

All concerns will be treated in confidence and the Trust will do its best to protect your identity if you do not want your name to be disclosed. If investigation of a concern discloses a situation which is sufficiently serious to warrant disciplinary action or police involvement, then your evidence may be important. Your name will not however be released as possible witness until the reasons for its disclosure at this stage have been fully discussed with you.

### **Anonymous Allegations**

This policy encourages you to put your name to your allegation. Concerns expressed anonymously are much less powerful but they will be considered.

### **The Protection of Trust Assets**

You should also bear in mind that if you do choose to raise a concern anonymously it will be more difficult for the matter to be investigated and for you to be provided with feedback.

### **Untrue Allegations**

If you make an allegation in good faith but it is not confirmed by the investigation, no reprisals will be taken against you. If, however, you make a malicious or vexatious allegation, disciplinary action may be taken against you.

### **How to Raise a Concern**

Staff should in the first instance raise a concern with their line manager. However, if for some reason this first step is inappropriate then the concern should be raised at a senior corporate level with the Chief Executive Officer. In some circumstances the concerns can be raised directly with the Academy's Governing Board or DfE.

Concerns can be raised orally but it is good practice for the concern to be recorded in writing at an early stage to ensure that the details are correctly understood. A written allegation should set out the background and history of the concern (giving names, dates and places where possible) and the reason why you are particularly concerned about the situation. It is preferable for you to record this in writing yourself. However,

where the person to whom you voice your concerns writes these down, a copy will be sent to your home address or via your representative to give you an opportunity to agree this as a correct record.

The earlier you express the concern, the easier it is to take action.

Although you are not expected to prove the truth of an allegation, you will need to demonstrate to the person contacted that there are sufficient grounds for your concern.

You may of course wish to seek advice from your trade union representative on how best to raise your concern.

### **How the Trust Will Respond**

The action taken by the Trust will depend on the nature of the concern. After initial enquiries to assess the seriousness of the matter it may be investigated internally (employing specific procedures where these are applicable – for example in child protection or discrimination issues) or referred to another agency.

If urgent action is required in response to a concern this may well be taken before a full investigation is conducted.

In any event within ten working days of a concern being received, the academy will write to you at your home address

- Acknowledging that the concern has been received
- Indicating how it proposes to deal with the matter
- Giving an estimate of how long it will take to provide a final response
- Telling you whether any initial enquiries have been made, and
- Telling you whether further investigations will take place, and if not, why not
- Naming an independent person to support you during any investigation e.g. your trade union official

This named person will make contact with you immediately, explain his/her role, deal with all confidentiality issues, agree frequency of contact and keep you informed about the progress of the investigation and the investigating officer(s) informed of any further issues you think are necessary. You should raise with this support officer any concerns you have about the conduct of the investigation. This officer will take appropriate steps to support you in the workplace and at any criminal or disciplinary proceedings which may eventually result from your concern and at which you are asked to give evidence.

If you wish to retain your anonymity you will need to nominate a representative to whom correspondence may be directed or to keep you informed.

The amount of contact between investigating officers and you 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 you.

When any meeting is arranged, you have the right, if you so wish, to be accompanied by a trade union or professional association representative or a friend (who need not be associated with the Academy).

The Trust accepts that you need to be assured that the matter has been properly addressed. Thus, subject to legal constraints, you will receive information about the outcome of any investigations and/or proceedings.

### **How the Matter Can Be Taken Further**

This policy is intended to provide you with a way to raise concerns within the Trust and/or one of its schools. The Trust hopes you will be satisfied by its response. If you are not, you may wish to raise the matter with your trade union official, who in return will liaise with the Trust on your behalf.

Alternatively, you may feel it is right to take the matter outside the Trust and, if so, you should take advice from an appropriate person with specialist knowledge of these types of policies.

### **The Responsible Officer**

The Chief Executive Officer has overall responsibility for the maintenance and operation of this policy. Within his/her duty to ensure that the Academy Trust acts lawfully he/she will maintain a record of all concerns raised under this policy and outcomes of any investigations.

### **Monitoring, Evaluation and Review**

The Board of Trustees will review this policy at least every two years and assess its implementation and effectiveness. The policy will be promoted and implemented throughout the Academy Trust.

### **Principles of processing data under GDPR**

Whilst a large proportion of whistleblowing reports are made anonymously, many contain personal data that is divulged as part of the reporting process.

The processing of personal data can greatly aid effective operation of a whistleblowing service because it allows a more detailed investigation to take place. It also enables the receiving party to provide feedback to the reporter on the outcome of an investigation.

The governing principles for processing personal data under GDPR articles 5-11 state that data should be:

- Processed lawfully, fairly and transparently
- Collected for specified, legitimate purpose
- Adequate, relevant and limited to what is necessary
- Accurate and up to date
- Kept in a form which permits identification for no longer than necessary for purpose
- Processed in a manner to ensure appropriate security of the data

### **Data Minimisation in a whistleblowing context**

'Data minimisation' means data reporters and handlers only collecting data that is "adequate, relevant and limited to what is necessary" is processed.

When capturing a whistleblowing report, detail is essential. More detail can greatly aid the investigation process – but it can be difficult to determine how much information is 'too much'.

Both the reporter and the handler must avoid collecting and sharing unnecessary personal data (which is then subsequently stored and processed).

Storing whistleblowing report and subject data Article 5(1)(e) requires that data is not kept for longer than is necessary for the purposes for which the personal data was processed.

Whilst GDPR does not impose an exact timeframe, it may cause data processors and controllers to implement stricter requirements to delete and destroy data which is no longer deemed necessary.

This storage period may vary significantly for whistleblowing reports. In the event of a complex investigation, the data controller may need to retain the data for several months whilst that investigation takes place.

Although a 'set retention period' is not always applicable, whistle-blowers must be advised that their details will only be retained until the case is closed and the issue resolved.

## **Consent**

Under GDPR, Data Handlers must “demonstrate that the data subject has consented” to the processing of his or her data. The consent must be specific, informed and there must be some form of clear affirmative action.

This means the whistle-blower will be more informed about how and where their data is stored and, in turn, can exercise their rights under GDPR should they wish to via a Subject Access Request.

Obtaining consent at outset Data handlers must obtain the consent of the whistleblowing individual regarding their own data at the outset of data collection. In instances when the reporter shares the data of a third party, all affected employees must be informed that their data may be processed and their consent must be requested to proceed. Only data relevant to the report must be processed, and that information will only be held until the report has been fully investigated and resolved.

## **Withdrawal of consent**

Whilst employees can be asked to agree to the processing of their data for the whistleblowing report, they are also within their rights to withdraw such consent. Under Article 7(3), it must be as easy to withdraw as to give consent. For example, if consent is obtained by a signed letter, it must also be possible to withdraw consent with a signed letter.

## **Rights of the Data Subject**

Articles 12-23 outline the rights afforded to Data Subjects under the GDPR, namely:

- The Right to access
- Right to data portability
- Right to rectification / Right to erasure
- Right to object
- Right to restriction of processing

They are also set out in more detail in the Trust data protection policy.

In a whistleblowing context, the rights of the data subject may be restricted. For example, it would not be productive to identify, under a subject access request, that they are the subject of a serious report regarding a criminal offence.

There is provision under Article 23 for Member States to restrict the GDPR subject rights for the “prevention, investigation, detection or prosecution of criminal offences” or civil law claims.

Article 29 Working Party recommends that “under no circumstances can the person accused in a whistle-blower’s report obtain information about the identity of the whistle-blower”. As the data subject, GDPR does put the whistle-blower in a much stronger position and affords them more authority over their own data

## **Chair of Community First Academy Trust**

### **Chief Executive Officer / Headteacher**

**Date: August 2018 Planned Review Date: August 2020**