



## **PUBLIC INTEREST DISCLOSURE (WHISTLEBLOWING) POLICY TRUST**

This policy is in force until further notice from:	February 2021
This policy must be reviewed by:	February 2022
Policy Author(s):	Avanti Schools Trust
Date policy reviewed by Education Director:	N/A
Date policy reviewed by COO:	January 2021
Date policy reviewed by Head of HR:	January 2021
Date policy reviewed by Compliance & Governance Officer:	January 2021
Date compliance with GDPR assured:	January 2021
Date compliance with KCSIE assured:	January 2021
Date compliance with Equality Diversity & Inclusion assured:	N/A
Location of publication of policy:	The Trust Website The HR Sharepoint
Under the Trust's Scheme of Delegation this policy must be approved by [People & Compliance Committee]. Such approval was given on:	February 2021
[Only if policy applicable to ASL] The Avanti Services Limited Board adopted this policy on:	TBC
[Only if policy applicable to GL] The Govinda's Limited Board adopted this Policy on:	TBC

## WHISTLEBLOWING POLICY

### 1. Introduction

- 1.1 Avanti Schools Trust (AST) is committed to the highest possible standards of openness, probity and accountability. In line with that commitment we expect employees, volunteers, and anyone associated with AST who has serious concerns about any aspect of practices encountered within the Trust to come forward and voice those concerns without fear of reprisals.
- 1.2 We are committed to conducting our operations with honesty and integrity, and expect all employees, governors, directors, officers and suppliers to maintain high standards. However, all organisations face the risk of things going wrong from time to time, or of unknowingly harbouring illegal or unethical conduct. A culture of openness and accountability is essential in order to prevent such situations occurring or to address them when they do occur.
- 1.3 This Disclosure Policy has been devised in accordance with the provisions of the Public Interest Disclosure Act 1998, the Enterprise and Regulatory Reform Act 2013 and the British Standard Institute Code of Practice regarding Whistleblowing arrangements, and seeks to bring into the open concerns of the staff and public relating to issues concerning dishonesty involving the school.
- 1.4 This Policy is to support staff wanting to raise such issues. It is recognised that certain cases will have to proceed on a confidential basis.

### 2. Aims and Scope of the Policy

2.1 This policy aims to:

- to encourage employees, SSC, directors, officers and suppliers to report suspected wrongdoing as soon as possible, in the knowledge that their concerns will be taken seriously and investigated as appropriate, and that their confidentiality will be respected;
- to provide employees, governors, directors, officers and suppliers with guidance as to how to raise those concerns;
- to reassure employees, governors, directors, officers and suppliers that they should be able to raise genuine concerns without fear of reprisals or victimisation even if they turn out to be mistaken.
- This policy takes account of the Whistleblowing Arrangements Code of Practice issued by the British Standards Institute and **Public Concern at Work** (the independent whistleblowing charity) and the revisions to the law introduced by the Enterprise and Regulatory Reform Act 2013 from 25 June 2013.
- The **EFA's Academies Financial Handbook 2016** contains the following provision:

<p><i>2.3.5 Academy trusts should have appropriate procedures in place for whistleblowing, including making sure all staff are aware to whom they can report their concerns and the way in which such concerns will be managed.</i></p>
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The following persons hold the following roles for the Academies Financial Handbook:

○ **Accounting Officer: Nitesh Gor, CEO**

○ **Chief Financial Officer: Kirit Patel, Director of Finance**

○ **Chair of Audit Committee: Kiran Chotai**

- 2.2 There are existing procedures in place to enable staff to lodge a grievance relating to their own employment for example in relation to areas such as terms and conditions of employment; health and safety; work relations; new working practices; working environment and conditions; workload; organisational change, etc.
- 2.3 Confidentiality is guaranteed at the point of making a protected disclosure and will be maintained during investigations and hearings other than where there is a need for disclosure of identity due to cross examination of the staff member as a witness in any subsequent procedure.
- 2.4 Whistleblowing does not have to be directly to the employer. An employee can inform other bodies such as the police in cases of fraud and does not have to inform the employer. The Whistleblowing Act ensures that will be anonymous and confidentiality is protected unless the disclosure is proven to be vexatious.
- 2.5 Whilst this policy is intended to encourage employees to raise serious concerns within the Trust, it does not override workers' legal rights to make a protected disclosure to certain third parties under the Public Disclosures Act 1988 (PIDA). Employees must reasonably believe that their disclosures are made in the public interest.
- 2.6 A purpose of the policy is to give all members of staff the confidence to come forward through agreed procedures and without fear of recrimination, to bring to the attention of the Principal, The Board, The Executive Team or to external bodies (e.g. police) any serious impropriety, breach of procedure or raise issues of concern.

### **3. What is Whistleblowing**

- 3.1 Whistleblowing is the reporting of suspected wrongdoing or dangers in relation to our activities. This includes bribery, fraud or other criminal activity, miscarriages of justice, health and safety risks, damage to the environment and any breach of legal or professional obligations.
- 3.2 Whistleblowing law is in the Employment Rights Act 1996 (as amended by the Public Interest Disclosure Act 1998). It provides the right for a worker to take a case to an employment tribunal if they have been victimised at work or they have lost their job because they have 'blown the whistle'.

The issues covered by the policy include things that may be:

- Unlawful or a criminal offence

- Fraudulent or improper use of the academy's money or assets
- Abuse of students or of other employees
- Breaches of child protection policy/legislation
- Breach of Health and Safety policy/legislation including dangerous practices at work
- receiving any gift or advantage that demonstrates a conflict of interest
- A miscarriage of justice
- Maladministration, misconduct or malpractice
- Damage to the environment
- Concealment of any of the above

A qualifying disclosure under PIDA are defined as:

“any disclosure of information which, in the reasonable belief of the worker making the disclosure is made in the public interest and tends to show one or more of the following: -

- *That a criminal offence has been committed, is being committed or is likely to be committed;*
- *That a person has failed, is failing or is likely to fail to comply with any legal obligation to which s/he is subject;*
- *That a miscarriage of justice has occurred, is occurring or is likely to occur;*
- *That the health or safety of any individual has been, is being or is likely to be endangered;*
- *That the environment has been, is being or is likely to be damaged; or*
- *That information tending to show any matter falling within any one of the preceding paragraphs has been, or is likely to be deliberately concealed.”*

3.3 The overriding concern should be that it would be in the public interest for the malpractice to be corrected and, if appropriate, sanctions applied. Staff will be encouraged to explain the public interest they are concerned with. In order to qualify for protection, a whistle-blower must have a reasonable belief that the relevant disclosure is in the public interest.

3.4 The Public Disclosure Act makes it unlawful for the Trust/School to dismiss anyone or allow them to be victimised on the basis that they have made an appropriate lawful disclosure in accordance with the Act. Even if the disclosure is considered not to be in the public interest then it will still be investigated if considered appropriate. Where investigations are required, advice should be sought from the Head of HR.

#### **4. Confidentiality/Anonymity**

- It is recognised that the person raising the concern may wish to raise a concern in confidence. Individuals who raise concerns will not have their identity disclosed without their prior consent. It must be appreciated, however, that in some situations the investigation process may not be concluded unless the source of the information and a statement by the individual is produced as part of the evidence.

- This policy encourages the person raising the concern to put their name to any allegation. Concerns expressed anonymously are more difficult to investigate but will still be investigated. In exercising this discretion, the factors to be taken into account would include:
  - The seriousness of the issue raised;
  - The credibility of the concern; and
  - The likelihood of confirming the allegation from attributable sources.
  - If an allegation is made but subsequently, following an investigation, not upheld then no action will be taken against the instigator providing they:
    - Reasonably believe that their disclosures are made in the public interest.
    - Believe that the information disclosed, and any allegation contained in it, is substantially true

It should be noted that if a malicious or false allegation is made, disciplinary action may be *considered*.

## 5. ***Mechanism for Raising Concerns***

We hope that in most cases you will be able to raise any concerns with your line manager or Principal.

- Where the issue concerns the Principal or Executive Team excluding the CEO, or having made a report it is believed that he/she has failed to take appropriate action, it should be brought to the attention of the CEO.
- Where the issue concerns the CEO it should be brought to the attention of the Chair of Board of Trustees and Head of HR.
- Where the issue concerns a member of staff, other than the Principal, it should be brought to the attention of the Head of HR.
  - Employees who feel unable to follow this route, for whatever reason, should contact their trade union representative or the Head of HR.
  - Depending on the nature of the concern the complainant will be asked to provide evidence or information that supports their claim. Normally the complainant will be asked to do this in writing. It would, therefore, be helpful to note down any facts and dates as they happen.
  - Employees who want to use the procedure but feel uneasy about it may wish to consult their trade union initially and bring a friend or trade union representative along to any discussions, so long as the third party is independent of the issue.
  - Where anonymity is requested efforts will be made to meet the request where appropriate but that might not always be possible. The earlier and more open the expression of concern the easier it will be to take appropriate action.
  - Each case will be investigated thoroughly with the aim of informing the complainant of the outcome of any investigation as quickly as possible.

## 6. **EXTERNAL DISCLOSURES**

6.1 The aim of this policy is to provide an internal mechanism for reporting, investigating and remedying any wrongdoing in the workplace. In most cases you should not find it necessary to alert anyone externally.

6.2 The law recognises that in some circumstances it may be appropriate for you to report your concerns to an external body. It will very rarely, if ever, be appropriate to alert the media. You should seek advice

before reporting a concern to anyone external. Public Concern at Work operate a confidential helpline. Your trade union may also be able to advise you in these matters.

6.3 Our understanding is that the Education Funding Agency is not a prescribed person for the purposes of Section 43F of the Employment Rights Act 1996 and that the EFA would not count as the Minister of the Crown for the purposes of Section 43E of the Employment Rights Act as no members of our Board are appointed by a Minister of the Crown under any enactment.

6.4 We believe that the bodies listed at Appendix 1 are the prescribed persons for the areas which may relate to us. A whistle blower will only have protection for a disclosure to a prescribed person if they reasonably believe:

- (a) disclosure is in the public interest; and
- (b) the relevant wrongdoing falls within the description of the matter in respect of which that person is prescribed; and
- (c) the information disclosed and allegation contained in it are substantially true.

6.5 Whistleblowing concerns usually relate to the conduct of staff, but they may sometimes relate to the actions of a third party, such as a supplier or government agency. In some circumstances the law will protect you if you raise the matter with the third party directly. However, we encourage you to report such concerns internally first. You should contact the Head of HR for guidance.

## **7 INVESTIGATION AND OUTCOME**

7.1 Once you have raised a concern, we will carry out an initial assessment to determine the scope of any investigation. We will inform you of the outcome of that assessment. You may be required to attend additional meetings in order to provide further information.

7.2 In some cases, we may appoint an investigator or team of investigators (including staff) with relevant experience of investigations or specialist knowledge of the subject matter. An investigation may be internal or external. The investigator(s) may make recommendations for change to enable us to minimise the risk of future wrongdoing.

7.3 We will aim to keep you informed of the progress of the investigation and its likely timescale. However, sometimes the need for confidentiality may prevent us giving you specific details of the investigation or any disciplinary action taken as a result. You should treat any information about the investigation as confidential.

7.4 If we conclude that a whistle blower has made false allegations maliciously or with intent to damage our reputation or of any of our staff or with a view to personal gain, the whistle blower will be subject to our Disciplinary policy.

7.5 We encourage prompt disclosure of potential wrongdoing. If you have delayed in disclosing potential wrongdoing you will be asked to explain why you have delayed in making the disclosure.

## **8 IF YOU ARE NOT SATISFIED**

- 8.1 While we cannot always guarantee the outcome you are seeking, we will try to deal with your concern fairly and in an appropriate way. By using this policy, you can help us to achieve this.
- 8.2 If you are not happy with the way in which your concern has been handled, you can raise it with the Head of HR. Contact details are set out at the end of this policy.

## **9 PROTECTION AND SUPPORT FOR WHISTLEBLOWERS & OTHER STAFF**

- 9.1 It is understandable that whistle blowers are sometimes worried about possible repercussions. We aim to encourage openness and will support staff who raise genuine concerns under this policy, even if they turn out to be mistaken.
- 9.2 Staff must not suffer any detrimental treatment as a result of raising a concern. Detrimental treatment includes dismissal, disciplinary action, threats or other unfavourable treatment connected with raising a concern. If you believe that you have suffered any such treatment, you should inform our Head of HR immediately. If the matter is not remedied, you should raise it formally using our Grievance policy.
- 9.3 Staff must not threaten or retaliate against whistle blowers in any way. If you are involved in such conduct you may be subject to disciplinary action. In some cases, the whistle blower may sue you personally for compensation in an employment tribunal.
- 9.4 Teaching staff, whether the whistle blower or the subject of a whistleblowing allegation, may seek support from the Teacher Support Network's 24-hour Support Line, whose contact details are at the end of this policy.
- 9.5 Staff who are the subject of a whistleblowing allegation:
- (a) are entitled to be accompanied at any meetings by a Permitted Companion;
  - (b) are not entitled to know the identity of the whistle blower;
  - (c) are entitled to see and approve any final statements made by them as part of an investigation; and
  - (d) should indicate if they believe that the allegation made against them was false and if it was false whether it was made maliciously or with intent to damage the reputation of us or of any of our staff or for personal gain

## **10 RESPONSIBILITY FOR SUCCESS OF THIS POLICY**

- 10.1 Our Board has overall responsibility for this policy, and for reviewing the effectiveness of actions taken in response to concerns raised under this policy.
- 10.2 Our Head of HR has day-to-day operational responsibility for this policy, and must ensure that all managers and other staff who may deal with concerns or investigations under this policy receive regular and appropriate training.

10.3 All staff are responsible for the success of this policy and should ensure that they use it to disclose any suspected danger or wrongdoing. Staff are invited to comment on this policy and suggest ways in which it might be improved. Comments, suggestions and queries should be addressed to the Head of HR.

10.4 This policy will be made available to all employees and the Board of Trustees by way of the intranet and will be drawn to the attention of new employees and Trustees as part of their induction.

10.5 This policy will be circulated to all suppliers and will be published on our website.

## 11 CONTACTS

Chair of Audit Committee	<b>Kiran Chotai:</b> <a href="mailto:kiran.chotai@avanti.org.uk">kiran.chotai@avanti.org.uk</a>
Accounting Officer/CEO	<b>Nitesh Gor:</b> <a href="mailto:ngor@avanti.org.uk">ngor@avanti.org.uk</a>
Head of HR	<b>Amie Jenkins:</b> <a href="mailto:amie.jenkins@avanti.org.uk">amie.jenkins@avanti.org.uk</a>
Public Concern at Work (Independent whistleblowing charity)	Helpline: (020) 7404 6609 Email: <a href="mailto:whistle@pcaw.co.uk">whistle@pcaw.co.uk</a> Website: <a href="http://www.pcaw.co.uk">www.pcaw.co.uk</a>
Teacher Support Network	Support Line 08000 855 088

### Appendix 1 – Relevant Prescribed Persons

Certification Officer.	Fraud, and other irregularities, relating to the financial affairs of trade unions and employers' associations.
Charity Commissioners for England and Wales.	The proper administration of charities and of funds given or held for charitable purposes.
Commissioners of the Inland Revenue.	Income tax, corporation tax, capital gains tax, petroleum revenue tax, inheritance tax, stamp duties, national insurance contributions, statutory maternity pay, statutory sick pay, tax credits, child benefits, collection of student loans and the enforcement of the national minimum wage.
Comptroller & Auditor General.	The proper conduct of public business, value for money, fraud and corruption in relation to the provision of centrally funded public services.
Director of the Serious Fraud Office.	Serious or complex fraud.
Environment Agency.	Acts or omissions which have an actual or potential effect on the environment or the management or regulation of the environment, including those relating to pollution, abstraction of water, flooding, the flow in rivers, inland fisheries and migratory salmon or trout.
Food Standards Agency.	Matters which may affect the health of any member of the public in relation to the consumption of food and other matters concerning the protection of the interests of consumers in relation to food.
Children's Commissioner	Matters relating to the views and interests of children.

Health and Safety Executive.	Matters which may affect the health or safety of any individual at work; matters, which may affect the health and safety of any member of the public, arising out of or in connection with the activities of persons at work.
Local authorities which are responsible for the enforcement of health and safety legislation.	Matters which may affect the health or safety of any individual at work; matters, which may affect the health and safety of any member of the public, arising out of or in connection with the activities of persons at work.
Information Commissioner.	Compliance with the requirements of legislation relating to data protection and to freedom of information.
Pensions Regulator	Matters relating to occupational pension schemes and other private pension arrangements including matters relating to the Regulator's objective of maximising compliance with the duties under Chapter 1 of Part 1 (and the safeguards in sections 50 and 54) of the Pensions Act 2008.
Office of Qualifications and Examinations Regulation.	Matters in relation to which the Office of Qualifications and Examinations Regulation exercises functions under the Apprenticeships, Skills, Children and Learning Act 2009
Local authorities	Compliance with the requirements of food safety legislation.
A Member of Parliament	All matters for which any other person is a prescribed person.