

Title	Author	Approved		Review Date
Whistle Blowing Policy and Procedure	P Olbison	Latest Update: Trust Meeting	Oct 2019	Oct 2022

To be reviewed at least every 3 years or as required

WHISTLE BLOWING POLICY AND PROCEDURE

1. Relevant Legislation

The Public Interest Disclosure Act 1998 (PIDA) inserted Part 4A into the Employment Rights Act 1996 (ERA 1996) to provide protection, in certain circumstances, for whistle blowers. More recently, the Enterprise and Regulatory Reform Act 2013 (ERRA) has amended the whistleblowing provisions of the ERA 1996 and also the Prevent Duty 2015. The amendments made by ERRA will only apply to 'protected disclosures' made after 25th June 2013.

2. Introduction

- 2.1 The SET is committed to operating in an ethical and principled way. The aim of this policy and procedure is to provide employees and workers (referred to as "workers" in this policy) with a means for raising genuine concerns of suspected bribery, radicalisation and extremism, breaches of the law and other serious wrongdoings.
- 2.2 The SET encourages workers to raise genuine concerns about suspected wrongdoing at the earliest practicable stage. This policy and procedure is intended to provide safeguards to enable members of staff to raise concerns about malpractice in connection with the SET.
- 2.3 This policy and procedure also aims to encourage workers to raise genuine concerns through internal SET procedures without fear of adverse repercussions being taken against them. The law allows workers to raise such concerns externally and this policy informs workers how they can do so. However, a failure to raise a concern under this procedure may result in a disclosure losing its protected status under the law.
- 2.4 This policy and procedure also seeks to balance the need to allow a culture of openness against the need to protect other workers against vexatious allegations or allegations which are not well-founded.
- 2.5 The principles of openness and accountability which underpin legislation protecting whistle blowers are reflected in this policy and procedure. The SET is also committed to ensuring compliance with the Bribery Act 2010.

This policy has been introduced in line with the Public Interest Disclosure Act 1998 (which you can consult at <http://www.opsi.gov.uk/acts/acts1998> to enable workers to raise issues of concern in an appropriate manner.

3. Purpose

This policy aims to:

- Encourage workers to feel confident in raising concerns
- Establish a fair and impartial investigative procedure
- Provide avenues for workers to raise concerns and receive appropriate feedback
- Ensure that workers receive a response to concerns and are aware of how to pursue them if they are not satisfied
- Ensure that workers will be protected from any reprisals or victimisation by the academy, provided that there is reasonable belief that the matter disclosed tends to show wrongdoing and that the disclosure has been made in an appropriate manner.

4. Scope

This policy may be used by all workers at an academy to raise concerns where the wellbeing of others or the academy itself is at risk.

The term worker broadly includes employees, contractors, agency workers, trainees and a person who is or was subject to a contract to undertake work or services for the academy.

Workers might be unsure whether it is appropriate to raise their concern under this policy and procedure or whether it is a personal grievance, which is more appropriate to raise under the SET's grievance procedure. Any worker in this situation is encouraged to approach the SET Company Secretary or Clerk to the SET Board in confidence for advice.

Workers might be unsure whether it is appropriate to raise their concern under this policy and procedure or whether it is a personal grievance, which is more appropriate to raise under the SET's grievance procedure. Any worker in this situation is encouraged to approach the Company Secretary or Clerk to the SET Board in confidence for advice.

5 Protected Disclosures

5.1 The law protects workers who, out of a sense of public duty, want to reveal suspected wrongdoing or malpractice.

5.2 The law allows workers to raise what it defines as a 'protected disclosure'. In order to be a protected disclosure, a disclosure must relate to a specific subject matter (see Section 8 below) and the disclosure must also be made in an appropriate way (see Section 10). A 'protected disclosure' must, in the reasonable belief of the worker making it, also be made in the public interest. A protected disclosure must consist of information and not merely be allegations of suspected malpractice.

6. Responsibilities

The Trust is responsible for maintaining fair, consistent and objective procedures for matters relating to whistleblowing.

The Headteacher has overall responsibility for the internal organisation, control and management of each academy.

7. **Timing**

The whistleblowing procedure should normally be conducted within the timescales laid down in this document. However, if there is a valid reason to do so, timescales can be varied. If this is initiated by management, the employee should be given an explanation if this occurs and informed when a response or meeting can be expected. Delays should not normally exceed 10 working days.

Specific subject matter

If, in the course of employment, a worker becomes aware of information which they reasonably believe tends to show one or more of the following, they must use this policy and procedure:

- That a criminal offence has been committed, is being committed or is likely to be committed;
- That an individual has failed, is failing or is likely to fail to comply with any legal obligation to which they are 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.
- That radical and/or extremist behaviour is likely to occur
- That information tending to show any of the above, is being, or is likely to be, deliberately concealed.

This list is not intended to be exhaustive.

Particular concerns that may fall within the terms of this policy include, for example, breach of a code of conduct, willful maladministration and corruption, misuse of funds, theft or fraud. We anticipate that disclosure will most likely relate to the actions of employees, contractors, and casual or agency staff, but they may also relate to the actions of a third party.

8 **Selby Educational Trust Assurances to Workers**

To ensure workers have the right to disclose a concern

Workers have the right to disclose a concern/issue if the academy does not deal with the matter. However, the duty of fidelity is implied by the law in every contract of employment and prohibits employees from disclosing employers' confidential information, unless it is in the public interest that information is disclosed or unless the Academy fails to properly consider or deal with the issue.

To protect workers

If a worker makes a disclosure on one or more of the matters listed above and they have a reasonable belief that the concern is real, the worker will not suffer any detriment, even if after investigation it transpires that the concern is unfounded, unless the concern has been raised falsely or maliciously. The Trust will not tolerate the harassment or victimisation of any worker raising a genuine concern, this may include disciplinary action.

If a worker requests that their identity is protected, the academy will not disclose it unless required to do so in law. If the situation arises where the academy is unable to resolve the concern without revealing the worker's identity (for instance because the worker's evidence is needed in court), the academy will discuss with the worker how the matter should proceed. However, it must also be stated that if a worker chooses not to disclose their identity it will be much more difficult for the Trust to look into the matter or to protect their position or to give them feedback. Accordingly, while the Trust will consider anonymous reports, it will not be possible to apply all aspects of this policy for concerns raised anonymously.

Workers are encouraged to identify themselves when making a disclosure. If an anonymous disclosure is made, the SET will not be in a position to notify the individual making the disclosure of the outcome of action taken by the SET. Anonymity also means that the SET will have difficulty in investigating such a concern. The SET reserves the right to determine whether to apply this procedure in respect of an anonymised disclosure in light of the following considerations:

- The seriousness of the issues raised in the disclosure;
- The credibility of the concern; and
- How likely it is that the concern can be confirmed from attributable sources.

For further guidance in relation to this policy and procedure, or concerning the use of the disclosure procedure generally, employees should speak in confidence to the SET Company Secretary or Clerk to the SET Board.

10 Safeguarding Practices

What school or SET staff should do if they have concerns about safeguarding practices within the school.

32. All staff and volunteers should feel able to raise concerns about poor or unsafe practice and potential failures in the school's safeguarding regime and know that such concerns will be taken seriously by the senior leadership team.

33. Appropriate whistleblowing procedures, which are suitably reflected in staff training and staff behaviour policies, should be in place for such concerns to be raised with the school's senior leadership team.

34. 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 may be open to them:

- General guidance can be found at- Advice on whistleblowing
<https://www.gov.uk/whistleblowing>
- The NSPCC whistleblowing helpline is available for staff who do not feel able to raise concerns regarding child protection failures internally. Staff can call 0800 028 0285 – line is available from 8:00 AM to 8:00 PM, Monday to Friday and email:
help@nspcc.org.uk

11 Procedure for Investigation of a Disclosure

Stage One - Notification

The worker (the Representer) raising the concern should do so orally or in writing to their line manager or to the Headteacher. The Representer has the right to have the matter treated confidentially.

If the line manager or the Headteacher believes the concern to be genuine and that it is appropriate to use the Whistleblowing procedure, the manager should contact the Chair of the Local Governing Body. The Chair of the Local Governing Body will either act as Assessor or will appoint another Assessor who is not implicated (which could be the Headteacher).

The Chair of the Local Governing Body will notify the Chair of the Board of SET Trustees that a concern has been raised and the nature of the concern, but will not divulge the personal details of the Representer.

Should it be alleged that the Chair of the Local Governing Body is involved in the alleged malpractice; the Chair of the SET Board of Trustees should be contacted in place of the Chair of the Strategic Governing Body.

If the Representer feels unable to raise their concern with their line manager or the Headteacher in the first instance, they may contact the Chair of the Local Governing Body directly. If this occurs, the Representer will be asked to explain why they feel unable to raise the concern with their line manager or the Head Teacher.

Stage Two – The Meeting

The Assessor will interview the Representer within ten working days, in confidence, or earlier if there is an immediate danger to loss of life or serious injury and will:

Obtain as much information as possible from the Representer about the grounds for the belief of malpractice;

- Consult with the Representer about further steps which could be taken;
- Inform the Representer of appropriate routes if the matter does not fall within the Whistleblowing Procedure;
- Report **all** matters raised under this procedure to the SET Chief Executive Officer.

At the interview with the Assessor, the Representer may be accompanied by a

recognised trade union representative or a work colleague. The Assessor may be accompanied by a note taker.

The Assessor will update the Chair of the Local Governing Body (if they are not acting as the assessor) and the Chair of the SET Board of Trustees following the meeting, but will not divulge the personal details of the Representer.

Stage three – The Outcome

Within ten working days of the interview, the Assessor will recommend to the Headteacher, or the person's line manager, one or more of the following:

- The matter be investigated internally by the Trust
- The matter be investigated by an external person appointed by the Trust
- The matter be reported to the Department for Education
- The matter be reported to the Police.
- No further action be taken.

The grounds on which no further action is taken may include:

- The Assessor 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.

If no further action is to be taken, then this will be reported to the SET Chief Executive Officer.

Should it be alleged that the Headteacher or Line Manager is involved in the alleged malpractice, the Assessor's recommendation will be made to the SET Chief Executive Officer.

The recipient of the recommendation (Headteacher or SET Chief Executive Officer) will ensure that it is implemented unless there is good reason for not doing so in whole or in part. Such a reason will be reported to the next meeting of the Local Governing Body / SET Board of Trustees and to the Assessor.

The conclusion of any agreed investigation will be reported by the Assessor to the Representer in writing within ten days and a copy passed to the Chair of the Local Governing Body if they are not acting as Assessor. A copy will also be sent to the Chair of the SET Board of Trustees.

If the Representer has not had a response within the above time limits, he or she may appeal to the Chief Executive Officer, but will inform the Assessor before doing so.

The Representer may at any time disclose the matter on a confidential basis to a solicitor or trade union representative for the purpose of taking legal advice.

External contacts

Whistleblowing to an external body without first going through the internal procedure is inadvisable without compelling reasons. A reason may be that the Representer is not content with the conclusion of the Assessor. In particular, this means being careful about what is said to the media. Compelling reasons could be the involvement of the senior managers, serious health and safety issues or possible discrimination. The external bodies which could be used include:

- SET Auditors
- The Department for Education
- Member of Parliament
- National Audit Office
- Health and Safety Executive
- Police
- Ofsted
- Channel
- Information Commissioners Office

If you do not feel able to raise your concern in the ways outlined above, you should consult the Public Interest Disclosure Act for information about other routes by which a disclosure may be made.

12 Safeguards for Workers making a Disclosure

12.1 A worker making a disclosure under this procedure can expect their matter to be treated confidentially by the SET and, where applicable, their name will not be disclosed to anyone implicated in the suspected wrongdoing, without their prior approval.

12.2 The SET will take all reasonable steps to ensure that any report of recommendations, or other relevant documentation, produced by the SET does not identify the worker making the disclosure without their written consent, or unless the SET is legally obliged to do so, or for the purposes of seeking legal advice.

12.3 No formal disciplinary action will be taken against a worker on the grounds of making a disclosure made under this policy or procedure. This does not prevent the SET from bringing disciplinary action against a worker where the SET has grounds to believe that a disclosure was made maliciously or vexatiously, or where a disclosure is made outside the SET without reasonable grounds.

12.4 Malicious Accusations

Deliberately false or malicious accusations made by a Representer will be dealt with under the Schools disciplinary procedure.

The academy will ensure the Representer is protected from any form of victimisation or discrimination.

- 12.5 A worker will not suffer dismissal or any detrimental action or omission of any type (including informal pressure or any form of victimisation) by the SET for making a disclosure in accordance with this policy and procedure. Equally, where a worker is threatened, bullied, pressurised or victimised by a colleague for making a disclosure, disciplinary action will be taken by the SET against the colleague in question.

13 Disclosure to External Bodies

- 13.1 This policy and procedure has been implemented to allow workers to raise disclosures internally within the SET. A worker has the right to make a disclosure outside of the SET where there are reasonable grounds to do so and in accordance with the law.
- 13.2 Workers may make a disclosure to an appropriate external body prescribed by the law. This list of 'prescribed' organisations and bodies can be found in information on the GOV.UK website.
- 13.3 Workers can also make disclosures on a confidential basis to a practising solicitor or barrister.
- 13.4 If a worker seeks advice outside of the SET, they must be careful not to breach any confidentiality obligations or damage the SET's reputation in so doing.

14 Accountability

The SET will keep a secure record of all concerns raised under this policy and procedure (including cases where the SET deems that there is no case to answer and therefore that no action should be taken) and will report to the Corporation's Audit Committee on an annual basis or as appropriate.

15 Further assistance for workers

- 15.1 The SET will not tolerate any harassment or victimisation of workers who make disclosures. If, at any stage of this procedure a worker feels that they are being subject to informal pressures, bullying or harassment due to making a disclosure, they should raise this matter, in writing, to the Company Secretary.
- 15.2 Workers can also contact the charity Public Concern at Work for confidential advice on whistleblowing issues. Contact details are as follows:

3rd Floor, Bank Chambers
6 – 10 Borough High Street
London SE1 9QQ

Whistleblowing Advice Line: 020 7404 6609

<http://www.pcaw.org.uk>

Further general guidance can be found at – Advice on Whistleblowing

<https://www.gov.uk/whistleblowing>

16 Equality and Diversity Statement

Selby Educational Trust welcomes and celebrates equality and diversity. We believe that everyone should be treated equally and fairly regardless of their age, disability, gender, gender identity, race, religion or belief, sexual orientation and socio-economic background. We seek to ensure that no member of the SET community receives less favourable treatment on any of these grounds which cannot be shown to be justified.

This document is written with the above commitment, to ensure equality and diversity is at the centre of working life at Selby SET.

17 Safeguarding Policy

Selby Educational trust recognises its moral and statutory responsibility to safeguard and promote the welfare of students. We work to provide a safe and welcoming environment where students are respected and valued. We are alert to the signs of abuse, neglect, radicalisation and extremism and follow our procedures to ensure our students receive effective support, protection and justice. Selby SET expects Governors, staff and volunteers working on behalf of the SET to share this commitment.

18 Fraud, Bribery & Corruption

The Fraud Act 2006 introduces a new offence of fraud, which can be committed in three ways:

- Fraud by false representation
- Fraud by failing to disclose
- Fraud by abuse of a position of trust

All offences occur where the act or omission is committed dishonestly and with intent to cause gain or loss. The gain or loss does not have to succeed, as long as there is intent.

The Bribery Act 2010 makes it a criminal offence to bribe or be bribed by another person by offering or requesting a financial or other advantage as a reward or incentive to perform a relevant function or activity improperly performed.

Further information, including how to raise concerns, is included within the Anti-Fraud and Anti-Bribery & Anti-Corruption Policies.

19 GENERAL DATA PROTECTION REGULATIONS

The GDPR requires transparency. This means that individuals have a right to be informed about the collection and use of their personal data.

To help ensure compliance with this duty. The organisation will collect and use personal data to ensure the health, safety and welfare of its staff and others.