



WHISTLEBLOWING POLICY

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BOA GROUP

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Foreword

In addition to commitments made in this procedure by your employer, there is also a statutory protection in employment law summarised below.

- Workers who "blow the whistle" by making a protected disclosure, i.e. a disclosure concerning an alleged criminal offence or other prescribed wrongdoing, have the legal right not to be dismissed or subjected to any other detriment for having done so.
- The statutory protection applies where a worker makes a disclosure about an employer's alleged wrongdoing that, in the reasonable belief of the worker, is made in the public interest and is made either directly to the employer or to another person that the worker reasonably believes is responsible for the wrongdoing.
- In certain circumstances, workers may make protected disclosures to prescribed bodies such as the Health and Safety Executive, the Information Commissioner, HM Revenue and Customs, the Environment Agency and the Serious Fraud Office. [A full list of prescribed persons and bodies can be seen at www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies]
- Workers who make a disclosure concerning an alleged criminal offence or other prescribed wrongdoing to a person or body (other than their employer or a prescribed body) will be protected from dismissal or any other detriment if they reasonably believe that the disclosure is substantially true and it is reasonable for them to make the disclosure to that person or body.
- Workers who make a disclosure about an exceptionally serious failure to a person or body (other than their employer or a prescribed body) will be protected from dismissal or any other detriment if they reasonably believe that the disclosure is substantially true and they act reasonably and responsibly in making that disclosure.
- The right of a worker not to be subjected to a detriment for making a protected disclosure includes the right not to be unfairly penalised or disciplined.

A worker may complain to an employment tribunal that they have been dismissed or subjected to a detriment for making a protected disclosure.

1. Introduction

The BOA Group is committed to the highest possible standards of openness, integrity and accountability. We expect employees, governors, trustees and others that we work with, who have serious concerns about any aspects of the BOA Group's work to come forward and voice those concerns. The Trust Board will respond to all individuals who raise any concerns that they may have about the conduct of others in the BOA Group and which are in the public interest.

This policy sets out the way in which individuals may raise any concerns that they have, in confidence, without fear of victimisation and subsequent discrimination or disadvantage and how those concerns will be dealt with.

Any individual covered by this policy will be expected, through agreed procedures and without fear of retribution, to bring to the attention of the Chief Executive (or the Chair of the Trust if the concerns relate to the Chief Executive) any serious impropriety or breach of Articles of Association.

Employees who do not follow the steps identified in this procedure or other agreed internal procedures, and take their concerns to other outside sources other than the prescribed persons or bodies (for example going to the press or broadcast media), may be subject to a formal disciplinary investigation.

2. Aim

This policy aims to:

- Encourage you to feel confident in raising serious concerns and to question and act upon concerns;
- Provide routes for you to raise those concerns and receive feedback on any action taken;
- Ensure that you receive a response to your concerns and that you are aware of how to pursue them if you are not satisfied;
- Reassure you that you will be protected from possible reprisals or victimisation if you have a reasonable belief that you have raised any concern in good faith.

There are existing procedures in place to enable employees to lodge grievances relating to their employment. The Whistleblowing Policy is intended to cover concerns that fall outside the scope of other procedures, including the BOA Group complaints procedure or grievance procedure.

This policy covers concerns about:

- Conduct which is an offence or a breach of law;
- Disclosures related to miscarriages of justice;
- Health and Safety risks, including risks to the public as well as other employees;
- Damage to the environment;
- The unauthorised use of public funds;
- Corruptly receiving any gift or advantage, thus failing to comply with the Bribery Act 2010 (see Model Anti-Bribery Policy for Schools available on the Grid);
- Allowing private interests to override the interests of the academy;
- Possible fraud and corruption;
- Sexual or physical abuse of clients;

- Breaches of the BOA Group articles of association or governance policies;
- Unethical or improper conduct;
- Child protection concerns
- Concealing information about any of these matters.

The policy is intended to assist individuals who have discovered malpractice or serious wrongdoing, provided they make the disclosure in accordance with the policy. It is not designed to question financial or business decisions taken by the BOA Group nor may it be used to reconsider any matters that have already been addressed under the harassment, complaint or disciplinary procedures. It is not necessary for the employee to have proof that such an act is being, has been, or is likely to be committed,- a reasonable belief is sufficient. The employee has no responsibility for investigating the matter; it is the BOA Group's responsibility to ensure that an investigation takes place

3. When other policies or procedures should be used

Safeguarding - the BOA Group's Designated Senior Person for Child Protection should be notified too. This includes:

- physical abuse of a pupil/student;
- sexual abuse of a pupil/student;
- emotional abuse of a pupil/student;
- neglect of a pupil/student;
- an intimate or improper relationship between an adult and a pupil/student.

Concerns about a colleague's **professional capability** should **not** be dealt with using this procedure but under capability procedures.

If an employee is concerned that his/her own contract has been, or is likely to be, broken he/she should use the academy's Grievance procedures.

This procedure is not designed to replace or be used as an alternative to the grievance procedure, which should be used where an employee is only aggrieved about his/her own situation.

Nor should this policy apply where the employee simply disagrees with the way the academy is run.

4. Underlying principles

The BOA Group is committed to good practice and high standards and wants to be supportive of employees and others who this policy covers.

The Trust recognises that the decision to report a concern can be a difficult one to make. If you raise a concern, based on reasonable belief and in good faith, then the trust believes that you should have nothing to fear in doing your duty to your employer and the public. Under the Public Interest Disclosure Act 1998 you will be protected from dismissal or other detriment. The trust will not tolerate harassment and/or victimisation of any employee raising concerns. Victimisation of an individual for raising a qualified disclosure will be a disciplinary offence.

If your concern is not confirmed by the investigation, no action will be taken against you.

If you make an allegation frivolously, maliciously or for personal gain, disciplinary action may be taken against you.

An instruction to cover up wrongdoing is in itself a disciplinary offence. If told not to raise or pursue any concern, even by a person in authority, employees should not agree to remain silent if it falls within the remit of this policy.

Where a disclosure is merely an expression of opinion that fails to show that a legal obligation has been or is likely to be breached, it cannot amount to a protected or qualifying disclosure for the purposes of the whistleblowing legislation.

Financial regulations require that any suspicion of fraud, corruption or other financial irregularity is reported to Internal Audit for possible investigation. Normally an employee must first report any suspicion of such an irregularity to the Chief Executive or Chair of the Trust.

5. Confidentiality

All concerns will be treated in confidence and every effort will be made not to reveal the identity of the person raising the concern, if so requested. If the BOA Group is not able to resolve the concern without revealing the individual's identity, then this will be discussed with them.

6. Anonymous Allegations

Concerns expressed anonymously are much less powerful but may be considered by the BOA Group taking into account:

- The seriousness of the issues raised;
- The credibility of the concern;
- The likelihood of confirming the allegation from attributable sources.

The Chair of Trust will decide in each case whether a complaint made anonymously will be investigated.

7. Procedure

7.1 In the first instance, unless the employee reasonably believes the Chief Executive to be involved in the wrongdoing, any concerns should be raised with the Chief Executive. If they believe the Chief Executive to be involved, then the employee should report their concerns to the Chair of the Trust.

7.2 Initial enquiries will be made to decide whether an investigation is appropriate and if so what form it should take. The overriding principle for the BOA Group will be '*is it in the public interest?*'.

7.3 Following initial investigation, the Trust will respond to the concerns raised. Some concerns may be resolved by action agreed with the employee without the need for investigation. If urgent action is required this will be taken before any investigation is conducted.

- 7.4** The Chief Executive/Chair of Trust will arrange an investigation into the matter (either by investigating the matter themselves or immediately passing the issue to someone in a senior position). The investigation may involve the employee and others involved giving written statements. Any investigation will be carried out in accordance with the principles set out above. The employee's statement will be taken into account and he/she will be asked to comment on any additional evidence obtained.

Employees who want to use the procedure but feel uneasy about it may bring a colleague or Professional Association/Trade Union Representative along to any discussions, so long as the third party is not involved in the issue.

- 7.5** Within seven working days of a concern being raised, and if an investigation is to be undertaken, the employee will be contacted by the person who is appointed to lead the investigation outlining the process.

- 7.6** The Chief Executive (or the person who carried out the investigation) will then report to the Chair of Trust who will take the necessary action, including reporting the matter to any appropriate department or regulatory agency. If disciplinary action is required this will be taken forward by the Chief Executive/Chair of Governors/Chair of Trust. On conclusion of any investigation the employee will be told the outcome of the investigation and what the next steps will be. If no action is to be taken the reason for this will be explained.

- 7.7** If the employee is dissatisfied with the outcome from the Trust or is concerned that the Chief Executive is involved in the wrongdoing, has failed to make a proper investigation or has failed to report the outcome of the investigation, they should inform the Chair of Trust. Employees who feel unable to follow this route, for whatever reason, have the option of contacting the whistleblowing champion within the academies- the Elected Staff Governor or one of the prescribed persons or bodies (see Foreword on page 1).

8. What should be done if an issue is raised with a member of staff?

If a member of staff, other than the Chief Executive, is approached by a colleague on a matter of concern as defined in this document, they are advised to take the matter to the Chief Executive.

9. Concerns about child protection issues:

If a member of staff is concerned about child protection procedures within the academy and do not feel they are able to report them to another member of staff, the Chief Executive or the Chair of the Trust then they should contact the NSPCC whistleblowing helpline.

<https://www.gov.uk/government/news/home-office-launches-child-abuse-whistleblowing-helpline>
or telephone on 0800 028 0285 – line is available from 8:00 AM to 8:00 PM, Monday to Friday and
Email: help@nspcc.org.uk. [Keeping Children Safe in Education DfE 2021]

10. Monitoring, Evaluation and Review

This policy will be reviewed every two years by the Chief Executive and subject to Trust Board approval. Changes in technology, legislation or other external factors may result in this policy being reviewed earlier.