



# Whistleblowing Policy and Procedure

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## Document provenance

This policy was approved: Aug-19

Frequency of review:

*Unless there are legislative or regulatory changes in the interim, this policy will be reviewed every two years. Should no substantive changes be required at that point, the policy will move to the next review cycle.*

ELT Owner: Director of Governance and Strategy

### Summary of changes at last review:

- Clarity around the difference between a grievance, concern, complaint and whistleblowing
- Change of Chief Financial Officer being key contact to Head of Internal Audit
- Inclusion of Extended Executive Leadership Team (EELT) responsibilities and reporting.

### Related policies:

- Grievance Policy
- Concerns and Complaints Policy
- Health and Safety Policy
- Child Protection and Safeguarding and Policy

# E-ACT Whistleblowing Policy

## 1. Introduction, purpose and aims

- 1.1. Employees of E-ACT are expected to conduct E-ACT business with integrity and honesty. Employees are therefore encouraged to report any wrongdoing that falls short of these principles. The purpose of this policy is to enable employees to raise concerns about the conduct of other colleagues in a confidential manner.
- 1.2. This policy is applicable to employees and workers of E-ACT. The extended meaning of 'worker' as defined under Section 43K of the Employment Rights Act 1996 (as amended by the Public Interest Disclosure Act 1998) applies here. For the purposes of this policy, 'employees' refers to both employees and workers of E- ACT.
- 1.3. The aims of this policy are to:
  - Provide a process for employees to raise concerns about wrongdoing (known as 'disclosures') in the workplace;
  - Reassure employees that concerns raised in good faith will be handled seriously and as confidentially as possible without reprisals (even if they turn out to be mistaken); and
  - Promote accountability throughout E-ACT, reducing the risk of serious malpractice occurring.
- 1.4. We know it can be very difficult to come forward if employees are aware of wrongdoing in the workplace, especially if it involves senior staff. Employees might worry about their job or how they might be treated if they say something. However, it is very important for E-ACT to know if there is something wrong in the organisation so that it can take appropriate steps to fix it. E-ACT will respond to any whistleblowing disclosure sensitively and with care, and employees will be kept informed appropriately and in accordance with Data Protection law as to what steps are being taken to investigate and resolve the issue.
- 1.5. The procedure for raising a whistleblowing concern is contained at Appendix 1.

## 2. The Legal Background

- 2.1. Whistleblowing is a specific type of disclosure where an individual, acting in the public interest, reasonably believes that one or more of the following is happening, has happened, or will happen in their workplace:
  - a criminal offence;
  - failure to comply with a legal obligation;
  - a miscarriage of justice;

- a danger to health and safety;
  - damage to the environment; or
  - deliberate concealment of any of the above.
- 2.2. An employee does not have to provide evidence of allegations in order for E-ACT to investigate a disclosure.
- 2.3. Employees who raise genuine concerns in line with this policy are protected from detrimental treatment under employment legislation. Employees who make disclosures maliciously, or make disclosures which are personal grievances against other individuals, will not receive this legal protection and may face disciplinary action as a result.
- 2.4. Complaints relating to an employee's individual circumstances, or in relation to colleague's behaviour in the workplace not covered in the above list and should be raised under E-ACT's Grievance Policy or E-ACT's Concerns and Complaints Policy
- 2.5. If an employee is unsure as to whether a concern should be raised under this policy, or needs guidance on how to raise such a concern, the charity Public Concern at Work<sup>1</sup> can provide independent and confidential advice. The organisation can be contacted on their Advice Line: 020 3117 2520
- 2.6. A disclosure does not need to state that it is a disclosure under the Public Interest Disclosure Act 1998<sup>2</sup>. Those named as responsible persons to receive a disclosure are trained to recognise whistleblowing disclosures and act accordingly. In circumstances where it is unclear whether the individual is raising a complaint or a disclosure, the Chair of the Audit and Risk Committee will have the final determination, based on the evidence provided to them, from either a fact-finding process or informal investigation.

### **3. Anonymity and confidentiality**

- 3.1. Employees are encouraged to raise concerns openly. This makes it easier for E-ACT to assess the issue, to decide how to investigate and to obtain more information.
- 3.2. E-ACT hope that staff will feel able to voice whistleblowing concerns openly under this policy. However, if staff want to raise their concerns confidentially, E-ACT will make every effort to keep that employee's identity private. If it is necessary for anyone investigating the concern to know the employee's identity, E-ACT will discuss this with the employee.
- 3.3. While E-ACT does not encourage staff to make disclosures anonymously, we will assess information received anonymously as best as it can. It will consider the seriousness of the allegations and the likelihood of being able to confirm the allegations from verifiable sources.
- 3.4. However, making a disclosure anonymously will limit E-ACT's ability to ask follow-up questions and to provide feedback on the information received. It will also be more

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<sup>1</sup> <https://protect-advice.org.uk/contact-us/>

<sup>2</sup> Whistleblowing is detailed in the Employment Rights Act 1996 (as amended by the [Public Interest Disclosure Act 1998](#))

difficult for an employee who has made an anonymous disclosure to qualify for the legal protections given to whistle-blowers.

#### **4. Keeping children safe**

- 4.1. For the avoidance of doubt, nothing within this policy is intended to prevent staff from complying with their obligations as stated in the statutory guidance Department for Education's (DfE) statutory guidance<sup>3</sup>, [Keeping Children Safe in Education 2019](#) or in the E-ACT Safeguarding and Child Protection Policy.
- 4.2. All staff working within E-ACT must report any safeguarding concerns about an individual's behaviour towards children and young people immediately. Allegations or concerns about colleagues and visitors must be reported directly to the Academy's Headteacher or Designated Safeguarding Lead (DSL) as outlined in the E-ACT Safeguarding and Child Protection Policy.

#### **5. Raising a whistleblowing concerning**

- 5.1. E-ACT's procedure for raising a whistleblowing concern is set out in Appendix 1. The procedure details who to contact regarding a whistleblowing concern and how to escalate this within the organisation if necessary.

##### **5.2. Investigation and outcome**

- 5.2.1. When a whistleblowing concern is raised, E-ACT will instigate an investigation. This may be led by the person receiving the disclosure or another colleague they have appointed to lead the investigation (the investigating officer).
- 5.2.2. The investigating officer will arrange a meeting with the individual as soon as possible to discuss their disclosure. E-ACT will aim to keep the individual informed of the progress of the investigation and its likely timescale. However, sometimes the need for confidentiality may prevent E-ACT giving the individual specific details of the investigation or any disciplinary action taken as a result. Individuals should treat any information about the investigation as confidential. Any concern raised will be investigated thoroughly and in a sensitive manner.
- 5.2.3. An employee making a disclosure is entitled to be accompanied by a colleague or a Trade Union representative to meetings held during the disclosure or the investigation. Individuals acting in this support role must adhere to the confidentiality provisions in this policy.
- 5.2.4. Where possible, the investigating officer will report their findings to the person who received the disclosure, who will then decide if the matter warrants further investigation and what the next steps will be. This may involve setting up an independent investigation panel or involving external authorities.
- 5.2.5. If relevant and if appropriate in the circumstances, the person (or persons) about whom the disclosure was made will be informed. They will be told about the disclosure and any supporting evidence and will be given an opportunity to respond.

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<sup>3</sup> <https://www.gov.uk/government/publications/keeping-children-safe-in-education--2>

- 5.2.6. Records of the investigation will be kept for six years by the Head of Internal Audit (HIA). Records will include an official report of the disclosure and the subsequent action taken.

### **5.3. Notification**

- 5.3.1. Headteachers, Regional Education Directors (REDs), Regional Operations Directors (RODs) or Executive and Extended Executive Leadership Team (ELT and EELT) members in receipt of a disclosure must notify the Head of Internal Audit (HIA) within 24 hours of receipt and prior to instigating an investigation.
- 5.3.2. The Head of Internal Audit in receipt of a disclosure must notify the Chief Executive Officer (CEO) within 24 hours of receipt and prior to instigating an investigation.
- 5.3.3. The Chief Executive Officer in receipt of a disclosure must notify the Chair of the Audit and Risk Committee within 24 hours of receipt and prior to instigating an investigation.
- 5.3.4. Outcomes of all investigations must be reported to the Chair of the Audit and Risk Committee and reported at the next meeting of the Audit and Risk Committee. In addition, an annual whistleblowing summary will be provided to the Audit and Risk Committee including lessons learnt and impact of any process changes.

## **6. Contact with external bodies**

- 6.1. This policy is intended to provide a framework for reporting, investigating and rectifying suspected wrongdoing in the workplace. It is designed to support a culture of transparency and accountability where employees feel able to raise concerns about potential illegal or unethical activity.
- 6.2. The law, however, does recognise that in exceptional circumstances, it may be appropriate for employees to raise concerns directly with bodies and people known as 'prescribed persons'. These include regulatory agencies such as the Office for Standards in Education (Ofsted) and the Education and Skills Funding Agency (ESFA). A complete list of prescribed persons can be found on the Government's website<sup>4</sup>.
- 6.3. Employees are strongly encouraged to seek advice from Public Concern at Work<sup>5</sup> before making a disclosure to an external body.

## **7. Contact with the media**

- 7.1. It will very rarely, if ever, be appropriate for an employee to approach the media with details of suspected wrongdoing. Employees who do so will likely lose the whistleblowing protections given to them by the law and may face disciplinary action, up to and including termination for gross misconduct.

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<sup>4</sup> <https://www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies--2/whistleblowing-list-of-prescribed-people-and-bodies>

<sup>5</sup> <https://protect-advice.org.uk/contact-us/>

## **8. Protection for whistleblower**

- 8.1. No employee will suffer detrimental treatment for having raised a concern made in good faith. Detrimental treatment includes dismissal, disciplinary action, threats or other unfavourable treatment connected with raising a concern.
- 8.2. If an employee believes they are being subjected to reprisal or victimisation as a result of raising a concern, they should contact the Head of Internal Audit (HIA) immediately. Action will be taken to protect the employee.
- 8.3. Employees must not threaten or retaliate against whistleblowers in any way. If employees are involved in such conduct they may be subject to disciplinary action.

# Appendix 1: Procedure for Raising a Whistleblowing Concern

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## STAGE ONE

### Inform –

Disclose the suspected wrongdoing first to:

*Academy and regional staff –*

- Your Headteacher; or
- Your Regional Operations Director (ROD); or
- Your Regional Education Director (RED).

*National staff –*

- The Head of Internal Audit

### Response –

You can expect a response detailing to whom the disclosure has been notified and any action taken (subject to any third-party rights) and an intended timetable for the investigation within **five working days** of the Headteacher, RED, ROD or Head of Internal Audit becoming aware of the disclosure.

Investigations will be carried out in line with this whistleblowing policy.

### Escalation –

You may escalate your concern in the following circumstances:

- If the person you should be making a disclosure to is implicated in your whistleblowing concern (i.e. suspected by you of wrongdoing), you may escalate to the next person on the list.
- If the Head of Internal Audit is suspected of wrongdoing, proceed directly to Stage Two.
- If no response is received after five days, you shall be entitled to proceed to Stage Two.

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## STAGE TWO

### Inform –

Disclose the suspected wrongdoing to the Chief Executive Officer (CEO).

### Response –

You can expect a response detailing to whom the disclosure has been notified and any action taken (subject to any third-party rights) and an intended timetable for the investigation within **five working days** of the Chief Executive Officer becoming aware of the disclosure.

### Escalation –

You may escalate your concern in the following circumstances:

- If the Chief Executive Officer is suspected of wrongdoing, proceed directly to Stage Three.
- If no response is forthcoming after five days, you shall be entitled to proceed to Stage Three.

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## STAGE THREE

### Inform –

Disclose the suspected wrongdoing to the Chair of the Audit and Risk Committee ([arc@e-act.org.uk](mailto:arc@e-act.org.uk)) on behalf of the Board of Trustees.

### Response –

You can expect a response detailing to whom the disclosure has been notified and any action taken and an intended timetable for the investigation within **ten working days** of the Chair of the Audit and Risk Committee becoming aware of the disclosure.

### Escalation –

You may escalate your concern in the following circumstances:

- If no response is forthcoming after ten days, you shall be entitled to proceed to Stage Four.

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## STAGE FOUR

If you do not receive a response within the timescales specified above, you shall be entitled to notify a relevant and appropriate body outside E-ACT, which may include:

- the Health and Safety Executive (**HSE**);
- the Environment Agency;
- the Information Commissioner;
- the Department for Education (**DfE**);
- the Department for Business, Innovation and Skills (**BIS**);
- the Police;
- the Charity Commission;
- Education and Skills Funding Agency (**ESFA**)
- Ofsted.

*Please only escalate to Stage Four if you have followed the other steps in the process.*

### Contact details and queries

If you are unsure who any of the staff mentioned in the above procedure are, up-to-date staff lists for Headteachers, Regional Team and National Office can be found on Insight. Email contact details can be found using your Outlook address book.

If you're still not sure who you should be contacting, please email [Governance.Team@E-ACT.org.uk](mailto:Governance.Team@E-ACT.org.uk) – we really want to know if something doesn't feel right to you and will make sure anything you raise with us is dealt with at the right level.

If you have any queries about this procedure, you should contact the Governance Manager; [harriet.rushton@e-act.org.uk](mailto:harriet.rushton@e-act.org.uk)