



## “Whistleblowing” Policy

### Equality Statement

Centre Academy East Anglia is committed to a policy of equality and aims to ensure that no employee, job applicant, pupil or other member of the school community is treated less favourably on grounds of sex, race, colour, ethnic or national origin, marital status, age, sexual orientation, disability or religious belief. We provide a safe, supportive and welcoming environment.

### Reporting illegal or improper conduct (disclosures under the public interest disclosures Act 1998) or concerns about safeguarding children or young people

Review Date: Annually

September 2023

Last Review Date:

September 2022

Held on website:

Yes

### Signed by Chair of Proprietor Body

Signed:

A handwritten signature in black ink, appearing to read 'R. Murphy'.

Date: 16/09/22

Chair of Proprietor Body

Mr R Murphy

*Centre Academy East Anglia is committed to safeguarding and promoting the welfare of children and young people and expects all staff to share this commitment.*

## CONTENTS

1. Introduction
2. Background
3. When should 'whistleblowing' be used?
4. Principles
5. Procedure
6. What should be done if an issue is raised with a member of staff?
7. Safeguarding Children and Young People
8. Law Relating to this Document

## 1 Introduction

This policy applies to all employees and governance of Centre Academy East Anglia (CAEA). Other individuals performing functions in relation to the organisation, such as agency workers, contractors, and volunteers should be aware of and should have access to it. CAEA hard copies of policies are held in the School Office and on Staff Documents for easy access. Please see Section 5 for procedures for reporting.

It is important to the school that any fraud, misconduct or wrongdoing by employees or governance of the school is reported and properly dealt with. The Governance Body will, therefore, respond to all individuals who raise any genuine concerns that they may have about the conduct of others in the school. **These concerns are in the public interest.** This policy sets out the way in which individuals may raise any concerns that they have and specifies how those concerns will be dealt with.

**1.1** CAEA expects the highest standards of conduct from all employees and members of governance and will treat seriously any concern raised about illegal or improper conduct in or out of school hours.

**1.2** Any individual covered by this policy will be expected, through agreed procedures and without fear of recrimination, to bring to the attention of the Head of School (or the Proprietor, if the concerns relate to the Head of School), any serious impropriety or breach of procedure.

**1.3** Employees who do not follow the steps identified in this procedure or other agreed internal procedures, and take their concerns to other outside sources (e.g. the press), may be subject to a formal disciplinary investigation.

## Aims

**1** This policy aims to:

- Encourage individuals affected to report suspected wrongdoing as soon as possible in the knowledge that their concerns will be taken seriously and investigated and that their confidentiality will be respected
- Let all staff know how to raise concerns about potential wrongdoing in the school
- Set clear procedures for how the school will respond to such concerns
- Let all staff know the protection available to them if they raise a whistle-blowing concern
- Assure staff that they will not be victimised for raising a legitimate concern through the steps set out in the policy even if they turn out to be mistaken (though vexatious or malicious concerns may be considered a disciplinary issue)

This policy does not form part of any employee's contract of employment and may be amended at any time. The policy applies to all employees or other workers who provide services to the school in any capacity, including self-employed consultants or contractors who provide services on a personal basis, and agency workers.

## 2 Background/Definition

This policy has been written in line with the government guidance on whistleblowing. We also take into account the Public Interest Disclosure Act 1998.

The law provides protection for employees who raise legitimate concerns about specified matters. These are called 'qualifying disclosures'. A qualifying disclosure is one made in the public interest by the employee who has a reasonable belief that any of the following has been, or is likely to be, committed:

- A criminal offence
- A miscarriage of justice
- An act creating risk to the health and safety of pupils' or staff
- An act causing damage to the environment
- Failure to comply with a legal obligation or statutory requirement
- Corruptly receiving any gift or advantage, thus failing to comply with the Bribery Act 2010
- Allowing private interests to override the interests of the school
- A breach of any legal obligation; or
- Concealment of any of the above

**2.1** Personal staff grievances such as bullying or harassment do not usually count as whistleblowing. If something affects a staff member as an individual, or relates to an individual employment contract, this is likely a grievance.

When staff have a concern, they should consider whether it would be better to follow our staff grievance or complaints procedures.

**2.2** 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 school's responsibility to ensure that an investigation takes place.

**2.3** Where the concerns are about **safeguarding children or young people**, the school's Designated Safeguarding Lead for Child Protection should be notified (see 7 below).

**2.4** It is a procedure in which the Head of School will be expected to act swiftly and constructively in the investigation of any concerns in accordance with the school's disciplinary procedure

**2.5** **Concern about a colleague's professional capability should not be dealt with using this procedure (but see section 7 below).**

### **3 When should 'whistleblowing' be used?**

This procedure is for disclosures about matters other than a breach of an employee's own contract of employment. If an employee is concerned that his/her own contract has been, or is likely to be, broken he/she should use the school's Grievance Procedures.

Staff should consider the examples in section 3 when deciding whether their concern is of a whistle-blowing nature. Consider whether the incident(s) was illegal, breached statutory or trust procedures, put people in danger or was an attempt to cover up any such activity.

**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.

**3.1** This procedure is therefore not designed to replace or be used as an alternative to the Grievance Procedure, which should be used when an employee is only aggrieved about his/her own situation. Nor should this policy/procedure apply when the employee simply disagrees with the way the school is run.

**3.2** **Employees must have reasonable grounds for believing the information they have is accurate and not just idle gossip or rumour.**

**3.3** An employee who makes such a protected disclosure has the right not to be dismissed, subject to any other detriment, or victimised, because he/she has made a disclosure, provided it has not been made maliciously. Any employee who uses this procedure will not be penalised for doing so. The employer will not tolerate harassment and/or victimisation of any employee raising concerns.

**3.4** An employee who is not sure whether the conduct he/she is concerned about does constitute illegal or improper conduct or is unsure about how to proceed may contact their Professional Association/Trade Union.

**3.5** Financial regulations require that any suspicion of fraud, corruption or other financial irregularity is reported to the Proprietor for possible investigation. However, normally an employee must first report any suspicion of such an irregularity to the Head of School, (but see 5), who will in turn report it to the Proprietor.

### **4. Principles**

**4.1** Any matter raised under this procedure will be investigated thoroughly, promptly and confidentially, and the outcome of the investigation reported back to the employee who raised the issue.

**4.2** No employee will be victimised for raising a matter under this procedure. This means that the continued employment and opportunities for future promotion or training of the employee will not be prejudiced because he/she has raised a legitimate concern.

**4.3** Victimisation of a worker for raising a qualified disclosure will be a disciplinary offence.

**4.4** If misconduct is discovered as a result of any investigation under this procedure the matter will be considered under the disciplinary procedure, in addition to any appropriate external measures.

**4.5** Maliciously making a false allegation is a disciplinary offence.

**4.6** 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.

## **5. Who to report to and how**

**5.1** In the first instance, unless the employee reasonably believes the Head of School to be involved in the wrongdoing, staff should report their concerns to the Head of School. If the member of staff believes the Head of School to be involved in their concern, then the employee should make their referral directly to the Proprietor. **(Please see end of policy for contact details for the Proprietor and Head of School).**

**5.2** Concerns should be made in writing wherever possible. They should include names of those committing wrongdoing, dates, places and as much evidence and context as possible. Staff raising a concern should also include details of any personal interest in the matter.

**5.3** The Head of School/Proprietor will arrange an investigation into the matter either by investigating the matter himself/herself, immediately passing the issue to someone in a senior position or to the LA LADO). 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 wish to consult their Professional Association/Trade Union initially and 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.

When 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.

**5.4** Get as much detail as possible about the concern at this meeting and record the information. If it becomes apparent the concern is not of a whistle-blowing nature, the recipient should handle the concern in line with the appropriate policy/procedure

Reiterate, at this meeting, that they are protected from any unfair treatment or risk of dismissal as a result of raising the concern. If the concern is found to be malicious or vexatious however, disciplinary action may be taken.

Establish whether there is sufficient cause for concern to warrant further investigation. If there is:

The recipient should then arrange a further investigation into the matter, involving the Proprietor, if appropriate. In some cases, they may need to bring in an external, independent body to investigate. In other cases, they may need to report the matter to the police

The person who raised the concern should be informed of how the matter is being investigated and an estimated timeframe for when they will be informed of the next steps.

**5.5** The Head of School will then report to the Proprietor, detailing the findings and confirming whether or not any wrongdoing has occurred. The Proprietor 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 Head of School or the Proprietor. 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, though certain details may need to be restricted due to confidentiality.

Beyond the immediate actions, the Head of School, Proprietor Body and other staff, if necessary, will review the relevant policies and procedures to prevent future occurrences of the same wrongdoing.

**Whilst we cannot always guarantee the outcome sought, we will try to deal with concerns fairly and in an appropriate way.**

If the employee is concerned that the Head of School is involved in the wrongdoing, has failed to make a proper investigation or has failed to report the outcome of the investigation, he/she should inform the Proprietor. Employees who feel unable to follow this route, for whatever reason, have the option of contacting one of the following:

- HM Revenue and Customs
- The Financial Services Authority
- The Office of Fair Trading
- The Health and Safety Executive
- The Environment Agency
- The Director of Public Prosecutions
- The Serious Fraud Office
- The Education Funding Agency
- The Department for Education
- The National College for Teaching and Leadership

## **6 What should be done if an issue is raised with a member of staff?**

**6.1** If a member of staff, other than the Head of School, is approached by a colleague on a matter of concern as defined in this document, he/she is advised to take the matter to the Head of School or the Proprietor (but see 5).

Staff are encouraged to raise concerns when they believe there potentially to be an issue. If an allegation is made in good faith, but the investigation finds no wrongdoing, there will be no disciplinary action against the member of staff who raised the concern.

If, however, an allegation is shown to be deliberately invented or malicious, the Proprietor will consider whether any disciplinary action is appropriate against the person making the allegation.

## **7 Safeguarding Children and Young People**

**7.1 All employees have a duty to report concerns about the safety and welfare of pupils/students.**

**7.2** Concerns about any of the following should be reported immediately to the Designated Safeguarding Lead for Child Protection (DSL):

- 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

The school's DSL is **Mrs L Gilbert**. (See Child Protection and Safeguarding Policy)

**7.3** The reason for the concern may be the actions of a colleague (including a more senior colleague), another pupil/student or someone outside the school. Whatever the reason, concerns must be reported. **Failure to report a Child Protection related allegation will be in itself a disciplinary matter.**

**7.4** Concern about a colleague's professional capability should be discussed with a member of the Senior Management Team or the Head of School.

## **8. Law Relating To This Document**

Employment Rights Act 1996

Public Interest Disclosures Act 1998

The legislation protecting individuals who make a protected disclosure applies not only to employees, but also to any person who undertakes to do or perform personally (or otherwise) any work or service for the employer, regardless of the nature of the contractual relationship between them.

This Whistleblowing Policy establishes the procedure for an employee to follow if he/she has a genuine concern about a colleague's conduct or the organisation's practices. This Whistleblowing Policy makes clear what sort of

allegations will count as a protected disclosure and should allow for the employee to raise these concerns with a nominated person and set out the steps that the employer will take in response.

A qualifying disclosure means any disclosure of information that in the reasonable belief of the worker is made in the public interest. The requirement that a whistleblower make a qualifying disclosure 'in good faith' has been removed. Therefore, while the employer can seek a declaration from the whistleblower that he or she is not knowingly making a false allegation, disciplinary action is likely to be appropriate only where there is clear evidence that the employee has misused the whistleblowing procedure. A consequence of the requirement that a disclosure be made in the public interest is that an employee will generally be precluded from being able to 'blow the whistle' about breaches of his or her employment contract.

Section 43J of the Employment Rights Act 1996 provides that a Settlement Agreement made between an employee and employer cannot prevent future protected disclosures.

Any confidentiality obligations in contracts of employment that would prevent an employee making a protected disclosure will be void.

This policy links with the policies below:

Staff Grievance Policy

Complaint's Procedure

Child Protection and Safeguarding Policy

**Contact details for the Proprietor and the Head of School.**

- Proprietor - Mr Rohan Murphy, Sherwood, Loudwater Lane, Rickmansworth, Herts, WD3 4HQ  
Tel: 07793 563 281
- Head of School – Centre Academy East Anglia, Church Road, Brettenham, Ipswich, Suffolk.  
Tel No: 01449 736404