

## Whistleblowing Policy & Procedure

<b>Date of last review:</b>	March 2021	<b>Review period:</b>	Annually
<b>Date of next review:</b>	March 2022	<b>Governance Lead:</b>	Audit and Risk Committee

### 1. WHAT IS 'WHISTLEBLOWING'?

The whistleblowing procedure sets out the framework for dealing with allegations of illegal and improper conduct.

This procedure is intended to provide a means of raising serious allegations and concerns that are revealed to be in the public interest, regarding standards, conduct, financial irregularity or possible unlawful action. The procedure is designed to ensure confidentiality and protect those making such allegations from being victimised, discriminated against and disadvantaged.

The Palladian Academy Trust is committed to the highest standards of transparency, probity, integrity and accountability within a shared culture of openness and honesty. The raising of concerns is welcomed. Staff who raise concerns are seen as actively engaged in the values and culture of the Palladian Academy Trust.

Across the Palladian Academy Trust, inside the workplace, the term Whistleblowing is used to describe reporting by workers (employees or ex-employees) of serious concerns or wrongdoing on the part of any grade of management, the Trust Board, the Governing Body or by fellow employees.

Any wrong doing disclosed must be in the public interest. Wrongdoing must be serious in its nature. It may include for example, criminal offences such as fraud and corruption or malpractice, the breach of health and safety law or any other illegal or unethical act or breaches of the Academy Code of Conduct.

Employees for this purpose include, contractors, agency workers, casual and irregular staff.

This procedure does not replace other policies and procedures such as the complaints procedure, grievance, harassment and bullying policies and other specifically laid down statutory reporting procedures.

### 2. PROTECTING THE WHISTLEBLOWER

Whistleblowers are protected by law. The legislation which provides protection for whistleblowers is contained in the Employment Rights Act 1996, as amended by the Public Interest Disclosure Act 1998. Where a worker makes a protected disclosure they have the right not to be subjected to any detriment by their employer for making that disclosure.

The Palladian Academy Trust will not discriminate against concerned employees who apply in good faith the whistleblowing procedure. A framework of support will be provided.

All allegations will be treated in confidence and every effort will be made not to reveal a whistleblower's identity unless the whistleblower otherwise requests or there is a legal obligation to reveal.

Allegations may be made anonymously but they are much less powerful. They will be considered at the discretion of the Palladian Academy Trust Management.

This procedure encourages whistleblowers to put their name to an allegation wherever possible, as anonymous allegations may often be more difficult to substantiate. In exercising discretion to investigate an anonymous allegation the factors to be taken into account include:

- The seriousness of the issue raised
- The credibility of the allegation
- Whether the allegation can realistically be investigated from factors or sources other than the anonymous information

No disciplinary action will be taken against a whistleblower who makes an allegation in the reasonable belief that it is in the public interest, even if the allegation is not substantiated by an investigation.

Disciplinary action may be taken against a whistleblower who makes an allegation which is obviously frivolous, and malicious or designed purely for personal gain and without any element of public interest.

### **3. WHEN SHOULD WHISTLEBLOWING PROCEDURES BE USED?**

The Palladian Academy Trust encourages the reporting of any perceived activity that undermines the values and culture of the Trust. The raising of concerns and the ability of the Palladian Academy Trust to receive, consider and act upon those issues, is the demonstration of a healthy and open workplace culture. Each individual member of staff should feel able to speak freely on such matters.

Whistleblowing should only be used when the party implementing the procedure has reasonable grounds for believing that a serious offence has been or may be committed. The wrong doing disclosed must be in the public interest. This means there should be a wider impact, it must affect others e.g. the general public.

Whistleblowing is not appropriate for dealing with issues between an employee and the Palladian Academy Trust which relate to the employee's own employment or rights or employment conditions generally. Alternative dispute resolution procedures for that purpose are outlined in the employment terms and conditions.

Whistleblowing is not appropriate for dealing with pupil or student complaints. These should be dealt with under separately published procedures.

Whistleblowing is not appropriate to specific cases of child safety or safeguarding which will be dealt with under the procedures specified in that connection. If any staff member has concerns that a pupil is being dealt with unfairly in school, they should raise their concern, in the first instance with the Headteacher or Designated Safeguarding Lead.

The whistleblowing procedure must never be used without good grounds. The Palladian Academy Trust have the right to protect themselves against unfounded false or malicious accusations

#### **4. CONFIDENTIAL EMPLOYEE ENQUIRIES**

Employees may, on a confidential basis, seek prior guidance from a Headteacher or Chief Executive Officer if they wish to establish whether any course of conduct on their part or on the part of another employee may amount to wrongdoing under these procedures. Any such enquiry shall be kept confidential. The Headteacher will attempt to provide guidance on the basis of the information provided, but such guidance shall not prejudice the rights of the Academy or any person under these procedures.

There is an expectation that any approach will be recorded confidentially within the Fraud and Whistleblowing Register held with the Palladian Academy trust Central services and form part of the monitoring process maintained by Governance Team.

#### **5. THE REPORTING OF CONCERNS**

If the whistleblower's concerns relate to the individual's line manager or any person to whom they report, other than the Headteacher, then the issue should be raised and reported to the school's Headteacher. If the concern relates to the Headteacher, the whistleblower should raise the matter with the Chair of the Governing Body or if there is a potential conflict with the Chair of Governors (COG) to a member of the Board of Trustees.

It is preferable for allegations to be made to an employee's immediate line manager, to whom they report. However, this may depend on the seriousness and sensitivity of the issues involved and who is suspected of any potential malpractice. For example, if the whistleblower believes that their local management is involved it would be inappropriate to raise it directly with them. The whistleblower may make an allegation directly to any of the following:

- CEO
- Chair of the Board of Trustees

Workers are encouraged to report concerns to their employer. However, an individual may choose to blow the whistle to a prescribed person or body. Relevant prescribed organisations are listed within the gov.uk website.

#### **6. INFORMING EXTERNAL AGENCIES**

Within the Academy all staff have a duty of confidentiality. The duty of confidentiality is implied by the law in every contract of employment and prohibits employees from publicly disclosing employers' confidential information, unless it is in the public interest that the information is disclosed or unless the Academy fails to follow required procedures. Other legal restrictions on the disclosure of information, for example under data protection legislation, may also apply.

Whistleblowing to the media is not appropriate or permitted in any circumstances.

Whistleblowing to an external agency without first going through the internal procedure is a breach of the Academy's Code of Conduct.

The external agencies which may be used if disclosure is permitted :

- Department for Education (DfE) / Education Skills and Funding Agency (ESFA). *(In these circumstances, the DfE/ESFA will assess whether all Academy processes have been applied and that the investigating officer has done everything possible to resolve the issue. If this is not the case, the DfE/ESFA will refer the matter back to the Academy);*
- Member of Parliament;
- National Audit Office;
- Health and Safety Executive;
- Police.

## 7. ACTION ON INITIAL RECEIPT OF ALLEGATION

Allegations can be received and raised in writing or orally. Allegations may be delivered by a number of different means such as letter, email, telephone and conversation.

It is however essential that the relevant information is captured and recorded appropriately by the receiver of the allegation. Information should include the specific allegation and where possible the name and contact point of the person making the allegation. It would be helpful to understand the background and history of the allegation with relevant dates, names and positions of those who may have been in a position to have contributed to the allegation. Although someone making an allegation is not expected to prove the truth of any allegations, they will need to provide sufficient information to the person they have reported to, to establish that there are reasonable grounds for the allegation.

Either on the receipt of the allegation or within 5 working days, the manager (receiver of the allegation) will:

- Record the allegation
- If opportune, conduct an interview with the whistleblower to obtain a clear understanding and the full facts.
- Consider the necessity to undertake any fast track activity to secure and preserve material and information. Is there a need to undertake immediate activity to prevent or reduce the risk of harm to either individuals or the organisation?
- Retain any documents supplied by the whistleblower
- Formally acknowledge the receipt of the allegation
- Understand the preferred means of communication and contact details of the whistleblower and use these for all communication in order to preserve confidentiality.
- The manager is to consider if they or another are the most appropriate individual to be the investigating officer and if necessary in consultation with the Palladian Academy Trust Chief Operating Officer (COO) confirm the appointment of an investigating officer.
- Record the activity undertaken and maintain a decision log
- Consider whether there is a need to interview the whistleblower when further information has been gathered.

The whistleblower may be accompanied by another person of their choosing during any meetings or interviews in connection with the allegation. However, if the matter is subsequently dealt with through another procedure the right to be accompanied will at that stage be in accordance with the relevant procedure.

If the allegation relates to fraud, potential fraud or other financial irregularity, no matter the value, within two working days the Chair of the Audit and Risk Committee and the Chief Operating Officer will be informed. They will then consider whether the investigation requires or should be supported by a finance officer / investigator and the method of investigation. They will consider as to whether the matter should be reported to the ESFA as per the Academies Financial Handbook.

If the issue discloses evidence of a criminal offence it will immediately be reported to the Board of Trustees and a decision will be made as to whether to inform the Police.

If the allegation concerns suspected harm to children the appropriate authorities in consultation with relevant safeguarding leads should be informed immediately.

**Within 10 working days of the receipt of the allegation, the investigating officer will:**

- Confirm to the whistleblower whether the initial receiver of the information remains as the investigating officer or whether a new investigator has been appointed.
- Have interviewed the whistleblower - If no interview has taken place, provide an explanation as to why there is a delay (i.e. the need to gather further information from the initial material received) and the likely date of any further interview.
- Provide an indication of how the Palladian Academy Trust propose to deal with the matter (route map)
- Provide an indication as to whether an investigation will take place, and if not, why not.
- Provide an estimation of how long it is anticipated to provide a final response
- Provide an indication of whether any initial enquiries have been made
- Provide the process and information to ensure there is clarity in relation to the support mechanism for the whistleblower.

The Palladian Academy will be unable to communicate activity where an allegation has been made internally and anonymously. Proposed action and decision making processes should still be formally recorded to ensure transparency of thought. Anonymous allegations will remain as part of the yearly monitoring and reporting process to the Board of Trustees.

The principle revolves around the themes of swift, fair and proportionate investigations. However, investigations can be complex and time consuming in their nature. As a minimum, an investigating officer should update the whistleblower with the progress of the investigation every 28 calendar days until it is formally concluded.

## **8. THE INTERVIEW PROCESS AND OUTCOMES**

For the purpose of whistleblowing, the interview is generally a face to face conversation, where there is an ability to ask questions, discuss and consult over the issues raised and material presented, to establish facts and identify or evaluate further investigative need.

The interview seeks to obtain as much information from the whistleblower about the grounds for the belief of wrongdoing, and the evidential gathering opportunities available to support the allegations.

Early interview is essential if the concern relates to any form of immediate harm.

There is an expectation that if no interview took place as part of the initial disclosure by the whistleblower, then the first interview should take place within 10 working days of the allegation being raised.

There is an expectation that the investigating officer will:

- Have read any material provided by the whistleblower on their initial disclosure of serious concerns.
- Consult and seek a view from the whistleblower about the further steps that could be taken and the expectation of resolution
- Advise the whistleblower of the appropriate route if the matter does not fall within the whistleblowing guidelines.

At the interview with the either the receiving officer or the appointed investigator, the whistleblower may be accompanied by a recognised trade union representative or a work colleague. The investigator may be accompanied by a member of the Academy staff to take notes.

Unless the whistleblowing concern raised relates to the Chair of the Governing Body matters raised under this procedure should be reported to the Chair of the Governing Body. Within the bounds of confidentiality they should consider whether the issue should be discussed within the school governing body and Chairs of Governors (COGS) as a wider PAT concern.

The investigating officer may at any time disclose the matter to a professionally qualified lawyer for the purpose of taking legal advice. The investigator may also discuss the issue, in confidence, with other suitable professionals, such as independent HR consultants or school governance providers in order to assess the nature of the case and to inform the outcome of the investigation.

## **9. OUTCOMES AND RECOMMENDATIONS**

Promptly within ten working days of the interview, the investigator will recommend one or more of the following:

- The matter be further investigated internally by the Academy;
- The matter be further investigated by external consultants appointed by the Academy;
- The matter be reported to an external agency;
- Disciplinary proceedings be implemented against an employee;
- Provide the route for the whistleblower to pursue the matter if it does not fall within this procedure
- That no further action is taken by the Academy

### **The grounds on which no further action is taken include:**

- The matter concerned is already (or has been) the subject of legal proceedings, or has already been referred to an external agency.
- The matter is already (or has been) the subject of proceedings under one of the Academy's other procedures or policies;
- The Investigator is satisfied that, on the balance of probabilities, there is no evidence that wrongdoing within the meaning of this procedure has occurred, is occurring or is likely to occur;
- The Assessor is satisfied that the Representor is not acting in good faith

### **Recommendations**

The recommendations of the investigator will be made to the Headteacher. However, should it be alleged that the Headteacher is involved in the alleged wrongdoing; the recommendations will be made to the school's Governing Body. If this remains inappropriate the recommendation will be made to Board of Trustees

The Headteacher and the Chair of the Governing Body, as appropriate, will ensure that the recommendation is implemented unless there is good reason for not doing so in whole or in part. A reason not to implement any recommendation or part of will be reported to the next meeting of the Governing Body and decisions to implement or not will be recorded as part of the yearly monitoring process.

The whistleblower's identity will be kept confidential unless the whistleblower otherwise consents or unless there are grounds to believe that the whistleblower has acted maliciously. In the absence of such consent or grounds, the investigator will not reveal the identity of the whistleblower except:

- Where the investigator is under a legal obligation to do so;
- Where the information is already in the public domain; or
- On a legally privileged basis to a professionally qualified lawyer for the purpose of obtaining legal advice.

The conclusion of any agreed investigation will be reported by the investigator to the whistleblower promptly and certainly within twenty one calendar days of conclusion.

All responses to the whistleblower will be made in writing and sent to the whistleblower home address.

If the whistleblower has not had a response within the above time limit or such reasonable extension as the Academy requires, the whistleblower may go to an appropriate external agency but will inform the investigator before doing so.

The whistleblower may at any time disclose the matter on a legally privileged basis to a professionally qualified lawyer for the purpose of taking legal advice.

## **10. REVIEW PROCESS**

At the behest of either the whistleblower or the investigator an assessor may be appointed to review the material and the decision reporting back within fourteen calendar days.

## **11. MALICIOUS ACCUSATIONS**

A deliberately false or malicious accusation made by a whistleblower is a disciplinary offence and will be dealt with under the Academy's disciplinary procedure, as well as potentially exposing the whistleblower to legal liability.

## **12. MONITORING, EVALUATION AND REVIEW**

The Board of Trustees will assess the implementation and effectiveness of this policy. The policy will be promoted and implemented throughout the Academy.

A Register held with the Palladian Academy Trust Central services and maintained by the Governance officer will record the following details:

- The name and status (e.g. employee) of the whistleblower
- The date on which the allegation was received
- The nature of the allegation
- Details of the person who received the allegation
- Whether the allegation is to be investigated and, if yes, by whom
- The outcome of the investigation
- Any other relevant details

The Register will be confidential and only available for inspection by the Board of Trustees.

The CEO will report annually to the Board of Trustees on the operation of the Procedure and on the whistleblowing allegations made during the period covered by the report. The report will be in a form which does not identify whistleblowers.