



Astrea Academy Trust  
INSPIRING BEYOND MEASURE

# Whistleblowing Policy & Procedure 2018-21

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## Contents

What is Whistleblowing? .....	1
The Trust's commitments to employees who whistle-blow.....	1
Whistleblowing Procedures.....	2
1. Who should an employee disclose to?.....	2
2. What information should the employee provide with their disclosure?.....	3
3. Can a disclosure be anonymous? .....	3
4. Receiving a disclosure.....	3
5. Managing a Disclosure Meeting .....	4
6. Assessing the Disclosure .....	4
7. Role of Head of Internal Audit/Executive Director of Operations.....	5
Trustee Finance, Risk and Audit Committee.....	6
Feedback to employees who are Whistleblowing .....	7
Independent information & advice for employees concerned about 'blowing the whistle' .....	7
Blowing the whistle to the relevant prescribed person(s) .....	7

## What is Whistleblowing?

Astrea Academy Trust is committed to achieving the highest possible service and ethical standards and this policy will enable workers to raise their concerns of serious wrongdoing without fear of reprisal.

This policy applies to all individuals working for Astrea Academy Trust at all levels and grades, whether they are employees, workers, trainees, contractors and casual or agency staff. Although legislation only applies to paid workers, best practice is for policies also to apply to volunteers and non-executives, such as governors. Therefore, this policy will be used in relation to such individuals as potential whistleblowers, with the protection that goes with that, but also as parties who may be cited in a whistleblowing disclosure.

Whistleblowing is the term used when an employee makes a disclosure concerning wrongdoing. The wrongdoing will typically, although not necessarily, be something they have witnessed at work.

To be covered by whistleblowing law, a worker who makes a 'protected disclosure' must reasonably believe:

- That they are acting in the public interest.
- That they are telling the right person.
- That the disclosure shows past, present or likely future wrongdoing falling into one or more of the following categories:
  - Criminal offences (this may include, for example, types of financial impropriety such as fraud)
  - Failure to comply with a legal, including contractual, obligation
  - Miscarriages of justice
  - Endangering someone's health and safety
  - Damage to the environment
  - Covering up wrongdoing in any the above categories
  - The Trust will also consider under this policy disclosures of wrongdoing in relation to other formal obligations (for example, qualification Awarding Body regulations). In these circumstances, the procedure below is likely to be adapted in order to comply with the requirements of the external body.

Whistleblowing law is located in the Employment Rights Act 1996 (as amended by the Public Interest Disclosure Act 1998). It protects workers from detrimental treatment because they have 'blown the whistle'.

The Enterprise and Regulatory Reform Act 2013 introduced a number of changes to whistleblowing legislation, including that a whistleblower should also believe that their disclosure is in the public interest.

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.

The Whistleblowing policy and procedure must always be applied fairly and in accordance with employment law and the Astrea Equal Opportunities Policy.

Personal grievances and complaints are not covered by this policy. Personal grievances or

complaints must be raised through the Trust's grievance procedure.

## **The Trust's commitments to employees who whistle-blow**

1. Astrea Academy Trust considers it a professional duty for employees to make a disclosure where they are aware of or strongly suspect wrongdoing.
2. Employees who make a disclosure ('blow the whistle') will be fully supported and protected by the Trust.
3. The Trust will treat all disclosures in an appropriate and fair way.
4. Victimisation or intimidation of a whistleblower will not be tolerated in the Trust and would be considered gross misconduct. Any perceived victimisation or intimidation of an employee making a disclosure will be formally investigated as a potential disciplinary matter.
5. Employees who make a disclosure will be protected from bullying or harassment from any employee of the Trust.
6. Employees are encouraged to seek the advice and support of their Trade Union before making any disclosure.
7. Subject to the Trust's Data Protection obligations, employees making a disclosure will receive feedback about the outcome of their disclosure.
8. All cases of whistleblowing will be brought to the attention of the Trust's Executive Director of Operations who will then make the Trustees who sit on the Trust's Finance, Risk and Audit Committee aware.

## **Whistleblowing Procedures**

### *Making the disclosure as an employee*

1. *Who should an employee disclose to?*
  - a. Employees or volunteers based in an academy should make their disclosure to the Principal or Vice Principal who will determine if they can take the disclosure forward or need to escalate it to a more senior level. If a governor has a disclosure to make about another governor, they should make this to the Chair of the Local Education Consultative Committee or Transition Management Board; if the disclosure concerns the Chair of the Local Education Consultative Committee or Transition Management Board, it should be made to the Principal.
  - b. Employees centrally employed by the Trust should make their disclosure to their line manager who will determine if they can take the disclosure forward or need to escalate it to a more senior level.
  - c. If an employee has concerns about making the disclosure to their Principal/Vice Principal or line manager, for whatever reason, then they may make a disclosure to the Trust Head of HR who will identify the appropriate professional to take the matter forward.
  - d. It is acceptable for an employee to take advice from their Trade Union before deciding to whom to make a disclosure.
  - e. Even where extreme circumstances are thought to exist, an employee should not approach the media with details of the suspected wrongdoing. Any misuse of this

policy may be considered under the Trust Disciplinary Policy following a thorough investigation.

- f. Where the concerns are about safeguarding children, the Trust's National Lead for Safeguarding must be notified, by the person to whom the disclosure was made to.

## *2. What information should the employee provide with their disclosure?*

- a. In making a disclosure an employee needs to be clear about why they think wrongdoing has occurred or is occurring or is going to occur.
- b. If the employee has evidence to support their disclosure they should have it available.

If the employee does not have evidence to support their disclosure but still suspects that there might have been wrongdoing, their concerns remain valid. They must be clear about why they suspect the wrongdoing. Those raising a disclosure are encouraged to do so in person in the first instance. However, if this is not possible for whatever reason, the disclosure can be confirmed in the whistleblowing pro forma (Appendix 1) and sent to the appropriate person.

## *3. Can a disclosure be anonymous?*

- a. Employees are not encouraged to make disclosures anonymously as it is much more difficult to investigate anonymous disclosures and it is not possible to provide feedback to an anonymous whistleblower. Employees who are concerned about possible reprisals if their identity is revealed should contact the Trust Head of HR so that appropriate measures can be taken to preserve confidentiality, although no guarantee can be given that this will always be possible. Employees are encouraged to seek the advice of their Union at an early stage as in some cases it may be possible for a Trade Union representative to act on behalf of an employee or group.

## *Managing a Disclosure as a Manager*

### *4. Receiving a disclosure*

- a. If a colleague informs their manager that they wish to disclose a concern or a suspicion of wrongdoing that may constitute whistleblowing, then the issue must be dealt with seriously and sensitively. If they cannot disclose their concerns to their line manager, they should raise directly with the Head of HR.
- b. It is important that whistleblowing disclosures are dealt with in a consistent manner. Managers should provide the whistleblower with a copy of this policy which is also available at every academy and on the Astrea website.
- c. Managers should also reassure the whistleblower that their disclosure will not affect their position at work.
- d. This may be a difficult or anxious time for the whistleblower, they must be reassured that they will be protected and supported by the Trust. If they are a member of a Trade Union, they need to be told that they may take advice before proceeding if they wish. They are doing nothing wrong.
- e. At this point the manager should ask for an outline of the concerns to help them ascertain how urgent the matter is and whether it needs to be escalated to a more senior level immediately. If the matter needs to be escalated, then the manager

should do so immediately.

- f. The manager should contact the Head of HR immediately for support and advice.
- g. The manager should consider whether the nature of the disclosure is likely to meet the test of whistleblowing rather than personal grievance, i.e. the concern is in the public interest and relates to potential wrongdoing in one of the categories outlined in 'What is Whistleblowing?'
- h. The manager should arrange a time for a formal meeting at which they will want to gather all of the information to better understand the situation. The meeting should be held as soon as is reasonably possible. The whistleblower is entitled to have a Trade Union representative accompany them at the meeting.
- i. The manager should inform their line manager that they are dealing with a disclosure and let them know the nature of the disclosure. The manager should maintain confidentiality about the identity of the whistleblower within the limits that have been explained to the whistleblower. At academy level, where appropriate (e.g. where the issue could affect matters that governors oversee or could have an impact at strategic rather than operational level), the Principal should inform the Chair of the Local Education Consultative Committee that a whistleblowing disclosure is being managed.

#### 5. *Managing a Disclosure Meeting*

*Within 10 working days of receipt of a lodged whistleblowing form, the manager will arrange a disclosure meeting with the employee. The employee will be invited to bring a trade union representative or work colleague to this meeting.*

It is the responsibility of the manager hosting a disclosure meeting to ensure that the whistleblower is put at their ease, as far as is reasonably possible, and that the mood of the meeting is professional but supportive. The priority at this stage is to listen to the whistleblower and understand their concern:

- a. A summary record of the meeting must be made and a copy provided to the whistleblower.
- b. A manager must gather all of the information available so that they can fully understand the nature of the concern and who may be involved.
- c. To be provided with evidence is very helpful. However, it is legitimate for a whistleblower to share a concern or suspicion for which they do not have evidence. In this case, the manager must try to ascertain the basis for the suspicion.
- d. The whistleblower should be reassured that to disclose a genuinely held suspicion that later proves to be wrong is acceptable. There are no negative consequences for someone who discloses a genuinely held suspicion whether right or wrong.
- e. Once the manager has all of the information they must explain to the whistleblower what will happen next:
  - i. An assessment will be made in consultation with the manager's line manager and the Head of HR as to whether enough information is available to come to a conclusion, about what action to take next or whether a formal investigation is required to gather further information.
  - ii. Once all of the necessary information and evidence is available, a determination of the appropriate action will be taken.
  - iii. If the appropriate action includes potential processes involving other

employees, then the Trust also has a duty of care and duty of confidentiality towards those employees. Therefore, it will not be possible to feed back to the whistleblower about specific processes or actions applied to other individuals. However, it is possible that under some circumstances, the whistleblower may be asked to be a witness if formal procedures are instigated.

- iv. The whistleblower should be given clear timescales for when they can expect feedback on the outcome of their whistleblowing.

## 6. *Assessing the Disclosure*

- a. Following the disclosure meeting and in consultation with a member of the HR team and the manager's line manager it needs to be decided whether there is enough information available to come to a conclusion about the disclosure. The possible conclusions are:
  - i. The disclosure meets the whistleblowing criteria and needs to be progressed to a formal investigation.
  - ii. The disclosure is based on a misunderstanding of legitimate behaviours by other staff.
  - iii. The disclosure constitutes a personal grievance rather than whistleblowing.
  - iv. The disclosure is dismissed as vexatious, and/or malicious. In these instances, the disclosure may be referred to the appropriate parties for consideration to progress in line with the Astrea Disciplinary Policy and Procedure.
- b. The conclusion reached must be based on: the evidence available; objective assessment; treating all individuals potentially involved equitably and fairly; based on the principles of natural justice.
- c. The conclusion reached must take note of the views of the HR advice and the line manager's views. However, the conclusion is the one that the manager genuinely holds after taking account of all of the information available to them and having taken advice.
- d. The manager's conclusion, along with a summary of the disclosure and the information available must then be recorded as a CONFIDENTIAL Whistleblowing Disclosure Assessment and then sent directly to the Executive Director of Operations and, where appropriate (see 4.i above), copied to the Chair of the Local Education Consultative Committee or Transition Management Board.
- e. The Executive Director of Operations will then formally advise of the next steps in consultation with the Trust Executive Board.
- f. If the manager suspects that a criminal offence has occurred, then there must be no further attempt to collect evidence or take witness statements. Such actions may undermine a police criminal investigation by tainting evidence. The Executive Director of Operations must be informed immediately and will advise the manager on the next steps.
- g. An employee may make a written disclosure to a Trustee, who shall be the Chair of the HR Committee. The name of the Chair is published on the Trust's website and contact details can be found in the email directory.

## *7. Role of Head of Internal Audit/Executive Director of Operations*

- a. The Head of Internal Audit/Executive Director of Operations will consider the CONFIDENTIAL Whistleblowing Disclosure Assessment and determine the next steps in consultation with the Executive Board depending on the circumstances and context of the disclosure. An example of next steps is provided as follows but this is not an exhaustive list:
  - i. Determine that potentially there has been a breach of professional standards that require either a further initial investigation or a formal internal disciplinary investigation.
    1. The Head of Internal Audit/Executive Director of Operations will initiate the appropriate internal investigation processes.
    2. The Head of Internal Audit/Executive Director of Operations will authorise the manager that received the disclosure to feedback to the whistleblower that a formal investigation into their concern has been initiated.
  - ii. Determine that there has been a breach of criminal law.
    3. The Head of Internal Audit/Executive Director of Operations will authorise the appropriate manager to inform the police immediately.
    4. The Head of Internal Audit/Executive Director of Operations will take all reasonable measures to ensure that the Trust employees do not initiate any further actions or communications that might compromise a police criminal investigation.
  - iii. Determine that the disclosure was a misunderstanding of the legitimate actions of other staff.
    5. The Head of Internal Audit/Executive Director of Operations will authorise the manager that received the disclosure to feedback the finding to the whistleblower and to provide them with all of the necessary information, evidence and support to satisfy them that the behaviours that they were concerned about were legitimate and appropriate.
  - iv. Determine that the disclosure constituted a personal grievance rather than whistleblowing. The Head of Internal Audit/Executive Director of Operations will authorise the manager that received the disclosure to feedback to the whistleblower and inform the Head of HR, who will take the necessary steps to provide the 'whistleblower with the appropriate support and guidance for managing a grievance and to understand the difference between grievance and whistleblowing.
  - v. Determine that the disclosure was potentially malicious.
    6. A determination of a disclosure being potentially malicious requires a high standard of evidence to justify the determination. The Trust seeks to encourage whistleblowing in good faith and to that end whistleblowers must be reassured that a disclosure made in good faith will never lead to a detrimental position for their employment. A knowingly false disclosure however could lead to disciplinary action.



7. The Head of Internal Audit/Executive Director of Operations will authorise the Head of HR to make the necessary arrangements for a disciplinary investigation to be initiated.
- b. The Head of Internal Audit/Executive Director of Operations will maintain a central record of all CONFIDENTIAL Whistleblowing Disclosure Assessments and the actions

and outcomes that were taken.

- c. The Head of Internal Audit/Executive Director of Operations will provide the agreed report of the concern and the actions taken to the Chief Executive Officer.

### **Trustee Finance, Risk and Audit Committee**

1. The Head of Internal Audit/Executive Director of Operations will provide the agreed confidential report to the Trust's Finance, Risk and Audit Committee setting out the circumstances and actions taken for all whistleblowing disclosures. The identity and confidentiality of the whistleblower will be protected in these reports and not disclosed.
2. The Committee will consider the wider implications and lessons learnt for the Trust. These considerations will include whether policy and procedures could be improved to better protect the interests of the Trust in the future.
3. The Chair of the Committee, which may be by way of delegation to the Head of Internal Audit/Executive Director of Operations, will liaise with the Chair of the Local Education Consultative Committee or Transition Management Board to ensure that outcomes of a whistleblowing disclosure can inform the context of the work of the Committee.
4. The Finance, Risk and Audit Committee has the authority to require the Head of Internal Audit/Executive Director of Operations to initiate further investigations if they consider it necessary.

### **Feedback to employees who are whistleblowing**

1. Wherever possible, feedback will be provided to the employee who raised the disclosure, including when the process has concluded and what the conclusion was but within the limits of the law and the duty of confidentiality to other members of staff.
2. The manager that conducted the disclosure interview should provide the employee that raised the concern with an estimate of the timings for next steps and actions.

### **Independent information & advice for employees concerned about 'blowing the whistle'**

1. Independent information and advice for employees concerned about whistleblowing can be obtained from their Trade Union.
2. Information can also be obtained from the 'Public Concern at Work' website <http://www.pcaw.org.uk>
3. Information can also be obtained through the ACAS helpline 0300 1231100 <http://www.acas.org.uk/index.aspx?articleid=1461>

### **Blowing the whistle to the relevant prescribed person(s)**

In general, if a worker makes a disclosure to an external body they may lose their whistleblowing rights and protections. There are some exceptions to this however, known as **prescribed people and bodies**. A full list of such people and bodies can be downloaded at <https://www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies--2>

The list includes, but is not limited to, the following:

- Ofsted
- The Department of Education
- The Financial Conduct Authority
- Member of Parliament
- A legal advisor
- The Health and Safety Executive
- Her Majesty's Revenue and Customs

Please contact the Central HR department for any queries regarding this policy and its application.

**Appendix 1**

By completion of this form you are declaring that you have a concern which you believe falls under Astrea Whistleblowing Policy.



**What concern(s) do you wish to raise?**

**In your own words describe your concern(s), include date(s), time(s), persons involved, including any witnesses, location and the length of time you have been concerned.**

**Why are you concerned about the issue(s)?**

**Have you discussed the issue(s) with anybody else? Yes/No**

**If so, who with and when (date) \_\_\_\_\_**

**What was the outcome of this discussion?**

**Your contact details**

**Name:**

**Telephone Number:**

**Address:**

**Signed:**

**Print Name:**

**Dated:**

***\*N.B. While Astrea believes it would be better able to address your concern if you identify yourself; whether you do so or not is a matter for yourself. Astrea will address the matter you raise in any event.***

*The next steps, in line with the Astrea whistleblowing policy, will be to arrange a meeting whereby the details of your disclosure will be further discussed.*