

Ark



WHISTLEBLOWING POLICY

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Date of next review:	April 2017	Owner:	Governance Manager
Type of policy:	Network	LGB or Board approval:	Board (Audit Committee)

Whistleblowing Policy and Procedure

1. Introduction

- 1.1 Ark is committed to achieving the highest possible standards of service and ethical standards and this policy will enable you to raise your concerns of serious wrongdoing without fear of reprisal.
- 1.2 This policy applies to all individuals working for Ark at all levels and grades, whether they are employees, contractors, and casual or agency staff.
- 1.3 Whistleblowing is distinct from the grievance procedure which should be used if you have a complaint relating to your personal circumstances in the workplace. Concerns about wrongdoing within Ark such as fraud, malpractice, mismanagement, breach of health and safety law or any other illegal or unethical act either on the part of management, the Governing Body or by fellow employees should be raised using this procedure.
- 1.3 This policy has been introduced in line with the Public Interest Disclosure Act 1998 (which you can consult at <http://www.legislation.gov.uk/ukpga/1998/23>) to enable workers to raise issues of concern in an appropriate manner.

2. Purpose

- 2.1 This policy aims to:
 - Encourage workers to feel confident in raising concerns
 - Establish a fair and impartial investigative procedure
 - Provide avenues for workers to raise concerns and receive appropriate feedback
 - Ensure that workers receive a response to concerns and are aware of how to pursue them if they are not satisfied

- Ensure that workers will be protected from any reprisals or victimisation by the academy, provided that there is reasonable belief that the matter disclosed tends to show wrongdoing and that the disclosure has been made in an appropriate manner.

3. Scope

- 3.1 This policy may be used by all workers at an academy to raise concerns where the wellbeing of others or the academy itself is at risk.
- 3.2 The term worker broadly includes employees, contractors, agency workers, trainees and a person who is or was subject to a contract to undertake work or services for the academy.
- 3.3 The Whistleblowing policy is designed to sit alongside the Ark Grievance Policy and Procedure and Ark Complaints Policy. As a guideline, concerns that should be raised through these routes are as follows:
- Employment related issues should be raised through the Ark Grievance Policy and Procedure
 - The Ark Complaints Policy can be used for complaints about Governors.

4. Equal Opportunities

- 4.1 The whistleblowing procedure must always be applied fairly and in accordance with employment law and Ark Equal Opportunities Policy.

5. Responsibilities

- 5.1 Ark is responsible for maintaining fair, consistent and objective procedures for matters relating to whistleblowing.
- 5.2 The principal has overall responsibility for the internal organisation, control and management of each academy.

6. Timing

- 6.1 The whistleblowing procedure should normally be conducted within the timescales laid down in this document. However, if there is a valid reason to do so, timescales can be varied. If this is initiated by management, the employee should be given an explanation if this occurs and informed when a response or meeting can be expected. Delays should not normally exceed 10 working days.

7. What to raise concerns about

- 7.1 The Public Interest Disclosure Act lists matters about which concerns can be raised, provided they are in the public interest, which are as follows:
- a) That a crime has been committed, is being committed, or is likely to be committed;
 - b) That a person has failed, is failing, or is likely to fail to comply with any legal obligation to which they are subject;
 - c) That a miscarriage of justice has occurred, is occurring, or is likely to occur;
 - d) That the health and safety of an individual has been, is being, or is likely to be endangered;
 - e) That the environment has been, is being or likely to be damaged;

f) That information tending to show any of a) to e) above has been concealed or is likely to be deliberately concealed.

7.2 Particular concerns that may fall within the terms of this policy include, for example, breach of a code of conduct, wilful maladministration and corruption, misuse of funds, theft or fraud. We anticipate that any disclosure will most likely relate to the actions of employees, contractors, and casual or agency staff, but they may also relate to the actions of a third party.

8. Ark assurances to workers

8.1 To ensure workers have the right to disclose a concern

8.1.1 Workers have the right to disclose a concern/issue if the academy does not deal with the matter. However, the duty of fidelity is implied by the law in every contract of employment and prohibits employees from disclosing employers' confidential information, unless it is in the public interest that information is disclosed or unless the Academy fails to properly consider or deal with the issue.

8.2 To protect workers

8.2.1 If a worker makes a disclosure on one or more of the matters listed above and they have a reasonable belief that the concern is real, the worker will not suffer any detriment, even if after investigation it transpires that the concern is unfounded. Ark will not tolerate the harassment or victimisation of any worker raising a genuine concern.

8.2.2 If a worker requests that their identity is protected, the academy will not disclose it unless required to do so in law. If the situation arises where the academy is unable to resolve the concern without revealing the worker's identity (for instance because the worker's evidence is needed in court), the academy will discuss with the worker how the matter should proceed. However, it must also be stated that if a worker chooses not to disclose their identity it will be much more difficult for Ark to look into the matter or to protect their position or to give them feedback. Accordingly, while we will consider anonymous reports, it will not be possible to apply all aspects of this policy for concerns raised anonymously.

9. Internal procedure

9.1 Stage one - notification

9.1.1 The worker (the Representer) raising the concern should do so orally or in writing to their line manager or to the Principal (where the employee is based in an academy). The Representer has the right to have the matter treated confidentially.

9.1.2 If the line manager or the Principal believes the concern to be genuine and that it is appropriate to use the Whistleblowing procedure, the manager should contact the Governance Manager regardless of whether the employee is based in an academy or not. The Governance Manager will either act as Assessor or will appoint another Assessor who is not implicated.

9.1.3 Should it be alleged that the Governance Manager is involved in the alleged malpractice; the Head of HR should be contacted in place of the Governance Manager.

- 9.1.4 If the Representer feels unable to raise their concern with their line manager or the Principal in the first instance, they may contact the Assessor directly. If this occurs, the Representer will be asked to explain why they feel unable to raise the concern with their line manager or the Principal.

9.2 Stage two – the meeting

- 9.2.1 The Assessor will interview the Representer within ten working days, in confidence, or earlier if there is an immediate danger to loss of life or serious injury and will:

- Obtain as much information as possible from the Representer about the grounds for the belief of malpractice;
- Consult with the Representer about further steps which could be taken;
- Inform the Representer of appropriate routes if the matter does not fall within the Ark Whistleblowing Procedure;
- Report **all** matters raised under this procedure to Ark Chief Operating Officer.

- 9.2.2 At the interview with the Assessor, the Representer may be accompanied by a recognised trade union representative or a work colleague. The Assessor may be accompanied by a note taker.

9.3 Stage three – the outcome

- 9.3.1 Within ten working days of the interview, the Assessor will recommend to the Principal, or the person's line manager where the employee is not based in an academy, one or more of the following:

- The matter be investigated internally by the academy or the Department
- The matter be investigated by an external person appointed by the school or the Department
- The matter be reported to the Department for Education
- The matter be reported to the Police
- No further action be taken.

- 9.3.2 The grounds on which no further action is taken may include:

- The Assessor is satisfied that, on the balance of probabilities, there is no evidence that malpractice has occurred, is occurring or is likely to occur;
- The matter is already (or has been) the subject of proceedings under one of the school's other procedures or policies;
- The matter concerned is already the subject of legal proceedings, or has already been referred to the police, an external investigator, the Department for Education or another public authority.

- 9.3.3 Should it be alleged that the Principal or Line Manager is involved in the alleged malpractice, the Assessor's recommendation will be made to the Ark Director of Education.

- 9.3.4 The recipient of the recommendation (Principal or Ark Director of Education) will ensure that it is implemented unless there is good reason for not doing so in whole or in part. Such a reason will be reported to the next meeting of the Local Governing Body and to the Assessor.
- 9.3.5 The conclusion of any agreed investigation will be reported by the Assessor to the Representer in writing within twenty eight days and a copy passed to the Governance Manager if they are not acting as Assessor.
- 9.3.6 If the Representer has not had a response within the above time limits, he or she may appeal to the Ark Chief Operating Officer, but will inform the Assessor before doing so.
- 9.3.7 The Representer may at any time disclose the matter on a confidential basis to a solicitor or trade union representative for the purpose of taking legal advice.

10. External contacts

10.1 Whistleblowing to an external body without first going through the internal procedure is inadvisable without compelling reasons. A reason may be that the Representer is not content with the conclusion of the Assessor. In particular, this means being careful about what is said to the media. Compelling reasons could be the involvement of the senior managers, serious health and safety issues or possible discrimination. The external bodies which could be used include:

- The Department for Education
- Member of Parliament
- National Audit Office
- Health and Safety Executive
- Police.

10.2 If you do not feel able to raise your concern in the ways outlined above, you should consult the Public Interest Disclosure Act for information about other routes by which a disclosure may be made.

11. Malicious Accusations

11.1 Deliberately false or malicious accusations made by a Representer will be dealt with under the Ark disciplinary procedure.

11.2 The academy will ensure the Representer is protected from any form of victimisation or discrimination.

12. Review

12.1 This policy will be reviewed every two years in consultation with the recognised trade unions.