

Whistleblowing policy



AGORA
LEARNING
PARTNERSHIP

| | |
|----------------------------|-------------------|
| DATE FIRST ISSUED: | June 2017 |
| DATE LAST REVIEWED: | June 2022 |
| NEXT REVIEW DATE: | June 2026 |
| APPROVED BY: | Board of Trustees |
| APPROVAL DATE: | July 2022 |

1 INTRODUCTION

- 1.1 The Agora Learning Partnership (the Trust) is committed to ensuring all aspects of its work and business is conducted with honesty and integrity.
- 1.2 This policy and procedure applies to all employees, which throughout this policy and procedure includes staff and governors/trustees. Other individuals performing functions in relation to the organisation, such as consultants, contractors, volunteers and casual/agency workers should also have access to it.
- 1.3 It is important to the Trust that any fraud, misconduct or wrongdoing by employees or governors/trustees of the Agora Learning Partnership is reported and properly dealt with. The Agora Learning Partnership will, therefore, respond to all individuals who raise any genuine concerns that they may have about the conduct of others in the Trust, which are in the public interest. This policy and procedure sets out the way in which individuals may raise any concerns that they have and how those concerns will be dealt with.
- 1.4 The Agora Learning Partnership expects the highest standards of conduct from all employees, governors and trustees and will treat seriously any concern raised about illegal or improper conduct.
- 1.5 Any individual covered by this policy will be expected, through agreed procedures and without fear of recrimination, to bring to the attention of the Headteacher (or the Chief Executive Officer (CEO) if the concern is regarding the Headteacher or a member of the Trust central office or the Chair of the Board of Trustees if the concern is about the CEO) any serious impropriety or breach of procedure. Should the concern regard a Trustee/Chair of the Board the Company Secretary should be notified in the first instance.

- 1.6 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
- 1.7 This policy does not form part of any employee's contract of employment and it may be amended at any time. The Agora Learning Partnership may also vary any time limits as appropriate.

2 BACKGROUND

- 2.1 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:

- a criminal offence, such as fraud or corruption
- a miscarriage of justice
- an act creating risk to health and safety of any individual
- an act causing damage to the environment
- a breach of any legal obligation
- a concealment of any of the above

is being, has been, or is likely to be, committed. 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 Trust's responsibility to ensure that an investigation takes place.

- 2.2 Where the concerns are about safeguarding children or young people, the Agora Learning Partnership's designated senior person for Child Protection must be notified (see section 7 below).
- 2.3 It is a procedure in which the Headteacher, CEO or Chair of the Board of Trustees will be expected to act swiftly and constructively in the investigation of any concerns in accordance with the Agora Learning Partnership's disciplinary procedure.
- 2.4 The requirement to have clear whistleblowing procedures in place is set out in the DfE's [Academy Trust Handbook](#). This policy also complies with our funding agreement and articles of association.
- 2.5 Concern about a colleague's professional capability should not be dealt with using this policy (see section 7 below).

3 WHEN SHOULD IT BE USED?

- 3.1 This policy and 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 or her own contract has been, or is likely to be, breached he/she should use the Agora Learning Partnership's grievance procedure.
- 3.2 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.
- 3.3 *Qualifying disclosures*
A qualifying disclosure means any disclosure of information that in the reasonable belief of the worker is made in the public interest. This is why an employee will generally be precluded from being able to 'blow the whistle' about breaches of his or her own employment contract.
- 3.4 This policy and procedure is not designed to replace or be used as an alternative to the Agora Learning Partnership's grievance procedure, which should be used where an employee is only aggrieved about their own situation. This policy and procedure will also not apply where the employee simply disagrees with the way the Agora Learning Partnership is run.
- 3.5 Employees must have reasonable grounds for believing the information they have is accurate and not just 'idle gossip or rumour'.
- 3.6 An employee who makes such a protected disclosure has the right not to be subjected to detrimental treatment, which includes: dismissal, disciplinary action, threats or other unfavourable treatment, because he/she has made a disclosure, provided it has not been made maliciously. Any employee who uses this policy and procedure will not be penalised for doing so. The employer will not tolerate harassment and/or victimisation of any employee raising concerns.
- 3.7 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 the CEO, Headteacher, Chair of the Board of Trustees or professional association/trade union.
- 3.8 Financial regulations require that any suspicion of fraud, corruption or other financial irregularity exceeding £5K or any unusual or systematic fraud, is reported to the Education and Skills Funding Agency (ESFA) for possible investigation. Normally an employee must first report any suspicion of such an irregularity to the Headteacher, CEO or Chair of the Board of Trustees, who will in turn report it to the ESFA.

4 PRINCIPLES

- 4.1 Any matter raised under this policy and procedure will be investigated thoroughly, promptly and confidentially. Whilst the Agora Learning Partnership will aim to keep the employee informed of the progress of the investigation and likely timescales,

sometimes the requirement for confidentiality will prevent full information about the investigation and any consequential disciplinary action from being disclosed.

- 4.2 No employee will be victimised for raising a matter under this policy. 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 policy the matter will be considered under the Agora Learning Partnership's disciplinary procedure, in addition to any appropriate external measures.
- 4.5 If an individual makes an allegation where he/she has a genuine concern, but it is not confirmed by the investigation, no action will be taken against that individual. If, however, the Trust concludes that an individual has made malicious or vexatious allegations, or with a view to personal gain, disciplinary action may be taken against that individual if they are an employee or steps taken to sever the working relationship between the Trust/academy and the individual if they are a Trustee, governor, officer, consultant, contractor, volunteer, casual worker or agency worker.
- 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 PROCEDURE

- 5.1 In the first instance, unless the employee reasonably believes their Headteacher to be involved in the wrongdoing, any concerns from school-based staff should be raised with the employee's Headteacher. If he/she believes the Headteacher to be involved, then the employee should report the matter to either the CEO or Chair of the Board of Trustees.

Employees in the central team should raise concerns with the CEO, or, if he/she believes the CEO to be involved, then the employee should report the matter to Chair of the Board of Trustees.

Should the concern regard a Trustee/Chair of the Board the Company Secretary should be notified in the first instance.

- 5.2 Concerns are better raised in writing and as promptly as 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 Contact details for Trust staff outlined above are:
CEO: Rebecca.Daulman@agoralearning.co.uk
Chair of the Board of Trustees: Patrick.McAteer@agoralearning.co.uk

Company Secretary: Carol.Murphy@agoralearning.co.uk

- 5.4 The Headteacher/CEO/Chair of the Board of Trustees will arrange an investigation into the matter (either by investigating the matter himself/herself or immediately passing the issue to someone in a senior position). 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.
- 5.5 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 professional association/trade union representative along to any discussions. This is permitted as long as the third party is not involved in the issue.
- 5.6 Employees are not encouraged to make disclosures anonymously. Proper investigation may be more difficult or impossible if further information cannot be obtained from the employee. It is also more difficult to establish whether any allegations are credible. Employees who are concerned about possible reprisals if their identity is revealed should come forward and appropriate measures may be taken to preserve confidentiality although no guarantee can be given that this will always be possible.
- 5.7 The Headteacher (or the person who carried out the investigation) will then report to the CEO or Chair of the Board of Trustees who will take/instigate the necessary action, including reporting the matter to any appropriate department or regulatory agency. If disciplinary action is required, this will be actioned by the Headteacher/CEO/Chair of the Board of Trustees. On conclusion of any investigation, the employee will be told the outcome of the investigation and what the next steps will be (subject to issues of confidentiality). If no action is to be taken, the reason for this will be explained.
- 5.8 If an individual is already the subject of internal procedures such as disciplinary or redundancy, those procedures will not be halted as a result of that individual raising a concern under the Whistleblowing Policy, save for exceptional circumstances.
- 5.9 If the employee is concerned that their Headteacher 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 CEO or Chair of the Board of Trustees. The aim of this policy and procedure is to provide an internal mechanism for reporting, investigating and remedying any wrongdoing in the Agora Learning Partnership. In most cases, employees should not find it necessary to alert anyone externally and employees are strongly advised to seek advice before reporting a concern in this way. 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 and Skills Funding Agency (ESFA)
- The Department for Education
- Her Majesty's Chief Inspector of Education, Children's Services and Skills ('the Chief Inspector')
- The Information Commissioner (ICO)
- Equality and Human Rights Commission

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 Headteacher, 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 Headteacher (see also section 5).

7. SAFEGUARDING CHILDREN AND YOUNG PEOPLE

- 7.1 Separate to the obligations under this policy, 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 to the Agora Learning Partnership's designated senior person for Child Protection (DSP):
- 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
- 7.3 The reason for the concern may be the actions of a colleague (including a more senior colleague), a governor/trustee, another pupil/student or someone outside the Agora Learning Partnership. Whatever the reason, concerns must be reported. Failure to report a Child Protection related allegation will be, in itself, a disciplinary matter.
- 7.4 For full details of the designated senior person for Child Protection for the Agora Learning Partnership, please see the Trust's Child Protection Policy on this [page](#) of the Trusts' website.
- ## **8 ADDITIONAL INFORMATION**
- 8.1 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.

- 8.2 Section 43J of the Employment Rights Act 1996 provides that a settlement agreement made between an employee and employer cannot prevent future protected disclosures.
- 8.3 Any confidentiality obligations in contracts of employment that would prevent an employee making a protected disclosure will be void.
- 8.4 Further information can also be sought from:
- Public Concern at Work (the independent whistleblowing charity, providing confidential independent advice about wrongdoing in the workplace)
Helpline (020) 7404 6609
Email: whistle@pcaw.co.uk
 - The Government website page [Whistleblowing for employees](#)

9 RELATED POLICIES

- Fraud
- Expenses - Trustees
- Expenses - employees
- Gifts and hospitality
- Competitive tendering
- Donations and sponsorship
- Investment
- Data protection
- Health and safety
- Disciplinary
- Grievance
- Pay
- Child Protection
- Complaints
- Bullying and harassment
- Code of conduct – employees
- Code of conduct – trustees