



JMAT
008

John Milton Academy Trust



Whistleblowing Policy

History

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For the purposes of this policy, the term **Headteacher** refers to the lead professional in each JMAT School

1. Introduction

The John Milton Academy Trust (JMAT), along with the local governing bodies of all JMAT schools, has a responsibility to ensure that its Schools are managed to the highest standards of probity, and that its decision making and administration is conducted in such a way as to be above any suspicion of malpractice.

Clear policies, standards and procedures for making decisions, particularly those which entail significant expenditure, or decisions which significantly affect employment at the School are essential elements in creating and sustaining an atmosphere of openness and trust. Such an atmosphere is the best way of forestalling suspicion or complaint.

Whistleblowing occurs when an employee makes a disclosure i.e. raises concern about malpractice, wrongdoing or danger that is in the public interest. This means that it must affect others, for example, the general public.

Staff who raise concerns about malpractice within their place of work have statutory protection against victimisation for making a qualifying disclosure under the Public Interest Disclosure Act 1998 and Enterprise and Regulatory Reform Act 2013. The employee must reasonably believe the disclosure to be in the public interest, and it must otherwise qualify as a protected act (section 4 provides detail on the criteria.)

2. Scope

This procedure applies to all teaching and support staff in JMAT schools (including those seconded to other schools or organisations), as well as JMAT central staff. It has been subject to consultation with all recognised trade unions. The procedure does not form part of any employee's contract of employment and may be amended from time to time.

Protection is afforded to workers as well as employees; this includes individuals on casual contracts, freelance workers, seconded workers, trainees and agency workers.

Protection from detriment also applies to ex-employees making disclosures after the termination of their employment.

An employee working within a School, but employed on another organisation's terms and conditions of employment, should have any matter raised managed under their appropriate policy/procedure.

3. Purpose

JMAT is committed to promoting and maintaining the highest standards in the management and administration of its affairs. Academies, as listed companies, have obligations under the UK Corporate Governance Code^[1] to maintain a sound system of internal control. Adopting a whistleblowing procedure is essential to the principles of accountability, transparency and probity which underpin good governance.

^[1] For more information on the Code, go to:

<http://www.frc.org.uk/Our-Work/Publications/Corporate-Governance/UK-Corporate-Governance-Code-September-2012.aspx>

By the adoption and publication of this procedure, JMAT, along with the local governing bodies of all JMAT Schools, is demonstrating its commitment to high standards of conduct in its affairs and establishing a basis upon which any worker can properly raise concerns without prejudice to his/her personal position.

The purpose of this procedure is to encourage any worker who has a concern that practices in their school do not meet the required standards of probity to raise that concern internally at an appropriate level and in an appropriate manner as a matter of course

This procedure is intended to guide any worker who has a disclosure to make about malpractice in their school in making that disclosure. It sets out to whom malpractice (or suspected malpractice) should be reported, how it should be reported and the action that may be taken in response to the disclosure.

JMAT will not tolerate harassment or victimisation and will take action to safeguard workers who raise a genuine concern. Under whistleblowing legislation, individuals can be found personally liable for detriment they cause a whistleblower, with employers vicariously liable for the actions of their staff. The procedure also sets out the safeguards that JMAT and all JMAT schools will offer to any worker who makes a disclosure in the recommended way.

It is not, however, intended to be a substitute for other procedures. Complaints by workers about their personal treatment or the way in which employment policies and practices have been applied to them should be raised via the grievance or other appropriate procedures. Complaints about the protection of children should normally be raised under the separate procedures designated for that purpose, unless those procedures have not been sufficiently enacted. Allegations of child abuse against teachers and other staff and volunteers should be dealt with in accordance with Keeping Children Safe in Education statutory guidance for schools and colleges.

4. Qualifying disclosures

4.1 Definition

The term “malpractice” may cover a broad range of acts, omissions, or practices. Workers will usually report specific instance(s) of wrongdoing by individual(s). In certain circumstances, workers may report bad practice which, if it were to continue, would be likely to lead to wrongdoing

4.2 Qualifying disclosures

The Public Interest Disclosure Act 1998 and Enterprise and Regulatory Reform Act 2013 protect workers who make qualifying disclosures (those which they reasonably believe are in the public interest) from any detriment as a result of making a disclosure.

A qualifying disclosure must relate to:

- a criminal offence;
- a failure to comply with any legal obligation;
- a miscarriage of justice;
- danger to health and safety of any individual;
- damage to the environment;
- an attempt to cover up any of these.

In a school, concerns may often (but by no means always) centre upon appropriate use of funds. For instance, the following would normally be an inappropriate use of budget:

- disregard of proper tendering procedure for contracts;
- manipulation or falsification of accounting records;
- making decisions for personal gain;

- inappropriate (e.g. private) use of school assets

Other, non-financial, concerns may include inappropriate use of school premises or inappropriate professional relationships which potentially affect the good management of the school.

5. Safeguards and support

5.1 Protection

To be afforded protection, workers must also raise their concerns in the proper way and usually, in the first instance, this should be via internal processes (section 7 provides specific guidance for JMAT schools).

The kinds of detriment that could be suffered by whistleblowers will depend on whether they are existing employees, ex-employees or workers. Some examples of detriment linked to a protected disclosure are:

- harassment and bullying;
- inappropriate disciplinary action;
- loss of work or pay;
- damage to career prospects;
- providing poor references;
- defamation;
- inappropriately referring them to external organisations for audit or scrutiny;
- not considering them for a role which they apply for in the future;
- dismissal or selection for redundancy because of making a qualifying disclosure.

To harass, bully, or otherwise subject a person to detriment because they have made a whistleblowing disclosure, or assisted in the investigation of one (for example as a witness), will be considered a disciplinary offence.

5.2 On-going Procedures

Whistleblowers who are already the subject of investigation or action under a formal procedure (e.g. discipline, capability, harassment or redundancy) should not expect the procedure to be discontinued as a result of the disclosure, unless there is good reason for doing so.

5.3 Advice and Support

The school, or JMAT as appropriate, will take all reasonable steps to minimise any difficulties whistleblowers may experience as a result of raising a concern. Advice and support as appropriate will be provided to individuals and the school (or JMAT) will consider sympathetically requests from whistleblowers for special leave, counselling or other support.

5.4 Confidentiality

Where whistleblowers do not wish to be identified to others, that wish will be respected in so far as it is reasonably practicable. However, anonymity cannot be guaranteed. The process of investigation may reveal the identity of whistleblowers and, especially in serious cases, whistleblowers may be required to give evidence, either to the school, JMAT, or the Police. Any person subject to disciplinary action or prosecution has access to all the evidence.

6. Untrue allegations

The decision to report malpractice can be a difficult one for staff, who may possibly fear subsequent victimisation or harassment. No action will be taken against a whistleblower if a concern is raised in the proper way, which the whistleblower reasonably believes to be in the public interest. However, if allegations are not raised in the proper way, and/or the whistleblower cannot show that they

reasonably believe it to be in the public interest, disciplinary sanctions may occur. This is particularly likely if it is believed that the disclosure was also malicious, vexatious, or made for personal gain.

7. Procedure for making a disclosure

7.1 General

Concerns should be reported at the earliest opportunity so that they can be investigated appropriately. The means of making a disclosure will depend to some extent on the nature and seriousness of the concern, the sensitivity of the issues and the individual(s) thought to be involved in the malpractice reported.

7.2 Lines of reporting

As a general rule, a worker wishing to make a disclosure should raise the concerns in the first instance with the Headteacher or the Chair of Local Governing Body. This is appropriate where the concern is about the conduct or practice of colleagues: a concern that the school's policies and procedures are not being properly or fairly applied. This enables the issue to be addressed at school level.

Where a whistleblower believes that s/he cannot approach the Headteacher or the Chair of the Local Governing Body, the concern should be raised with the JMAT Board. This will be appropriate if the disclosure concerns the conduct of the Headteacher or the Local Governing Body, or if a disclosure has already been made to them and no discernible or timely action has been taken to address the situation.

In exceptional circumstances a whistleblower may approach the Secretary of State, who will refer it back to the Education Funding Agency. This will normally only be appropriate if s/he reasonably believes that the Trust itself is involved in the malpractice or would for some other reason be unwilling to investigate it.

7.3 Process of disclosing

Although a disclosure may be made verbally (e.g. by telephone), concerns are better raised in writing. The whistleblower should normally identify him/herself (section 8 provides detail on anonymous allegations) and must make it clear that s/he is making a disclosure within the terms of this procedure.

A whistleblower raising a concern verbally will be expected to support and substantiate those concerns in writing, unless there are special circumstances indicating that this is inappropriate. If the whistleblower feels unable to commit their concerns to writing s/he will normally be asked to meet an appropriate senior officer from within the school, Local Governing Body or JMAT (as set out above), who will compile a written note of the disclosure.

The whistleblower may be accompanied by a trade union representative or appropriate workplace colleague at meetings that are held for the purpose of formally discussing or investigating the disclosure.

It is not necessary for a whistleblower to produce conclusive evidence to support his/her disclosure. Suspicion may be valid grounds for raising a concern. However, the whistleblower should normally have direct information about, or knowledge of, the malpractice alleged or know where such evidence is located. The disclosure should usually include specific examples of unacceptable behaviour. In making a disclosure, the whistleblower should set out the background and history of the concern, giving names, dates and places where possible, and the reason why s/he is particularly concerned about the situation.

8. Anonymous allegations

Concerns raised anonymously are less powerful and more difficult to address than those where a whistleblower has been willing to identify him/herself. Anonymous allegations will be considered and investigated at JMAT's discretion and, in exercising this discretion, the factors to be taken into account would include:

- the seriousness of the issues raised;
- the credibility of the concern;
- the likelihood of confirming the allegation from attributable sources.

9. Responding to a disclosure

9.1 Response

The response to a whistleblower's disclosure will depend on a number of factors such as the seriousness and complexity of the allegations made.

Allegations may be:

- investigated within the school or by JMAT;
- referred to the internal or external auditors;
- referred to the police;
- referred to another independent form of enquiry;
- or any combination of the above.

The school or JMAT may wish to consider using external independent investigators, though this will in part depend on the complexity of the case.

Disclosures will be subject to initial enquiries in order to decide whether a full investigation is necessary and, if so, what form it should take, who should conduct it and whether any reference to another agency is necessary or desirable. Some concerns may be resolved through agreed action without the need for further investigation.

9.2 Other procedures

If the whistleblower's concern falls within the scope of an alternative procedure, s/he will be advised to pursue it through that procedure.

9.3 Timeframe

A whistleblower who presents his/her disclosures in writing will, wherever possible within ten working days, receive:

- an acknowledgement that the concern has been raised;
- an indication of how the school proposes to deal with the matter;
- an estimate of how long it will take to provide a final response;
- an indication of any initial enquiries that have been made; and
- an indication of whether further investigations will take place and, if not, why not.

The whistleblower will be informed of the outcome of any investigation in so far as this is compatible with any duty of confidentiality on the employer. The extent of the information given to whistleblowers will depend upon a number of factors, e.g. whether the investigation is referred to the police and leads to criminal prosecution. Where an investigation is protracted, the school or relevant JMAT officer will keep the whistleblower updated on the progress of the investigation as appropriate.

10. Raising concerns outside JMAT

This procedure is intended to provide individuals with an avenue to raise concerns with their school and, in some circumstances, JMAT. Whistleblowing legislation also recognises that, in certain circumstances, it may be appropriate for the individual to make a qualifying disclosure to an external person or body such as a regulator. It will very rarely, if ever, be appropriate to alert the media.

Individuals are strongly encouraged to seek advice before reporting a concern to anyone external. If the whistleblower is not satisfied with the internal response, and feels it is right to take the matter further, the following are possible contact points:

- Public Concern at Work 020 7404 6609 <http://www.pcaw.org.uk/>
- External Auditor
- Recognised trade union
- Elected Suffolk County Council member
- Relevant Professional Bodies or Regulatory Organisations
- The Environment Agency 03708 506 506
<https://www.gov.uk/government/organisations/environment-agency>
- Education Funding Agency 0370 000 2288
<https://www.gov.uk/government/organisations/education-funding-agency>
- The Health and Safety Executive 0300 003 1647 <http://www.hse.gov.uk/>
- Information Commissioner 0303 123 1113 <https://ico.org.uk/>
- The Pensions Regulator 0345 600 7060 <http://www.thepensionsregulator.gov.uk/>
- Local Government Ombudsman 0300 061 0614 <http://www.lgo.org.uk/>
- the Police <http://www.suffolk.police.uk/>
- NSPCC 0808 800 5000 <https://www.nspcc.org.uk/>

If the whistleblower does not feel able to raise their concerns in the ways outlined above, s/he can consult the Public Interest Disclosure Act for information.

If the matter is taken outside the school or JMAT, the whistleblower must take all reasonable steps to ensure that confidential or privileged information is not disclosed (i.e. confidential information, in whatever format, must not be handed over to a third party).

11. Advice

For further advice on this procedure, please contact the Trust's HR Manager .

12. Monitoring and Review

The Headteacher in each JMAT School will be responsible for monitoring the implementation and effectiveness of this policy/procedure. The policy/procedure will be reviewed by the Trust Board as necessary.