



# **WHISTLEBLOWING POLICY (Confidential Reporting)**

**September 2019**

DATE FOR REVIEW: September 2020

**James Montgomery Academy Trust**

## Statement of intent

**The James Montgomery Academy Trust (thereafter referred to as JMAT)** is committed to open and honest communication and the highest possible standards in integrity, and will treat whistleblowing as a serious matter.

In line with name of the JMAT's commitment to openness, probity and accountability, members of staff are encouraged to report concerns which will be taken seriously, investigated, and appropriate action taken in response. Such action is termed "whistle-blowing"; this phrase is used throughout this policy, and should be viewed as a positive action of speaking up.

This policy is to make clear that employees can and should voice concerns without fear of victimisation, subsequent discrimination or disadvantage. It is intended that this policy will encourage and enable employees to raise serious concerns within the school and the JMAT rather than overlooking a problem or 'whistleblowing' outside the organisation.

This policy seeks to ensure that any person suspecting malpractice knows how to raise concerns and what procedures are in place to deal with the concern. It is recognised that most cases will have to proceed on a confidential basis.

## Legal framework

This policy has due regard to statutory legislation including, but not limited to, the following:

- The Public Interest Disclosure Act 1998
- The Public Concern at Work Guidelines 1997

## Introduction

Statutory protection for employees who whistle-blow is provided by The Public Interest Disclosure Act 1998 (PIDA), which protects employees who speak out about concerns about conduct or practice within the school, which is potentially illegal, corrupt, improper, unsafe, unethical or amounts to malpractice.

This policy has been written in accordance with the [Whistleblowing for Employees](#) guidance document.

Serious malpractice may involve governors, managers, colleagues/clients or suppliers of goods and services to the organisation, therefore, name of school has introduced this policy to enable staff to raise concerns, which are in the public interest, through internal trust procedures.

This policy applies to all school staff, including full and part time, casual, temporary, substitute staff, and to individuals undertaking work experience within the school.

Disclosures made under this procedure will be monitored for statistical purposes as required under the PIDA. Details of any disclosure remain confidential.

The Headteacher/Head of School is the first point of contact for whistleblowing queries. In the event that the allegation is related to the headteacher, then issues will be raised with the JMAT/Chair of Local Governing Body.

## Roles and responsibilities

The JMAT, along with the Local Governing Body and management of the school, has overall responsibility for ensuring that the Whistleblowing Policy is managed appropriately in accordance with this agreed procedure.

The Headteacher/Head of School along with line managers are responsible for making employees aware of the existence of this policy. The Headteacher/Head of School is responsible for maintaining a record of concerns raised and outcomes (but in a form which does not endanger confidentiality) and will report to the Local Governing Body and JMAT as necessary.

Employees are responsible for making themselves familiar with and complying with this policy.

## **What is a whistle-blower?**

A whistle-blower is an individual who discloses confidential information regarding an employee, which relates to some danger, fraud or other illegal or unethical conduct which is connected with the workplace. Under this policy, any of the following can raise a concern:

- Employees of the school.
- Employees of contractors working for the school for example, agency staff, builders and drivers.
- Employees of suppliers.
- Voluntary whistle-blowers working with the school.
- A trainee, such as a student teacher.

## **Scope**

Employees could be the first to realise that there may be something seriously wrong within the school/JMAT. However, they may not express their concerns because they feel that speaking up would be disloyal to their colleagues or to the school/JMAT. They may also fear harassment or victimisation. In these circumstances the whistle-blower may feel it is easier to ignore the concern rather than report what may just be a suspicion of malpractice.

This policy aims to encourage whistle-blowers to feel confident about raising serious concerns and to question and act upon concerns about practice and to provide avenues for whistle-blowers to raise those concerns and receive feedback on any action taken. This policy also aims to reassure whistle-blowers that they will be protected from possible reprisals or victimisation if they have a reasonable belief that the disclosure has been made in public interest.

Whistle-blowers are reassured that raising serious concerns is 'doing the right thing' Where a whistle-blower has concerns, raising the concern is in the best interest of colleagues and of pupils within the school/JMAT. Raising concerns will often aid the protection of children and also be caring for other colleagues/workers.

Qualifying disclosures are disclosures of information where the whistle-blower reasonably believes (and it is in the public interest) that one or more of the following matters is either happening, has taken place, or is likely to happen in the future:

- A criminal offence
- The breach of a legal obligation
- A miscarriage of justice
- A danger to the health and safety of any individual
- Damage to the environment

- Bribery or corruption
- Deliberate attempt to conceal any of the above

Where an issue relates to an individual's own employment the employee should raise the issue under the Grievance Procedure in the first instance. The Whistleblowing Policy is intended to cover major concerns that fall outside the scope of other procedures.

Any serious concerns that an employee may have about any aspect of conduct by employees of the school/JMAT or others acting on behalf of the school/JMAT may be reported under this policy. This policy does not replace the school's complaints procedure.

## **Safeguards against harassment or victimisation**

The JMAT/school recognises that the decision to report a concern can be a difficult one to take, not least because of the fear of reprisal from those responsible for the malpractice or from the school as a whole; however, the school will not tolerate any such harassment or victimisation and will take appropriate action in order to protect staff who raise a concern in good faith.

The JMAT/school will not tolerate any harassment or victimisation (including informal pressure) and will take appropriate action to protect employees when concerns are raised with reasonable belief in public interest.

Any investigation into allegations of potential malpractice will not influence, or be influenced by, any disciplinary or redundancy procedures that already affect an employee.

The JMAT/school will not tolerate harassment or victimisation of members of staff when matters are raised in accordance with the PIDA. Any member of staff who victimises or harasses another member of staff, as a result of their having raised a concern in accordance with the whistleblowing policy, will be dealt with under the school's staff disciplinary procedures.

If a member of staff makes an allegation in good faith but it is not confirmed by further inquiry, the matter will be closed and no further action will be taken; however, if the inquiry shows that untrue allegations were malicious or made for personal gain, then the JMAT/school will consider taking disciplinary action.

## **Confidentiality**

All concerns will be treated in confidence and every effort will be made not to reveal the identity of a whistle-blower who raises allegations under this policy. At the appropriate time, however, the whistle-blower may need to come forward as a witness.

Whistle-blowers are encouraged to put their name to allegations wherever possible. This is because concerns expressed anonymously are much more difficult to investigate. Therefore anonymous allegations will be considered at the discretion of the Headteacher/Head of School in consultation with the JMAT/Chair of the Local Governing Body.

## **Procedure**

In most circumstances the whistle-blower should raise concerns with the Headteacher/Head of School. This depends, however, on the seriousness and sensitivity of the issues involved and who is suspected of malpractice. For example, if the whistle-blower believes that senior management is involved, the whistle-blower should approach the Headteacher, Chair of the Local Governing Body or the Board of JMAT Directors.

Concerns may be expressed verbally (initially) or in writing to the Headteacher/Head of School, and will

include:

- background and history of the concern
- names, dates and places where possible
- express the reasons for the concern.

The earlier the whistle-blower expresses the concerns, the easier it will be to take action.

Although the whistle-blower is not expected to prove beyond reasonable doubt the truth of an allegation, the whistle-blower should demonstrate to the person contacted that there are reasonable grounds for the concern.

An employee may wish to consider discussing the concern with a colleague or trade union representative first and may find it easier to raise the matter if there are other colleagues who have the same experience or concerns.

Anyone feeling unsure can seek confidential advice at any time from Public Concern at Work, a registered charity which advises on serious malpractice in the workplace. For more information, visit their [website](#) or ring them on 020 7404 6609.

The whistle-blower is not responsible for investigating the alleged illegal or dishonest activity, or for determining fault or corrective measures.

## **What happens next**

Once the JMAT/Headteacher/Head of School has been informed of the concern, it is then their responsibility to investigate the matter further.

In order to protect individuals and those accused of malpractice, initial enquiries will be made to decide whether an investigation is appropriate, and if so, what form it should take. Some concerns may be resolved by agreed action without the need for investigation.

Within 10 working days of a concern being raised the Headteacher/Head of School or Chair of the Local Governing Body will write to the whistle-blower:

- Acknowledging that a concern has been raised
- Indicating how it is proposed to deal with the matter
- Giving an estimate of how long it will take to provide a final response
- Telling the whistle-blower whether any initial enquiries have been made
- Telling the whistle-blower whether further investigations will take place and if not, why not.

The amount of contact between the individual investigating the issue and the whistle-blower will depend on the nature of the matters raised; the potential difficulties involved and the clarity of information provided. If necessary the school will seek further information from the whistle-blower.

If the investigating officer needs to talk to the whistle-blower, they are permitted to be accompanied by a trade union representative, a professional association representative, a friend, or a fellow member of staff not involved in the area of work to which the concern relates. This person will provide support only, and will not be allowed to become involved in the proceedings.

The JMAT/school accepts that the whistle-blower will need to be assured that the matter has been properly addressed and therefore the JMAT/school will inform the whistle-blower of the steps that have been taken to resolve the matter as appropriate.

## **At the end of the process**

A record will be made of the nature and outcome of the concern. The purpose of this is to ensure that a central record is kept, which can be cross-referenced with other complaints, in order to monitor any patterns of concern across the JMAT/school and to assist in monitoring the procedure.

The whistle-blower will be informed of the results of the investigation, and any action that is proposed will be subject to third party rights; where action is not taken, the individual will be given an explanation.

## **Appeal process**

The aim of this policy is that whistle-blowers should be able to raise concerns internally within the JMAT/school and it is hoped that the whistle-blower will be satisfied with any action taken. If this is not the case then they may raise their concerns to the Local Governing Body/JMAT's Board of Directors.

If the whistle-blower disagrees with the decision made, they will request, in writing to the Headteacher/Head of School, within two weeks of receiving the notification, a review of the decision stating the grounds for requesting the review.

If the whistle-blower chooses to take the matter outside of the JMAT/school then the employee should ensure that they do not disclose confidential information. An employee should not take concerns directly to the media.

## **If you're treated unfairly after whistleblowing**

An individual can take a case to an employment tribunal if they have been treated unfairly as a result of whistleblowing.

Further information can be sought from the Citizen's Advice Bureau, the whistleblowing charity Public Concern at Work, the police or from an individual's trade union.

Any claims of unfair dismissal must be made within three months of the investigation ending.

## **Monitoring and review**

This policy is reviewed annually by the **DSL** and the **Safeguarding Director**.

Any changes made to this policy by the above will be communicated to all members of staff. The policy is available for public view on the JMAT website.

All members of staff are required to familiarise themselves with all processes and procedures outlined in this policy as part of their induction programme.

The next scheduled review date for this policy is **September 2020**.