

# Whistleblowing Policy

Procedure Originator:	PHIL HARRISON
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Audience:	All



## Introduction

### Whistleblowing

The Shaw Education Trust (SET) is committed to the highest standards of openness, probity and accountability; and to safeguarding the public resources for which it is responsible. We expect all its staff and representatives to operate honestly and with integrity at all times. Fraud and corruption, misconduct, waste or wrongdoing will not be tolerated.

SET actively encourages its staff and other stakeholders to offer constructive advice and criticism and to speak up, or “blow the whistle” if they genuinely think something is wrong.

The policy and procedure applies to all colleagues, regardless of length of service, but does not form part of the contract of employment and can be varied from time to time.

### What is Whistleblowing?

Whistleblowing is when a worker reports suspected wrongdoing at work.

For example:

- A criminal offence; and/or
- A miscarriage of justice; and/or
- Damage to the environment; and/or
- Breach of a legal obligation; and/or
- A danger to health and safety; and/or
- A deliberate concealment of any of the above

A colleague can report things that aren't right, are illegal or if anyone at work is neglecting their duties, including:

- someone's health and safety is in danger
- damage to the environment
- a criminal offence
- the company isn't obeying the law (like not having the right insurance)
- covering up wrongdoing

A colleague who has a reasonable belief that a wrongdoing has or may be committed and raises a genuine concern relating to any of the above, is a whistleblower and is protected under this policy.

Whistle-blowers are legally protected under the provisions of the Public Interests Disclosure Act (PIDA) 1996 from any harassment or victimisation arising from reports of:

- Financial malpractice, impropriety or fraud.
- Actual or likely commission of a criminal offence
- Failure or likely failure to comply with a legal obligation.
- Miscarriage of justice
- Endangerment of the health and safety of an individual
- Any attempt to conceal any of the above.

Provided that:

- All other avenues to alert the Shaw Education Trust of the issue have been explored,
- The disclosure is made in good faith.
- There is reasonable belief on the part of the person making the disclosure that there has been malpractice.

The Shaw Education Trust will consider disclosures that are made anonymously, although such disclosures are inevitably much less powerful. The Shaw Education Trust will also treat every disclosure in confidence, and only reveal the identity of the person if absolutely necessary (e.g. if required in connection with legal action).

### Rights of the Whistle-blower

All colleagues are encouraged to use this policy to raise genuine concerns and will not be treated less favourably for doing so, even if they are mistaken in their belief.

Any colleague who raises a concern under this policy will not be subjected to a detriment nor will they be dismissed for doing so. Any colleague who believes that they have been subjected to a detriment for raising a complaint should raise the matter with the Regional Director (South).

Victimisation of a Whistle-blower by any other colleague for raising a concern under this policy will in itself constitute a disciplinary offence.

Where the Shaw Education Trust believes that a colleague has knowingly made a false allegation or acted maliciously, the colleague will be subject to disciplinary action, which may include dismissal for gross misconduct.

This policy does not deal with any complaints relating to a colleague's own treatment at work or own contract of employment. Those matters should be raised under the Grievance procedure or other procedures, as appropriate.

An exception to this will be when the matter of concern arises from the colleague's own treatment at work that is arising from the whistleblowing matter they have raised previously.

### Making a Whistle-blower complaint

To make a whistleblowing complaint the whistle-blower has to meet certain conditions.

If the disclosure is made internally to SET, it must be in the public interest and the person making the complaint ("the whistle-blower") must have a reasonable suspicion that the alleged malpractice has occurred, is occurring or is likely to occur.

SET also recognises that external disclosure may also be made to prescribed third parties, for example, to the police or non-prescribed regulators such as professional bodies, e.g. the Institute of Chartered Accountants in England and Wales or the Shaw Education Trust's External Auditor and will give protection to the Whistle-blower provided that:

- The disclosure is made in good faith.
- The whistle-blower reasonably believes the information disclosed, and any allegation contained in it, are substantially true.
- The disclosure is not made for purposes of personal gain.

And that the following conditions are met:

The whistle-blower reasonably believes, at the time the disclosure is made, that they will be subjected to a detriment by Shaw Education Trust by making Internal Disclosure or a disclosure to a prescribed person, or;

In a case where no person is prescribed in relation to the relevant failure, the whistle-blower reasonably believes it is likely that evidence relating to the relevant failure will be concealed or destroyed if you make an Internal Disclosure, or;

The concern has been raised with Shaw Education Trust or a responsible person already but no action has been taken.

If the disclosure is made to other external bodies and is of an "exceptionally serious" nature – which in an Academy setting could include, for example, the alleged abuse or corruption of children or vulnerable adults in an academy's care, then the whistle-blower will not be required to:

Have raised the matter concerned internally first

Believe that they will be subject to a detriment for raising the disclosure internally

Believe that the evidence is likely to be concealed or destroyed.

To “blow the whistle” to a non-prescribed third party, e.g. the media, without first reporting concerns internally and to a prescribed third party could amount to a disciplinary matter and will be dealt with accordingly.

In the first instance the Whistle-blower should inform:

**Philip Harrison, Regional Director and SET Company Secretary**

The Shaw Education Trust

The Lodge, Wolstanton High School

Newcastle-under-Lyme, Staffordshire

ST5 8RQ 07976 174836

The initial contact can be by telephone or in writing, and if the latter should be in a sealed envelope addressed to the officer concerned and marked: 'Strictly Private and Confidential'. E-mail cannot be guaranteed as a secure medium and it is not recommended as a channel for reporting issues related to this policy.

The Regional Director at SET will:

- (a) acknowledge its receipt, in writing, within 5 working days;
- (b) seek further information if required, which may include a personal interview, at which the colleague (whistle-blower) can be accompanied by a representative of their trade union or professional association, or by a fellow employee;
- (c) when the precise nature of the alleged wrongdoing is established, refer the disclosure to the Chief Executive Officer ;
- (d) in liaison with the Chief Executive Officer keep the individual informed regarding the progress and in all cases (subject to legal constraints) provide details of the outcome of any investigation.

On receipt of a disclosure the Regional Director will determine what further action, if any, is needed, which may comprise:

internal investigation  
report to the Police  
report to external audit

independent enquiry  
any combination of the above

If the concern is in relation to a Regional Director or Chief Operating Officer then the CEO should be the point of contact via SET Head Office.

If the concern is in relation to the CEO then the Chair of the Audit Committee should be the point of contact via SET Head Office.

If the whistle-blower does not reasonably believe that appropriate action has been taken in relation to their concern, then they may raise it externally to the prescribed regulator or our external auditors. The charity, Public Concern at Work, can advise the colleague about raising the concern externally. This will include advising who the appropriate prescribed regulator is.

The website for Public Concern at Work is <http://www.pcaw.co.uk/>.

The Shaw Education Trust external auditors can be contacted at:

External Auditor  
PriceWaterhouseCoopers LLP  
Cornwall Court  
19 Cornwall Street  
Birmingham B3 2DT  
0121 5000

### Why the Shaw Education Trust needs this policy

- To protect the reputation of the Shaw Education Trust, its employees and agents from accusations of bias, partiality or favouritism.
- To discharge the Shaw Education Trust's responsibilities in respect of the Public Interest Disclosure Act (PIDA) 1998
- To ensure compliance with the law including the Fraud Act 2006, the Money Laundering Regulations 2007, the Bribery Act 2010 and the Charities Act 1993.

### Who is affected by This Policy?

Trustees, staff, volunteers, and any other agent or supplier working for or on behalf of the Shaw Education Trust.

## Responsibilities:

### Trustees

Must ensure that the Shaw Education Trust is compliant with UK law and regulation. Set the tone and influence the culture of the Shaw Education Trust.

Must enable management to implement appropriate procedures to receive and investigate allegations of malpractice

Must assure themselves of the adequacy of this policy via regular review and at least annual audit

### Executive Leadership Team and Academy Councils

Must report to the appropriate authorities any perceived or actual attempt to offer or receive a bribe.

Must ensure that all staff, including temporary staff, consultants and contractors are aware of this Policy and must ensure that the terms of this Policy are included in any contractual arrangements.

Must provide as many avenues as possible to enable individuals to come forward and “blow the whistle”

Must protect anyone who blows the whistle internally or externally from any reprisal or victimisation provided that the allegation is made in good faith and in harmony with the Shaw Education Trust’s Whistleblowing procedures

Must ensure that all allegations are thoroughly and objectively investigated to a satisfactory conclusion

Must extend all relevant protections to genuine “whistle-blowers”.

### Staff

Must remain aware of and compliant with this Policy and all associated procedures implemented by management to enable this Policy;

Should promptly report any actual or suspected fraud or irregularity in accordance with this policy and should cooperate with any subsequent investigation.

### The effect of non-compliance:

#### For the Shaw Education Trust

Failure to comply with this Policy may result in the Shaw Education Trust breaching UK law, Department for Education regulation, Education and Skills Funding Agency regulation, Charity Commission regulation and contractual requirements; and may also expose the Shaw Education Trust to unnecessary commercial or reputational risk.

#### For the Individual

This policy forms part of the terms and conditions of trusteeship, employment or any other contractual arrangement with the Shaw Education Trust. Failure to comply with this Policy and/or its associated procedures may result in disciplinary action including dismissal. Where appropriate, the Shaw Education Trust may also bring criminal charges and may seek to claim damages through civil proceedings.

### Review and Revision

This Policy will be reviewed annually by the Chief Operating Officer and quality assured by the Chief Executive Officer. The Board of Trustees will evaluate penetration, effectiveness and currency and approve the policy. Any revisions will be notified via internal communication, with copies being made available in hard copy where computer access is not available. Independent quality and compliance reviews will be undertaken by the Shaw Education Trust's internal and external auditors and, where necessary, this Policy will be updated or amended to incorporate feedback and/or operational changes.



We believe, you achieve

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