



POLICIES AND PROCEDURES

WHISTLEBLOWING POLICY

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**Schools,
teachers and
pupils freed
to succeed.**
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This policy should be read in conjunction with BMAT's single equality Policy. This policy reflects measures established in law through the **Equality Act 2010** and emphasises that BMAT opposes all forms of racism, homophobia, prejudice and discrimination.

Whistle-blowers will also find protection, as relevant, through the application of the Equality policy

The **Equality Act 2010** replaced all existing equality legislation such as the Race Relations Act, Disability Discrimination Act and Sex Discrimination Act.

We are committed to the promotion of community cohesion at Academy Trust, local, national and global levels, comparing our Academy Trust community to its local and national context and implementing all necessary actions in relation to:

- Ethnicity.
- Religion or belief.
- Socio-economic background.

In accordance with the values of Burnt Mill Academy Trust we pledge:

- To respect the equal human rights of all our pupils.
- To educate them about equality.
- To respect the equal rights of our staff and other members of the Academy Trust community.

We will assess and analyse our current Academy Trust practices and implement all necessary resulting actions to ensure pupils are not discriminated against because of their:

- Sex
- Race
- Disability
- Religion/belief
- Sexual orientation
- Gender re-assignment
- Pregnancy or maternity

These '**Protected characteristics**' have been set out in law in the **Equality Act 2010**.

Burnt Mill Academy Trust is committed to eliminating practices, which could result in unfair or less favourable treatment for persons with a protected characteristic.

BMAT Whistleblowing policy

Introduction and guiding principles

Honesty and integrity are at the heart of all we do at BMAT and is essential if our mission is to be shared with the children and young people in our care. Our mission is to work together to smash through the barriers that prevent our children from becoming confident, high achieving and independent individuals. BMAT's vision is of a community of schools which provide an outstanding education for every individual attending a Trust school. Our schools will be places of aspiration, where individuals matter and confidence flourishes so that achievement for all is outstanding.

Our core values of: Self Help, Self-Responsibility, Democracy, Equality, Equity and Solidarity underpin our Trust, drive our policy making and inform our unshakeable belief in the intrinsic worth of every individual within our community. Our students will be inspired to achieve excellence in all their endeavours within an innovative, creative and supportive environment. In light of this, our core values are built on the principal that employees of the Trust can report wrong doing which undermines these values. This policy outlines such a procedure.

All academies, both in the primary & secondary phases, are committed to working in partnership with stakeholders to secure the success of this policy.

This policy sets out the expectations, requirements for **ALL employees of the Trust** with regard to reporting wrong doing.

Scope

This policy is implemented across the organisation. This Policy also applies to the Trust's Board Members, LAB members, management and all staff. Each school within BMAT must ensure that the contents of this policy are communicated to all staff. All staff accept this policy when they join a BMAT school.

Each school within BMAT publishes this policy on its website. It is also posted on the Trust's own, separate website. It is made available to stakeholders.

Employees are often the first to realise that something is seriously wrong may be happening within the Trust or one of its academies. However, they may not express their concerns either because they feel that speaking up would be disloyal to their colleagues or to their employer or because they fear harassment or victimisation. In these circumstances, it may be easier to ignore the concern than to report what may just be a suspicion of malpractice.

BMAT is committed to the highest possible standards of openness, probity and accountability. In line with that commitment it encourages employees and others with serious concerns about any aspect of the work of the Trust or one of its academies to come forward and voice those concerns. It recognises that certain cases will have to proceed on a confidential basis. This policy makes it clear that staff can do so without fear of reprisals and is intended to encourage and enable staff to raise serious concerns within the Trust or an academy, rather than overlooking a problem or publicly disclosing the matter.

Key definitions used in this policy

Pupils/students	Children and young people on roll in Trust schools/academies
School/Trust school	An Academy or school within BMAT
SENCO	The school Special Educational Needs Co-Ordinator
Head of School / Headteacher	The Academy is led by a Head of School or Hadteacher who is the most senior leader in the school.
Executive Principal	An Executive Principal oversees each Hub within BMAT.
The LAB	Local Advisory Board
BMAT/The Trust	Burnt Mill Multi Academy Trust
The Board/Directors/Trust board	The Board of Directors of BMAT

All schools within the BMAT are legally defined as academies, regardless of whether the term “school” is used to describe them in the following policy.

The following policy has been approved by the Board of Directors of Burnt Mill Academy Trust (BMAT) following recommendation by the CEO/Head of BMAT schools and will be implemented by the Heads of Schools/Headteachers of the partner schools.

This policy and the law

The Public Interest Disclosure Act 1998 was enacted to ensure a climate of greater frankness between employers and workers so that irregularities can be identified and addressed quickly, and to strengthen employment rights by protecting responsible workers who blow the whistle about wrongdoing or failures in the workplace. The policy set out in this document applies those statutory provisions to the administration of the Trust and its academies.

Our Policy

A whistleblowing procedure protects staff members who report colleagues they believe are doing something wrong or illegal, or who are neglecting their duties.

This policy aims to:

- Provide avenues for individuals to raise concerns and receive feedback on any action taken.
- Allow individuals to take the matter further if individuals are dissatisfied with the response of the Trust / academy.

Who is a whistle-blower?

A whistle-blower is an employee who reports certain types of wrongdoing. This will usually be something seen happening in the Trust - though not always. The wrongdoing you disclose must be in the public interest. This means it must affect others, e.g. the general public and so wrong doing in a school or a Trust of schools would count as being in the public interest.

A whistle-blower is protected by law and so employees of BMAT will not be treated unfairly and be dismissed on the basis of 'blowing the whistle'. A whistle-blower can raise a concern at any time about an incident that happened in the past, is happening now, or believed will happen in the near future.

Who is protected by law?

- an employee
- a trainee, such as a student teacher
- an agency worker such as a 'temp' or supply teacher

A confidentiality clause or 'gagging clause' in a settlement agreement that is made with the Trust isn't valid if a person is a whistle-blower.

Complaints that count as whistleblowing

Individuals are protected by law if you report any of the following:

- A criminal offence, e.g. fraud.
- Someone's health and safety is in danger.
- Risk or actual damage to the environment.
- A miscarriage of justice.
- The Trust is breaking the law, e.g. doesn't have the right insurance.
- You believe someone is covering up wrongdoing.

The list above is for guidance only and is not intended to be comprehensive.

Members of staff are entitled to refuse to carry out instructions if they would result in any of the above, and disciplinary action will not result in these circumstances.

Complaints that don't count as whistleblowing

Personal grievances (e.g. bullying, harassment, discrimination) aren't covered by whistleblowing law, unless a particular case is in the public interest.

These should be reported under the Trust's grievance policy

This policy covers concerns that fall outside the scope of other procedures. It is not intended as recourse against financial or business decisions made by the Trust / Academy. Nor is it an alternative to well-established disciplinary or grievance procedures, which should be used to address concerns regarding individual employment matters. It may however overlap with other policies for dealing with complaints and, for example, Codes of Conduct for staff (see separate policies in these areas)

Concerns raised under this Whistle-blowing Policy should be about something that is, in the reasonable belief of the employee, made in the public interest (see above)

Safeguards

Harassment or Victimisation: The Trust recognises that the decision to report a concern can be a difficult one to make, not least because of the fear of reprisal from those responsible for the malpractice. The Trust will take action to protect individuals when they raise a concern. It will not tolerate any resulting harassment or victimisation (including informal or indirect pressures) and will treat this as a serious disciplinary offence which will be dealt with under the proper procedures in place by the Trust (see separate policy).

All parties should note that Whistle-blowers are protected, by law, from suffering a detriment, bullying or harassment from another employee.

Any investigation into an allegation of malpractice will not influence or be influenced by any disciplinary or redundancy procedures which already affect the whistle-blower.

Confidentiality: All concerns will be treated in confidence and the Trust will do its best to protect the whistle-blowers identity if they do not want their name to be disclosed. If investigation of a concern discloses a situation which is sufficiently serious to warrant disciplinary action or police involvement then the whistle-blower's evidence may be important. The whistle-blower's name will not however be released as a possible witness until the reasons for its disclosure at this stage have been fully discussed with them.

Anonymous allegations: This policy encourages whistle-blowers to put their name to an allegation. Concerns expressed anonymously are much less powerful but they will be considered.

Whistle-blowers should also bear in mind that if they do choose to raise a concern anonymously it will be more difficult for the matter to be investigated and for the whistle-blower to be provided with feedback. For this reason, where the whistle-blower wishes to raise the concern anonymously, this may best be done through their professional organisation/ trade union.

Untrue allegations: If a whistle-blower makes an allegation which is not confirmed by the investigation, no action will be taken against them unless it is considered that they have made malicious or vexatious allegations. In these circumstances, disciplinary action may be taken against the whistle-blower.

How to raise a concern

Staff should in the first instance raise a concern with their line manager, or another manager within their academy. However, if for some reason this first step is inappropriate then the concern should be raised at a more senior level with the Headteacher/Head of school. If the concern relates to the Headteacher/Head of school then it should be raised with the Chair of the relevant school's LAB.

If the member of staff is part of the Trust's central services then the concern should be raised with their line manager as detailed above. If for some reason this first step is inappropriate then the concern should be raised at a more senior level within the Trust.

Concerns can be raised orally but it is good practice for the concern to be recorded in writing at an early stage to ensure that all the details are correctly understood. A written allegation should set out the background and history of the concern (giving names, dates and places where possible) and the reason why the whistle-blower is particularly concerned about the situation. It is preferable for the whistle-blower to record this in writing themselves. However, where the person to whom a whistle-blower voices concerns writes these down, a copy will be sent to the whistle-blowers home address or via their representative to give the whistle-blower an opportunity to agree this as a correct record.

The earlier a concern is expressed, the easier it is to take action. Although the whistle-blower is not expected to prove the truth of an allegation, they will need to demonstrate to the person contacted that there are sufficient grounds for a concern.

A whistle-blower may of course wish to seek advice from a trade union/professional association representative on how best to raise the concern.

How the Trust will respond

The action taken by the Trust will depend on the nature of the concern. After initial enquiries to assess the seriousness of the matter it may be investigated internally (employing specific procedures where these are applicable – for example in child protection or discrimination issues), by an independent investigating officer appointed by the Trust, or referred to another agency.

If urgent action is required in response to a concern this may well be taken before a full investigation is conducted.

In any event within ten working days of a concern being received, the Trust will write to the whistle-blower at their home address:

- Acknowledging that the concern has been received
- Indicating how it proposes 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
- Telling the whistle-blower the name of the person or agency who has been appointed by the Trust to investigate the matter
- Naming an independent person to support the whistle-blower during any investigation e.g. a trade union official.

This named person will make contact with the whistle-blower immediately, explain his/her role, deal with all confidentiality issues, agree frequency of contact and keep the whistle-blower informed about the progress of the investigation and the investigating officer informed of any further issues the whistle-blower thinks are necessary. The whistle-blower should raise with this support officer any concerns they have about the conduct of the investigation. This officer will take appropriate steps to support the whistle-blower in the workplace and at any criminal or disciplinary proceedings which may eventually result from the concern and at which the whistle-blower is asked to give evidence.

If the whistle-blower wishes to retain anonymity they will need to nominate a representative to whom correspondence may be directed in order to keep them informed.

The amount of contact between the investigating officer and the whistle-blower will depend on the nature of the matters raised, the potential difficulties involved and the clarity of the information provided. If necessary, further information will be sought from the whistle-blower.

When any meeting is arranged, the whistle-blower has the right, if they so wish, to be accompanied by a trade union or professional association representative or a work colleague. The Trust accepts that they need to be assured that the matter has been properly addressed. Thus, subject to legal constraints, the whistle-blower will receive information about the outcome of any investigations and/or proceedings.

How the matter can be taken further

This policy is intended to provide individuals in the Trust with a way to raise concerns within the Trust and / or one of its academies. The Trust hopes individuals will be satisfied by its response. However if the whistle-blower considers the matter too serious or sensitive to raise it internally they may refer the matter to an external prescribed body.

A prescribed body is an organisation, normally with some regulatory function (for example the Health and Safety Executive), which is prescribed by the Secretary of State for the purposes of the Act who an individual may make a protected disclosure to. Any such disclosure to a prescribed body will qualify for protection under the Act. A list of prescribed bodies is available at the following link:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/360648/bis-141077-blowing-the-whistle-to-a-prescribed-person-the-prescribed-persons-list-v4.pdf

In the event that the whistle-blower feels a disclosure should be referred to an external prescribed body some of the relevant bodies are also set out below:

Fraud or financial malpractice: Education & Skills Funding Agency
<https://www.gov.uk/government/organisations/education-and-skillsfunding-agency>

Child Protection/ Safeguarding issues:

Local Authority Designated Officer: Essex Duty Line: 03330 139 797

NSPCC Whistleblowing helpline: 0800 028 0285 Email: help@nspcc.org.uk

Data protection issues: Information Commissioner <https://ico.org.uk/>

Health and Safety issues: Health and Safety Executive: <http://www.hse.gov.uk/>

The whistle-blower may wish to raise the matter with their trade union official, who in return will liaise with the Trust on their behalf.

If the matter is taken outside The Trust, the whistle-blower 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).