

Whistleblowing Policy and Procedure: Code of Conduct on Public Interest Disclosure

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1. SCOPE AND PURPOSE

1.1 The aim of this policy is to provide individuals with a means for confidentially raising genuine concerns of suspected malpractice within the College and, if necessary, outside the organisation, and to provide those individuals with protection from detriment and unfair dismissal. Examples of malpractice are (but not limited to):

- (i) actions which are unprofessional, inappropriate or conflict with a general understanding of what is right and wrong, e.g. falsification of student grades or actions which call into question the integrity of educational standards;
- (ii) failure to comply with a statutory obligation, e.g. Safeguarding;
- (iii) gaining, or seeking to gain, a pecuniary advantage from an association or relationship with, or membership of, an organisation, company or other body which ought properly to have been disclosed to the College;
- (iv) fraud or financial irregularities (including improper or unauthorised use of public funds);
- (v) bribery, corruption (including abuse of authority) or other forms of dishonesty, e.g. showing undue favour over a contractual matter or to a job applicant;
- (vi) a criminal offence has been committed, is being committed or is likely to be committed;
- (vii) the health or safety of any individual has been, is being or is likely to be endangered;
- (viii) that the environment has been, is being or is likely to be damaged;
- (ix) a breach of a code of conduct;
- (x) information on any of the above has been, is being, or is likely to be concealed.

1.2 Who is protected?

- (i) All employees;
- (ii) Contractors working for the College, e.g. agency staff, builders and consultants;
- (iii) Learners (see Learner involvement)

1.3 Policy Principles:

1.3.1 This document is intended to encourage and enable individuals to safely raise serious concerns within the College rather than overlooking a problem.

1.3.2 Individuals can make a disclosure without fear of victimisation, subsequent discrimination or disadvantage. Anyone who raises a genuine concern will have significant legal protection under the Employment Rights Act 1996 – Part IVA, Part V and Part X and the Public Interest Disclosure Act 1998.

1.3.3 The College will manage a disclosure in line with best practice and current legislation, and will not tolerate harassment or victimisation (including informal

pressures) of anyone raising a concern under this procedure in good faith, (whether or not it proves well-founded), and will take disciplinary action against anyone conducting such harassment or victimisation.

- 1.3.4 The discloser must be acting in good faith and have reasonable grounds for believing that the information being disclosed indicates a case of malpractice within the College; disciplinary action will be taken in response to maliciously unfounded disclosures.
- 1.3.5 If the discloser is already the subject of disciplinary or other procedures relating to their employment, those procedures will not be halted as a result of their disclosure.
- 1.3.6 The College has a range of policies and procedures which deal with standards of behaviour at work, covering Discipline, Grievance, Bullying and Harassment, Health and Safety, Recruitment and Selection and Safeguarding. Employees are encouraged to use the provisions of these procedures when appropriate.
- 1.3.7 In addition to the College's Financial Regulations, this Whistleblowing Policy and Procedure is complementary to the College's procedure for dealing with Fraud and Irregularity, and guidelines for Gifts, Hospitality and Travel Claims. This policy also fulfils the College's obligations under the Bribery Act 2010.

2. ACCOUNTABILITY

2.1 The Head of Human Resources and Transformation is:

- (i) responsible for ensuring the policy is implemented, regularly reviewed and updated;
- (ii) the first point of contact for managers in the College to seek advice about the policy;
- (iii) responsible for the maintenance and operation of this policy and procedure;
- (iv) to keep a record of all concerns raised and the outcomes and will report to the Board of Governors and the Corporation's Audit Committee on at least an annual basis or more often, as appropriate.

2.2 The College Ombudsman:

- (i) Will act as the 'Whistleblowing Officer' as referred to in this document, the first contact point for any whistleblowing reports.

2.3 All employees:

- (i) are responsible for adhering to the requirements set out in this document;
- (ii) have a legal and moral responsibility to report improper acts and omissions as outlined in the procedure. In some circumstances, failure to

raise such concerns may amount to breach of contract or breaking the law.

3. LEARNER INVOLVEMENT

- 3.1 There is no direct learner involvement in this policy.
- 3.2 However, learners on placement are encouraged to exercise their discretion and professionalism if they witness malpractice and notify their placement officer immediately.
- 3.3 Learners raising a complaint about a member of staff or other student will be dealt with, as appropriate, under the relevant student complaints procedure.

4 PROCESS

4.1 Procedure for raising a concern

- 4.1.1 Initially, concerns should be raised with the Whistleblowing Officer unless they relate to the Whistleblowing Officer when they should be referred to the Chair of the Board of Governors. This may be done orally or in writing.
- 4.1.2 If the discloser feels that the outcome was unsatisfactory, they should express their concerns in writing to the Chair of the Board of Governors.
- 4.1.3 Although disclosers are not expected to prove beyond doubt the truth of an allegation, it is required that they demonstrate reasonable grounds for concern.
- 4.1.4 The role of the Whistleblowing Officer is to:
 - (i) assess whether the complaint falls within the scope of the College's disclosure procedure;
 - (ii) if, on preliminary examination, the concern is judged to have substance and merit, proceed in accordance with Section 4.2 below;
 - (iii) if, on preliminary examination, the concern is judged to be wholly without substance or merit, advise the discloser that the concern will be dismissed and they will be advised of the reasons for it;
 - (iv) advise the discloser of the appropriate route to lodge the complaint if it does not fall under the procedure.

4.2 How the organisation will respond

- 4.2.1 If the concern does not involve the Chair of the Board of Governors then the Whistleblowing Officer will inform the Chair of the Board of Governors who will then decide a course of action in consultation with the Principle/Chief Executive if appropriate. If the concern involves the Chair of the Board of Governors then the Whistleblowing Officer will inform the Vice-Chair of the

Board of Governors. If the concern falls within the scope of the procedure, the action taken will depend on the nature of the concern, which may include:

- (i) internal investigation;
- (ii) referral to the Police;
- (iii) referral to the College's internal auditors;
- (iv) independent inquiry.

4.2.2 In order to protect individuals and those accused of misdeeds or possible malpractice, the Chair of the Board of Governors and Principal/Chief Executive will make initial enquiries to decide whether an investigation is appropriate and, if so, what form it should take. Concerns or allegations which fall within the scope of specific procedures (for example, safeguarding or discrimination issues) will normally be referred to the appropriate manager for consideration under those procedures.

4.2.3 Some concerns may be resolved by agreed action without the need for investigation. Likewise, if urgent action is required this will be taken before any investigation is conducted.

4.2.4 The investigation may need to be carried out under the terms of strict confidentiality, i.e. by not informing the subject of the complaint until (or if) it becomes necessary to do so. This may be appropriate in cases of suspected fraud. In certain cases, however, suspension from work may have to be considered immediately.

4.2.5 Should an investigation be necessary, an Investigating Officer will be appointed by the Chair of the Board of Governors and Principal/Chief Executive, who will usually be of Head of School / Corporate Head or Section level and will have had no direct association with the individual (s) about whom the concern is being raised.

4.2.6 A letter will be sent to the discloser's home address rather than through the internal mail. These details should be obtained from the individual to ensure the address tallies with College records. The initial letter should be sent within 10 working days (wherever reasonably possible) of the concern being raised:

1. confirming that the concern has been received;
2. indicating how the College proposes to deal with the matter;
3. offering to hold an initial exploratory meeting (to be held within 10 days of receipt of the letter);
4. giving, where applicable, an estimate of how long it will take to provide a final response;
5. confirming whether initial enquiries have been made;
6. supplying information on staff support mechanisms; and
7. confirming mutual expectations surrounding confidentiality.

4.2.7 The Investigating Officer will proceed to investigate the concern by taking the following steps:

Step 1: Any meetings can be held off-site at a mutually convenient location and time. This meeting should be arranged to take place within a reasonable period of time in order to find out more by considering any relevant documentation or supporting evidence in order to decide on the next steps. The Investigating Officer should offer the entitlement for the discloser to be accompanied by a trade union representative or work colleague. The Investigating Officer should also be accompanied by a note-taker at this meeting. The Investigating Officer should prepare for the meeting in advance and, in consideration of any relevant documentation received, should explore the need for any clarification of the disclosure, request any additional supporting evidence and identify other potential witnesses.

Step 2: After the meeting, the Investigating Officer will review the notes taken from the meeting together with any other documentation or correspondence relating to the investigation in order to establish whether or not the claim is supported. Further meetings should be arranged if necessary.

Step 3: The Investigating Officer will report back to the Chair of the Board of Governors and Principal/Chief Executive with the findings without any unnecessary delay. If the claim is supported, the Chair of the Board of Governors and Principal/Chief Executive will either sanction external reporting action, e.g.:

- (i) report to the police;
- (ii) HEFCE / The Skills Funding Agency / Young Peoples Learning Agency
- (iii) OFSTED
- (iv) National Audit Office
- (v) External Audit organisations
- (vi) Health and Safety Executive
- (vii) Environmental Agency
- (viii) Serious Fraud Office
- (ix) Inland Revenue
- (x) Local authority
- (xi) Information Commissioner's office;

or:

take action internally, e.g. (disciplinary proceedings, internal audit, review of internal policies and procedures).

4.2.8 In order to assure the discloser that the concern has been properly addressed, then - subject to legal constraints and following the investigation - the Chair of the Board of Governors and Principal/Chief Executive will write to confirm the outcome, again to the discloser's home address.

4.2.9 This written confirmation will not include details of any disciplinary action, which will remain confidential to the individual(s) concerned.

- 4.2.10 In all instances in which a concern leads to formal disciplinary proceedings, there shall be full disclosure of the nature of the allegation and the available evidence to the person against whom the concern has been raised to enable him or her to have the opportunity to respond.
- 4.2.11 A discloser who has not had a response within the time limits stated above (i.e. within 10 days of receipt of the complaint) or otherwise feels that the complaint is not being dealt with appropriately (normally concluded within 3 months of the initial complaint) has the right to appeal directly to the Chair of the Board of Governors and Principal/Chief Executive who will make a final decision on action to be taken and will notify the discloser of the outcome.
- 4.2.12 Where there is no case to answer, but the discloser held a genuine concern and was not acting maliciously, the Chair of the Board of Governors and Principal/Chief Executive should ensure that the discloser suffers no reprisals.

4.3 Concluding the process

- 4.3.1 The Chair of the Board of Governors and Principal/Chief Executive will confirm, in writing, the conclusion of the investigation to the person or persons against whom the concern is made to a confirmed home address.
- 4.3.2 The Principal/Chief Executive will compile quarterly reports to the Audit Committee detailing all substantiated disclosures and any subsequent actions taken.
- 4.3.3 Any unsubstantiated disclosures will be reported annually to the Audit Committee in the same way.

5 SUPPORT FOR DISCLOSERS

- 5.1 The College recognises that raising a disclosure can be a stressful experience and seeks to be supportive and remove the fear from the process.
- 5.2 The College also recognises employees may wish to seek advice and be represented by their trade union officers when using the provisions of this policy, and acknowledges and endorses the role trade union officers play in this area.
- 5.3 If, at any stage, the discloser is concerned about what progress is being made, requires support or reassurance, or feels they may be being victimised or harassed as a result of making the disclosure, they should contact the Chair of the Board of Governors.
- 5.4 Disclosers who raise concerns or who are the subject of an investigation may be able to access confidential counselling through the Occupational Health department. This request can be made by contacting the Human Resources department who will deal with the request confidentially.

6 CONFIDENTIALITY

- 6.1 The College will treat all such disclosures as confidential and sensitive. The College will exercise particular care to keep confidential the identity of any such person raising a concern under this procedure until it is decided it may be necessary to launch a more formal investigation. Thereafter, the identity of the discloser may be kept confidential, if requested, unless this is incompatible with a fair investigation or unless there is an overriding reason for disclosure. In any such instance, the discloser will be consulted before any action is taken.
- 6.2 If there is an unauthorised disclosure of identity, disciplinary action may be taken against that individual.

7 ANONYMOUS ALLEGATIONS

- 7.1 This procedure encourages disclosers to put their name to an allegation whenever possible. Concerns expressed anonymously are much harder to investigate and difficult to resolve.
- 7.2 In responding to an anonymous disclosure, the Chair of the Board of Governors and Principal/Chief Executive will pay due regard to fairness to any individual named, the seriousness of the concern raised, the credibility of the complaint and the prospects of an effective investigation and discovery of evidence.

8 DISCLOSURE TO EXTERNAL BODIES

- 8.1 This procedure is intended to provide the discloser with an avenue outwith the College hierarchy to raise concerns within the College. However, the discloser retains the right to take the matter outside the College if they feel the concern has not been dealt with satisfactorily.