

## **PUBLIC INTEREST DISCLOSURE POLICY - (Whistle Blowing Policy)**

### **1. INTRODUCTION**

- 1.1** The College seeks to act in the public interest and achieve and maintain the highest standards of probity and honesty in all its procedures and operations. It is important to the College that any suspected fraud, misconduct, malpractice or wrongdoing by workers or employees of the college is reported and properly dealt with. The College is committed to creating an open and supportive environment where individuals feel able to “speak up” about any genuine concerns regarding the alleged wrongful conduct of the employer, or about the conduct of a fellow employee, or any third party.
- 1.2** This policy sets out the framework for how issues can be raised confidentially internally, and/or if necessary, outside the management structure of the College to a prescribed body or other relevant organisation. All disclosures will be handled consistently and fairly and appropriate action will be taken by the College to resolve the issue in line with this policy.
- 1.3** This policy applies to all employees and Governors. Volunteers and other individuals engaged to work at or provide services to the College, including agency workers and contractors, are also encouraged to use it where appropriate.
- 1.4** It is better that the matter of potential concern is raised when it is a concern rather than wait for proof. Public Interest Disclosure (PID) procedures should, however, only be used as a last resort and generally should apply when internal regulations, procedures and audit arrangements have failed to identify a perceived problem, or when it is perceived that appropriate action has not been taken to address a problem already identified.
- 1.5** The Code of Conduct for staff explains what is expected of them at work and what practices are regarded as unacceptable.

### **2. DEFINITION**

- 2.1** The law provides protection for employees or workers who raise legitimate concerns about specified matters. These are called "qualifying disclosures". A qualifying disclosure is one made in the public interest by an employee or worker who has a reasonable belief that there has been or is likely to be:
- a breach of any legal obligation;
  - a miscarriage of justice;
  - a criminal offence;
  - a danger to the Health and Safety of any individual;
  - damage to the environment; or
  - deliberate concealment of information about any of the above
- 2.2** Some examples of qualifying disclosures in the college context may include:
- Fraudulent acts (e.g. manipulation of accounting records/finances, inappropriate use of funds, decision making for personal gain, abuse of position to influence decisions);
  - Breaches of acceptable professional and ethical standards;

- Breaches of the College's Health and Safety policy entailing danger to staff or students ; and/or
  - Breaches of any of the College's policies or the Code of Conduct.
- 2.3** It is not necessary for an employee or worker to have proof that such an act is being, has been, or is likely to be, committed - a reasonable belief is sufficient.
- 2.4** For the purposes of this policy the term "whistle-blower" refers to the individual making the disclosure.
- 2.5** The whistle-blower must reasonably believe they are making the disclosure in the public interest (i.e. it affects others such as students in the College or members of the public). This means that personal grievances and complaints (e.g. a concern about their own contractual terms or perceived personal mismanagement) are not usually covered by this policy and should be dealt with under the College's Grievance Procedure.

## **PROCEDURE**

### **3. Initial concern**

- 3.1** The Corporation encourages the "whistle-blower" to raise the matter internally in the first instance. Concerns should normally be raised initially with the whistle-blower's line manager. Where the concerns relate to the whistle-blower's line manager, the complaint should be brought to the attention of a more senior manager, generally an Assistant Principal or the Principal or in the instance of potential involvement of the Principal or Clerk to the Chair of the Corporation.
- 3.2** 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 on the [www.gov.uk](http://www.gov.uk) website.
- 3.3** In the event that the whistle-blower feels a disclosure should be referred to an external prescribed body please see Appendix A for relevant links.
- 3.4** If a concern is raised verbally it should be followed up in writing wherever possible.
- 3.5** The whistle-blower has no responsibility for investigating the matter - it is the College's responsibility to ensure that an appropriate investigation takes place.
- 3.6** Where the complaint is serious, for example involving fraud, theft or other potential gross misconduct by an employee, the whistle-blower should act quickly to report it but should not mention it to the subject of the complainant or other colleagues as this could affect the investigatory process.
- 3.7** The timescales for handling disclosures will differ depending on the nature of the disclosure made but all disclosures (whether formal or informal) will be acknowledged within [2] working days.

### **4. Investigation**

- 4.1** The Principal/ Assistant Principal/ line manager/Chair of the Corporation will arrange an investigation into the matter either by investigating the matter him/herself or immediately passing the issue to an appropriate person (except where they are the

subject of the disclosure where an alternative suitable person will be appointed). The investigation may involve the whistle-blower and other individuals involved giving a written statement. Any investigation will be carried out promptly and confidentially.

- 4.2 If a whistle-blower wishes to remain anonymous this should be raised with the line manager/manager/Governor to whom the initial disclosure is made. In some cases this may be possible but in more serious cases where disciplinary action may have to be taken against others, this may be more difficult. The College is committed to protecting the well-being of the whistle-blower whilst this policy is followed.
- 4.3 The whistle-blower's statement (where available) will be taken into account, and he/she will be asked to comment on any additional evidence obtained. The person responsible for the investigation may ask the whistle-blower to attend a meeting to gather all the information needed to ensure a clear understanding of the situation.
- 4.4 Where a meeting is held, the whistle-blower may be accompanied by a trade union representative or work colleague if they wish and where possible the dates/times will be agreed to facilitate this.

## **5. Outcome of the investigation**

- 5.1 On conclusion of any investigation, the whistle-blower will be told the outcome of the investigation within the following options:
  - the matter be internally investigated further by the College;
  - the matter be assigned to be investigated by internal or external auditors appointed by the Corporation and reporting to the Audit Committee.
  - the matter be reported to the Education and Skills Funding Agency (ESFA), or other appropriate public authority;
  - the matter be reported to the Police;
  - the route for the discloser to pursue the matter if it does not fall within this procedure;
  - that no further action is taken by the College.
- 5.2 This conclusion should be in as much detail as is deemed appropriate by the investigating manager. If no action is to be taken, the reason for this will be explained.
- 5.3 The person who carried out the investigation will take any necessary action as outlined above.
- 5.4 Where a concern is raised anonymously the College will not ordinarily be able to provide feedback to the whistle-blower and any action taken as a result of an anonymous disclosure may be limited. The College will take all appropriate steps to investigate such a disclosure in line with the level of information provided. If an anonymous whistle-blower wishes to seek feedback from the College an appropriate anonymised email address should be provided.
- 5.5 If the investigation is protracted the designated assessor must keep the discloser informed of the progress of the investigation and when it is likely to be concluded.

## **6. Further Action/ Appeal to External Body**

- 6.1 Where, having raised an initial concern, and the whistle-blower has a genuine belief that the College has failed to take appropriate action or investigate the issue properly and they wish to pursue the matter further, the whistle blower may report their concern to the Principal/ Chair of the Corporation or to an appropriate prescribed body (if this has not already been reported).

- 6.2** The Principal/ Chair of the Corporation may arrange for further investigation to be carried out, make any necessary further enquiries and/or make their own report. On the conclusion of any further investigation, they will take appropriate action which may include reporting the matter to a prescribed body if this has not taken place at an earlier stage in the process.
- 6.3** If the discloser is dissatisfied with the outcome of the investigation, or if the complaint is about the wilful wrongdoing of the Corporation as a whole, the whistle-blower has the right to contact an external agency such as auditors or the ESFA. Such contact should be made only after internal procedures have been exhausted.

## **Other issues**

### **7. Concerns raised by member of the public**

- 7.1** Where complaints are received from members of the public, the College's formal complaints procedure will be followed, unless the complaint relates to the specific conduct or performance of an individual employee/worker in which case the Disciplinary Procedure may need to be instigated.

### **8. Fraud/Criminal issues**

- 8.1** The Audit committee is responsible for overseeing a proper, proportionate and independent investigation of all allegations and instances of fraud and irregularity. Allegations of fraud and/or investigation outcomes should be reported to the Committee as soon as practically possible.
- 8.2** In the event of the allegation being of a very serious nature, for example relating to a fraud or other potential gross misconduct offence, there may also be a need to involve the College's auditors. This should normally be agreed by the Chair of Audit/ Audit committee.
- 8.3** Where appropriate and when a significant instance of fraud, irregularity or major weakness in the College's accounting or other control framework is suspected or discovered the relevant funding bodies should be kept informed in view of any possible implications concerning the misuse of public monies.
- 8.4** Significant fraud is usually where one or more of the following factors are involved:
- the sums of money are in excess of £10,000
  - there is likely to be public interest because of the nature of the fraud or the people involved.
  - the particulars of the fraud are novel or complex
  - the fraud is systematic or unusual in nature.
- 8.5** It is within the discretion of the investigating manager/ committee to inform the police if there are grounds for suspecting criminal activity.
- 8.6** Advice may be sought from the College's legal advisers before involving the police in any such internal complaint or allegation.

## **9. Protection of Whistle Blowers.**

- 9.1** Any whistle-blowers who make protected disclosures in line with this procedure have the right not to be dismissed, subjected to any other detriment, or victimised, because they have made a disclosure. This means continued employment and opportunities for promotion or training will not be affected because the whistle-blower has raised a legitimate concern.
- 9.2** Whistle-blowers should report any harassment or victimisation to an appropriate manager as soon as practicable (see appendix A). The College will take all reasonable steps to prevent/address such harassment or victimisation. Victimisation of a whistle-blower for making a protected disclosure will be considered a disciplinary matter and will be dealt with under the College's Disciplinary Procedure.
- 9.3** Whistle-blowers may find the process of reporting an issue/wrongdoing difficult and uncomfortable. The College will take all reasonable steps to support the whistle-blower. The whistle-blower may also be referred to the charity Protect (previously known as Public Concern for information and advice).

## **10. Malicious allegations/disclosures**

- 10.1** If, following appropriate investigation, it is considered that an employee has made a malicious allegation without real substance and/or which could not be reasonably considered to be in the public interest; this will be taken as a serious matter and may potentially lead to disciplinary action in line with the College's Disciplinary Procedure.
- 10.2** Where other individuals engaged by the College make a malicious allegation, the College will investigate the allegation thoroughly and take appropriate action, which may include terminating the contract/arrangements with the individual.
- 10.3** If disciplinary action is required, the Assistant Principal/line manager (or the person who carried out the investigation) will report the matter to the Principal/ Senior Manager HR and Administration to start the disciplinary procedure.

## **11. Data Protection**

- 11.1** When an individual makes a disclosure, the College will process any personal data collected in accordance with its data protection policy. Data collected from the point at which the individual makes the disclosure is held securely and accessed by, and disclosed to, individuals only for the purposes of dealing with the disclosure.

## Appendix A

<b>Nature of disclosure:</b>	<b>External reporting/Prescribed body:</b>
Fraud or financial malpractice	Education & Skills Funding Agency  <a href="https://www.gov.uk/government/organisations/education-and-skills-funding-agency">https://www.gov.uk/government/organisations/education-and-skills-funding-agency</a>
Child Protection/ Safeguarding issues	Local Authority Designated Officer Essex Duty Line: <b>03330 139 797</b>  NSPCC Whistleblowing helpline: 0800 028 0285 Email: <a href="mailto:help@nspcc.org.uk">help@nspcc.org.uk</a>
Data protection issues	Information Commissioner <a href="https://ico.org.uk">https://ico.org.uk</a>
Health and Safety issues	Health and Safety Executive <a href="http://www.hse.gov.uk">http://www.hse.gov.uk</a>

## Guidance on Reporting of Allegations

<b>Allegation against</b>	<b>Allegation raised with</b>
The Principal/ The Clerk/ Members of the Corporation/ Audit committee	The Chair of the Corporation
Assistant Principals Senior Manager HR &Admin	The Principal
Chair of Corporation/ Finance Manager	Head of Audit Committee/ Principal