

WHISTLEBLOWING POLICY

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Whistleblowing Policy

Introduction and Background

Wyke College is committed to the delivery of a first class service to students and the wider community. This policy is intended to promote a high level of service and encourage propriety throughout the organisation by enabling any concerns about fraud, malpractice, health and safety or unethical conduct to be raised internally. By these means potentially damaging, dangerous or embarrassing matters can be dealt with and resolved internally.

The College recognises that whistleblowing, also known as public interest disclosure, is a sensitive issue and there is always a balance to be struck between the rights of the individual to speak freely on a range of matters and the right of the College and individuals to protect themselves against false and malicious accusations. It is hoped that this policy will address the way in which concerns about malpractice may properly be raised within the College and, if necessary, outside.

The College policy is drawn from the Nolan recommendations as to the constituent elements of a whistleblowing policy, namely:

- a clear statement that malpractice is taken seriously in the organisation and an indication of the sorts of matters regarded as malpractice
- respect for the confidentiality of staff raising concerns if they wish
- the opportunity to raise concerns outside the line management structure
- penalties for making false and malicious allegations
- an indication of the proper way in which concerns may be raised outside the organisation if necessary

Equality statement

This policy applies to all college staff regardless of age, race, disability, religion or belief, gender, sexual orientation, marital or civil partnership status, gender reassignment, pregnancy or maternity, or any other status. All individuals will be treated in a fair and equitable manner recognising any special needs where adjustments can be made. No individual will suffer any form of unlawful discrimination, victimisation, harassment or bullying as a result of this policy.

What is Whistleblowing?

There is no legal definition of the term either within the European Community or UK law. The term is initially used to describe public disclosure of wrongdoing, as opposed to poor judgement or weak management, within an organisation. However, it is now accepted that the term includes both the raising of matters internally as well as, or instead of, a wider disclosure. Wrongdoing can include fraud and financial irregularities, serious maladministration arising from improper acts, unethical activities which may be of a criminal nature and dangerous acts or omissions which create a risk to health, safety or the environment.

Lord Barrie QC has defined whistleblowing as:

“... the disclosure by an employee (or professional) of confidential information which relates to some danger, fraud or other illegal or unethical conduct connected with the workplace, be it of the employer or of his fellow employees.”

The policy and procedures for whistleblowing are intended to:

- provide a channel for individual employees to raise genuine and legitimate concerns
- deter serious malpractice
- avoid crisis management and protect the organisation from public criticism
- promote accountability

Whistleblowing is:

- concerned with serious matters of danger, fraud, or other illegal or unethical conduct connected to the workplace
- a serious matter which will be treated as promptly and fairly as possible
- a matter which should always be raised internally first and which should not be taken outside of College unless and until College procedures are fully exhausted
- a matter which will always be treated confidentially and the whistleblower fully protected – but confidentiality of the whistleblower cannot be ensured following the investigation.
- an unusual procedure which should not be invoked lightly

Whistleblowing is not:

- a vehicle for personal complaints or grievances
- a replacement for other College procedures
- concerned with private activities which have no connection with work unless they impact directly and seriously on the workplace
- a replacement for legal action
- about weak management, mismanagement or error

Making a protected disclosure

The Public Interest Disclosure Act 1998 amends the Employment Protection Act 1996, and protects an employee from victimisation and dismissal following disclosure of a matter threatening the public interest. To be protected, the employee must make a "qualifying disclosure" and raise the matter internally in the first instance. A "qualifying disclosure" is any disclosure of information which, in the reasonable belief of the employee, is made in the public interest and tends to show one or more of the following:

- That a criminal offence has been, is being or is likely to be committed;
- That a person has failed, is failing or is likely to fail to comply with any legal obligation to which he or she is subject.
- That a miscarriage of justice has occurred, is occurring or is likely to occur;
- That the health and safety of any individual has been, is being or is likely to be endangered;
- That the environment has been, is being or is likely to be damaged; or
- That information tending to show any of the above has been, is being or is likely to be deliberately concealed.

The Policy

Any employee of the College who has good reason to suspect wrongdoing within the organisation:

- has the responsibility to raise the matter promptly at a senior level
- has the right to confidentiality while the investigation is progressing
- has the right to protection from reprisals
- has the right to a report back at the end of the investigation.

Any employee of the College accused of wrongdoing within the organisation:

- has the responsibility to co-operate fully with any investigation
- must not instigate any actions or reprisals if s/he is aware of the identity of the whistleblower
- has the right to confidentiality while the investigation is progressing
- has the right to a report back at the end of the investigation

The College, as the employer, is committed to ensuring that:

- Staff are aware of the law on whistleblowing and the College's Whistleblowing Policy;
- All disclosures under the policy will be dealt with appropriately, consistently, fairly and professionally.

The Procedure

Where a member of staff believes that they have knowledge of a matter of wrongdoing that is serious enough for them to invoke the whistleblowing procedure, they should raise the matter in an initial meeting with one of the following designated people:

- a the Deputy Principal
- or
- b the Principal
- or
- c Chair of Corporation

depending on the nature of the complaint.

A designated person may decline to become involved on reasonable grounds. Such grounds include previous involvement or interest in the matter concerned, incapacity or unavailability or that the designated person approached is satisfied that another designated person would be more appropriate to consider the matter in accordance with this procedure.

The staff member making the disclosure does not have to provide evidence to the designated person in order to initiate this procedure.

At the initial meeting between the staff member making the disclosure and the designated person, the former should make clear that they are initiating the whistleblowing procedure and give details of the member(s) of staff or Corporation member(s) who they believe to be involved. The staff member making the disclosure may be accompanied at the meeting by a local trade union representative or work colleague. The designated person may be accompanied by an administrative assistant to take notes. The notes will not identify the person making the disclosure.

After the initial meeting an investigating officer will be appointed by the designated person to carry out the investigation as speedily as possible. The investigating officer will be an appropriate senior manager, member of the Corporation, the College's internal or external auditors or other external investigator.

As a first step, the investigating officer must determine whether the matter is an appropriate one to be investigated by the whistleblowing procedure. The matter should not be investigated under the procedure if it seems to the investigating officer that the matter is:

- malicious in nature, or trivial
- appropriately the concern of the police
- should be considered under another College policy or procedure e.g. the College's grievance procedure

In any of the cases noted above the whistleblower should be promptly informed of the decision and advised of any action the College will take.

If the investigating officer decides that the matter should appropriately be investigated through the whistleblowing procedure, they should set a realistic timescale for the investigation.

The investigating officer will:

- i send a written acknowledgement of the concern to the whistleblower which also outlines the main concerns raised
- ii inform the whistleblower of the expected timescale for the investigation and thereafter report back to him/her on the progress of the investigation and the outcome
- iii stress the importance of confidentiality

The investigating officer will need to:

- see all the relevant parties and obtain statements, or evidence as appropriate, in a written form
- inform the person or persons accused of wrongdoing of the nature and content of the allegations, give them this information in writing and inform them, in writing, of the progress of the investigation and its outcome
- take any actions deemed necessary to protect the whistleblower and the alleged wrongdoer and stress the confidential nature of the investigation.

The investigating officer will inform the whistleblower, and the person or persons accused of wrongdoing, in writing of the outcome of the investigation as soon as reasonably practicable and normally within 10 working days after the conclusion of the investigation. If it is not possible for the investigating officer to report on the outcome within this period, the investigating officer will write to the whistleblower, and the person or persons accused of wrongdoing, with an explanation of the delay and when a written report on the outcome can be expected.

At the close of the investigation, the investigating officer will submit a report to:

- the Principal and
- the Chair of the Corporation and
- to the Clerk to the Corporation, who is responsible for presenting an annual report to the Audit Committee on the use of the whistleblowing policy.

External disclosure

If any employee is not satisfied with the response provided by the College he/she has the right to take the matter outside the College to one of the following:-

- The College's external auditor
- The police
- The public body responsible for funding the College
- The Secretary of State for Education
- A Member of Parliament
- HM Chief Inspector of Education, Children's Services & Skills, Ofsted
- The Office of Qualifications and Examinations Regulation (Ofqual)
- Other appropriate public authority

The person making the disclosure may also raise the matter externally, as set out above, if he/she has reasonable grounds for believing that he/she will be subjected to a detriment as a result of making the disclosure, or that all the available designated people are or were involved in the alleged malpractice.

If you do take the matter outside the College you must ensure that confidential information is not disclosed.

Legal Advice

The person making the disclosure may at any time disclose the matter on a confidential basis to a professionally qualified lawyer for the purpose of taking legal advice. For the purpose of this policy and procedure, taking legal advice includes seeking advice using the Acas helpline. The Acas helpline number is 0300 123 1100, available Monday to Friday 8.00am to 6.00pm.

Safeguards

Any report or recommendations by the designated person in relation to the matter will not normally identify the person making the disclosure, save on a strictly confidential basis to the designated person's administrative assistant or to a professionally qualified lawyer for the purpose of obtaining legal advice, unless:

- the discloser consents in writing
- there are grounds to believe that the discloser has acted maliciously
- the designated person is under a legal obligation to do so
- the information is already in the public domain
- it is essential to do so in order to deal appropriately with the matter disclosed

Any documentation (including computer files) kept by the designated person relating to the matter will be kept secure, so that as far as practicable only the designated person and his/her administrative assistant shall have access to it. As far as practicable, any documentation prepared by the designated person will not reveal the identity of the individual as the discloser of information under this procedure.

Where the person making the disclosure involves a local trade union representative or work colleague in this procedure, the discloser will be under an obligation to use all reasonable endeavours to ensure that the representative or work colleague keeps the matter strictly confidential save, as permitted under this procedure, as required by law or until such time as it comes into the public domain.

Subject to the paragraph below, the institution will not (and it will use all reasonable endeavours to ensure that its employees do not) subject the discloser to any detriment on the grounds of the disclosure of information under this procedure. The person making the disclosure should report any complaints of such treatment to a designated person. If the discloser wishes the designated person to take action in relation to such complaints, the discloser may be asked to consent in

writing to the designated person revealing the discloser's identity for the purposes of any such action.

Protection against disciplinary action

No disciplinary action will be taken against anyone for making a disclosure in accordance with this procedure. This will not prevent the institution from bringing disciplinary action in cases where there are grounds to believe that a disclosure has been made maliciously or vexatiously or where an external disclosure is made in breach of this procedure without reasonable grounds or otherwise than to an appropriate public authority.

Counselling

Support is available, through the College counselling service, to staff making a disclosure.

Anonymous reporting

The College will seek to ensure that staff confidence in making a disclosure is encouraged through the publication of this policy, although a facility for anonymous reporting will also be provided.

Anonymous disclosures should be addressed to the Clerk to the Corporation. The Clerk will refer the disclosure to an appropriate designated person, as detailed in the procedure section above. If the disclosure relates to the Clerk, it should be addressed to the Chair of Corporation. Anonymous whistleblowers will not normally be able to receive feedback on the outcome of their disclosure.

Settlement agreements

"Gagging clauses" in settlement agreements do not prevent former staff from making disclosures in the public interest.

Fraud, irregularity, major weakness or breakdown in the College's accounting or other control framework

Where any significant instance of fraud, irregularity, theft, bribery, corruption or major weakness or breakdown in the College's accounting or other control framework is suspected or discovered, this policy should be read in conjunction with the College's Fraud and Bribery Policy and the requirements of the Education & Skills Funding Agency's Post-16 Joint Audit Code of Practice.

Please note that whilst every effort will be made to follow this policy, circumstances may not always allow this or may render certain parts of the policy inappropriate. Individuals will be treated fairly and in line with legislation in all instances.

Related College Documents:

Fraud and Bribery Policy
Staff Disciplinary Procedure
Safeguarding and Child Protection Policy

**Approved by the Personnel Committee, 4 November 2013,
and ratified by Corporation, 25 February 2014**

**Approved by the Personnel Committee under delegated authority from the Corporation,
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