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# THE COLLEGE OF WEST ANGLIAS

## Public Interest Disclosure ‘Whistleblowing’

### POLICY & PROCEDURE

#### Background

The Public Interest Disclosure Act 1998 came into force in Great Britain on 2 July 1999. It provides employees and workers with legal protection against dismissal or detriment for raising concerns about matters in the public interest. The Act seeks to ensure that any person suspecting malpractice knows how to raise concerns and what procedures are in place to deal with the concern.

#### Applicability of this Policy and Procedure

This policy applies to all College employees, including apprentices; casual workers, home-based workers and agency workers engaged by the College.

#### Policy

The College of West Anglia is committed to operating in an ethical and principled way, ensuring that standards in the College are high and that all statutory regulations and requirements are complied with. It will take seriously any concerns relating to malpractice within the organisation including suspected allegations of: **financial irregularities; corruption; bribery; creating or ignoring a serious risk to health, safety or the environment; failure to comply with a legal obligation including, but not limited to, age, disability, sexual equality and racial equality legislation; safeguarding legislation/practices; a miscarriage of justice; criminal activities; serious abuse or fraud.**

Serious malpractice may involve Corporation members, managers, colleagues/clients or suppliers of goods and services to the organisation.

The College has, therefore, introduced this procedure to enable you to raise your concerns about serious malpractice at an early stage, through internal college procedures, without fear of adverse repercussions being taken against you. This policy and procedure seeks to balance the need to allow a culture of openness against the need to protect other employees against vexatious allegations or allegations which are not well-founded.

The principles of openness and accountability which underpin legislation protecting whistleblowers are reflected in this policy and procedure. The College is also committed to ensuring compliance with the Bribery Act 2010.

#### Procedure

- ❑ This procedure should not be confused with the procedure on Dealing with Harassment at Work or the Grievance and Disciplinary procedures. A whistleblower is not usually directly or permanently affected by the concern. They are a witness, not a complainant.
- ❑ When making a disclosure you will be encouraged to identify yourself. If an anonymous disclosure is made, the College will not be in a position to notify you of the outcome of the action taken. Anonymity also means that the College will have difficulty in investigating your concern. The College reserves the right to determine whether to apply this procedure, in respect of an anonymous disclosure, taking into account consideration of the seriousness of the issues raised, the credibility of the concern and how likely it is that the concern can be confirmed from attributable sources.
- ❑ Any concerns about malpractice should be raised internally, verbally or in writing, with either the Clerk to the Corporation, the Vice Principal – Corporate Services or the Head of HR.

- ❑ If the disclosure relates to the Principal, the issue should be raised with the Clerk to the Corporation. If the issue relates to the Clerk to the Corporation, the issue should be raised with the Chair of Governors.
- ❑ Anyone feeling unsure can seek confidential advice at any time from PROTECT, a registered charity which advises on serious malpractice in the workplace on 020 3117 2520 or email [whistle@protect-advice.org.uk](mailto:whistle@protect-advice.org.uk). PROTECT is also able to advise whether you can or should take the concern further. General guidance may also be found at [www.gov.uk/whistleblowing](http://www.gov.uk/whistleblowing).

## **Protected Disclosures**

The law allows employees to raise what it defines as a 'protected disclosure'. In order to be a 'protected disclosure', a disclosure must relate to a specific subject matter (see below) and must also be made in an appropriate way. A 'protected disclosure' must, in the reasonable belief of the employee making it, also be made in the public interest and must consist of information and not merely be allegations of suspected malpractice.

## **Specific Subject Matter**

If, in the course of employment, an employee becomes aware of information which they reasonably believe tends to show one or more of the following, they must use this policy and procedure:

- ❑ That a criminal offence has been committed is being committed or is likely to be committed.
- ❑ That an individual has failed is failing or is likely to fail to comply with any legal obligation to which they are subject.
- ❑ That a miscarriage of justice has occurred, is occurring, or is likely to occur.
- ❑ That the 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.
- ❑ That information tending to show any of the above, is being, or is likely to be, deliberately concealed.

## **Assurances**

- ❑ Concerns raised under the procedure will be treated seriously and sensitively.
- ❑ Where practicable, immediate steps will be taken to remedy the situation. The final outcome may take longer, depending on the issue that is raised.
- ❑ We will make every effort to keep your identity confidential, if you wish this to be the case. Where this may cause difficulties, (for example, if the College is legally obliged to do so, for the purposes of seeking legal advice or if you are asked to give evidence), you will be told and we will discuss the options with you.
- ❑ No formal disciplinary action will be taken against an employee on the grounds of making a disclosure under this policy or procedure. This does not prevent the College from bringing disciplinary action against an employee where the College has grounds to believe that a disclosure was made maliciously or vexatiously, or where a disclosure is made outside the College without reasonable grounds.
- ❑ Equally, the College will not tolerate any harassment, bullying or victimisation of an employee by a colleague(s) for making a disclosure; disciplinary action will be taken by the College against the colleague(s) in question.

## **What Happens Next?**

Having alerted us to the concern, it is our responsibility to investigate the matter quickly. The initial stage will be to interview you, in confidence, and then assess what further action should be taken. We will seek to do this within 5 working days of you raising your concern.

We will look into your concern carefully and thoroughly. We have to be fair to you, but also to any others involved. If someone is potentially being accused of serious misconduct, we have to find out their side of the story as well.

We will respect any concerns you have expressed about your safety or career.

You may bring a work colleague or trade union representative along with you at any interviews that are arranged, providing that person is not involved in the area of work to which the concern relates. This person should attend to provide support only, and will not be allowed to become involved in the proceedings. If it is felt that the concern can be resolved quickly, or in a straightforward manner, it will be brought to the attention of the appropriate manager. This may lead to other processes being implemented (including action under any other applicable College policy or procedure)

If the College determines that the disclosure does not have sufficient merit to warrant further action, you will be notified in writing of the reasons for the College's decision and advised that no further action will be taken by the College under this policy and procedure.

Where the matter requires more detailed consideration, either because of the complexity of the concern, or the possibility of other proceedings, an investigating officer will be appointed and a formal investigation will be carried out. The internal investigation would be conducted by a manager of the College without any direct association with the individual to whom the disclosure relates, or by an external investigator appointed by the College. Possible other actions might include: referral to the College's auditors; or referral to relevant external bodies such as the police, Ofsted, the Health and Safety Executive or the Information Commissioner's Office.

Any recommendations for further action made by the College will be addressed to the Principal or Chair of Governors as appropriate.

### **What the College Asks of You**

The purpose of this procedure is to enable you to raise your concerns within the College in confidence, without any fear of reprisal. We, therefore, ask that:

- ☐ You do not take your concerns outside the College other than as stated in this procedure
- ☐ When raising your concern you declare any personal interest you have in the matter

### **At the End of the Process**

A record will be made of the nature and outcome of the concern. These records will be kept by the Clerk to the Corporation. The purpose of this record is to ensure that a central record is kept, which can be cross referenced with other complaints, in order to monitor any patterns of concern across the College and to assist us in monitoring the procedure.

Normally, we will try to let you know, in writing, the results of our assessment/investigation and about any action that is proposed, subject to third party rights. Correspondence will be addressed to your home address. Where action is not taken, you will be given an explanation.

### **Appeal Process**

If you disagree with the decision you may, within two weeks of receiving that notification, request in writing, to the Principal or, if the matter involves the Principal, to the Chair of Governors, a review of the decision stating your grounds for requesting the review.

### **Access to External Bodies**

If, having exhausted internal procedures, an allegation is found to be unsubstantiated; the individual raising the concern has the right to access an appropriate official and independent external body. An appropriate body might be the College's internal or external auditors, the ESFA, an MP or local Councillor. The NSPCC whistleblowing helpline is available for staff who do not feel able to raise concerns regarding child protection failures internally. Staff can call 0800 028 0285 or email [help@nspcc.org.uk](mailto:help@nspcc.org.uk). Such a step, however, would have serious implications for the College and should only be taken after very careful consideration. Advice may be sought from PROTECT (details above) before taking such action.