

# **SOUTH & CITY COLLEGE BIRMINGHAM**

## **PUBLIC INTEREST DISCLOSURE POLICY AND PROCEDURE “WHISTLEBLOWING”**

### **POLICY**

#### **1. Introduction**

- 1.1 South & City College Birmingham wishes to promote a culture of openness, honesty and integrity. The Board of Governors seeks to ensure that the affairs of the College are conducted with probity and in an ethical and principled way, within which all workers are encouraged to act responsibly and where malpractice is not tolerated.
- 1.2 Members of staff are often the first to realise that there may be something seriously wrong within the college. However, they may not express their concerns because they feel that speaking up would be disloyal to their colleagues or to their employer. They may also fear harassment or victimisation. In these circumstances, it may be easier to ignore the concern rather than report what may just be a suspicion of malpractice.
- 1.3 The College encourages all employees, agency contract workers or self-employed home workers employed or engaged by the College or students at the College, and who have grounds to believe that malpractice has occurred, is occurring or is likely to occur in connection with the College (whether on the part of another employee, a member of the Corporation, or any other person or persons, (“the Discloser”) to raise genuine concerns about malpractice at the earliest practicable stage rather than wait for proof. If you use this policy to raise a concern, we give you our assurance that you will not suffer any form of retribution or detrimental treatment. We will treat your concern seriously and act according to this policy.
- 1.4 The accompanying procedure is, intended to provide safeguards for Disclosers to raise concerns about malpractice in connection with the College. The aim is to provide a rapid mechanism under which genuine concerns can be raised internally, and, if necessary, externally without fear of adverse repercussions to the individual
- 1.5 The availability of the disclosure procedure seeks to balance the need to provide safeguards for those who raise genuine concerns about malpractice against the need to protect other members of staff, members of the Corporation, students and the College against uninformed or vexatious allegations which can cause serious difficulty to innocent individuals.
- 1.6 The principles of openness and accountability which underpin legislation protecting whistle-blowers are reflected in this policy and procedure. The College is also committed to ensuring compliance with the Bribery Act 2010.
- 1.7 This policy does not form part of any contract of employment and we may amend it at any time.

## **2. When to use this policy**

2.1 There is a difference between whistleblowing and raising a grievance:

2.1.1 Whistleblowing is where an individual has a concern about a danger or illegality that has a public interest aspect to it, e.g. because it threatens students, third parties or the public generally; but

2.1.2 A grievance is a complaint that generally relates to an individual's own employment position or personal circumstances at work.

2.2 This policy does not set out the procedure that applies to general grievances. If you have a complaint about your own personal circumstances, then you should use our Grievance Procedure in the first instance.

## **3. Public Interest Test**

3.1 "In" the public interest must be distinguished from "of" the public interest, i.e. matters which are simply interesting to the public.

3.2 Disclosure under Act will not be protected by the Act unless they are believed to be made in the public interest. This therefore excludes disclosures which are of a purely personal interest.

3.3 Grievances by individuals in relation to their personal employment or as appeals against decisions of management unless they involve instances of malpractice are regarded as personal interest and shall be dealt with under the appropriate procedure

## **4. Malpractice covered by this policy**

4.1 Whistleblowing is the reporting of suspected malpractice, wrongdoing or dangers in relation to the activities the college undertakes. The kinds of malpractice covered by this policy include:

4.1.1 Criminal offence, including those in relation to bribery and corruption and tax evasion facilitation;

4.1.2 Miscarriages of justice;

4.1.3 Danger to the health and safety of any individual;

4.1.4 Damage to the environment;

4.1.5 Breach of any legal or professional obligation, including those in relation to bribery and corruption and tax evasion facilitation;

4.1.6 Deliberately concealing any of the above.

4.2 Examples of Malpractice are (but are not limited to):

4.2.1 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;

4.2.2 Failure to comply with a statutory obligation, e.g. Safeguarding;

- 4.2.3 Gaining, or seeking to gain, a pecuniary advantage for an association or relationship with, or membership of, an organisation, Company or other body which ought properly to have been disclosed to the College;
- 4.2.4 Fraud or financial irregularities (including improper or unauthorised use of public funds);
- 4.2.5 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;
- 4.2.6 A breach of code of conduct.

## **5. Confidentiality**

- 5.1 All concerns raised will be treated in confidence and every effort will be made not to reveal your identity if that is your wish. If disciplinary or other proceedings follow the investigation, it may not be possible to take action as a result of a disclosure without your help, so you may be asked to come forward as a witness. If you agree to this, you will be offered advice and support. . If you ask for a matter to be treated in confidence, we will respect this request and, unless the law requires otherwise, will only make disclosures to third parties or other staff with your consent.
- 5.2 We hope that all staff will feel able to voice their concerns openly under this policy. Although a concern may be raised anonymously, we encourage you give your name when reporting your concern whenever possible. If this is not done, it will be much more difficult for us to protect your position or to give feedback on the outcome of investigations. Concerns that are expressed completely anonymously are also much less powerful and are difficult to investigate.

## **PROCEDURE**

- 1.1 Where possible the concerned worker (the Discloser) should in the first instance, in complete confidence, discuss the issue of concern with his/her line manager.
- 1.2 A concern can be raised by telephone, in person or in writing. It is preferable if it is made in writing. Although you are not expected to prove the truth of your concern beyond doubt or provide evidence, you will generally need to provide, as a minimum, details of the nature of the concern and why you believe it to be true, and the background and history of the concern (giving relevant dates where possible).
- 1.3 You may wish to consider discussing your concern with a colleague or trade union supporter before raising it formally under this policy but remember that once you have raised a concern formally (alone or with a colleague), in the interests of everyone involved, this is a confidential process.

## **2. Designated Assessors**

- 2.1 The Principal of the College has designated five people who have appropriate experience and standing within the College and for the purposes of this procedure are designated assessors (“Designated Assessors”) and that one of the members has been designated as lead designated assessor (“the Lead Designated Assessor”). At the date of the adoption of this procedure the Designated Assessors are listed below and can be contacted through the Clerk to the Corporation on 0121 694 5100:

**Lead Designated Assessor** – Deputy Principal

**Second Designated Assessor** – Clerk to the Corporation

**Third Designated Assessor** – Chair of the Corporation.

**Fourth Designated Assessor** – Chair of Audit Committee

**Fifth Designated Assessor** – Vice Chair of the Corporation

- 2.2 The Governors may revoke any such designation from time to time and appoint new Designated Assessors. Any such revocation will be reported to the next meeting of the Corporation, together with brief reasons for the revocation. Where a revocation arises from the termination of a Designated Assessor’s employment (whether by the College or by the officer) brief reasons for the termination will be given to the Corporation.
- 2.3 The Lead Designated Assessor will co-ordinate the training of the Designated Assessors in the use of this procedure with the Clerk to the Corporation and will ensure that the Audit Committee through the Annual Report to the Principal and the Corporation reports the number of occasions when this procedure has been formally invoked and their outcome and in accordance with the Accountability clause 12.

## **3. Procedure for making a Disclosure**

- 3.1 The Discloser should as soon as practicable disclose in confidence the grounds for the belief of malpractice to one of the Designated Assessors, in doing so the Discloser must have reasonable grounds to believe that the information disclosed indicates malpractice. The choice of Designated Assessor will be for the Disclosure, but a Designated Assessor may decline to become involved on reasonable grounds, including possible previous involvement or interest in the matter concerned, incapacity or unavailability or if a Designated Assessor is satisfied, after consulting the lead Assessor, that some other Designated Assessor would be more appropriate to consider the matter in accordance with this procedure.
- 3.2 Workers must declare any personal interest they may have in making a disclosure.

3.3 Any disclosure to a Designated Assessor under this procedure shall, wherever possible, be in writing, but, if this is not practicable, any such disclosure may be oral, at the choice of the Discloser. The Discloser should provide as much supporting written evidence as possible about the disclosure and the grounds for the belief of malpractice.

3.4 Individuals are encouraged to identify themselves when making a disclosure. If an anonymous disclosure is made, the college will not be in a position to notify the individual making the disclosure of the outcome of action taken by the college. Anonymity also means that the college will have difficulty in investigation in such a concern. The college reserves the right to determine whether to apply this procedure in respect of an anonymised disclosure in light of the following considerations:

3.4.1 The seriousness of the issues raised in the disclosure;

3.4.2 The credibility of the concern and;

3.4.3 How likely it is that the concern can be confirmed from attributable sources.

#### **4. Procedure for dealing with disclosures**

4.1 It is important that all disclosures are handled in confidence and not discussed outside those directly involved as far as possible. We are committed to ensuring that all disclosures raised will be dealt with appropriately, consistently, fairly and professionally. We will arrange a meeting as soon possible to discuss the concern raised as set out in the steps below. We may ask you for further information about the concern raised, either at this meeting or at a later stage.

4.2 Concerns or allegations raised which fall within the scope of the specific established procedures may be referred for consideration under those procedures. Concerns should not be brought under this procedure where the college already has guidelines/procedures in place to deal with the issue.

#### **5. Step 1**

5.1 On receipt of the disclosure, the Designated Assessor, will send a written acknowledgement to the Discloser within 5 working days and an indication given of how the college proposes to deal with the issue within 10 working days of the initial disclosure.

5.2 Some concerns may be capable of resolution by agreed action without the need for investigation.

5.3 The Designated Assessor will offer to interview the Discloser in confidence, such interview to take place as soon as practicable after the initial disclosure. The purpose of the interview will be for the Designated Assessor to obtain as much information as possible from the Discloser about further steps which could be taken and will ensure that the Discloser is aware of the public interest test and the protection offered by the Public Interest Disclosure Act.

- 5.4 The Discloser may be accompanied by a local trade union representative or work colleague at the interview or to any meeting that takes place. The companion must respect the confidentiality of the disclosure and any subsequent investigation.
- 5.5 The Designated Assessor may be accompanied by an administrative assistant to take notes, which will not identify the Discloser. For safeguards in relation to confidentiality, see section 11.
- 5.6 The investigator should prepare for the meeting in advance and, in consideration of any relevant documentation received, should explore the need of any clarification of the disclosure, request any additional supporting evidence and identify other potential witnesses.

## **6. Step 2**

- 6.1 Following the interview or meeting, the Designated Assessor will review the evidence relating to the investigation in order to establish whether or not the disclosure is supported. Further meetings might be arranged if the designated assessor deems these necessary. If it considers that the disclosure does not have sufficient merit to warrant further action, then the person making the disclosure will be notified in writing of the reasons and will also be advised that no further action will be taken by the College. In making this decision, consideration will take account of the following:
  - 6.1.1 That the Designated Assessor is satisfied that the Discloser does not have a reasonable belief that malpractice within the meaning of this procedure has occurred, is occurring or is likely to occur; or
  - 6.1.2 That the matter concerned is already the subject of legal proceedings, or has already been referred to the police, the Education Skills Funding Agency (ESFA), the Department for Business Innovation & Skills (BIS) or other public authority; or
  - 6.1.3. That the matter is already (or has already been) the subject of proceedings under one of the College's other procedures relating to staff or students.

## **7. Step 3**

- 7.1 As soon as practicable after the interview (or after the initial disclosure if no interview takes place) the Designated Assessor will report back with the findings without any unnecessary delay. If the disclosure is supported, the designated assessor may make recommendations about what further steps should be taken. Such recommendations may (without limitation) include one or more of the following:-
  - 7.1.1 That the matter should be reported to the police;
  - 7.1.2 That the matter should be reported to relevant external bodies such as (not an exhaustive list), the police, the Education Skills Funding Agency (ESFA), the Department for Education, Business and Skills (BIS), Education Funding Agency (EFA), or other appropriate public authority;

- 7.1.3 That the matter should be investigated either internally by the College or by the Audit Committee or some other committee of the Corporation and/or by external or internal auditors or investigators appointed by the College, In accordance with the requirement of the joint audit code of practise.
- 7.2 It is the responsibility of the Designated Assessor to keep the Discloser informed, on a timely basis, of any progress as a result of the initial disclosure and this should be done normally every ten working days.
- 7.3 Any recommendations made under this procedure will be made by the Designated Assessor to the Principal unless it is alleged that the Principal is involved in the alleged malpractice or unless there are other reasonable grounds for not doing so, in which case the recommendations will be made to the Chair or the Vice-Chair of the Corporation. In any case the recommendations will be made without revealing the identity of the Discloser save as provided in paragraph 5.1 of the policy above. The recipient of the recommendations will take all steps within his or her power to ensure that they are implemented except to the extent that in view of the recipient there are good reasons for not doing so. If the Principal decides not to implement fully any such recommendations that the decision will be notified in writing to the Chair of the Corporation as soon as practicable, together with the reasons for it.
- 7.4 Once the Principal (or other recipient) has decided what further steps (if any) should be taken, the Designated Assessor will inform the Discloser of the decision, subject to the constraints of the College's duty of confidentiality or any other legal constraint. If no further steps by the College are proposed, the Designated Assessor will give the reasons for this.
- 7.5 Although it is difficult to be prescriptive about time scales it is in the best interest of all parties for any investigations to be undertaken as speedily as possible.
- 7.6 A disclosure who has not had a response within the time limit stated above or otherwise feels that the complaint is not being dealt with appropriately has the right to appeal to the Principal. The Principal will make final decision and action to be taken and will notify the disclosure of the outcome. The appeal will be final.
- 7.7 If the principal has been personally involved in the case, then the appeal will be heard by the clerk to the corporation.
- 7.8 Upon completion of the investigation the matter shall be reported to the next ordinary meeting of the Audit Committee.
- 8. Raising your concern externally (exceptional cases)**
- 8.1 The main purpose of this policy is to give all our staff the opportunity and protection they need to raise concerns internally. We would expect that in almost all cases raising concerns internally would be the most appropriate course of action.

- 8.2 If for whatever reason, you feel you cannot raise your concerns internally and you reasonably believe the information and any allegations are substantially true, the law recognises that it may be appropriate for you to raise the matter with another prescribed person, such as a regulator (e.g. Ofsted/Department for Education/Education and Skills Funding Agency) or professional body or an MP. A list of the relevant prescribed people and bodies for this purpose and the areas for which they are responsible is available from Protect (formerly known as Public Concern at Work) (see Clause 11), Further information and contacts, below) and on the GOV.UK website at:

<https://www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies--2>

- 8.3 We strongly encourage any individual to seek appropriate advice before reporting a concern to anyone external. Protect (formerly known as Public Concern at Work) is a leading independent charity whose main objectives are to promote compliance with the law and good practice in the public, private and voluntary sectors. They are a source of further information and advice and operate a confidential helpline. See Clause 11, Further Information and Contacts, below. The Discloser will inform a Designated Assessor unless clause 8.4 applies
- 8.4 The Discloser may also raise the matter in accordance with clause 8.2 above if the Discloser has reasonable grounds for believing that all of the available Designated Assessors are or were involved in the alleged malpractice or that the Discloser will be prejudiced as a result of making the disclosure.
- 8.5 Should advice be sought outside of the College, the Discloser must be careful not to breach any confidentiality obligations or damage the College's reputation in so doing.

## **9. Protection and support for those raising concerns against Disciplinary**

- 9.1 We are committed to good practice and high standards and to being supportive to staff who raise genuine concerns under this policy, even if they turn out to be mistaken.
- 9.2 A worker will not suffer dismissal or any detrimental action or omission of any type (including informal pressure or any form of victimisation) by the College for making a disclosure in accordance with the procedure. If you believe that you have suffered such treatment, you should inform the Clerk or HR Director immediately. If the matter is not dealt with to your satisfaction, you should raise it formally using our Grievance Procedure.
- 9.3 No member of staff must threaten or retaliate against an individual who has raised a concern and we will not tolerate any such harassment or victimisation. Any person involved in such conduct may be subject to disciplinary action
- 9.4 To ensure the protection of all of our staff, No formal disciplinary action will be taken for making a disclosure but this does not prevent the College from bringing disciplinary action where the College has grounds to believe that:

- 9.4.1 A disclosure was made frivolously;
- 9.4.2 Maliciously;
- 9.4.3 For personal gain.

and/or where a disclosure is made:

- 9.4.4 Outside the College without reasonable grounds;
- 9.4.5 Or make an allegation they do not reasonably believe to be true or not made in the public interest.

## 10. Safeguards for the Discloser for documents

- 10.1 Any documentation (including computer files and discs) kept by the Designated Assessor relating to the matter will be kept secure, so that as far as practicable only the Designated Assessor and his or her administrative assistant shall have access to it. As far as practicable, any documentation prepared by the Designated Assessor will not reveal the identity of the individual as the Discloser of information under this procedure.
- 10.2 All correspondence to the Discloser will be either hand delivered in a sealed envelope by the Assessor or sent to his/her home address, or by secure email, ensuring that any documents are password protected.

## 11. Further information and contacts

- 11.1 If you have any queries about the application of this policy, please contact the Clerk to the Corporation in the first instance.
- 11.2 Relevant regulators may include:

Name of regulator	Contact details
Her Majesty's Chief Inspector of Education, Children's Services and Skills	The Chief Inspector Ofsted Piccadilly Gate Store Street Manchester M1 2WD Tel: 0300 123 3155 Email: <a href="mailto:whistleblowing@ofsted.gov.uk">whistleblowing@ofsted.gov.uk</a>
Secretary of State for Education/ Education and Skills Funding Agency	Ministerial and Public Communications Division Department for Education Piccadilly Gate Store Street

Name of regulator	Contact details
	Manchester M1 2WD Tel: 0370 000 2288 Website: <a href="http://www.gov.uk/contact-dfe">www.gov.uk/contact-dfe</a>
The Health and Safety Executive	Tel: 0300 003 1647 Online form: <a href="http://www.hse.gov.uk/contact/concerns.htm">www.hse.gov.uk/contact/concerns.htm</a>

11.3 Protect (formerly known as Public Concern at Work) is a source of further information and advice at <https://protect-advice.org.uk/>. It also provides a free helpline offering confidential advice on 020 3117 2520.

## 12. Accountability

12.1 The Clerk to the Corporation shall keep a register of all concerns raised under this policy and procedure (including cases where the college deems that there is no case to answer and therefore that no action should be taken) and will report to the Audit Committee on an annual basis as appropriate.

## 13. Amendments/Review

13.1 This procedure may be amended by the Corporation on a 3 year basis, unless there are any legislative or major changes.

### Version 1.2 (Final)

Responsible officer: Clerk to the Corporation – Parveen Ghulam

Date introduced – 1998

### Version Control Tracking - last modified.

V1.2 (draft) reviewed by auditors 24 November 2021 – to be approved by Corporation

7 December 2021 – Full review

V.1.1 approved Corporation 8 December 2020 – minor changes

**Next scheduled review date – December 2024**

### Related documents

Instrument & Articles

Standing Orders

Grievance Procedure