

**THE PUBLIC INTEREST DISCLOSURE ACT 1998
("WHISTLEBLOWING") POLICY & PROCEDURE**

Approved by the Board on 17 October 2019

AUTHOR: Jane Taylor-Holmes, Clerk to the Corporation
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VERSION 1

THE PUBLIC INTEREST DISCLOSURE ACT 1998 ("WHISTLEBLOWING") POLICY & PROCEDURE

1 INTRODUCTION

- 1.1 The College is committed to the highest standards of openness, probity and public accountability. It seeks to conduct its affairs in a responsible manner, taking into account the requirements of The Public Interest Disclosure Act 1998, The Bribery Act 2010, The Enterprise and Regulatory Reform Act 2013 and any other relevant legislation or regulations.
- 1.2 Therefore, the College is committed to operating in an ethical and principled way to prevent and detect fraud, corruption, bribery and malpractice. This policy/procedure is intended to provide safeguards to enable staff to raise genuine concerns about malpractice, suspected bribery, breaches of the law and other serious wrongdoings in connection with the College. It enables staff to identify concerns externally and sets out how this can be done.
- 1.3 The College encourages staff to raise genuine concerns about suspected wrongdoing at the earliest practicable stage without fear of adverse repercussions being taken against them. However, a failure to raise a concern under this procedure may result in a disclosure losing its protected status under the PIDA.
- 1.4 This policy/procedure also seeks to balance the need to allow a culture of openness against the need to protect the College or other staff against vexatious or unfounded allegations. It is not designed to question financial or business decisions taken by the College, and it is not a mechanism for staff to raise grievances: a separate procedure exists for this purpose.
- 1.5 Learners at the College are also encouraged to raise genuine concerns about suspected wrongdoing by making a complaint in line with the official Complaints Policy. Any such issues should be directed in the first instance to the Assistant Principal (Quality & Learner Services).
- 1.6 If an individual employee has any specific needs which require adjustments to be made to the format of any meetings/discussions they may attend under this policy, they should discuss these with Human Resources prior to the scheduled meeting time. This may include issues around language, literacy, disability or times of meetings.

2 SCOPE OF THE POLICY/PROCEDURE

- 2.1 This policy/procedure is intended to cover the disclosure by a member of staff of confidential information which relates to some danger, fraud, bribery or other illegal or unethical conduct connected with the workplace, be it by the member of staff or by his/ her colleagues. The policy/procedure applies to all staff at the College, including apprentices and temporary/agency staff.
- 2.2 Examples of issues that might be raised are:
 - financial malpractice, impropriety or fraud
 - bribery, corruption, improper conduct or unethical behaviour

- dishonesty including criminal activities
- failure to comply with a legal obligation
- miscarriage of justice
- academic or professional malpractice
- unethical activities which may be of a criminal in nature
- dangers to health, safety, well-being or the environment
- attempts to conceal any of the above

2.3 Staff who are unsure whether it is appropriate to raise their concern under this policy/procedure or whether it is an issue that should be raised under the staff grievance procedure should approach the Head of Human Resources or the Clerk to the Corporation for confidential advice.

3. PROTECTION OF STAFF RAISING CONCERNS

3.1. The Public Interest Disclosure Act 1998 (PIDA) gives legal protection to staff who raise concerns out of a sense of public duty.

3.2 Disclosures are protected, provided that the member of staff is:

- acting in good faith and the concern is reasonably believed to be of public interest
- has reasonable grounds for believing that the information disclosed indicates the existence of one or more of the following:
 - that a criminal offence has been committed, 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 s/he 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 damaged. It must indicate a greater danger than is associated with the normal use of the process/product, or a danger that is not usually associated with it;
 - that the environment has been, is being or is likely to be damaged;
 - that information tending to show any matter falling within any one of the preceding paragraphs has been, is being or is likely to be deliberately concealed.

3.3 For it to be considered to be 'protected', a disclosure must relate to a specific subject and have been made in an appropriate manner. The member of staff must reasonably believe that the disclosure is being made in the public interest. A protected disclosure must consist of information and not merely be allegations of suspected malpractice.

3.4 The College will treat as a serious disciplinary matter any example of where any member of staff or manager seeks to deter a member of staff, agency workers, or contractor working at, or in association with the College, from raising a legitimate concern.

3.5 Staff who bring legitimate concerns to the attention of College management, as outlined in the policy/procedure, will have the right to have the matter treated confidentially and not have their name disclosed to the alleged perpetrator of malpractice without their prior approval.

3.6 A person raising a concern will not be required to put the matter in writing, although the manager with whom they discuss the issue will take notes, which do not identify the person making the disclosure. The identity of the person making the disclosure will be protected unless there is an overriding reason which makes this impossible. In order to protect the member of staff making the disclosure, it may be necessary to offer alternative working

arrangements, which could include working from home. The College may also provide advocacy.

- 3.7 If a member of staff makes an allegation, in good faith, in accordance with this policy/procedure which is not confirmed by subsequent investigation, no action will be taken against that individual.

4 ACCOUNTABILITY OF STAFF RAISING CONCERNS

- 4.1 The College has a responsibility to ensure that those staff against whom concerns are raised are treated fairly, as any allegation made under this policy is a serious matter. The College will take all reasonable steps to provide protection as necessary. This will apply to alleged perpetrators and/or those who may be required to give evidence.
- 4.2 Concerns should be raised only if the disclosure is in the interests of the College, staff, students or the public (i.e. for the protection of one or more of these groups).
- 4.3 It is an abuse of the policy to bring a false or malicious accusation. Therefore, it must be understood that falsely or maliciously raising unfounded allegations will be treated as a serious disciplinary offence and, in the case of making such an allegation externally, could involve the offence of bringing the College into disrepute. The College also has a duty of care to the reputations of members of staff. Care will be taken to protect such reputations in instances of malicious, false or mistaken accusations.

5 PROCEDURE - HOW TO RAISE A CONCERN

Staff wishing to raise a concern should do so in accordance with the procedure set out below. It is acknowledged that anyone wishing to raise a concern may wish to be accompanied or represented by a member of staff employed by the College or a recognised trade union representative at any stage of the procedure.

5.1 General

- 5.1.1 Any member of staff who wishes to raise a concern in relation to the items included at section 2.2 should contact the independent Clerk to the Corporation, who has been identified as the person responsible for investigating allegations of whistleblowing. Contact details are as follows:

Jane Taylor-Holmes
Clerk to the Corporation
Calderdale College
Francis Street
Halifax HX1 3UZ
01422 357357 (ext. 9515)

jane.taylor-holmes@calderdale.ac.uk

- 5.1.2 If the allegations are made against the Clerk to the Corporation, the matter should be raised with the Chair of the Corporation in the first instance.
- 5.1.3 Depending on the nature of the complaint, the Clerk may determine that the College's internal or external audit service should conduct the investigation.
- 5.1.4 The matter will be dealt with under Stage 5.2 below.
- 5.1.5 Staff are encouraged to identify themselves when making a disclosure. If an anonymous disclosure is made, the College will not be able to notify the individual making the

disclosure of the outcome of actions taken by the College. Anonymity also means that the College may have difficulty in investigating 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:

- Whether sufficient information was provided to allow an investigation to occur
- the seriousness of the issues raised in the disclosure;
- the credibility of the concern;
- the likelihood that the concern can be confirmed from attributable sources.

5.1.6 For further guidance in relation to this policy/procedure, or concerning the use of the disclosure procedure generally, staff should speak in confidence to the Head of Human Resources or the Clerk to the Corporation.

5.2 Procedure for Investigation of a Disclosure

5.2.1 A member of staff raising a concern should contact the Clerk to the Corporation, outlining their concerns under the College's whistleblowing policy.

The complainant may prefer the initial contact to be made by telephone, rather than in writing, to safeguard confidentiality. If this is the case, the Clerk will respond to the complainant immediately with a written acknowledgement of their concerns.

5.2.2 The Clerk to the Corporation will arrange to meet the complainant outside of the College to discuss his/her allegations.

5.2.3 Within 2 weeks, the Clerk to the Corporation will **either**:

- i) inform the complainant in writing of the investigative measures they are intending to put in place in pursuit of the complaint; **or**
- ii) determine whether or not they believe that the disclosure is wholly without substance or merit and does not require any further action. If this is the case, the complainant will be notified in writing of the reasons for this decision and advised that no further action will be taken by the College under this policy/procedure. Considerations to be taken into account when making this determination may include the following:
 - if the Clerk is satisfied that the complainant does not have a reasonable belief that the suspected malpractice is occurring;
 - if the matter is already the subject of legal proceedings or appropriate action by an external body; or
 - if the matter is already subject to another, appropriate College procedure.

- 5.2.4 To ensure confidentiality, such communications (and any other correspondence connected to the complaint) shall be sent to the complainant's home address, rather than via the College's internal communication systems.
- 5.2.5 Dependent on the complexity of the allegations and the time required for a thorough investigation, the Clerk to the Corporation will provide the complainant with reports on the progress of the investigation.
- 5.2.6 The Clerk to the Corporation will provide the complainant with written confirmation of the outcome of their complaint at the conclusion of the investigation, subject to third party rights.
- 5.2.7 Possible actions could include an internal investigation; referral to the College's auditors; or referral to the relevant external bodies such as the police, OFSTED, the Health & Safety Executive or the Information Commissioner's Office.
- 5.2.7 If the complainant is not satisfied that their concern has been properly dealt with by the Clerk to the Corporation, they will have the right to raise the matter in confidence with the Chair of the Corporation within 10 working days. The Chair will make a final decision on any action to be taken and notify the complainant.

5.3 Matters Relating to the Chief Executive/Board of Governors

- 5.3.1 The member of staff should contact the Clerk to the Corporation in the first instance if the concern relates to:
- the Chief Executive;
 - an individual governor or the Board of Governors;
 - where there are exceptional circumstances, for example where a member of staff feels that the raising of the concern within the College could lead to the destruction of evidence of criminal activity.
- 5.3.2 The Chair of the Audit Committee may commission such further investigation as he/she considers is warranted and may refer the matter to the Chair of the Board of Governors or to the Audit Committee for further action if appropriate.
- 5.3.3 If the concern reported to the Clerk is one which is likely to affect the Board of Governors, the Clerk may seek advice from the Education & Skills Funding Agency or the College's internal/external auditors as to the steps to be taken to deal with the matter. In this eventuality, the Clerk must inform the Chair of the Board of Governors and the Principal that this has been done.
- 5.3.4 The Clerk will advise the member of staff raising the concern in writing to their home address of the outcome of the Chair's review and any further action taken to resolve the issue, unless they have chosen to remain anonymous.

6 SAFEGUARDS FOR STAFF MAKING A DISCLOSURE

- 6.1 A member of staff making a disclosure under this policy/procedure can expect the matter to be treated confidentially by the College and, where applicable, their name will not be disclosed to anyone implicated in the suspected wrongdoing, without their prior approval.

- 6.2 The College will take all reasonable steps to ensure that any report, recommendations or other relevant documentation produced by the College does not identify the member of staff making the disclosure without their written consent, or unless the College is legally obliged to do so, or for the purposes of seeking legal advice.
- 6.3 The College will regard a whistleblower's actions as legitimate where:
- i) the complainant has followed the College's procedure on whistleblowing;
 - ii) the complainant has acted in good faith and not for personal gain or out of personal motives.
- 6.4 No formal disciplinary action will be taken against a member of staff on the grounds of making a disclosure made under this policy/procedure. This does not prevent the College from bringing disciplinary action against a member of staff 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.
- 6.5 A member of staff 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 this policy/procedure. Equally, where a member of staff is threatened, bullied, pressurised or victimised by a member of staff for making a disclosure, disciplinary action will be taken by the College against the member of staff in question.
- 6.6 Where a member of staff who has legitimately made a disclosure within this procedure has evidence of victimisation or of reprisals by managers or colleagues, they should:
- a) Seek the advice of their local trade union representative; and **either**
 - b) Initiate a grievance procedure against the perpetrator of the victimisation (if appropriate); **or**
 - c) Report the matter to a member of the Senior Management Team, who will advise on whether the disciplinary process should be initiated.

7 MALICIOUS ACCUSATIONS

- 7.1 The College regards maliciously raising false and unfounded allegations as a serious matter which will be dealt with under the Staff Disciplinary Policy/Procedure.
- 7.2 Where a malicious allegation is made externally, this would involve the offence of "Bringing the College into Disrepute".
- 7.3 In the case of malicious allegations, the Clerk to the Corporation will report the matter to the Chief Executive, who will initiate the College's disciplinary procedure.

8 DISCLOSURES TO EXTERNAL BODIES

- 8.1 This policy/procedure allows members of staff to raise disclosures internally within the College. A member of staff has the right to make a disclosure outside of the College where there are reasonable grounds to do so and in accordance with the law.
- 8.2 Staff may make a disclosure to an appropriate external body prescribed by the law. This list of 'prescribed' organisations and bodies can be found in information on the Government's website www.gov.uk including:
- the College's internal or external auditors

- the Department for Business, Innovation & Skills
- the Education Skills Funding Agency
- the Health & Safety Executive
- the National Audit Office or its successor body
- a Member of Parliament

8.3 Staff can also make disclosures on a confidential basis to a practising solicitor or barrister.

8.4 If a member of staff seeks advice outside of the College, they must be careful not to breach any confidentiality obligations or damage the College's reputation in so doing.

9 ACCOUNTABILITY

The College will keep a record of all concerns raised under this policy/procedure (including cases where the College deems that there is no case to answer and therefore that no action should be taken).

10 REPORTING

An annual report on the number of disclosures and the broad outcomes will be made to the Board, commencing with the 2016/2017 academic year.

11 FURTHER ASSISTANCE FOR STAFF

11.1 The College will not tolerate any harassment or victimisation of staff who make disclosures. If, at any stage of this procedure, a member of staff feels that they are being subjected to informal pressures, bullying or harassment due to making a disclosure, they should raise this matter in writing with the Chief Executive.

11.2 A member of staff making a disclosure may want to confidentially request counselling or other support from the College's occupational health service. Any such request should be addressed to the Head of Human Resources. Such a request would be made in confidence.

11.3 For confidential advice on whistleblowing issues staff can also contact the charity Public Concern at Work, as follows:

CAN Mezzanine
7-14 Dover Street
London
SE1 4YR

www.pcaw.org.uk

Whistleblowing Advice Line: 020 7404 6609
email: whistle@protect-advice.org.uk

12 POLICY REVIEW

Change(s) Made		Reason for Change			
Sep 19 – No changes					
Review Date	Reviewed by:	Initial Approval by:	Final Approval by:	Next Review Date:	Review Period
Sep 2019	Clerk to the Corporation	Audit Committee	Board	Sep 2022	3 Years

7 EQUALITY IMPACT ASSESSMENT

First Assessment Conducted by:	Date:	Final/Approved Assessment Conducted by:	Date:
Shona Lavender	04/10/2018	Shona Lavender	04/10/2018

13 PUBLICATION

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Staff	Staff Internet
General	College Website