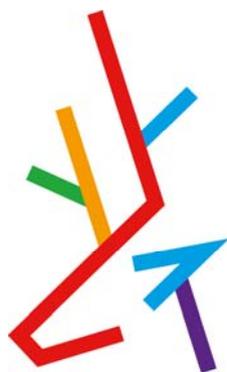


# WHISTLEBLOWING POLICY

## HUMAN RESOURCES



**NORTH  
HERTFORDSHIRE  
COLLEGE**

## INTRODUCTION

- Employees, agency or contract workers are often the first to realise that there may be something seriously wrong within a Corporation. 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.
- The Corporation encourages individuals to raise genuine concerns about malpractice at the earliest practicable stage rather than wait for proof. Malpractice within the Corporation is taken very seriously.
- This procedure is, accordingly, intended to provide safeguards to enable individuals to raise concerns about malpractice in connection with the Corporation. 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. It is also intended to promote throughout the Corporation a culture of openness and a shared sense of integrity by inviting all employees to act responsibly in order to uphold the reputation of the Corporation and maintain public confidence.
- This procedure also seeks to balance the need to provide safeguards for individuals who raise genuine concerns about malpractice against the need to protect other members of staff, Corporation Governors, students and the Corporation against uninformed or vexatious allegations which can cause serious difficulty to innocent individuals.

## MALPRACTICE

- The types of matters regarded as “malpractice” for the purposes of this procedure are as follows:
  - Fraud or financial irregularity/malpractice
  - Corruption, bribery or blackmail
  - Criminal offences
  - Failure to comply with a legal or regulatory obligation
  - Miscarriage of justice
  - Endangering the health or safety of any individual
  - Endangering the environment
  - Concealing information concerning any of the above

## DESIGNATED ASSESSOR

- The Principal/Acting Principal of the Corporation will ensure that a senior member of staff from within the Corporation is appointed for the purposes of this procedure as a designated assessor (“Designated Assessor”). The member of staff will normally be appointed from within the Quality and Standards team.

- The Principal/Acting Principal may change any such designation and appoint a new Designated Assessor. The Principal/Acting Principal will report any such change to the next meeting of the Corporation, together with brief reasons for the change. Where a change arises from the termination of a Designated Assessor's employment (whether by the Corporation or by the individual) brief reasons for the termination will be given to the Corporation.

## **DISCLOSURE**

- This procedure applies to disclosure by an individual ("the Discloser") who is an employee, any agency or contract worker employed or engaged at the Corporation, and who has grounds to believe that malpractice has occurred, is occurring or is likely to occur in connection with the Corporation (whether on the part of another employee, a member of the Corporation, or any other person or persons).
- The Discloser should as soon as is practicable disclose in confidence the grounds for the belief of malpractice to the Designated Assessor. Any disclosure to the Designated Assessor under this procedure shall be in writing. The Discloser should provide as much supporting written evidence as possible about the disclosure and the grounds for the belief of malpractice. Where there is a financial irregularity it should be dealt with by the Head of Internal Auditors.
- On receipt of the disclosure, the Designated Assessor will offer to interview the Discloser in confidence, and the interview will 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 the grounds of the belief of malpractice and to consult with the Discloser about further steps which could be taken. The Discloser may be accompanied by a local trade union representative or work colleague at the interview. 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 paragraphs 7.1 to 7.6 below.

## **FURTHER STEPS**

- As soon as practicable after the interview (or after the initial disclosure if no interview takes place) the Designated Assessor will recommend what further steps should be taken. Such recommendations may (without limitation) include one or more of the following:
  - that the matter should be reported to the police;
  - that the matter should be reported to the Skills Funding Agency, the Department for Education, the National Audit Office or other appropriate public authority;
  - that the matter should be investigated either internally by the Corporation or by the Audit Committee or some other committee of the Corporation and/or by external or internal auditors or investigators appointed by the Corporation;
  - that a member of staff should be given the opportunity to seek redress through the Corporation's grievance or complaints procedures or through an appeal under the Corporation's disciplinary procedures relating to staff
- The grounds on which the Designated Assessor may recommend that no further action by the Corporation should be taken are as follows:
  - 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

- that the Designated Assessor is satisfied that the Discloser is not acting in good faith; or
- that the matter concerned is already the subject of legal proceedings, or has already been referred to the police, the Skills Funding Agency, the Department for Education or other public authority; or
- that the matter is already (or has already been) the subject of proceedings under one of the Corporation's other procedures.

Any recommendations made under this procedure will be made by the Designated Assessor to the Principal/Acting Principal unless it is alleged that the Principal/Acting 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 Governors. In any case the recommendations will be made without revealing the identity of the Discloser save as provided in section 7.0 below. 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 the view of the recipient there are good reasons for not doing so. If the Principal/Acting Principal decides not to implement fully any such recommendations that decision will be notified in writing to the Chair of the Corporation as soon as practicable, together with the reasons for it.

Once the Principal/Acting Principal (or other recipient) has decided what further steps (if any) should be taken, the Designated Assessor will inform the Discloser of the decision. If no further steps by the Corporation are proposed, the Designated Assessor will give the reasons for this.

## **EXTERNAL DISCLOSURE**

- If, having followed this procedure, the Discloser is not satisfied with the further steps (if any) decided upon or the outcome of any such steps, the Discloser may raise the matter concerned on a confidential basis directly with the police, the Skills Funding Agency, the Department for Education, a Member of Parliament, the Health & Safety Executive or other appropriate public authority. Before taking any such action, the Discloser will inform the Designated Assessor. The Discloser does not have the right to demand confidentiality from outside bodies but should try to establish some confidentiality although the Corporation recognises that this may not be possible.
- The Discloser may also raise the matter in accordance with clause 6.1 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 subjected to a detriment as a result of making the disclosure.
- The Discloser may at any time disclose the matter on a confidential basis to a professionally qualified lawyer for the purpose of taking legal advice or a Trade Union advisor.

## **SAFEGUARDS**

- Any report or recommendations by the Designated Assessor in relation to the matter will not identify the Discloser, unless the Discloser otherwise consents in writing or unless there are grounds to believe that the Discloser has acted maliciously. In the absence of such consent or grounds, the Designated Assessor will not reveal the identity of the individual as the Discloser of information under this procedure except:
  - where the Designated Assessor is under a legal obligation to do; or
  - where the information is already in the public domain; or

- on a strictly confidential basis to the Designated Assessor's administrative assistant; or
  - on a strictly confidential basis to a professionally qualified lawyer for the purpose of obtaining legal advice.
- The Discloser should be kept informed of Corporation Contacts who have been informed.
  - 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.
  - Where the Discloser 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 this matter strictly confidential save, as permitted under this procedure, as required by law or until such time as it comes into the public domain. Wherever possible a disclaimer should be signed about confidentiality by the Discloser and any other parties involved.
  - The Discloser will not be required by the Corporation without his or her consent to participate in any enquiry or investigation into the matter established by the Corporation unless there are grounds to believe that the Discloser may have been involved in misconduct or malpractice.
  - Where the Discloser participates in any such enquiry or investigation, that participation will usually be required to be on an open rather than a confidential basis, although the obligations of the Designated Assessor under paragraph 7.1 of this procedure will remain in relation to the identity of the individual as the original Discloser of information under this procedure.
  - Subject to section 8.0 below, the Corporation 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 Discloser's disclosure of information under this procedure. The Discloser should report any complaints of such treatment to a Designated Assessor. If the Discloser wishes the Designated Assessor to take action in relation to such complaints, the Discloser may be asked to consent in writing to the Designated Assessor revealing the Discloser's identity for the purposes of any such action.

#### **PROTECTION AGAINST DISCIPLINARY ACTION**

- No disciplinary action will be taken against a Discloser on the grounds of a disclosure made by the Discloser in accordance with this procedure. This will not prevent the Corporation 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.

#### **AMENDMENTS/REVIEW**

- This procedure may be amended by the Corporation following consultation with the recognised Trade Unions.