

## **PROCEDURE ON WHISTLE-BLOWING FOR EMPLOYEES**

### **1. Introduction**

Employees and other workers are protected from dismissal or other unfavorable treatment if they make disclosures in accordance with the Public Interest Disclosure Act 1998. Such disclosures have become known as "Whistle-blowing" and the second report of the Nolan Committee on Standards in Public Life recommended that codes of practice be adopted to enable concerns to be raised confidentially inside, and if necessary outside, the organisation about fraud, malpractice, health and safety or unethical conduct.

The College takes malpractice seriously and the procedure that follows is designed to allow all involved to act professionally and with propriety, to preserve the confidentiality of the person raising the concern and to ensure that College management will investigate properly the concern(s) raised before it falls into the public domain. The College expects and encourages employees to use this procedure to raise concerns internally, and that employees will not take their concerns outside the College until they have exhausted the procedure.

The College's Grievance Procedure is designed to deal with employees' private grievances about their personal employment situation and it is not appropriate for the Whistle-blowing Procedure to be used as well as or instead of the College's Grievance Procedure.

### **2. What is Whistle-blowing?**

Although not legally defined, whistle-blowing is generally taken to mean the usually public disclosure by an employee of wrong-doing within an organisation. Whistle-blowing does not include personal grievances about managers.

The Public Interest Disclosure Act 1998 protects disclosure if the worker can show one or more of the following:

- that a criminal offence has been committed, is being committed, 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 she/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 endangered;
- 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. When Should I Use the Whistle-blowing Procedure?**

You should only use this procedure if you discover serious malpractice within the College, for example:

- fraud
- financial irregularity
- corruption
- bribery
- dishonesty
- serious breach of the Code of Ethics or Code of Conduct
- criminal activity
- creating or ignoring a serious risk to health and safety.

This list is for illustrative purposes only and is not exhaustive.

#### **4. What Should I Do If I Have Concerns?**

If you have reasonable grounds for believing that malpractice of the type listed above is happening in the College, you should contact the Clerk to the Corporation immediately and explain the situation to him/her. You may if you wish invite a trade union representative or workplace colleague employed by Stratford-upon-Avon College to accompany you to the meeting with the Clerk to the Corporation. It will not be necessary for you to raise your concern in writing. The Clerk to the Corporation will listen carefully to the concern, taking full notes as appropriate to record an oral concern, or to amplify any specific points of a written one.

The Clerk to the Corporation will decide either that the complaint should be investigated or will reject it if s/he considers that it does not fall within the terms of the Whistle-blowing Procedure (for example, where it relates to an employee's personal situation).

If the Clerk to the Corporation rejects the complaint as not falling under the Whistle-blowing Procedure, there will be a right of appeal against the decision to reject the complaint to the Vice Chair of the Corporation.

#### **5. Will the Matter Be Treated Confidentially?**

If you raise a matter under this Procedure it will be treated confidentially and the investigating officer will discuss fully with you the procedure and steps that will be followed. You should note that, whilst every effort will be made to maintain confidentiality, it may not always be possible to guarantee anonymity, particularly if disciplinary or other action is taken as a result of the investigation.

Any anonymous complaints will not be considered under the Whistle-blowing Procedure.

#### **6. How Will I Know What Is Happening?**

The Clerk to the Corporation or the person responsible for the investigation will acknowledge receipt of your concern, in writing, within three working days, and will keep you informed at fortnightly intervals of the progress of the investigation and the eventual outcome, as far as possible. Any correspondence will be sent to your home address and not via the College internal mail.

Every attempt will be made to try and resolve this matter as quickly as possible.

#### **7. What Do I Do If I Suspect the Clerk to the Corporation Is Involved?**

In such circumstances you should contact the Principal. Similarly, if you suspect both the Clerk and the Principal are involved, you should contact the Chair of the Audit Committee. All concerns about malpractice should always be raised internally in the first instance.

#### **8. Who Will Be Responsible For Investigating the Complaint?**

The Clerk to the Corporation, or the person receiving the complaint where this is not the Clerk to the Corporation, will then investigate the complaint. In appropriate circumstances, s/he may choose to appoint someone else to investigate the matter. Depending on the nature of the complaint, internal or external auditors may be the appropriate body to conduct an investigation.

The person investigating the complaint will prepare a confidential report on his/her conclusions, which will be sent to the employee and other relevant persons. If it is thought appropriate, consideration will be given to involving the Police. In particular, the Clerk to the Corporation will exercise caution to ensure that any investigation does not hinder a formal Police investigation.

## **9. Access To Governing Body**

If you raise concerns and are not satisfied with the outcome of the investigation, you have the right to raise it in confidence with the Chair or Vice-Chair of the Corporation. You will receive an initial written response within ten working days, followed by a full response (if appropriate) within a reasonable time.

## **10. What Do I Do If I Am Unhappy With the College's Decision?**

The Chair of the Corporation is ultimately responsible for considering the allegations in the light of the evidence from the investigation and for determining the appropriate course of action. If you do not agree with the decision taken, you should discuss the matter with the Chair.

If you remain dissatisfied and you feel that the matter is sufficiently serious, you may wish to report it to an outside body such as the Learning and Skills Council or the College's Internal or External Auditors. The Chair may indicate which external body is appropriate in relation to the individual circumstances of the case.

Before you raise the matter externally, you should note that such a step would have serious implications for the College and should only be taken after very careful consideration. You may wish to contact Public Concern at Work (whose website address is [www.pcaw.co.uk](http://www.pcaw.co.uk)) for advice.

## **11. What Protection Do I Have If I Raise A Concern Under This Procedure?**

It is clearly established in law that the disclosure of confidential information in the public interest is a lawful act. You cannot, therefore, be disciplined for using this Procedure, provided that:

- you have followed the stages set down within it;
- you have acted in good faith and not for personal gain, or out of personal motives.

The College will ensure as far as possible that you are not penalised for raising a legitimate concern under this procedure and that you are protected from reprisals by management or other employees. Any employee who takes such retaliatory action will be subject to disciplinary or other appropriate action.

## **12. Malicious Accusations**

If you use the Whistle-blowing Procedure knowingly to make false or malicious accusation, you will be committing a disciplinary offence. Wilful misuse of this Procedure could constitute an act of gross misconduct and may lead to your dismissal.

## **13. Reporting**

The Corporation will receive annually a report on any use of the procedure.

## **14. Complaints Falling Outside the Whistle-Blowing Procedure**

Students, members of the public, and governors wishing to raise complaints against the College should do so under the College Complaints Procedure, a copy of which is available from the Clerk to the Corporation.