

WHISTLEBLOWING PROCEDURE

1. Introduction

The College Corporation and Senior Leadership Team are committed to ensuring that there is a climate of openness in the College in which staff can raise legitimate concerns without fear of reprisal. They also want to ensure that the College is administered honestly and ethically and that the business of the Corporation and the College is conducted openly and with accountability.

The College is committed to the highest possible standards of openness, probity and accountability, and expects employees who have serious concerns about any aspect of the College's work to come forward and voice these concerns, using the Public Interest Disclosure (Whistleblowing) Procedure if appropriate.

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

Heart of Worcestershire College takes malpractice seriously. The Whistleblowing Procedure is designed to allow all involved to act professionally and with propriety, to preserve the confidentiality of the person raising the concern as far as possible and to ensure that concerns raised in the public interest can be properly investigated and resolved within the College. The College expects and encourages employees to use this procedure to raise concerns internally and not to take their concerns outside the College until they have exhausted this procedure.

The Whistleblowing Procedure does not form part of any College employee's Contract for Employment and may be amended from time to time.

2. What Is Whistleblowing?

Although not legally defined, whistleblowing is generally taken to mean the (usually public) disclosure by an employee of wrongdoing within an organisation.

To qualify for protection under the PIDA, the employee making the disclosure must reasonably believe that the disclosure is made 'in the public interest' and that one of the following qualifying grounds applies:

- that a criminal offence (examples include suspected fraud, financial irregularities, corruption, bribery, dishonesty) 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 or regulatory obligation to which he/she 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.

As a Whistleblower, you must follow this procedure, act in the public interest, and have reasonable grounds to believe that the information put forward is accurate. You must declare any personal interest you may have in making the disclosure.

If you use the Whistleblowing Procedure knowingly to make false or malicious accusations, to support a personal vendetta, or to avoid disciplinary proceedings, 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.

3. Who Can Use the Whistleblowing Procedure?

All members of staff employed on a contract either directly with the Corporation, through an agency, or through a contract of, or for, service with the College may take action against suspected malpractice using the Whistleblowing Procedure.

4. Interaction With Other Policies

The Whistleblowing Procedure should be used for serious malpractice where it is in the public interest. Employees should consider whether another College Policy may be more appropriate for their needs. For example the College has a Complaints Procedure, Safeguarding Policy and a Bullying and Harassment Policy. In particular:

- The College has a Grievance Procedure which is designed to deal with employees' personal grievances where the issues to be addressed are exclusively individual, employment-related matters and which do not raise public interest concerns. Employees are generally precluded from being able to "blow the whistle" about breaches of their own employment contract.
- The College has a Fraud Policy and Fraud Response Plan and an Anti-Bribery Policy and Procedures which are operated by management. It may be more appropriate for employees to refer their concerns through their line managers under the Fraud or Anti-Bribery Policies. Employees should use the Whistleblowing Procedure when appropriate if their line managers are suspected of fraudulent activity.
- The College has a Harassment and Bullying Policy for staff and will not tolerate any harassment or victimisation of workers who make disclosures. If, at any stage of this procedure a worker feels that they are being subject to informal pressures, bullying or harassment due to making a disclosure, they should raise this matter, in writing, with the Director of Human Resources.

5. What Should I Do If I Have Concerns?

Employees are encouraged to raise concerns with their line manager in the first instance. This will not be appropriate if the line manager is implicated in any suspected wrongdoing.

If you have reasonable grounds for believing that malpractice of the type listed in Section 2 is happening in the College then you should contact the Clerk to the Corporation immediately and explain the situation to him/her. You may if you wish invite a friend or colleague to accompany you to the meeting with the Clerk to the Corporation (but not a solicitor or a barrister). If you choose to be accompanied, the friend or colleague must

agree to maintain confidentiality. 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. You should provide as much supporting evidence as possible about the disclosure and the grounds for your belief in the malpractice.

The Clerk to the Corporation will produce notes from this initial meeting which you will be asked to verify as an accurate record of your concerns and the discussion.

The Clerk to the Corporation will decide either that the complaint should be investigated or that it should be rejected as it does not fall within the terms of the Whistleblowing Procedure (for example, where it relates to an employee's personal situation or where it is more appropriate to use other College Policies or Procedures). If the Clerk to the Corporation concludes that it is not appropriate to pursue the complaint further, there will be a right of appeal against this decision to the Vice Chair of the Corporation.

If you suspect that the Clerk to the Corporation is involved you should contact the Principal. Similarly, if you suspect both the Clerk to the Corporation and the Principal are involved you should contact the Chair of the Audit Committee. In such circumstances the appropriate title should be substituted for the Clerk to the Corporation in later Sections. All concerns about malpractice should always be raised internally in the first instance.

6. Who Will Be Responsible For Investigating the Complaint?

The Clerk to the Corporation will 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 and the Clerk to the Corporation is authorised to contract such services and to obtain legal advice where appropriate.

If it is thought appropriate, consideration will be given to involving the Police or relevant authorities. In particular, the Clerk to the Corporation will exercise caution to ensure that any investigation does not hinder a formal external investigation.

You may be required to meet the Clerk to the Corporation again in order to clarify points or provide further information.

7. How Will the Complaint be Resolved?

The Clerk to the Corporation will advise the employee in writing of what follow up action will be taken, if any, within five working days of the initial interview. The Clerk to the Corporation's options include advising the employee:

- that no further action will be taken, giving the reasons for this;
- to pursue the matter through a more appropriate College procedure e.g. the Grievance Procedure;
- that further investigations will be carried out within the College. These further investigations should normally take no longer than fifteen working days to complete;
- that the Clerk to the Corporation supports the employee's case and has taken action in response, which may include notification to an appropriate outside authority e.g. the Skills Funding Agency, the Department for Business, Innovation, & Skills, the Health & Safety Executive, the College Audit Service, the National Audit Office, an appropriate

Examining Body, the Police, Local Councillor or MP, or other public authority. The Clerk to the Corporation will advise the Principal, the Chair of the Audit Committee and the Chair of Governors before taking this step;

- that there are grounds for believing that the case has been brought maliciously and that disciplinary proceedings are or may be instigated.

8. Will The Matter Be Treated Confidentially?

If you raise a matter under this Procedure it will be treated confidentially and the Clerk to the Corporation 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.

9. Anonymous Allegations

The Corporation accepts that employees will raise genuine concerns that are based on factual evidence or direct observation. With this in mind, employees are encouraged to put their names to any allegation. Concerns expressed anonymously are much less powerful and far more difficult to investigate and prove, however, they will be considered at the discretion of the Audit Committee Chair or other Audit Committee Member if the Chair is not available.

In deciding whether to investigate an anonymous allegation, it will be necessary to consider the seriousness of the allegation, its validity and whether evidence can be obtained in order to proceed with an investigation. In making this consideration the factors to be taken into account would include:

- the seriousness of the issues raised;
- the credibility of the concern; and
- the likelihood of confirming the allegation from other sources in the face of a denial from the accused person(s).

10. How Will I Know What Is Happening?

The Clerk to the Corporation will acknowledge receipt of your concern, in writing, within five working days, and will keep you informed at regular 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 the matter as quickly as possible.

11. Access To The Corporation

If you raise concerns and are not satisfied with the outcome of the investigation you have the right to appeal in confidence to 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.

12. 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 Skills Funding Agency 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, an independent charity, which provides free confidential advice on whistleblowing, (which can be contacted on 020 7404 6609 or www.pcaw.org.uk or www.pcaw.co.uk) for advice.

13. Whistleblowing and Safeguarding

The College has a Safeguarding Policy and designated staff in place to deal with safeguarding issues.

If you have concerns about safeguarding practices within the College, you should feel able to raise concerns about poor or unsafe practice and potential failures in the College's safeguarding regime and know that such concerns will be taken seriously by the Senior Leadership Team. The Whistleblowing Procedure is in place for such concerns to be raised with the College's Senior Leadership Team.

If you feel unable to raise an issue with your employer or feel that your genuine concerns are not being addressed, other whistleblowing channels may be open to you:

General guidance can be found at- <https://www.gov.uk/whistleblowing>

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 – line is available from 8:00 AM to 8:00 PM, Monday to Friday and email: help@nspcc.org.uk

14. 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 the public interest 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.

15. Reporting

The Clerk to the Corporation will report regularly to the Principal, the Chair of the Audit Committee and Chair of the Corporation (provided that they are not implicated in the disclosure) advising them of any disclosure under this procedure (keeping the name of the employee confidential unless the employee has agreed otherwise) and of the progress of the case and the outcome, including any notification of malpractice to an outside body.

Where disclosures have taken place, these will be reported annually to the Audit Committee in the Spring Term. The Audit Committee will receive a triennial report on the use of the Whistleblowing Procedure.

16. Changes to this Procedure

The Clerk to the Corporation will review the College Whistleblowing Procedure triennially and will recommend any changes to the Staff Forum for comment and to the Corporation for approval.

Approved by the Corporation on: 21 March 2017

Review Frequency: Triennial

Confidential Reporting Procedure - Internal Procedures Flowchart

To disclose the concern

Contact the Clerk to the Corporation
(Contact Principal or Chair of the Audit Committee if allegation involves Clerk and substitute 'Principal' or 'Chair' for 'Clerk' below)

Initial Interview/Discussion

Action/Outcome (within 5 working days)

- Acknowledgment that the allegation has been received;
- Note of the initial interview for agreement;
- Confirmation of whether or not an investigation will take place;
- If the concern is rejected because, for example, it does not fall within the terms of the Whistleblowing procedure, the employee will be informed of their right of appeal to Vice Chair of Corporation

Investigation

- Conducted by the Clerk or External Investigator
- Normally to be completed within 15 working days

Possible Action/Outcome

- that no further action will be taken, giving the reasons for this;
- to pursue the matter through a more appropriate College procedure e.g. the Grievance Procedure;
- that action has been taken in response employee's concern, which may include notification to an appropriate outside authority e.g. Skills Funding Agency, Department for Business, Innovation, & Skills, Health & Safety Executive, College Audit Service, National Audit Office, an appropriate Examining Body, the Police, Local Councillor or MP, or other public authority;
- that there are grounds for believing that the case has been brought maliciously and that disciplinary proceedings are or may be instigated.

Response

Clerk to inform the employee of action/outcome

Appeal

Employee may decide to appeal to the Chair of the Corporation

Chair decides on action to be taken:

- Confirm the findings of the Clerk
- Re- investigate the matter and take appropriate response/action following the findings of the further investigation

Response

Inform employee of outcome and if necessary of other recognised bodies to consider the concern

Contact Details:

Clerk to the Corporation

Heart of Worcestershire College
Osprey House
Albert Street
Redditch
B97 4DE

Tel: 01905 743420

Email: sfrost@howcollege.ac.uk

(If in writing marked: 'Confidential: Only to be opened by the Clerk to the Corporation')

Chair of the Corporation or Chair of the Audit Committee:

Heart of Worcestershire College
Osprey House
Albert Street
Redditch
B97 4DE

(In writing marked: 'Confidential: Only to be opened by the Chair of the Corporation/ Chair of the Audit Committee')

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