



Whistleblowing
Policy and
Procedure
(Public Interest
Disclosure
Policy)

Executive Summary

The College is committed to operating in an ethical and principled way. The aim of this policy and procedure is to provide employees and workers with the process for raising a whistleblowing concern and to outline the support and protection that is available for them. Other individuals, including Governors, contractors, subcontractors, suppliers and volunteers are also encouraged to follow the procedure set out in this policy.

This policy and procedure is arranged into the following sections:

- 1. Introduction**
The aim and purpose of the policy and procedure and support available to those making a disclosure.
- 2. Applicability**
When this policy and procedure should be used to raise a concern.
- 3. Protected Disclosures**
Definition of a protected disclosure.
- 4. Specific Subject Matter**
Specific examples of when this policy and procedure must be used.
- 5. Raising a whistleblowing concern**
How to raise a whistleblowing concern.
- 6. Responding to your whistleblowing concern**
How the College will respond to a concern.
- 7. Our commitment to you**
How staff making a disclosure can expect to be treated.
- 8. Disclosure to external bodies**
External bodies to whom staff may make a disclosure.
- 9. Accountability**
How whistleblowing is overseen by Governors.
- 10. Appendix 1: form for raising a whistleblowing concern**

Any staff member considering raising a whistleblowing concern is encouraged to read the entire policy and procedure and to use the form supplied at Appendix 1.

If unsure if it would be appropriate to raise a concern via this policy and procedure, staff are encouraged to contact the Assistant Principal HR & OD or the Head of Governance for advice.

Support for staff making a disclosure or those who are the subject of a disclosure is available from HR, from a mental health first aider or from the employee 24-hour support helpline (08000 562 561).

1. Introduction

- 1.1 The College is committed to operating in an ethical and principled way. The aim of this policy and procedure is to provide employees and workers with the process for raising a whistleblowing concern and to outline the support and protection that is available for them. Other individuals, including Governors, contractors, subcontractors, suppliers and volunteers are also encouraged to follow the procedure set out in this policy.
- 1.2 This policy does not form part of the contract of employment and the College reserves the right to amend or withdraw it at any time.
- 1.3 Students at the College are also encouraged to raise genuine concerns about suspected wrongdoing by making a complaint under the College's [Compliments, Comments and Complaints Procedure](#)
- 1.4 The College welcomes and encourages individuals to make disclosures at the earliest practicable stage, and provides safeguards to those who raise genuine concerns of suspected bribery, fraud, serious malpractice, breaches of the law and other serious wrongdoings.
- 1.5 Staff are encouraged to raise genuine concerns without fear of adverse repercussions being taken against them. The College recognises that staff can be valuable 'eyes and ears' within an organisation. The law allows staff to raise such concerns externally and this policy informs staff how they can do so. However, a failure to raise a concern under this procedure may result in a disclosure losing its protected status under the law.
- 1.6 This policy and procedure also seeks to balance the need to allow a culture of openness against the need to protect other staff against vexatious allegations or allegations which are not well-founded. Staff who are the subject of a whistleblowing complaint against them will also be supported through the process as it is recognised that this is likely to be a stressful experience. The individual should be informed as soon as possible and have the process explained to them.
- 1.7 Support for both staff who make a disclosure under this policy and staff who are the subject of a whistleblowing complaint will be available from the HR Department, from the staff mental health first aider and from the College employee 24-hour support helpline on 08000 562 561.

2. Applicability of this policy and procedure

- 2.1 Staff might be unsure whether it is appropriate to raise their concern under this policy and procedure or whether it is a personal grievance, which is more appropriate to raise under the College's grievance procedure (not applicable for Governors). Any member of staff in this situation is encouraged to approach the Assistant Principal HR & Organisational Development or the Head of Governance for advice.
- 2.2 Staff who make a disclosure under the College's whistleblowing policy should believe that they are acting in the public interest. This means in particular that personal grievances and complaints are not usually covered by whistleblowing law.
- 2.3 Government guidance states that a personal grievance is not generally regarded as a protected disclosure. Employees can also contact the Advisory, Conciliation and Arbitration Service (ACAS) for guidance on whistleblowing and grievances. Useful information can be

found at: <http://www.acas.org.uk/>.

3. Protected disclosures

- 3.1 The law protects staff who, out of a sense of public duty, want to reveal suspected wrongdoing or malpractice.
- 3.2 The law allows staff to raise what it defines as a 'protected disclosure'. In order to be a protected disclosure, a disclosure must relate to a specific subject matter (See Section 4 below) and the disclosure must also be made in an appropriate way (See Section 5). A 'protected disclosure' must, in the reasonable belief of the member of staff making it, also be made in the public interest. A protected disclosure must consist of information and not merely be allegations of suspected malpractice.

4. Specific Subject Matter

If, in the course of employment, a member of staff becomes aware of information which they reasonably believe tends to show one or more of the following, they must use this policy and procedure:

- That a criminal offence has been committed, is being committed or is likely to be committed. This may include, for example, types of financial impropriety such as fraud;
- That an individual has failed, is failing or is likely to fail to comply with any legal obligation to which they are subject;
- Actions contrary to codes of conduct and codes of ethics for staff, students and Corporation Members.
- That a miscarriage of justice has occurred, is occurring, or is likely to occur.
- That the health or 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 of the above, is being, or is likely to be, deliberately concealed.

It is not necessary for a member of staff to prove the wrongdoing. However, to be protected by whistleblowing laws against detrimental treatment or dismissal, staff must reasonably believe that wrongdoing (related to one of the categories listed above) is being, has been, or is likely to be committed and that their disclosure is in the public interest.

5. Raising a whistleblowing concern

- 5.1 If a member of staff has a genuine concern relating to any type of wrongdoing that is covered under this policy they should raise this with the Assistant Principal HR & Organisational Development so that any appropriate action can be taken.
- 5.2 If the disclosure relates to the Assistant Principal HR & Organisational Development or the Principal and Chief Executive, staff can raise the issue with the Head of Governance. In the event that the disclosure relates to the Head of Governance, staff can raise the issue with the Chair of the Corporation.
- 5.3 If the disclosure concerns the Governing Body (Corporation), members of staff can raise the issue with the Head of Governance or the Education and Skills Funding Agency (ESFA).

5.4 Members of staff can raise their concern orally or in writing. It is recommended that they use the relevant form to raise a whistleblowing concern (see appendix 1).

- 5.5 It is important that the concern sets out:
- the details of the suspected wrongdoing.
 - the names of any individuals involved.
 - and what action (if any) they are seeking.

In some cases, it may be necessary to ask staff to attend a meeting to clarify the nature of their concern. This will be arranged as soon as possible. Staff may, if they wish, bring a colleague or a trade union representative with them to the meeting. A senior member of the HR Department may also be present.

5.6 The College want members of staff to feel comfortable about raising a whistleblowing concern openly and actively encourage staff to do so. Where staff raise a whistleblowing concern openly, their confidentiality will be maintained as far as practically possible. If the College need to identify the member of staff to anyone, they will be notified beforehand.

5.7 In the alternative, staff may decide to raise a whistleblowing concern anonymously. The College encourages anonymous reporting over remaining silent. Although the College will investigate any concern that is reported anonymously as best it can, an anonymous report is likely to be more difficult to investigate and feedback may not be provided.

5.8 For further guidance in relation to this policy and procedure, or concerning the use of the disclosure procedure generally, employees should speak in confidence to the Assistant Principal HR & Organisational Development

6. **Responding to your whistleblowing concern**

6.1 When staff make a disclosure, the College will acknowledge its receipt, in writing, within a reasonable time.

6.2 The College will then determine whether or not it believes that the disclosure is wholly without substance or merit. If the College considers that the disclosure does not have sufficient merit to warrant further action, the staff member will be notified in writing of the reasons for the College's decision and advised that no further action will be taken by the College under this policy and procedure. Considerations to be taken into account when making this determination may include the following:

- If the College is satisfied that the member of staff does not have a reasonable belief that suspected malpractice is occurring; or
- 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.

6.3 If the disclosure has sufficient substance or merits warranting further action, the College will take action it deems appropriate (including action under any other applicable College policy or procedure). Possible actions could include an internal investigation or to be investigated by an external investigator; referral to the College's auditors; or referral to relevant external bodies such as the police, OFSTED, Health and Safety Executive or the Information Commissioner's Office.

- 6.4 Any internal investigation would be conducted by a manager of the College without any direct association with the individual to whom the disclosure relates, or by an external investigator appointed by the College as appropriate.
- 6.5 Any recommendations for further action made by the College will be addressed to the Chief Executive and Principal or Chair of the Corporation as appropriate in the circumstances. The recipient will take all steps within their power to ensure the recommendations are implemented unless there are good reasons for not doing so.
- 6.6 The member of staff will be notified of the outcome of any action taken by the College under this policy and procedure within a reasonable period of time. Feedback will include where possible an indication of timings for any actions or next steps. If the member of staff is not satisfied that their concern has been appropriately addressed, they can appeal against the outcome by raising the issue with the Assistant Principal HR & Organisational Development within 10 working days of the notification. The Chief Executive and Principal will make a final decision on action to be taken and the member of staff will be notified.
- 6.7 In the event that the disclosure concerns the Chief Executive and Principal or the Head of Governance, it will be appropriate for an appeal against a decision to be made to the Chair of the Corporation. The Chair will determine whether to:
- Refer the matter to the full Corporation;
 - Appoint a panel of at least three Corporation members to consider the appeal; or
 - Refer the matter to the Audit Committee who may in turn recommend that the matter be referred to the College's internal or external auditors.

However, if an independent body has already been involved in investigating the disclosure then an appeal may not be applicable.

- 6.8 If the investigations into the concern are prolonged, the College will update the member of staff as to the progress of the investigation and the likely timeframe for its conclusion.

7. Our commitment to you

- 7.1 Where you raise a whistleblowing concern openly, we will maintain your confidentiality as far as possible. If we need to reveal your identity to anyone, we will notify you beforehand.
- 7.2 You have the right not to be subjected to any detrimental treatment (including being unfairly penalised, disciplined or dismissed) because you have raised a whistleblowing concern.
- 7.3 If you raise a whistleblowing concern in accordance with this policy, we will ensure that you are treated with respect and provided with adequate support and protection.
- 7.4 If you are told not to raise or pursue a whistleblowing concern, or you believe that you have been subjected to detrimental treatment because you have raised a whistleblowing concern, you should report the matter to Assistant Principal HR & Organisational Development.

Any such behaviour will not be tolerated and will be treated as a disciplinary offence.

- 7.5 If we find that an individual has knowingly raised false allegations, or there are grounds to believe that a disclosure was made maliciously or vexatiously, or where a disclosure is made outside the College without reasonable grounds this will be treated as a disciplinary offence and will be dealt with under our disciplinary procedure.

8. Disclosure to external bodies

- 8.1 This policy and procedure has been implemented to allow staff to raise disclosures internally within the College. Staff have 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 GOV.UK website](#).
- 8.3 If a staff member 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. The press/media is not regarded as an appropriate official external body for the purpose of this procedure.
- 8.4 If a staff member goes to the media, they can expect in most cases to lose their whistleblowing law rights. It is only in exceptional circumstances that a worker can go to the media without losing their rights. They must reasonably believe that the information they disclose and any allegation contained in it are substantially true. They cannot be acting for personal gain. Unless the wrongdoing is exceptionally serious, if they have not already gone to their employer or a prescribed person, the staff member must reasonably believe that their employer will subject them to "detriment" or conceal or destroy evidence if they do so. And even then, their choice to make the disclosure must be reasonable.

9. Accountability

- 9.1 The College will keep a record 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)
- 9.2 The College's Audit Committee has a responsibility to oversee the college's policies on fraud and irregularity and whistleblowing, and ensure the proper, proportionate and independent investigation of all allegations and instances of fraud. To that end, whistleblowing is a standing item on the agenda for every meeting.
- 9.3 The Audit Committee should receive an annual report on all whistleblowing incidents within the year. The Audit Committee Annual Report should detail any qualifying disclosures, along with any instances of fraud or irregularity.

Appendix 1

Form for raising a whistleblowing concern

This form is intended for use by any individual working for the organisation (including contractors, workers and volunteers) who want to raise a concern about wrongdoing.

This form should be used to report wrongdoing within the organisation that you believe is in the public interest.

If your concern relates to a personal complaint that is not in the public interest (for example, an allegation of bullying or harassment, or that your contract of employment has been breached), you should raise it under our separate grievance procedure or other relevant procedure. If you are unsure about whether your concerns are best dealt with under the whistleblowing policy or grievance procedure, please speak to the Assistant Principal HR and Organisational Development for further advice.

This form should be completed and delivered to the Assistant Principal HR and Organisational Development in an envelope marked "confidential" or sent as an email attachment with "confidential" in the subject line to humanresources@nescot.ac.uk. Once you have submitted this form, we will invoke the procedure set out in our whistleblowing policy. We will respect your wish for confidentiality as far as this is possible.

Formal whistleblowing concern

Name:

Job title:

Department/organisation:

Date:

Summary of your concern:

Please set out your concern with as much detail as possible, including the date, time, location, the identities of those involved in the wrongdoing and details of any witnesses. You may attach additional sheets if required.

Nature of your concern:

Please specify if your concern is about a potential: criminal offence; failure to comply with a legal obligation; miscarriage of justice; risk to the health and safety of an individual; damage to the environment; or attempt to cover up any of these.

Outcome requested:

Please set out how you would like to see the issue dealt with, and why and how you believe that this will resolve the issue.

Declaration:

I confirm that the above statements are true to the best of my knowledge, information and belief. I understand that, if I knowingly make any false allegations, this may result in disciplinary action being taken against me by the organisation.

Form completed by:	
Signature:	
For completion by the organisation:	
Date form received by the organisation:	
Name of recipient and job role:	
Signature:	

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