



WHISTLEBLOWING POLICY AND PROCEDURE (PUBLIC INTEREST DISCLOSURE POLICY)

Originator:	Director of HR & Clerk to Governors
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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, workers and Governors (referred to as 'workers' in this policy) with a means for raising genuine concerns of suspected bribery, fraud, serious malpractice, breaches of the law and other serious wrongdoings.
- 1.2 The College encourages workers to raise genuine concerns about suspected wrongdoing at the earliest practicable stage. This policy and procedure is intended to provide safeguards to enable members of staff to raise concerns about malpractice in connection with the College.
- 1.3 This policy and procedure also aims to encourage workers to raise genuine concerns through internal College procedures without fear of adverse repercussions being taken against them. The College recognises that workers can be valuable 'eyes and ears' within an organisation. The law allows workers to raise such concerns externally and this policy informs workers 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.
- 1.4 This policy and procedure also seeks to balance the need to allow a culture of openness against the need to protect other workers against vexatious allegations or allegations which are not well-founded.
- 1.5 This Policy has been drawn up in the context of Public Interest Disclosure Act 1998. All UK employees and workers are protected under the [Public Interest Disclosure Act Public Interest Disclosure \(Whistleblowing\) Policy](#) - Sept 2011 1998 when they make a protected disclosure
- 1.6 The principles of openness and accountability which underpin legislation protecting whistleblowers are reflected in this policy and procedure. It reflects the seven principles set out in the Nolan Committee Report [on Standards of Public Life, 1996](#). The College is also committed to ensuring compliance with the Bribery Act 2010.
- 1.7 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](#).
- 1.8 This document should be read in conjunction with other relevant policies on the [HR pages](#) and [Finance](#) pages on the NESCOL Intranet (SharePoint) system and also the Code of Conduct for Governors and the Code of Good Governance for English Colleges (follow [link](#)).

2. Applicability of this policy and procedure

- 2.1 This policy applies to all employees of the College, including apprentices; and
- 2.2 Workers which includes any casual workers; home-based casual workers; and employees of subcontractors; and
- 2.3 Statutory office holders in the College such as Governors.

- 2.4 Agency workers engaged by the College.
- 2.4 Workers 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 worker in this situation is encouraged to approach the Director of Human Resources for advice.
- 2.4 Sometimes an employee believes they are blowing the whistle when, in fact, their complaint is a personal grievance. Workers 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.
- 2.5 Government guidance is that a personal grievance is not generally regarded as a protected disclosure. Workers 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 workers who, out of a sense of public duty, want to reveal suspected wrongdoing or malpractice.
- 3.2 The law allows workers 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 worker 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 worker 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.

5. Procedure for making a disclosure

- 5.1 Information which a worker reasonably believes tends to show one or more of the situations given in Section 4 should promptly be disclosed to their line manager so that any appropriate action can be taken.
- 5.2 If it is inappropriate to make such a disclosure to their line manager, a worker can raise the issue with the Director of Human Resources.
- 5.3 If the disclosure relates to the Principal and Chief Executive, a worker can raise the issue with the Clerk to the Corporation. In the event that the disclosure relates to the Clerk of the Corporation, a worker can raise the issue with the Chair of the Corporation.
- 5.4 If the disclosure concerns the Governing Body (Corporation), the worker can raise the issue with the Clerk to the Corporation or the Skills Funding Agency.
- 5.5 Workers are encouraged to identify themselves when making a disclosure. If an anonymous disclosure is made, the College will not be in a position to notify the individual making the disclosure of the outcome of action taken by the College. Anonymity also means that the College will 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:
 - The seriousness of the issues raised in the disclosure;
 - The credibility of the concern; and
 - How likely it is that the concern can be confirmed from attributable sources.
- 5.6 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 Director of HR.

6. Procedure for investigation of a disclosure

- 6.1 When a worker makes 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 worker 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 a worker 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 When a worker makes a disclosure which has sufficient substance or merit 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 internal investigation; 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 If appropriate, 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 Officer 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 worker making the disclosure will be notified of the outcome of any action taken by the College under this policy and procedure within a reasonable period of time. If the worker is not satisfied that their concern has been appropriately addressed, they can appeal against the outcome by raising the issue with the Chief Executive Officer and Principal within 10 working days. The Chief Executive Officer and Principal will make a final decision on action to be taken and notify the worker making the disclosure.
- 6.7 In the event that the disclosure concerns the Chief Executive Officer and Principal or the Clerk to the Corporation, it will be appropriate for an appeal against a decision to be made to the Chair of the Corporation. S/he 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.
- 6.8 Within ten days of receiving a complaint the Chair will indicate the action that has been taken and the likely timescales for the conclusion to the appeal. The timescale will vary depending upon the nature of the complaint.
- 6.9 All communications between the College and the worker making the disclosures will be in writing and sent to the worker's home address.
- 6.10 If the investigations into the concern are prolonged, the College will update the worker concerned as to the progress of the investigation and the likely timeframe for its conclusion.

7. Safeguards for workers making a disclosure

- 7.1 A worker making a disclosure under this procedure can expect their 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.
- 7.2 The College will take all reasonable steps to ensure that any report of recommendations, or other relevant documentation, produced by the College does not identify the worker 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.
- 7.3 No formal disciplinary action will be taken against a worker on the grounds of making a disclosure made under this policy or procedure. This does not prevent the College from bringing disciplinary action against a worker 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.
- 7.4 A worker 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 and procedure. Equally, where a worker is threatened, bullied, pressurised or victimised by a colleague for making a disclosure, disciplinary action will be taken by the College against the colleague in question.

8. Disclosure to external bodies

- 8.1 This policy and procedure has been implemented to allow workers to raise disclosures internally within the College. A worker 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 Workers 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 Workers can also make disclosures on a confidential basis to a practising solicitor or barrister.
- 8.4 If a worker 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.
- 8.5 If a worker 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 worker 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) and will report to the Chair of the Corporation on an annual basis as appropriate.

10. Further assistance for workers

- 10.1 The College 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, to the Chief Executive Officer and Principal or to the Director of HR.
- 10.2 A worker making a disclosure may want to confidentially request counselling or other support from the College’s occupational health service. Any such request for counselling or support services should be addressed to the Director of HR. Such a request would be made in confidence.
- 10.3 Workers can also contact the charity Public Concern at Work for confidential advice on whistleblowing issues. Contact details are as follows:

CAN Mezzanine
7 - 14 Great Dover Street
London SE1 4YR

Whistleblowing Advice Line: 020 3117 2520

www.whistleblowing.org.uk

Email: whistle@pcaw.org.uk