



WHISTLEBLOWING

AREA: Personnel

TOPIC: Whistleblowing Policy

1 Background

The College, like other public bodies, has a duty, and is committed, to conduct its affairs in a responsible manner. This policy has been developed in the light of the Public Interest Disclosure Act (the 'Whistleblowing Act'), due to become law in 1999, which aims to protect staff raising legitimate concerns from victimisation. In addition, the policy takes account of the second report of the Nolan Committee into Standards in Public Life, 1996, which emphasises that institutions of further and higher education should ensure that staff are permitted to speak freely and without being subject to disciplinary sanctions or victimisation provided that they do so lawfully, without malice and in the public interest.

2 Definition Of 'Whistleblowing'

A widely accepted definition, by Lord Borrie QC in 1996 is:

"... the disclosure by an employee (or professional) of confidential information which relates to some danger, fraud or other illegal or unethical conduct connected with the workplace, be it of the employer or of his fellow employee."

Purpose Of The Procedure

- (i) The purpose of the procedure is to encourage employees to raise internally and in good faith such concerns, referred to in paragraph 2 above, (and also to clearly define the situations in which they may raise the matter externally). If such issues are raised in good faith and in line with this procedure, the employee making the allegation will not be subject to any detriment, including disciplinary action. Any concern raised will be properly examined by the College and any appropriate corrective action will be pursued. Staff who victimise employees to deter them from raising a legitimate concern under this procedure will be subject to disciplinary action.
- (ii) The College's Grievance Procedure is the normal recourse for employees to raise grievances about their personal employment situations, and therefore this procedure is not applicable.
- (iii) The Whistleblowing Procedure must only be used to raise allegations of suspected fraud, financial irregularities, corruption, bribery, criminal activities, a failure to comply with a legal obligation, a miscarriage of justice, or the suspected creation of, or failure to take due action in the event of, a serious risk to health, safety or the environment.

The Whistleblowing Procedure

(a) Internal Procedure

- (i) Allegations which fall under the terms of paragraph 3(iii) above should normally be raised, in writing, with the Deputy Principal - Personnel and Resources*. In exceptional circumstances it may be appropriate for an employee to raise a concern orally with the Deputy Principal - Personnel and Resources who will make a full note of the allegation which should not identify the complainant. The Deputy Principal - Personnel and Resources will confirm receipt of the allegation in writing (to the complainant's home address) in 'strictest confidence' and then carry out a comprehensive internal investigation. This will commence with a detailed interview with the employee making the allegation who will be fully advised of the process. If at any stage of the investigation evidence of criminal activity is found, the police should be informed.
- (ii) If the matter to be investigated is thought to potentially involve gross misconduct, the employee who is the subject of the investigation may be immediately suspended from work on full pay by the Principal while the investigation proceeds. Similarly, if during the course of the investigation the Deputy Principal - Personnel and Resources is of the view that a serious breach of discipline may have occurred, the Principal may suspend the employee. Any decision to suspend will be confirmed in writing within three working days with reasons for the suspension. In the absence of the Principal, the Deputy Principal - Personnel and Resources has the authority to suspend employees. Full details of the rules governing suspension pending a disciplinary hearing are given in paragraph 7 of the Disciplinary Procedure.
- (iii) As part of the investigation, an interview will normally be held with the employee who is the subject of the allegation. This employee will have the right to be represented by a recognised trade union representative or colleague employed by the College. On completion of all interviews, the Deputy Principal - Personnel and Resources will provide a report to the complainant, in writing (in 'strictest confidence' to his/her home address). The report will, as far as is possible in the circumstances and subject to any third party rights, state the outcome of the investigation and the proposed action.
- (iv) In the interest of all parties it is expected that the investigation and report would normally be completed within one month of the initial written allegation. The complainant will, however, be informed, in writing, by the Deputy Principal - Personnel and Resources, of any unavoidable delays, and provided with a revised time-table for the completion of the process.
- (v) If the allegations concern financial misconduct, the Deputy Principal - Personnel and Resources may engage the services of an appropriate external organisation to carry out or assist with the investigation.
- (vi) If, on completion of the investigation, the Deputy Principal - Personnel and Resources considers that the complaint of misconduct is justified, the employee who is the subject of the allegation will face a disciplinary hearing arranged under the College's Disciplinary Procedure.

* in the absence of the Deputy Principal - Personnel and Resources, the Deputy Principal - Curriculum and Quality will undertake the role of 'Investigating Manager'

(vii) Allegations against Senior Managers and above

Allegations against senior managers should be referred to the Principal, who will make arrangements for the investigation, following the principles of this procedure.

Allegations against the 'holder of a senior post' as defined in the College's Articles of Government should be referred to the Chair of the Board of Governors, who will make arrangements for the investigation, following the principles of this procedure.

Allegations against individual Governors should be referred to the Chair of the Board of Governors who will nominate two Governors to carry out the investigation, following the principles of this procedure.

In the event of allegations against the Chair of the Board of Governors or the entire Board of Governors, the issue should be raised with the Learning and Skills Council.

(viii) Anonymous Allegations

As stated in paragraph 4(a)(i) above, allegations should normally be raised in writing. The College will, however, need to satisfy itself that serious anonymous allegations are investigated thoroughly by an appropriate employee.

(ix) Access to the Governing Body

If the complainant is not satisfied that his/her concern is being properly dealt with by the investigating manager, he/she may raise it in confidence with the Chair of the Board of Governors.

(b) External Procedure

(i) If the employee making the allegation remains dissatisfied with the final outcome of the internal procedure, as described in paragraphs (a) (i to ix) above, he/she is entitled to raise the issue with an appropriate public body, for example, Public Concern at Work (a registered charity which specialises in 'whistleblowing'), the LSC, the DfEE, or the ombudsperson for further education. The College would reserve the right, however, to proceed with disciplinary action against the employee in circumstances when it considers that it has carried out the internal stages of the procedure fairly and reasonably, and also:

- that the employee did not make the disclosure in good faith; or
- that he/she did not reasonably believe that the allegation was substantially true; or
- that he/she is acting for personal gain.

(ii) The College also reserves the right to proceed with disciplinary action in circumstances where it considers that the employee making the allegation has bypassed the internal procedure unreasonably. This would be in circumstances (including when the identity of an employee making anonymous allegations, within or outside the College, is subsequently revealed) where the employee could not show:

- that the alleged breach of conduct was so exceptionally serious as to justify bypassing internal procedures
- that he/she reasonably believed that relevant evidence would be concealed or destroyed by the College; or
- that he/she would be subject to detrimental treatment by the College for raising the issue whilst acting in good faith, believing the allegation to be substantially true, and not acting for personal gain.

(c) Confidentiality

- (i) An employee who raises a concern under this procedure will have the right to have the matter treated confidentially and not to have his/her name disclosed to the alleged perpetrator of malpractice without his/her prior approval.
- (ii) Any recognised trade union representative or colleague employed by the College who assists an employee who raises a concern under this procedure must keep the matter raised in strict confidence.

(d) Audit Committee

Copies of all completed investigatory reports under the terms of this procedure will be forwarded to the Chair of the Audit Committee of the Board of Governors.

(e) Penalty for Misuse of this Procedure

If the Deputy Principal - Personnel and Resources finds that the member of staff making the allegation has acted maliciously, and/or for personal gain, he/she will be subject to the College's Disciplinary Procedure.