

College Manual/Share Point Section:	Human Resources			
Responsibility (Job role & initials)	Director of Human Resources MD	Date doc. created:	July 1999	
E&D Impact Assessment date:	January 2016	Review date of doc.:	January 2018	

WHISTLEBLOWING PROCEDURE: PUBLIC INTEREST DISCLOSURE

1. INTRODUCTION

1.1 The aim of this policy is to provide individuals with a means for raising genuine concerns of suspected malpractice within the College confidentially inside and, if necessary, outside the organisation, and to provide those individuals with protection from detriment and unfair dismissal. The College settlement agreements do not prevent staff from making a protected disclosure under section 43A of the Employment Rights Act 1996 and nothing in the agreements will prevent the College from making such disclosure as it is required by law to make. Whistleblowing law is located in the Employment Rights Act 1996 (as amended by the Public Interest Disclosure Act 1998) and external guidance regarding whistleblowing is available from the Government, Acas, Public Concern at Work, Trade Unions or the College Designated Assessors (see section 2 of this procedure).

1.2 To be covered by whistleblowing law an employee who makes a disclosure must reasonably believe two things. The first is that they are acting in the public interest. This means in particular that personal grievances and complaint are not usually covered by whistleblowing law.

The second thing that an employee must reasonably believe is that the disclosure tends to show past, present or likely future wrongdoing falling into one or more of the following categories:

- Criminal offences (this may include, for example, types of financial impropriety such as fraud)
- Failure to comply with an obligation set out in law
- Miscarriages of justice
- Endangering of someone's health and safety
- Damage to the environment
- Covering up wrongdoing in the above categories

Examples of malpractice are (but not limited to):

- Actions which are unprofessional, inappropriate or conflict with a general understanding of what is right and wrong, e.g. falsification of student grades or actions which call into question the integrity of educational standards
- Failure to comply with a statutory duty or obligation, e.g. Safeguarding or Prevent
- Gaining, or seeking to gain, a pecuniary advantage from an association or relationship with, or membership of, an organisation, company or other body which ought properly to have been disclosed to the College
- Fraud or financial irregularities (including improper or unauthorized use of public funds)
- Bribery, corruption (including abuse of authority) or other forms of dishonesty, e.g. showing undue favour over a contractual matter or to a job applicant
- A criminal offence has been committed, is being committed or is likely to be committed
- 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
- A breach of a code of conduct
- Information on any of the above has been, is being, or is likely to be concealed

1.2 You may be worried about raising such issues or you may want to keep the concerns to yourself. You may feel that raising the matter would be disloyal to colleagues, managers or the organisation. You may also fear that by raising such concerns you may be subject to harassment or victimisation.

- 1.3 New College has introduced this procedure to provide safeguards to you to raise concerns about malpractice in connection with the College. The aim is to provide a rapid mechanism under which genuine concerns can be raised internally, and, if necessary, externally without fear of adverse repercussions to the individual.
- 1.4 If something is troubling you, which you think the College should know about or look into, you should use this procedure. If, however, you are aggrieved about personal position or employment matters, please use the relevant procedures such as Grievance, Bullying and Harassment available from the Staff Portal or the HR Department. The Public Interest Disclosure Procedure is primarily for concerns where the interest of others or the organisation itself is at risk.
- 1.5 While the College will consider anonymous reports, this could make it more difficult to look into the matter, protect your position, or give you feedback.

2. DESIGNATED ASSESSORS

- 2.1 The Designated Assessors are:

Director of Finance, ext. 1601 01793 732803

Director of Curriculum, ext. 1500 01793 732859

Director of Human Resources, ext. 1702 01793 732813

- 2.2 Any changes to Designated Assessors must be reported to the next meeting of the Corporation together with reasons for the change.
- 2.2 Reports under this policy, not relating to safeguarding matters, are to be made to Designated Assessors in accordance with the procedures described below.
- 2.3 In circumstances where an employee believes that a disclosure cannot appropriately be made to any of the three Designated Assessors, either due to their involvement in the suspected malpractice, or because the employee believes they may be subjected to a detriment as a result of making a disclosure to a Designated Assessor, the employee may disclose to the Clerk to Governors: tracy.scaife@newcollege.ac.uk The Clerk will then be responsible for assigning an appropriate Governor to act under this policy.
- 2.4 Where a disclosure has been made to the Clerk to the Governors under section 2.3 and is to be considered by a Governor appointed. Whilst any such person will broadly follow the principles of this policy, they will be free to make such adaptations as may be required in the circumstances of the disclosure at hand.

Safeguarding

- 2.5 It is essential, in all cases where staff have concerns about the behaviour of, or an allegation of abuse against any member of staff with regard to a student, that it is reported quickly and professionally to a designated Safeguarding Senior Manager.
- 2.6 Two members of staff are designated as Safeguarding Senior Managers in New College as referred to in the College Safeguarding Children and Vulnerable Adults Policy. They are responsible for ensuring that appropriate action, which may include action under the College Discipline and Dismissal Policy, is taken in cases of allegations of abuse against staff. Please refer to the College Safeguarding Children and Vulnerable Adults Policy for further details.
- 2.7 In circumstances where an employee believes that a disclosure cannot appropriately be made to any of the two Safeguarding Senior Managers, either due to their involvement in the suspected malpractice, or because the employee believes they may be subjected to a detriment as a result of making a disclosure to a Safeguarding Senior Manager, the employee may disclose to the Clerk to Governors: tracy.scaife@newcollege.ac.uk The Clerk will then be responsible for referring to the designated Governor for Safeguarding to act under this policy.

- 2.8 The NSPCC whistleblowing helpline: <https://www.nspcc.org.uk/preventing-abuse/child-abuse-and-neglect/> is available for staff who do not feel able to raise concerns regarding child protection failures internally. Staff can call 0800 028 0285 – lines are available from 8.00 to 20.00 Monday to Friday and email: help@nspcc.org.uk.

3. LEARNER INVOLVEMENT

- 3.1 There is no direct learner involvement in this policy.
- 3.2 However, learners on placement are encouraged to exercise their discretion and professionalism if they witness malpractice and notify their placement officer immediately.
- 3.3 Concerns raised by learners regarding any member of staff or other student will be dealt with, as appropriate, under the relevant student complaints procedure.

4. DISCLOSURE PROCEDURE

- 4.1 This procedure applies to disclosure by an individual (the 'Discloser') who is an employee, an agency contract worker (or a self-employed homeworker) employed or engaged by the College, who has grounds to believe that malpractice has occurred, is occurring or is likely to occur in connection with the College (whether on the part of another employee, a member of the Corporation, or any other person or persons).
- 4.2 The Discloser should as soon as practicable disclose in confidence the grounds for the belief of malpractice to one of the Designated Assessors. The choice of Designated Assessor will be for the Discloser, but a Designated Assessor may decline to become involved on reasonable grounds, including possible previous involvement or interest in the matter concerned, incapacity or unavailability or if a Designated Assessor is satisfied that some other Designated Assessor, or a Governor, would be more appropriate to consider the matter in accordance with this procedure. In circumstances where a disclosure is made through the Clerk of Governors, it may be referred back to a Designated Assessor where the appointed Governor is satisfied that that Designated Assessor is an appropriate person to consider the disclosure.
- 4.3 Any disclosure to a Designated Assessor under this procedure may be oral or in writing, at the choice of the Discloser. The Discloser should provide as much supporting evidence as possible about the disclosure and the grounds for the belief of malpractice. However, if there is no evidence available a disclosure can still be made and the assessor will look into concerns raised.
- 4.4 On receipt of the disclosure, the Designated Assessor will offer to interview the Discloser in confidence as soon as practicable and not more than 10 working days after the initial disclosure. The purpose of the interview will be for the Designated Assessor to obtain as much information as possible from the Discloser about the grounds of the belief of malpractice and to consult with the Discloser about further steps which could be taken. The Discloser may be accompanied by a local trade union representative or work colleague at the interview. The Designated Assessor may be accompanied by an administrative assistant to take notes, which will not identify the Discloser.

5. FURTHER STEPS

- 5.1 As soon as practicable after the interview (or after the initial disclosure if no interview takes place) the Designated Assessor will recommend what further steps should be taken. Such recommendations may (without limitation) include one or more of the following:
- that the matter should be investigated and resolved internally;
 - that the matter should be investigated either internally by the College or by the Audit Committee or some other committee of the Corporation and/or by external or internal auditors or investigators appointed by the College;

- that a member of staff or a student should be given the opportunity to seek redress through the College's grievance or complaints procedures or through an appeal under the College disciplinary procedure relating to staff or students;
- that the matter should be reported to the police;
- that the matter should be reported to a prescribed person – who are mainly regulators and professional bodies. A list of prescribed persons can be found via the link <http://www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies--2>

5.2 The grounds on which the Designated Assessor may recommend that no further action by the College should be taken are as follows:

- that the Designated Assessor is satisfied that the Discloser does not have a reasonable belief that malpractice within the meaning of this procedure has occurred, is occurring or is likely to occur; or
- that the Designated Assessor is satisfied that the Discloser is not acting in good faith; or
- that the matter concerned is already the subject of legal proceedings, or has already been referred to a prescribed person, available from the following link: <http://www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies--2>

or

- that the matter is already (or has already been) the subject of proceedings under one of the College's other procedures relating to staff or students.

5.3 Any recommendations made under this procedure will be made by the Designated Assessor to the Principal unless it is alleged that the Principal is involved in the alleged malpractice or unless there are other reasonable grounds for not doing so, in which case the recommendations will be made to the Chair or the Vice-Chair of the Corporation. The recommendations will be made without revealing the identity of the Discloser. The recipient of the recommendations will take all steps within his or her power to ensure that they are implemented except to the extent that in the view of the recipient there are good reasons for not doing so. (If the Principal decides not to implement fully any such recommendations that decision will be notified in writing to the Chair of the Corporation as soon as practicable, together with the reasons for it).

5.4 Once the Principal (or other recipient) has decided what further steps (if any) should be taken, the Designated Assessor will inform the Discloser of the decision. If no further steps by the College are proposed, the Designated Assessor will give the reasons for this.

5.5 Anonymous whistleblowers will not ordinarily be able to receive feedback and any action taken to look into a disclosure could be limited – anonymous whistleblowers may seek feedback through a telephone appointment or by using an anonymised email address.

6. EXTERNAL DISCLOSER

6.1 If, having followed this procedure, the Discloser is not satisfied with the further steps (if any) decided upon or the outcome of any such steps, the Discloser should raise the matter concerned on a confidential basis with the Chairman or member of the Corporation (if not previously involved) before consulting with a prescribed person, available from the following link: <http://www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies--2> Before taking any such action, the Discloser should inform the Designated Assessor.

6.2. An external disclosure will not normally be appropriate unless the matter has first been raised in accordance with this procedure and the procedure has concluded. In circumstances where the Discloser has reasonable grounds for believing that all of the Designated Assessors, and one or more members of the Corporation, were involved in the alleged malpractice, or has reasonable grounds for believing that he/she will be subject to

detriment as a result of making an internal disclosure, an external disclosure should raise matters with the appropriate public authority.

- 6.3. This policy does not affect the right of the Discloser to disclose the matter on a confidential basis to a professionally qualified lawyer for the purpose of taking legal advice at any time.

7. SAFEGUARDS

- 7.1 Any report or recommendations by the Designated Assessor in relation to the matter will not identify the Discloser, unless the Discloser otherwise consents in writing or unless there are grounds to believe that the Discloser has acted maliciously. In the absence of such consent or grounds, the Designated Assessor will not reveal the identity of the individual as the Discloser of information under this procedure except:
- where the Designated Assessor is under a legal obligation to do so; or
 - where the information is already in the public domain; or
 - on a strictly confidential basis to the Designated Assessor's administrative assistant for the time being; or
 - on a strictly confidential basis to a professionally qualified lawyer for the purpose of obtaining legal advice.
- 7.2 Any documentation (including computer files and data) kept by the Designated Assessor relating to the matter will be kept secure, so that as far as practicable only the Designated Assessor (and his or her administrative assistant) shall have access to it. As far as practicable, any documentation prepared by the Designated Assessor will not reveal the identity of the individual as the Discloser of information under this procedure.
- 7.3 Where the Discloser involves a local trade union representative or work colleague in this procedure, the Discloser will be under an obligation to use all reasonable endeavours to ensure that the representative or work colleague keeps this matter strictly confidential save, as permitted under this procedure, as required by law or until such time as it comes into the public domain.
- 7.4 The Discloser will not be required by the College without his or her consent to participate in any enquiry or investigation into the matter established by the College unless there are grounds to believe that the Discloser may have been involved in misconduct or malpractice.
- 7.5 Where the Discloser participates in any such enquiry or investigation, that participation will usually be required to be on an open rather than a confidential basis, although the obligations of the Designated Assessor under clause (7.1) of this procedure will remain in relation to the identity of the individual as the original Discloser of information under this procedure.
- 7.6 Where the Discloser makes a disclosure anonymously it may be more difficult for them to qualify for protections as a whistleblower. This is because there would be no documentary evidence linking the Discloser to the disclosure for the employment tribunal to consider.
- 7.7 Disclosers who raise concerns or who are the subject of an investigation may be able to access confidential counselling through the Staff Support Services. This request can be made by contacting the Staff Support Services directly. Details are available from the Staff Portal or the HR Department. Mediation and dispute resolution may be offered to help rebuild trust and relationships in the workplace.
- 7.8 Subject to clause 8 below, the College will not (and it will use all reasonable endeavours to ensure that its employees do not) subject the Discloser to any detriment, on the grounds of the Discloser's disclosure of information under this procedure. The Discloser should report any complaints of such treatment to a Designated Assessor. If the Discloser wishes the Designated Assessor to take action in relation to such complaints, the Discloser may be asked to consent in writing to the Designated Assessor revealing the Discloser's identity for the purposes of any such action.

8. DISCIPLINARY ACTION

- 8.1 The College will not tolerate harassment or victimisation of anyone raising a concern under this policy in good faith, whether or not such concern ultimately proves well-founded. Any such behaviour is likely to result in disciplinary action.
- 8.2 This policy does not protect employees from disciplinary action in relation to unfounded and malicious disclosures. The College may take such action where, in the view of the Designated Assessor, there are grounds to suggest that a disclosure was made maliciously or vexatiously, or where there are grounds to suggest that an external disclosure has been made in breach of this policy where it was not reasonable for the employee to make such a disclosure. In such circumstances the Discipline and Dismissal Policy will be followed.
- 8.3 If, at the time of making the disclosure, the Discloser is already the subject of disciplinary or other procedures relating to their employment, those procedures will not be halted as a result of the disclosure.

Linked Policies:	Anti-Bribery Policy, Staff Code of Code of Conduct towards Students Policy, Equalising Opportunity and Celebrating Diversity Policy, Race Relations Policy Safeguarding Children and Vulnerable Adults Policy Prevent Policy
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NEW COLLEGE EQUALITY IMPACT ANALYSIS	DATE: January 2016
Function: Equal Opportunities	
This policy, plan, procedure, process has been examined for equality impact, i.e., the impact that this function will have on different groups of actual and potential learners, service users and staff taking account of the protected characteristics of the Equality Act 2010 (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, sexual orientation).	
1. If Equality Impact Analysis is not relevant to this function, give reasons and proceed to section 5 below.	
2. In what ways could this function have a negative impact on any of the groups above? What actions have been taken to eliminate these? Lack of understanding of this policy by Managers could lead to discriminatory behaviour towards staff or victimisation of staff. Particular training for Managers by HR and continued guidance by the HR team when implementing this policy should eliminate this.	
3. In what ways could this function have a positive impact on any of the groups above? How will this function be used to eliminate discrimination, advance equality of opportunity and foster good relations between different groups? Are there plans for the future which will further advance equality? Supports the Discloser to disclose giving a clear process to follow.	
4. What evidence supports your judgment e.g. consultations, observations, expert opinions, quantitative or qualitative surveys? If the evidence is in the form of an additional document, where is it stored? Recommendations for the procedure come from the Department for Business Innovation & Skills.	
5. Name and job title of manager responsible: Maureen Debbage	