

### 1.0 POLICY

#### 1.1 Introduction

Whilst members of staff may be amongst the first to identify serious malpractice occurring within the College, they may be reluctant to express their concerns because they feel that speaking up would be disloyal or because they fear harassment or victimisation. The College is, however, anxious that staff and others raise any such concerns or suspicions confidentially and do so at an early stage.

This procedure is intended to provide a rapid mechanism under which genuine concerns can be raised internally and, if necessary, externally without fear of repercussions to the individual. It is also intended to promote throughout the College a culture of openness and a shared sense of integrity by inviting all employees to act responsibly in upholding the reputation of the College and maintaining public confidence.

Examples of serious malpractice are:

- fraud or other financial irregularity (e.g. misappropriation of money),
- corruption (e.g. bribery, blackmail, or serious breach of academic standards, such as consistent and deliberate award of unjustifiably high or low marks for student work),
- illegality/crime (e.g. theft),
- causing danger to the environment or individuals and non-routine Health and Safety issues,
- unethical conduct, disloyalty and nepotism,
- abuse of the Code of Conduct and/or Code of Ethics,
- miscarriages of justice,
- mismanagement,
- impropriety and/or lack of probity; and
- immorality.

The Policy is intended to supplement, and to be read in conjunction with and not replace, the existing College Policies and Procedures on Grievance, Discipline, Equality & Diversity, Harassment, Health and Safety, Absence Control, Anti Fraud & Corruption, Complaints, Code of Conduct and any other relevant policy and procedure.

The Policy should also be read in conjunction with the Public Interest Disclosure Act 1998.

#### 1.2 Definition

Whistleblowing can be defined as “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/her fellow employees”.

#### 1.3.1 Environment

- The College encourages a climate of openness and honesty by involving employees and listening to their concerns,
- the College encourages respect for the individual,
- the College endorses the related Codes of Practice which define the appropriate and acceptable standards of employee behaviour e.g. Code of Conduct, Code of Ethics, Register of Interests,
- the College wishes to combat corruption, fraud and malpractice,
- the College wishes to promote accountability throughout the establishment,

- the College wishes to deal with issues speedily and seriously; and
- the College wishes to engage the full support of the Unions in endorsing and supporting this approach.

#### 1.4 Purposes

The policy is:

- intended to apply to disclosure by an individual (the Discloser) who is an employee, ex-employee, an agency or contract worker or a self-employed worker engaged by the College, who has grounds to believe that serious malpractice has occurred, is occurring, or is likely to occur in connection with the College,
- designed to provide safeguards to protect staff who raise genuine concerns about malpractice in connection with the College,
- one which requires management to act swiftly and constructively to address breaches of key standards,
- one which may lead to use of other procedures e.g. the Disciplinary Procedure, and to more formal investigations e.g. by Internal Audit, but will not replace them,
- one which may lead to Police action; and
- designed to require an impartial Designated Assessor to be involved.

It is NOT:

- intended that the employee or other complainant should be asked to 'prove' that his/her suspicions are well founded,
- designed to replace the Grievance Procedure, which should be used where an employee is aggrieved about an issue relating to his/her employment; and
- designed to deal with routine Health and Safety issues, which are currently dealt with by the Health and Safety Committee and the Corporate Management Team.

#### 1.5 Assurances

The College will make every effort to keep the Discloser's identity confidential 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 Discloser except:

- where the Designated Assessor is under a legal obligation to do so,
- where the information and identity of Discloser is already in the public domain,
- on a strictly confidential basis to the Designated Assessor's personal assistant,
- on a strictly confidential basis to a professionally qualified lawyer for the purpose of obtaining legal advice,
- where it is essential that the Discloser provides evidence at a Disciplinary Hearing,
- where the Discloser is exercising his/her official responsibilities as an officer of the Corporation e.g. Head of IT, disclosing a practice or associated detail discovered in the normal course of his/her duties.

To encourage employees to raise legitimate concerns in complete confidence the matter may, initially, be raised orally rather than in writing with the Designated Assessor.

The College will not tolerate harassment or victimisation of anyone raising a concern in good faith, whether or not it proves well-founded.

#### 1.6 What the College requires of Members of Staff

It is the responsibility of all staff and others connected with the College to raise concerns about serious malpractice and to do so in accordance with this Policy and Procedure.

Staff who raise a concern need to be clear as to what the issue is and which procedure applies e.g. whether it is a matter that would be better dealt with through this procedure or through the Grievance Procedure. If in doubt, staff should ask for procedural advice from the Human Resources Department, their Line Manager, Trade Union representative, or Public Concern at Work, (a registered charity which advises on serious malpractice within the workplace) - Tel: 020 7404 6609 or e-mail [helpline@pcaw.co.uk](mailto:helpline@pcaw.co.uk).

A member of staff who raises a concern must declare any personal interest he/she has in the matter.

If a disclosure is made maliciously or vexatiously (or where an external disclosure is made in breach of the Procedure without reasonable grounds or otherwise than to one of the appropriate bodies stated in paragraph 2.14) the member of staff who raised the concern is at risk of disciplinary action.

Where the Discloser involves a local Trade Union representative or friend to assist him/her, the Discloser will be under an obligation to ensure that the representative or friend keeps the matter strictly confidential except as required by law.

### **1.7 Policy Review**

The Policy and Procedure will be monitored continually and formally reviewed triennially by the Corporate Management Team and the Audit Committee and Corporation advised accordingly.

## **2.0 PROCEDURE**

- 2.1 As a first step, the member of staff should normally raise concerns with his/ her immediate line manager or superior. This may be done verbally or in writing.
- 2.2 If a member of staff feels unable to follow this route, for good reason, or would like to discuss his/her concern in confidence, he/she can refer the matter of concern to one of the College's Designated Assessors.
- 2.3 Where a member of staff has raised a concern with his/her line manager or superior, the line manager or superior shall raise the matter with one of the College's Designated Assessors releasing the name of the member of staff and the concern identified.
- 2.4 Where a person who is not a member of staff makes a disclosure, this should be made initially to a Designated Assessor. In circumstances in which a public interest disclosure is made to any member of staff by a non-staff member, the member of staff to whom the disclosure was made shall immediately inform a Designated Assessor.
- 2.5 The Designated Assessors are:
- (i) Chair of the Audit Committee (David Jacobs),
  - (ii) Clerk to the Corporation (Linda Burlison) who is normally the Reporting Assessor who reports to the Corporation's Audit Committee and Chair thereof,
  - (iii) Assistant Principal HR and College Reputation (Andrea Greer); and
  - (iv) The College Registrar (Fiona Waters) (only in cases where the concerns are about malpractice falling under the Child Protection legislation or Safeguarding children, young persons and vulnerable adults policies).

(See Appendix 1 for guidelines on the designation and selection of appropriate Assessors.)

### **2.6 The role of the Designated Assessor is to:**

- initially assess the internal or external disclosure and recommend how it should be dealt with,

- advise the Discloser of the appropriate route to lodge the complaint if it does not fall under the College's Public Interest Disclosure Procedure,
- initiate investigations into complaints which fall within the scope of the Public Interest Disclosure Procedure, involving such other parties as may be appropriate e.g. Internal Auditors, Police,
- initiate (but not necessarily conduct) investigations into complaints which do not fall within the scope of the Public Interest Disclosure Procedures,
- make recommendations to management for appropriate remedial action if required, and monitor management action to implement these recommendations; and
- make regular reports to the Corporation's Audit Committee; this will be done by the Chair of the Audit Committee or the Reporting Assessor, the Clerk to the Corporation.

2.7 Concerns are best raised in writing to one of the Designated Assessors. The Discloser should provide as much supporting evidence as possible about the disclosure and the grounds for the belief of malpractice.

(See Appendix 2 for a suggested pro forma.)

If a member of staff or other complainant feels unable to put his/her concerns in writing, he/she can telephone or make an appointment to meet one of the Designated Assessors.

2.8 In the event that an allegation is made against one of the Designated Assessors, the complaint should be made to an alternative Designated Assessor.

2.9 In the event that the allegation is made against a member of the Corporate Management Team, then the complaint shall be made to the Chair of the Audit Committee.

2.10 On the receipt of the concern by the member of staff or other complainant, the Designated Assessor will offer to interview the Discloser within seven working days, in confidence, or immediately if there is any danger of loss of life or serious injury. The purpose of the interview will be for the Designated Assessor to obtain as much information as possible from the Discloser about the grounds for the belief of malpractice.

(See Appendix 3 for a suggested pro forma.)

2.11 The Discloser may be accompanied by a Trade Union representative, carer, parent, colleague or friend at the interview. (The Designated Assessor may be accompanied by an assistant to take notes. These notes will not identify the Discloser).

2.12 Within ten working days of 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 include one or more of the following:

- that the matter should be investigated by one of the Designated Assessors,
- that the matter should be investigated internally using appropriate College Managers, the Audit Committee or other investigators appointed by the College,
- that a member of staff should be given the opportunity to seek redress through the College's Grievance Procedure,
- that the matter should be reported to the relevant Funding Agency, or other relevant public authority,
- that the matter should be reported to the Police; and
- that no further action be taken.

(See Appendix 4 for a suggested pro forma.)

2.13 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 on the balance of probabilities, there is no evidence that malpractice within the meaning of this procedure has occurred, is occurring or is likely to occur,
  - that the Designated Assessor is satisfied that the Discloser is not acting in good faith,
  - that the matter is already (or has been) the subject of proceedings under this or one of the College's other procedures; and
  - that the matter concerned is already the subject of legal proceedings, or has already been referred to the Funding Body, other relevant public authority or the Police.
- 2.14 If the Designated Assessor considers an investigation to be the appropriate step to take, he/she will initiate this investigation, aiming to convey an initial conclusion to the Discloser within 28 days. However, if there is any danger of loss of life or serious injury, the investigation will be completed within less than 28 days.
- 2.15 Any recommendations made under this procedure should be made by the Designated Assessor to the Principal unless it is alleged that the Principal is involved in the alleged malpractice. In any case, the recommendations will be made without revealing the identity of the Discloser except as provided in paragraph 1.5 above. The recipient of the recommendations will take all steps within his/her powers 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 by the Clerk to the Corporation, the Chair-of the Audit Committee, together with the reasons for it.
- 2.16 The report, and any recommendations arising from an investigation, shall be in writing and to the Principal, unless the Principal is the subject of the complaint when the report will be to the Chair of the Corporation.
- 2.17 All responses to the Discloser will be made in writing and sent to the Discloser's home address rather than through the internal mail or e-mail. The Discloser will be kept up to date with proceedings. If no further steps by the College are proposed, the Designated Assessor will give the reason for this.
- 2.18 If the Discloser has not had a response within the above stated time limits or otherwise feels that the complaint is not being dealt with appropriately:
- the Discloser may appeal within 21 days to the Chair of the Audit Committee; and
  - alternatively the Discloser may raise the matter in confidence directly with the relevant Funding Agency, other relevant public authority, or the Police. Before taking any such action, the Discloser will inform the Designated Assessor.
- 2.19 The Discloser may also raise the matter in accordance with paragraph 2.18 above if the Discloser has reasonable grounds for believing that all of the Designated Assessors are or were involved in the alleged malpractice or that the Discloser will be subject to a detriment as a result of making the disclosure.
- 2.20 The Discloser may at any time disclose the matter on a confidential basis to a professionally qualified lawyer for the purpose of taking legal advice.
- 2.21 Once the channels laid out in this procedure have been exhausted, the Discloser has a right and duty to publish his/her concerns publicly provided that he/she:
- (i) is acting in good faith,
  - (ii) believes on reasonable grounds that the information is accurate,
  - (iii) has not made the disclosure principally to obtain payment or personal gain; and
  - (iv) has exhausted the stages of this procedure.

2.22 The Discloser shall have a right of appeal against the decision of the Designated Assessor (Investigating Officer) or the manner of the investigation to the Chair of the Corporation's Audit Committee or to the Chair of the Corporation where the Chair of the Audit Committee was the Designated Assessor.

### **3.0 IN CONCLUSION**

3.1 Staff should be made aware of the procedure. The remedial action may be simple and the solution straightforward and if staff express genuine concern to the right people at an early stage, the benefits to the College can be enormous.

3.2 Staff who deliberately make false and malicious accusations, internally or externally, will be subject to the College's Discipline Policy and Procedure.

3.3 Staff and other complainants must not take concerns outside of the College, especially to the press or media except in accordance with clause 2.21.

3.4 This Policy and Procedure will be reviewed every three years.

**The revised Policy was approved by Audit Committee on 24<sup>th</sup> March 2015**

**WESTON COLLEGE CORPORATION  
PUBLIC INTEREST DISCLOSURE PROCEDURE  
(WHISTLEBLOWING)**

**Guidelines for the Designation and Selection of Appropriate Assessors**

1. The Chair of the Audit Committee shall be a Designated Assessor.
2. Additionally, the Principal of the College will ensure that at least four senior staff, who are members of the College Corporate or senior staff are designated as Assessors for the purposes of this procedure. It is vital that there is more than one Assessor for the unlikely case that an allegation is made against an Assessor.
3. Assessors shall, as far as possible, be independent of the normal day to day activities of the College, e.g. Clerk to the Corporation, Chair of the Audit Committee.
4. Assessors (other than the Chair of the Audit Committee) shall be senior staff who should have access to members of the Corporation.
5. Assessors shall include both male and female managers.
6. The Corporate Management Team shall recommend to the Corporation the appointment of all Designated Assessors and may recommend the revoking of any designation from time to time. The Committee will report any such recommendation to the next meeting of the Corporation, together with brief reasons for any revocation.

**WESTON COLLEGE CORPORATION  
PUBLIC INTEREST DISCLOSURE PROCEDURE  
(WHISTLEBLOWING)**

**CONFIDENTIAL MEMORANDUM**

To: .....  
(Please name the Designated Assessor you would like to address)

From: .....

Date: .....

**CONCERN ABOUT MALPRACTICE UNDER THE COLLEGE'S  
PUBLIC INTEREST DISCLOSURE PROCEDURE**

I would like to notify you as one of the College's Designated Assessors for concerns under the College's Public Interest Disclosure Procedure of the following malpractice that has come to my attention:

1. Category (please tick relevant box(es)):

- Fraud
- Corruption
- Actions or omissions which have potential for loss of life or serious injury
- Breach of a legal requirement
- Other, please specify: .....

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2. Details of malpractice occurring:

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**WESTON COLLEGE CORPORATION  
PUBLIC INTEREST DISCLOSURE PROCEDURE  
(WHISTLEBLOWING)**

**CONFIDENTIAL MEMORANDUM**

To: .....

From: .....  
(Designated Assessor for concerns under the College's Public Interest Disclosure Procedure)

Date: .....

**CONCERN ABOUT MALPRACTICE UNDER THE COLLEGE'S  
PUBLIC INTEREST DISCLOSURE PROCEDURE**

**YOUR MEMORANDUM DATED:** .....

Thank you for raising with me your concern about malpractice.

To discuss the matter further, I suggest the following date for a meeting: ..... This will take place in my office unless you would prefer an alternative venue. Please indicate whether you will be accompanied by a Trade Union representative, colleague or friend.

Please note that the purpose of this meeting is for me to obtain as much information about your concern as possible and to discuss any further steps that could be taken with you. If you have any additional evidence that supports your concern, please bring this with you to the meeting.

**WESTON COLLEGE CORPORATION  
PUBLIC INTEREST DISCLOSURE PROCEDURE  
(WHISTLEBLOWING)**

**CONFIDENTIAL MEMORANDUM**

To: .....

From: .....  
(Designated Assessor for concerns under the College's Public Interest Disclosure Procedure)

Date: .....

**CONCERN ABOUT MALPRACTICE UNDER THE COLLEGE'S  
PUBLIC INTEREST DISCLOSURE PROCEDURE**

**OUR MEETING DATED:** .....

Thank you for attending the above meeting.

I have carefully considered the allegations made by you under the College's Public Interest Disclosure Procedure and have recommended the following action:

(please tick relevant box(es))

- to investigate the matter personally
- to investigate the matter internally using appropriate College Managers, the Audit Committee or other investigators appointed by the College
- to report the matter to the Funding Agency(s) or other relevant public body.
- to refer the matter to ..... (please specify relevant public authority)
- to refer the matter to the Police
- other .....

to take no further action for the following reasons:- .....

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