

## Public Information Disclosure Act (“PIDA”) Whistle Blowing Policy & Procedures

Author	Clerk to the Corporation
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Person Responsible	Clerk to the Corporation
Approval/review body	Corporate Board
Frequency of Review*	36 months

*\* Policies will be reviewed more frequently if legal changes or good practice require*

Review History:		
Date of review	Reviewed by	Reason for review
May 2013	Clerk	Completely updated in accordance with current legislation.
May 2017	Clerk	IAS Report - recommendations

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#### **Related policies/documents:**

College Financial Regulations;  
Staff Code of Conduct; Safeguarding Policy & Procedures and  
Anti-Bribery Policy & Procedures

## **1. Introduction**

- 1.1 The College is committed to ensuring the highest ethical standards in the conduct of its work. The College takes malpractice very seriously. We expect staff and those other categories covered by this policy, who have genuine and serious concerns about any aspects of College operations to come forward and voice these concerns.
- 1.2 This policy document makes it clear that staff may raise concerns without fear of victimisation, subsequent discrimination or disadvantage.
- 1.3 The Public Interest Disclosure procedures provide for the implementation of 1.2, by:
  - 1.3.1 defining the routes for internal and external disclosures;
  - 1.3.2 stating that disclosures which are made without malice and in good faith will not lead to detrimental actions being taken against the member of staff making the disclosure; and
  - 1.3.3 safeguarding the confidentiality of those making disclosures
- 1.4 The procedures do modify the statutory rights of staff in connection with public interest disclosures.
- 1.5 The procedures provide an opportunity for detecting and dealing with malpractice at an early stage and, as such, are to be used to avert potentially adverse and damaging publicity.

## **2. Scope & Purpose**

- 2.1 The Public Interest Disclosure Act 1998 (widely referred to as the Whistleblowers Act) is intended to encourage staff to raise their concerns in a responsible way where there is a practice within an organisation which threatens the public interest.
- 2.2 If a member of staff does raise such concerns, they will be protected from subsequent victimisation, provided that their case falls within the detailed criteria in the legislation.
- 2.3 The intention of the Act is that staff can raise their concerns internally. It strictly regulates the situations in which they may raise the matter externally.
- 2.4 The following persons are defined as coming within the scope of the Policy:-
  - 2.4.1 all employees of the College;

- 2.4.2 self-employed persons working under contract to the College except as excluded at 2.5 below;
  - 2.4.3 workers whose services are supplied through an agency; and
  - 2.4.4 contractors who work at the College and who raise concerns in relation to the College, but not about the contractor or the contractor's staff.
- 2.5 The following persons are excluded from the procedures:
- 2.5.1 governors (except staff governors);
  - 2.5.2 students (except if employed by the College); and
  - 2.5.3 self-employed professionals, such as accountants and solicitors, operating under client confidentiality.
- 2.6 Staff will only be protected if they make a qualifying disclosure which is an allegation of one of the relevant failures summarised below:
- 2.6.1 that a criminal offence has been committed, for example: fraud; bribery; corruption; financial irregularities; dishonesty; sexual offences; physical assault; malicious damage to College property; and/or illegal use of drugs or drink;
  - 2.6.2 that a person has failed, or is failing, to comply with a legal obligation to which he/she is subject;
  - 2.6.3 creating or ignoring a risk to health and safety;
  - 2.6.4 creating or ignoring a risk to the environment;
  - 2.6.5 acting so as to create a miscarriage of justice, for example: over a student or staff disciplinary matter;
  - 2.6.6 a serious breach of the College codes of conduct; and/or
  - 2.6.7 the deliberate concealment of information concerning any of the above; and/or
  - 2.6.8 Ignoring or not reporting a safeguarding concern.
- 2.7 In order to benefit from the protection against dismissal/or victimisation, the member of staff must follow the laid down procedure in this policy. It will not be appropriate for the member of staff simply to disclose the matter externally.
- 2.8 The procedures do not cover:
- 2.8.1 grievances about an individual or collective employment situation;  
or

2.8.2 disagreement about College policy where this has been enacted to comply with the Articles and Instruments of Government.

### **3. Raising a Complaint**

3.1. An employee may choose to raise concerns with their line manager. The manager will report the matter to the Principal or, if the complaint directly relates to the Principal, to the Chair of the Audit Committee of the Corporation. The manager will respect the confidentiality of the complainant.

3.2. An employee may choose to raise their concern by approaching any one of the following *designated persons*:

- Principal;
- Deputy Principal; or
- Vice Principal Finance and Resources.

If, in extremis, an employee feels unable to raise an issue with any of the above designated persons, they can raise their concern directly with the Chair of the Audit Committee as an alternative designated person.

The chosen designated person will arrange a confidential meeting to discuss the concern.

3.3. The employee may express their concern by writing to a designated person prior to their meeting to discuss matters. Alternatively, the employee may prefer to raise the matter orally only at the meeting.

In either case the designated person will take full written notes of the meeting.

3.4. The designated person will report the alleged malpractice either to the Principal or, as detailed above, if appropriate to the Chair of the Audit Committee.

3.5. The details will not include the name of the employee raising the concern, without that person's express permission. It will be a serious disciplinary offence to communicate the employee's name to the alleged perpetrator of malpractice.

3.6. The Principal or the Chair of the Audit Committee, will decide from the alternatives detailed below the appropriate course of action, following consultation with the College's legal advisers; if appropriate.

3.6.1. to instruct an investigation as detailed under the College Disciplinary procedures. This is where a breach of the staff code of conduct, or some other serious disciplinary offence has been alleged;

- 3.6.2. to inform the Chair of the Audit Committee of the intention to commission the College's internal or external auditors to investigate the allegation and submit a report to that Committee;
  - 3.6.3. to inform the Chair of the Board of the intention to request that the appropriate regulatory body (for example: an examining or awarding body) investigate the allegation and make their report available to the Board;
  - 3.6.4. to inform the Chair of the Board that the matter is being placed in the hands of the police; and/or
  - 3.6.5. to advise the Chair of the Board that a complaint has been made but that no action is being taken under these procedures.
- 3.7. The employee originating the concern will be kept informed either by the designated person or an identified contact, of any action the College is intending to take.
- If the College decides to take no action under this procedure, the employee will be advised of the option, if it is appropriate to take action under another College procedure.
- 3.8. During any investigation the employee and the other party will be kept up to date with the progress of the investigation.
- 3.9. Following the conclusion of the investigation, the Principal or the Chair of the Audit Committee will consider what further action is required, including if it is appropriate for the disciplinary procedure to be instigated.

#### **4. Contacting External Organisations**

The College encourages all staff to make use of the internal procedure before considering referring concerns outside the College. If the member of staff feels that it is right to take the matter outside the College, contact can be made with a recognised union, local Citizens Advice Bureau, relevant voluntary or independent organisation or legal advisor. The Public Interest Disclosure Act also sets out a number of bodies to which protected disclosures can be made, including HM Revenue & Customs, the Health and Safety Executive and the Serious Fraud Office. Employees should be aware that going directly to the press may limit their protection under the Public Interest Disclosure Act and they could therefore be subject to disciplinary action as a result. An employee considering such a course of action is strongly advised to seek prior advice from their trade union or an independent organisation such as Public Concern at Work ([www.pcaw.co.uk](http://www.pcaw.co.uk))

#### **5. Employee Safeguards**

- 5.1 An employee who has reasonable grounds for suspecting malpractice should, in the first instance, follow the internal procedures outlined in Section 3.

- 5.2 An employee who complains internally about malpractice in good faith and for reasons other than personal gain will not, as a result of making the complaint, suffer detriment in any aspect of their employment relationship with the College.
- 5.3 Where an employee can show reasonable grounds for believing that notwithstanding the procedures and safeguards outlined in 4.1 and 4.2.
- 5.3.1 the relevant evidence will be concealed or destroyed by the employer; or
- 5.3.2 having made a disclosure according to the procedures outlined at 3.1 and 3.2, the response of the College cannot reasonably be taken as appropriate;
- then, *in any of these circumstances*, they have a statutory right to make a public interest disclosure. Such a disclosure must be made in good faith, be substantially true and not made for personal gain.
- 5.4 The College recognises that while staff have the right to make a public interest disclosure, it is also the case the College has to safeguard against attempts at improper exercise of that right. The College has an obligation to protect its staff and other parties from deliberately untrue, vexatious and/or malicious disclosures. Where there are reasonable grounds that this is the case, or where an external disclosure is made in breach of these procedures, without reasonable grounds or not to an appropriate regulatory body, the College reserves the right to initiate disciplinary procedures.

## **6. Monitoring**

The Principal or Clerk to the Corporation will report to the Corporation the number and nature of disclosures, which have been made. Complainants' names will not be disclosed in the report.