

HUMAN RESOURCES POLICIES AND PROCEDURES

**LEWISHAM
SOUTHWARK
COLLEGE**

Policy title:	Whistleblowing (Public Interest Disclosure) policy and procedure
Applies to:	All employees, contractors and other workers
Owner of Policy:	Human Resources (HR) Department

- 1. Introduction and scope**
- 2. Policy objectives**
- 3. Responsibilities: Managers**
- 4. Responsibilities: Employees**
- 5. Designated Assessors**
- 6. Making the disclosure**
- 7. Further steps**
- 8. External disclosure**
- 9. Safeguards**
- 10. Protection against disciplinary action**
- 11. Independent advice**
- 12. Reporting of achievement of/compliance with the policy**
- 13. Linked policies and procedures**
- 14. Impact assessment**

1. Introduction and scope

- 1.1 The College is committed to proactively developing a culture of openness. The issue of whistleblowing and this policy and procedure will therefore be brought to the attention of employees as part of their induction. The College will publicise the Whistleblowing policy and procedure on the Staff Intranet
- 1.2 Employees may see or suspect misconduct which may, in the minority of cases, turn out to be serious malpractice, fraud or corruption. If employees do not have the confidence to raise concerns about malpractice internally, they might choose to keep it to themselves. Alternatively, they may want to approach the Governing Body, media (or other external body) which is unsatisfactory for both the employee and the College as the employer.
- 1.3 It is therefore important that employees have a safe and accessible procedure whereby such concerns can be raised in a confidential manner, knowing that management will fully investigate those concerns.
- 1.4 This policy applies to all employees of the College. Non employees performing functions in relation to the College such as agency workers and contractors are encouraged to use the policy.
- 1.5 Malpractice is not easily defined. However, the types of matters regarded as malpractice for the purposes of this policy are as follows:-
- Fraud or financial irregularity;
 - Corruption, bribery or blackmail;
 - Criminal offences;
 - Failure to comply with a legal or regulatory obligation;
 - Miscarriage of justice;
 - Endangering the health or safety of any individual;
 - Endangering the environment;
 - Improper use of authority;
 - Serious financial maladministration arising from the deliberate commission or acts of improper conduct.
- 1.6 The law provides protection for workers who raise legitimate concerns about the above types of malpractice which are known as qualifying disclosures.

2. Policy objectives

- 2.1 The aim of this policy is to:
- Address genuine and legitimate concerns about serious malpractice, fraud or corruption in the College;
 - Encourage concerns to be raised confidentially within the College, without fear of repercussion;
 - Balance the need to provide safeguards for employees who raise genuine concerns about serious malpractice against the need to protect other

employees, Governors, students and the College against uninformed or vexatious allegations which can cause serious harm to innocent individuals.

3. Responsibilities: Managers

- 3.1 Managers are required to draw the attention of new employees to the Whistleblowing policy during induction.

4. Responsibilities: Employees

- 4.1 Employees are required to familiarise themselves with this policy and comply with its provisions.

5. Designated Assessors

- 5.1 The Principal of the College will ensure that at least three but not more than five employees of appropriate experience and standing within the College are designated at any time for the purposes of this policy as Designated Assessors and that one of the members shall be designated as Lead Designated Assessor.

The Designated Assessors are:-

Lead Designated Assessor: **Stephen Lawes**, Vice Principal Estates Strategy (telephone extension 4497)

Second Designated Assessor: **Jayne Morgan**, Head of Quality (telephone extension 3635)

Third Designated Assessor: **Sue Glover**, Clerk to Governors (telephone extension 4496)

- 5.2 The Principal may revoke any such designation from time to time and appoint new Designated Assessors. The Principal will report any such revocation to the next meeting of the Governing Body, together with brief reasons for the revocation. Where a revocation arises from the termination of a Designated Assessor's employment (whether by the College or by the officer) brief reasons for the termination will be given to the Governing Body.
- 5.3 The Lead Assessor will co-ordinate the training of the Designated Assessors in the use of this policy and will produce an annual report to the Governing Body on the number of occasions when this policy has been formally invoked and their outcome.

6. Making the disclosure

- 6.1 This policy applies to disclosure by an individual ("the Discloser") who is an employee, an agency or contract worker employed or engaged by the College

or a person who is training with but not employed by the College who has grounds to honestly 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 Governing Body or any other person or persons.

- 6.2. The Discloser should as soon as practicable disclose in confidence the grounds for the belief of malpractice to the Lead Designated Assessor, unless the disclosure relates to this person, in which event the disclosure should be made to the second Designated Assessor.
- 6.3. Any disclosure to a Designated Assessor under this policy shall, wherever possible, be in writing, but, if this is not practicable, any such disclosure may be oral, at the choice of the Discloser. The Discloser should provide as much supporting written evidence as possible about the disclosure and the grounds for the belief of malpractice.
- 6.4. On receipt of the disclosure, the Designated Assessor will offer to interview the Discloser in confidence. The interview will take place as soon as practicable 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.
- 6.5. The Designated Assessor may be accompanied by an administrative assistant to take notes, which will not identify the Discloser unless necessary by as an obligation (see paragraph 9.6).

7. Further steps

- 7.1 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:-
 - The matter should be reported to the police;
 - The matter should be reported to the Skills Funding Agency (SFA), Education Funding Agency (EFA), the National Audit Office (NAO) or other appropriate public authority;
 - The matter should be investigated either internally by the College or by the Audit Committee or some other committee of the Governing Body and/or by external or internal auditors or investigators appointed by the College;
 - Employees should be given the opportunity to seek redress through The College's grievance procedures or through an appeal under the College's disciplinary procedures. Confidentiality will continue to be safeguarded where provided for under these procedures;
 - The matter be dealt with through the College's normal management procedures and professional practice process if there is sufficient evidence to investigate the matter and take action accordingly.

- 7.2. 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 honestly believe that malpractice within the meaning of this policy has occurred, is occurring or is likely to occur;
 - That the Designated Assessor is satisfied that the Discloser is not telling the right person;
 - That the Designated Assessor is satisfied that the disclosure is not in the public interest;
 - That the matter concerned is already the subject of legal proceedings, or has already been referred to the police, the SFA, EFA or other public authority; or
 - That the matter is already (or has already been) the subject of proceedings under one of the College's other policies relating to employees or students.
- 7.3 Any recommendations made under this policy will be made by the Designate 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 Governing Body. In any case the recommendations will be made without revealing the identity of the Discloser, except as provided in clause 7.1 above.
- 7.4 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.
- 7.5 If the Principal decides not to implement fully any such recommendations that decision will be notified in writing to the Chair of the Governing Body as soon as practicable, together with the reasons for it.
- 7.6 Once the Principal or other recipient has decided what further steps if any should be taken, the Designated Assessor will inform the Discloser in writing of the decision. If no further steps by the College are proposed, the Designated Assessor will give the reasons for this. The letter from the Designated Assessor will be sent to the Discloser at his/her home address marked 'Private and Confidential'.
- 7.7 Although the Discloser will be informed of the further steps to be taken, there could be occasions when, for reasons of confidentiality and so as not to compromise natural justice, the Discloser will not be informed of the outcome of those steps. This may particularly be the case if there is no dismissal. In these cases they can only be reassured that action is being taken and encouraged to report back if there are further concerns due to new evidence of what they believe to be malpractice.
- 7.8. If the Discloser is not satisfied that his or her concern has been properly addressed, the Discloser will have the right to raise their concern in

confidence with a named Governor who has been designated by the Governing Body for the purposes of this policy as the Designated Governor.

7.9 The Designated Governor is:

Designated Governor – John Litchfield, who can be contacted via the Clerk to the Governors (0203 757 4496)

7.10 The Governing Body may revoke any such designation from time to time and appoint a new Designated Governor.

7.11 The Designated Governor will review the decision taken by the Principal or other recipient of the disclosure under this policy, and such review may include an invitation by the Designated Governor to interview the Discloser and/or the Designated Assessor. After completing the review, the Designated Governor will inform the Discloser of his or her decision in writing to the Discloser's home address. Such decision will be to:-

- Confirm the decision which has been previously taken; or
- Recommend that further steps should be taken, including those specified in clause 7.1 above and such recommendations will be made to the Principal or as otherwise specified in clause 7.3 above.

7.12 The decision of the Designated Governor will be notified to the Principal and Chair of Governors.

8. External disclosure

8.1 If, having followed this policy, the Discloser is not satisfied with any further steps decided upon or the outcome of any such steps, the Discloser may raise the matter concerned on a confidential basis directly with the police, the SFA, EFA, a Member of Parliament or other appropriate public authority. Before taking any such action, the Discloser will inform the Designated Assessor.

8.2 The Discloser may also raise the matter in accordance with clause 7.8 above if the Discloser has reasonable grounds for believing that all of the available Designated Assessors are or were involved in the alleged malpractice or that the Discloser will be subjected to a detriment as a result of making the disclosure.

9. Safeguards

9.1 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 policy except:

- Where the Designated Assessor is under a legal obligation to do so;
- Where the information is already in the public domain;
- To the Designated Assessor's administrative assistant, on a strictly confidential basis; or
- To a professionally qualified lawyer for the purpose of obtaining legal advice, on a strictly confidential basis.

9.2 Any documentation including computer files and discs 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 policy.

9.3 Where the Discloser involves a local trade union representative or work colleague, 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 policy, as required by law or until such time as it comes into the public domain.

9.4 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.

9.5 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 1.6, 9.1 and 9.6 of this policy in relation to the identity of the individual as the original Discloser of information will remain.

9.6 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 policy. 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.

10. Protection against disciplinary action

10.1 No disciplinary action will be taken against a Discloser on the grounds of a disclosure made. This will not prevent the College from bringing disciplinary action in cases where there are grounds to believe that a disclosure has been made maliciously or in a vexatious manner or where an external disclosure is made in breach of this policy without reasonable grounds or otherwise than to an appropriate public authority.

11. Independent advice

11.1 Independent and confidential advice on whistleblowing may be obtained by phoning the confidential helpline of Public Concern at Work on 020 7404 6609 or emailing the UK advice line whistle@pcaw.org.uk. It is also possible to visit the website of Public Concern at Work at www.pcaw.org.uk

12. Reporting of achievement of/compliance with the policy

12.1 This policy will be reviewed and amended in line with changes to legislation and/or College procedures. Where relevant, compliance will be monitored by the HR Department. Comments or suggestions about this policy should be referred to the HR Department in the first instance.

13. Linked policies and procedures

13.1 This policy is linked to the following policies:

- Disciplinary policy and procedure;
- Grievance policy and procedure.

14. Impact Assessment

14.1 This policy was impact assessed on: date to be confirmed

Approved by: Board of Governors: March 2016

Publication date: April 2016

Review date: October 2018