

Public Interest Disclosure (Whistleblowing) Policy

Review

Formal Review Cycle	Three yearly		
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Policy Owner	Head of Corporate Governance and Policy		
Policy Author	Christine Stretesky		

Approvals

Board of Corp Y/N	Y	Committee	Audit Committee	Date Board approved	18.10.22
ELT Y/N	Y	ELT date approved		Additional committee	

Publication

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Change History

Version	Date Reviewed/ Revised	Description of Change	Reviewed by	Approved by
1.0	February 2022	Formatting to comply with new template; complete review and updating to meet current practices; updated information on charity to assist those making disclosures	Head of Corporate Governance	ELT
1.2	October 2022	Clarification on anonymity and confidentiality; modification of designated assessors	Head of Corporate Governance	ELT

Public Interest Disclosure (Whistleblowing) Policy

1. Policy Statement

- 1.1. This policy is a policy of the City of Sunderland College, trading as Education Partnership North East (which includes Sunderland College, Hartlepool Sixth Form College and Northumberland College). These colleges will be referred to as “the College” throughout this document.
- 1.2. The College operates in an ethical and principled way and encourages workers to raise genuine concerns about suspected wrongdoing at the earliest practicable stage. It seeks to abide by the principles set out in the reports of the Committee on Standards in Public Life (the Nolan, then Neill Committee), our corporate values of being Authentic, Respectful, Ambitious and Innovative and to ensure that the requirements of its funding bodies are met.
- 1.3. This policy is intended to provide safeguards to enable members of staff to speak freely and raise genuine concerns about malpractice in connection with the College without fear of reprisals, even if they turn out to be mistaken. It is also intended to promote a shared sense of integrity by inviting all employees to act responsibly in order to uphold the reputation of the College and maintain public confidence.
- 1.4. This policy and procedure also seeks to balance the need to allow a culture of openness against the need to protect other workers against vexatious allegations or allegations which are not well-founded which can cause serious difficulty to innocent individuals.

2. Scope

- 2.1. This policy and procedure applies to all employees, an agency contract worker, contractors, volunteers and casual workers employed or engaged, by the College, its campuses and any of its work placements, who offer qualifications on behalf of the College, and who disclose information in accordance with this policy. They are referred to as ‘workers’ throughout this document.
- 2.2. Any worker who is unsure about whether to raise their concern under this policy or as a personal grievance under the College’s grievance procedure is encouraged to approach the People and Development team or a Designated Assessor in confidence for advice.
- 2.3. This policy and procedure is not designed to:
 - question financial or business decisions taken by the College
 - be used to reconsider any matters that have been addressed under dignity at work, complaints, grievances, or disciplinary proceedings
 - be used for complaints relating to an individual’s own personal circumstances where there is no additional public interest dimension

3. Aims of the Policy/Underpinning Principles

- 3.1. The Public Interest Disclosure Act 1988 (the 'Act') protects workers who, out of a sense of public duty, want to reveal suspected wrongdoing or malpractice.
- 3.2. This policy aims to:
 - encourage workers to feel confident in raising serious concerns and to question and act upon concerns about malpractice;
 - provide avenues for workers to raise those concerns and receive feedback on any action taken;
 - ensure that workers receive a response to their concerns and that workers are aware of how to pursue them if they are not satisfied;
 - reassure workers that they will be protected from possible reprisals or victimisation if they have a reasonable belief in the truth of the disclosure and that they have made any disclosure in good faith.
- 3.3. The Act allows workers to raise what it defines as a 'protected disclosure'. In order to be a protected disclosure, a disclosure must relate to a specific subject matter (See Section 5.1 below) and the disclosure must also be made in an appropriate way (See Section 5). A 'protected disclosure' must, in the reasonable belief of the worker making it, also be made in the public interest. A protected disclosure must consist of information and not merely be allegations of suspected malpractice.
- 3.4. The purpose of this policy is to provide workers with information about the College's approach to whistleblowing and under what circumstances and how they may raise a genuine concern without fear of reprisal.
- 3.5. The College values diversity and inclusion and is committed to promoting equal opportunities and eliminating discrimination. Therefore, everyone will apply and administer this policy fairly and consistently to ensure that there is no discrimination on the grounds of age, disability, gender reassignment, marital and civil partnership status, pregnancy and maternity, race, religion or belief, sex, sexual orientation.

4. Responsibilities

- 4.1. **Workers** are responsible for reporting any genuine concerns related to suspected malpractice within the College.
- 4.2. **Designated Officer** has responsibility for managing all disclosures made in accordance with this policy and procedure and has the following responsibilities:
 - To act in good faith in responding to disclosures
 - To protect the identity of the person(s) involved in the disclosure process.
 - To remove themselves from disclosures if a conflict of interest exists.
 - To follow the time period requirements (as outlined in the Procedure) for responses to disclosures and the completion of disclosure reviews/investigations.
 - To manage the review of disclosures, as well as the investigation of disclosures as requires
 - To identify and address matters requiring action by the department, regardless of resolution of the disclosure.
- 4.3. **The Chief Executive** has the responsibility to appoint suitable designated officers and act appropriately upon their recommendations.
- 4.4. **The Audit and Risk Committee of the Board of Corporation** is responsible for hearing appeals stemming from this policy and highlighting any instances of whistleblowing with the College as appropriate within its Annual Report. In respect of notification, the Audit Committee will seek information from Designated Officers.

5. Implementation

5.1. If, in the course of employment, a worker becomes aware of information which they reasonably believe tends to show one or more of the following, they must use this policy and procedure:

- That a criminal offence has been committed, is being committed or is likely to be committed;
- That an individual has failed, is failing or is likely to fail to comply with any legal obligation to which they are subject;
- That a miscarriage of justice has occurred, is occurring, or is likely to occur.
- That 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.
- That information tending to show any of the above, is being, or is likely to be, deliberately concealed.

5.2. Procedure for making a disclosure

5.2.1. Within the College the Chief Executive will ensure that at least three senior members of staff with appropriate experience and standing within the College are responsible for administering whistleblowing incidents. These individuals are known as Designated Assessors, at the date of the adoption of this procedure the Designated Assessors will be:

- Toni Rhodes, Principal Sunderland College
- Gary Potts, Principal Northumberland College
- David Howells, Chief Operating Officer

5.2.2. In the event of the unavailability of any of the Designated Assessors, the Chief Executive will name suitable additional senior leaders to act in this capacity.

5.2.3. Information which a worker reasonably believes tends to show one or more of the situations given in Section 5.1 should promptly be disclosed to a Designated Assessor.

5.2.4. The worker may want to discuss this with their line manager in the first instance or seek support from the People and Development team.

5.2.5. If the disclosure relates to the Chief Executive, a worker can raise the issue with Head of Corporate Governance and Policy. In the event that the disclosure relates to the Head of Corporate Governance and Policy or any Governor a worker can raise the issue with either the Chair of Governors or Chair of Audit Committee. If the disclosure relates to the Chair of Governors the issue can be raised with the Chair of Audit Committee or the Senior Independent Governor.

5.2.6. For further guidance in relation to this policy and procedure, or concerning the use of the disclosure procedure generally, workers should speak in confidence to a HR Business Partner or the Director of People and Development.

5.2.7. Any disclosure to a Designated Assessor under this procedure shall, wherever possible,

be in writing. The worker should provide as much supporting written evidence as possible about the disclosure and the grounds for the belief of malpractice.

- 5.2.8. When a worker makes a disclosure, the College will acknowledge its receipt, in writing, within a reasonable time. The Designated Assessor will offer to interview the worker in confidence, 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 about the grounds of the belief of malpractice and to consult with the worker about further steps which could be taken.

The worker may be accompanied by a local trade union representative or work colleague at the interview. The Designated Assessor may be accompanied by a note taker.

- 5.2.9. The Designated Assessor will inform the Chief Executive of the nature of the disclosure without disclosing the identity of the worker making the disclosure. If the disclosure contains allegations which involve the Chief Executive, the Chair of Governors or the Chair of the Audit and Risk Committee will be informed.
- 5.2.10. The Designated Assessor in consultation with the Chief Executive will consider whether any other person or body needs to be informed e.g. the policy, the College's Audit and Risk Committee; an awarding body etc.

5.3. Confidentiality and anonymity

- 5.3.1. The best way to raise a concern is to do so openly, as this makes it easier for the College to investigate and provide feedback.
- 5.3.2. Any disclosures made under this policy will be treated in a sensitive manner. The College recognises that the worker may want to raise a concern in confidence, i.e. they may want to raise a concern on the basis that their name is not revealed without their consent.
- 5.3.3. The College will respect any request for confidentiality as far as possible, restricting it to a 'need to know basis'. However, if the situation arises where it is not possible to resolve the concern without revealing the worker's identity (for example in matters of criminal law), the College will advise the employee before proceeding. The same considerations of confidentiality should be afforded to the employee(s) at the centre of the concern, as far as appropriate. Worker's raising concerns are therefore expected to maintain confidentiality.
- 5.3.4. Workers may choose to raise concerns anonymously, i.e. without providing their name at all. If this is the case, the investigation itself may serve to reveal the source of information. Workers are therefore encouraged, where possible to put their names to concerns raised. However, raising a concern anonymously is preferred to silence about potential serious wrongdoing.
- 5.3.5. When anonymous concerns are raised they will be treated as credible, unless they are obviously a hoax, and investigated as far as possible. The College, through the Designated Assessors, reserves the right to determine whether to apply this procedure in respect of an anonymised disclosure in light of the following considerations:
- The seriousness of the issues raised in the disclosure; and
 - How likely it is that the concern can be confirmed from attributable sources.

- 5.3.6. Where concerns raised anonymously cannot be validated, these will be reported to the Chief Executive.
- 5.3.7. Workers should be aware that in making an anonymous disclosure, the College will not be in a position to notify the individual making the disclosure of the outcome of action taken by the College. Anonymity also means that the College may have difficulty in investigating such a concern.

5.4. Procedure for investigation of a disclosure

- 5.4.1. The Designated Assessor will carry out an initial assessment to determine whether on the information made available and upon consultation where appropriate there is
- sufficient basis to indicate that a case to answer exists;
 - the disclosure falls within the definition of a 'qualifying disclosure; and if so
 - whether the disclosure falls within the definition of a 'protected disclosure'.

If the disclosure does not meet the above criteria, it does not require further action under the Act and the Designated Assessor will inform the Chief Executive that the case will be closed. The worker making the disclosure will be informed.

Alternatively, if the criteria is met and the matter concerned is already the subject of a legal proceedings, or has already been referred to the police, the College's Funding Body/Bodies, the Department for Education or other public authority or external person/body; or the matter is already (or has already been) the subject of proceedings under one of the College's other procedures relating to employees or students, the Designated Assessor will inform the Chief Executive that the case will be closed and the worker making the disclosure will be notified of this by the Designated Assessor.

- 5.4.2. The Designated Assessor will determine the appropriate action to take (including action under any other applicable College policy or procedure). Possible actions could include internal investigation; referral to the College's auditors; or referral to relevant external bodies such as the police, OFSTED, Office for Students, Health and Safety Executive or the Information Commissioner's Office. If in the course of the review or investigation the concern raised appears to relate more appropriately to other procedures, the Designated Assessor will invoke those other procedures.
- 5.4.3. If any internal investigation is to be conducted it will be by a Designated Assessor without any direct association with the individual disclosing or to whom the disclosure relates, or by an external investigator appointed by the College as appropriate and will follow the procedures for investigation as provided in the College's Disciplinary Policy. In some cases the College may appoint a team of investigators including staff with relevant experience of investigations or specialist knowledge of the subject matter.
- 5.4.4. Any recommendations for further action made by the Designated Assessor will be addressed to the Chief Executive as appropriate in the circumstances. The Chief Executive will approve or reject the recommendations of the Designated Officer..
- 5.4.5. The worker making the disclosure will usually be notified of the outcome of any action taken by the College under this policy and procedure within a reasonable period of time. However,

sometimes the need for confidentiality may prevent the College giving the worker specific details of the investigation or any disciplinary action taken as a result. Workers should treat any information about the investigation as confidential.

- 5.4.6. If the worker is not satisfied that their concern has been appropriately addressed, they can raise it with the Chief Executive within 10 working days. The Chief Executive will arrange to present the appeal to the College's Audit and Risk Committee which will deal with the matter as a confidential item. The Audit and Risk Committee will consider the decision of the Chief Executive, and any confirm, modify or overturn that decision. The Designated Assessor will notify the worker of the outcome.

5.5. Safeguards for workers making a disclosure

- 5.5.1. A worker making a disclosure under this procedure can expect their matter to be treated confidentially by the College and, where applicable, their name will not be disclosed to anyone implicated in the suspected wrongdoing, without their prior approval.
- 5.5.2. The College will take all reasonable steps to ensure that any report of recommendations, or other relevant documentation, produced by the College does not identify the worker making the disclosure without their written consent, or unless the College is legally obliged to do so, or for the purposes of seeking legal advice.
- 5.5.3. No formal disciplinary action will be taken against a worker on the grounds of making a disclosure made under this policy or procedure. This does not prevent the College from bringing disciplinary action against a worker where the College has grounds to believe that a disclosure was made maliciously or vexatiously, or where a disclosure is made outside the College without reasonable grounds.
- 5.5.4. A worker will not suffer dismissal or any detrimental action or omission of any type (including informal pressure or any form of victimisation) by the College for making a disclosure in accordance with this policy and procedure. Equally, where a worker is threatened, bullied, pressurised or victimised by a colleague for making a disclosure, disciplinary action will be taken by the College against the colleague in question.

5.6. Disclosure to external bodies

- 5.6.1. The aim of this policy is to provide an internal mechanism for reporting, investigating and remedying any wrongdoing in the workplace. In most cases workers should not find it necessary to alert anyone externally.
- 5.6.2. The Act recognises that in some circumstances it may be appropriate for workers to report concerns to an external body such as a regulator. It will very rarely if ever be appropriate to alert the media. The College strongly encourages workers to seek advice before reporting a concern to anyone external. The independent whistleblowing charity, Protect, operates a confidential helpline.
- 5.6.3. Workers may make a disclosure to an appropriate external body prescribed by the law. This list of 'prescribed' people and bodies can be found in information on [the GOV.UK website](#).

5.7. Further assistance for workers

- 5.7.1. The College will not tolerate any harassment or victimisation of workers who make disclosures. If, at any stage of this procedure a worker feels that they are being subject to informal pressures, bullying or harassment due to making a disclosure, they should raise this matter, in writing, to the Chief Executive.
- 5.7.2. Staff must not threaten or retaliate against whistle-blowers in any way and staff that are found to be involved in such conduct you may be subject to disciplinary action. [In some cases the whistle-blower could have a right to a member of staff personally for compensation in an employment tribunal.]
- 5.7.3. A worker making a disclosure may want to confidentially request counselling or other support from the College's occupational health service. Any such request for counselling or support services should be addressed to Human Resources Business Partner. Requests will be treated in confidence.
- 5.7.4. Workers can also contact the charity Protect (f.k.a. Public Concern at Work) for confidential advice on whistleblowing issues. Contact details are as follows:

The Green House
244-254 Cambridge Heath Road
London E2 9DA
Whistleblowing Advice Line: 020 3117 2520
<https://www.protect-advice.org.uk>

6. Associated Documents

- Child Protection and Safeguarding Policy
- Financial Regulations
- Anti-Fraud, Corruption and Bribery Policy and Response Plan
- Procurement Policy
- Health & Safety Policy
- Data Protection Policy
- Equality, Diversity and Inclusion Policy
- Modern Slavery Act Statement

7. Policy Monitoring and Review

- 7.1. The College will keep a record of all concerns raised under this policy and procedure (including cases where the College deems that there is no case to answer and therefore that no action should be taken) and will report to the Audit Committee as a means of allowing the Committee to monitor the effectiveness of the procedure. Through this Committee the report will also be made to the Board of Governors.
- 7.2. Records associated with this Policy are controlled by People and Development and will be created, stored and disposed of in line with the College's policies around data protection and retention.

7.3. This procedure may be amended by the Board of Corporation from time to time, particularly following any disclosure. Any comments or suggestions about the procedure should be referred to the Head of Corporate Governance and Policy.

8. Equality Impact Assessment

Have you sought consultation on this policy?		No consultation has been sought on this policy.		
Details:				
Could a particular group be affected (negatively or positively)?	Impact Y/N	Description of Impact	Evidence	Mitigation/Justification
Protected characteristics under the Equality Act 2010				
Age	N			
Disability	N			
Gender Reassignment	N			
Marriage and Civil Partnership	N			
Pregnancy and maternity	N			
Race	N			
Religion or belief	N			
Sex	N			
Sexual Orientation	N			
Additional characteristics to consider				
Young Persons in Care & Care Leavers	N			
Young Carers & Care Givers	N			
Young Parents	N			
Youth Offenders	N			
Those Receiving Free School Meals	N			
If there is no impact, please explain:	Making a disclosure under the policy is available to every member of staff and while makes a preference for written disclosures, it allows for alternative methods. The Policy provides support to workers wanting to or who have made a disclosure including allowing for anonymous disclosure, ensuring confidentiality and prohibiting harassment and/or victimisation.			