

WHISTLEBLOWING POLICY

(Appendix 3 to Standing Orders)

Introduction

This policy is written in the context of Lord Nolan's second report of the Committee on Standards in Public Life.

Background

The Public Interest Disclosure Act, 1998, (PIDA), became law at the end of 1998. It is designed to protect workers who disclose information, and follows a recommendation from Lord Nolan:

“Local public spending bodies should institute codes of practice on whistleblowing, appropriate to their circumstances, which would enable concerns to be raised confidentially inside and, if necessary, outside the organisation.” (Standards in Public Life, 1996)

Scope of the Act

The Act will protect workers who disclose information in the correct manner, from dismissal or penalisation from their employers. “Workers” are defined as those who:

- ***are employed under a contract of employment***
- ***are employed under any other contract under which they perform personally any work or services for another party***
- ***work or worked for a person in circumstances which s/he is or was introduced or supplied to do that work by a third person i.e. agency workers***
- ***is or was provided with work experience provided pursuant to a training course or programme or with training for employment otherwise than: under a contract of employment, or by an educational establishment on a course run by that establishment i.e. students. (Students should use the College Student Complaints procedure if they believe they have information, which should be raised in public).***

The College wishes to encourage propriety throughout the organisation and believes that the whistleblowing policy should enable staff to raise concerns internally and confidentially about fraud, malpractice, health and safety, criminal offences, miscarriages of justice, failure to comply with legal obligations or unethical conduct. By these means potentially damaging, dangerous or embarrassing matters can be dealt with and resolved internally.

Creating a Climate of Openness

The College is seeking to promote a climate of openness. This is being progressed by:

- involving employees ***by listening to their concerns***
- endorsing Codes of Conduct for governors, staff and students

- requiring a register of members and senior postholders' interests to be kept which is updated routinely
- committing the College to fighting against fraud, corruption and malpractice and dealing with any which is discovered
- including this policy in the Staff Handbook and seeking the support of the unions
- ensuring management is open to employees to report concerns before they become grievances
- ensuring that employees are protected from reprisals
- ensuring internal audit systems and procedures minimise opportunities for fraud corruptions or malpractice to occur
- provide routes for employees to raise concerns other than using line management
- **annually reporting the number of formal complaints received and outcomes to Corporation**

The College will ensure the following principles are implemented:

- ***all concerns will be thoroughly investigated***
- respect and heed legitimate concerns about the employee's own safety or career
- emphasise to management and staff that victimising employees or deterring them from raising a concern about fraud or corruption is a serious disciplinary offence
- make it clear that abusing this process by maliciously raising unfounded allegations is a serious disciplinary offence and in the case of making such an allegation externally, this would involve the offence of bringing the College into disrepute
- make it clear that legitimate concerns should be raised if they are in the interests of the College, staff, students or the public and that they should not be raised merely for the purpose of furthering any private dispute.
- ensure that the College reports back to the concerned employee the outcome of the investigation and the action that is proposed.

PROCEDURE FOR WHISTLEBLOWING

What does the procedure cover?

This procedure is separate from the grievance procedure that is in place. It exists to deal with 'malpractice' which covers suspected fraud, financial irregularities, corruption, bribery, dishonesty, acting contrary to the staff code of ethics, criminal activities or creating or ignoring a serious risk to health, miscarriage of justice, safety or the environment, as defined in the Public Interest Disclosure Act 1998 (PIDA).

The procedure is intended to ensure that matters of concern are raised internally in the first instance, to give officers the chance to investigate and take appropriate action before the disclosure is in the public domain.

The procedure is not to be used for raising grievances about their personal employment situation.

It is acknowledged that failure to take action under this procedure may itself become a matter of grievance.

Protected Grounds for Disclosure

To qualify for protection of disclosure, the worker must:

- **be acting in good faith and without malicious intent, or for direct personal gain**
- **have reasonable grounds for believing that the information disclosed indicates the existence of the problems itemised below**
- **be able to substantiate the information disclosed**

The worker making the disclosure must do so in the belief that s/he can include one or more of the following:

- **that a criminal offence has been committed, is being committed, or is likely to be committed**
- **that a person has failed, is failing or is likely to fail to comply with any legal obligation to which s/he is subject**
- **that a miscarriage of justice has occurred, is occurring or is likely to occur**
- **that the health and safety of any individual has been, is being or is likely to be damaged. It must indicate a disregard for the danger that is usually associated with the normal use of the process/product, or a danger that is not usually associated with it**
- **that information tending to show any matter falling within any one of the preceding paragraphs has been, is being or is likely to be deliberately concealed**
- **that a person has failed to comply with the terms of the BSFC's code of conduct**

To whom should the disclosure be made?

The person to whom the disclosure might legitimately be made depends on which section of the Act the disclosure is made under. In most cases, an individual should make the disclosure to the relevant manager, his or her line manager, to any other party to whom the relevant failure relates or to a senior manager in the first instance.

Confidentiality

The procedure should ensure that any employee who raises a concern will have the right to have the matter treated confidentially and not have their name disclosed to the alleged perpetrator of malpractice without their prior approval. Have the right to be accompanied during the interview by a work colleague not connected with the complaint or local trade union representative.

In order to maintain confidentiality for the employee raising a concern, it may be appropriate for the employee to raise the concern orally rather than in writing. A full note should be made by the person hearing the complaint.

Responsibility

Responsibility lies with the Principal and Clerk to the Corporation (either) both of whom have direct access to the Governing Body, to investigate a concern. Depending on the complaint External or Internal Audit may be more appropriate for referrals. **In the event the concern is about the Clerk, the responsibility will rest with the Principal to investigate and rest with the Chair of Corporation and Chair of Audit if the Principal.**

Governors

An employee not satisfied that the concern is being properly dealt with by the designated senior manager has the right to raise it with the Chair of Governors.

Timescale

An investigation into the concern raised should be instigated within **10** days, as far as possible, and immediately afterwards the designated person will acknowledge in writing the concern. The employee will be informed **by the Clerk to the Corporation** of the progress of the investigation in writing from time to time and will be informed when the investigation is complete and the action proposed.

External Bodies

Depending upon the complaint, External or Internal Audit may be more appropriate for referrals. Where the employer has authorised the disclosure, the worker will be protected under PIDA.

LSC and Public Concern at Work

Where internal procedures have been exhausted and the employee still has a concern, then the **LSC** or “Public Concern at Work” who are the leading organisation in ensuring probity and accountability at work, operating through training and consultancy, should be contacted **by the Clerk to the Corporation**.

Malicious Accusation

Deliberate false and malicious accusations will lead to disciplinary action.

Training

Normal staff development will include **raising awareness** and training in the use of the Whistleblowing procedure. Designated officers/governors should be trained in how to react to and deal with concerns raised.

Protection for the Employee

Employees reporting concerns ‘in the public interest’ to regulatory or health and safety bodies are protected against victimisation or dismissal although employees are subject to an implied contractual term of confidence and trust.

Employees are protected from dismissal or other unfavourable treatment for raising legitimate concerns through the proper channels, in accordance with the Public Interest Disclosure Act 1998.

Other Protections for Disclosure

In addition to the circumstances outlined above, protection under PIDA will also arise if one or any of the following conditions are met:

- ***The worker has previously raised the matter with the employer or prescribed body***
or
- ***The worker has not done so because s/he reasonably believes***
 - ***that s/he would be penalised for doing so***
 - ***that the evidence would be concealed or destroyed if s/he disclosed, and there is no regulatory body to which genuine concerns can be expressed.***

This college takes the view that no one will be disciplined for acting in good faith whilst raising a concern within the Whistleblowing procedure. Disciplinary action will be considered if the policy is used to raise false concerns in bad faith. Those who raise concerns will be protected from bullying by fellow employees. These include: -

- (i) a further right to report bullying/harassment
- (ii) access to the grievance procedure
- (iii) the possibility of disciplinary action ***being taken*** against ***those who are instigating the bullying.***

This policy will be available to all staff and will be reviewed as part of the policy cycle.