

## ‘Whistleblowing’ (Public Interest Disclosure) Policy

|  |                                     |
|--|-------------------------------------|
| <b>Lead:</b> Clerk and Legal Officer   | <b>Status:</b> Approved             |
| <b>Version:</b> N/A                    | <b>Date of Version:</b> March 2020  |
| <b>Approving Body:</b> Audit Committee | <b>Supersedes:</b> June 2017        |
| <b>Approved on:</b> 10 March 2020      | <b>Next Review date:</b> March 2023 |

### Equality analysis tool<sup>1</sup>

|    |  |    |
|----|--|----|
| 1. | Is the policy relevant to the public sector equality duty?   | No |
| 2. | Have any concerns previously been raised about this policy or practice?  | No |
| 3. | Is likely to result in discrimination against a protected group?   | No |
| 4. | Does this policy positively contribute to the participation of under-represented groups in the College’s activities? | No |

### Version Control

| Version | Date       | Change(s)   |
|---------|------------|---|
| N/A     | March 2020 | <ul style="list-style-type: none"> <li>a more succinct explanation of what whistleblowing is has been added;</li> <li>clarification that the whistleblower does not need to provide evidence for the College to look into the concerns raised has been added;</li> <li>the ‘Assessor’ contact details have been updated;</li> <li>an explanation of the sort of feedback a whistleblower might receive has been added;</li> <li>a commitment to treat all disclosures made seriously and consistently has been added;</li> <li>information about blowing the whistle to ‘prescribed persons’ has been added;</li> <li>a commitment to taking all reasonable steps to maintain the confidentiality of the whistleblower has been added;</li> <li>explanations that:                             <ul style="list-style-type: none"> <li>anonymous whistleblowers will not ordinarily be able to receive feedback and that any action taken to look into such disclosures could be limited; and</li> </ul> </li> </ul> |

<sup>1</sup> The Screening Template relating to the Whistleblowing Policy can be found on page 9 of this document.

|  |  |   |
|--|--|---|
|  |  | <ul style="list-style-type: none"> <li>○ anonymous whistleblowers may seek feedback through a telephone appointment, have been added;</li> <li>• a commitment that victimisation of a whistleblower is not acceptable and any instances of victimisation will be taken seriously and managed appropriately has been added;</li> <li>• a commitment to training workers where necessary has been added; and</li> <li>• updated signposting to information and advice to those thinking of blowing the whistle has been added.</li> </ul> |
|--|--|---|

|               |
|---------------|
| <b>Access</b> |
|---------------|

| Location        | Address/Link                               |
|-----------------|--|
| SharePoint      |  |
| Service Centre  | Finance and Risk: Fraud and Whistleblowing |
| Document Centre | A-Z Policies and Procedures                |
| College Website | Corporate Information                      |

|                      |
|----------------------|
| <b>Communication</b> |
|----------------------|

| Medium           | Audience  |
|------------------|---|
| College Intranet | All College workers including apprentices, agency staff, employees of subcontractors and Governors. |
|                  |   |
|                  |   |

## Wakefield College

### 'Whistleblowing' (Public Interest Disclosure) Policy

|                            |                                |
|----------------------------|--------------------------------|
| <b>Review Cycle:</b>       | <b>Every three years</b>       |
| <b>Next Review Date:</b>   | <b>March 2023</b>              |
| <b>Person Responsible:</b> | <b>Clerk and Legal Officer</b> |
| <b>Approving Body:</b>     | <b>Audit Committee</b>         |

#### 1 Introduction

Whistleblowing is the term used when a worker passes on information concerning wrongdoing. This is often called 'making a disclosure' or 'blowing the whistle'. The wrongdoing will typically (although not necessarily) be something they have witnessed at work.

Whistleblowing law can be found in the Employment Rights Act 1996 (as amended by the Public Interest Disclosure Act 1998). It provides the right for a worker to take a case to an employment tribunal if they have been victimised at work or they have lost their job because they have 'blown the whistle'.

To be covered by whistleblowing law, a worker must reasonably believe two things. The first is that they are acting in the public interest (this means that personal grievances and complaints are not generally covered by whistleblowing law). The second is that the disclosure tends to show past, present, or likely future wrongdoing falling into one or more of the following categories:

- criminal offences (this may include, for example, types of financial impropriety such as fraud);
- failure to comply with an obligation set out in law;
- miscarriages of justice;
- endangering of someone's health and safety;
- damage to the environment; and
- covering up wrongdoing in the above categories.

It should be noted that 'gagging clauses' in settlement agreements do not prevent workers from making disclosures in the public interest.

This policy is an essential part of the College's internal control mechanism and provides College employees (which includes apprentices, agency staff, employees of subcontractors and Governors) with information regarding 'whistleblowing' including what to do should they witness or become aware of a wrongdoing.

Throughout this policy, the term 'Discloser' is used to denote a college employee who passes on information regarding a wrongdoing.

|                            |                          |
|----------------------------|--------------------------|
| <b>Review Cycle:</b>       | Every three years        |
| <b>Next Review Date:</b>   | March 2023               |
| <b>Person Responsible:</b> | Clerk to the Corporation |
| <b>Approving Body:</b>     | Audit Committee          |

## 2 What action should the Discloser take?

Upon becoming aware of a wrongdoing, the Discloser should raise their concerns internally, in the first instance, to one of the following designated people ('Assessors'). The Discloser may decide which of these individuals is the most appropriate person to deal with the matter:

- Principal (Sam Wright: s.wright@wakefield.ac.uk);
- Clerk and Legal Officer (Sam Cremore: s.cremore@wakefield.ac.uk);
- Executive Director: Human Resources and Organisational Development (Karen Sykes: k.sykes@wakefield.ac.uk);
- Chair of the Corporation (Andrew McConnell: a.mcconnell@hud.ac.uk); and
- Chair of the Audit Committee (Ian Parsons: ian.parsons@parsons.co.uk).

Any disclosure to an Assessor under this procedure should, wherever possible, be in writing and the Discloser should try to provide as much supporting evidence as he/she can. However, the Discloser does not need to provide evidence for the College to investigate the concerns raised.

## 3 How will the matter be progressed?

A written acknowledgement of the receipt of the disclosure will be sent, within three working days, to the Discloser at his/her home address. Because of the nature of investigations of this type it is not possible to give specific timescales beyond this initial acknowledgement. However, The Discloser will, wherever possible, be kept informed of the progress of the investigation (including indications of timings for any actions or next steps, the results of the investigation and any action taken) and the College will use its best endeavours to bring matters to a speedy conclusion.

On receipt of the disclosure, the Assessor (or his/her nominee) will normally offer to speak with the Discloser. Consideration should be given by the Assessor (or his/her nominee) to the timing, location and duration of any such discussion as well as any special requirements the Discloser may have. A local trade union representative or work colleague may accompany the Discloser. The Assessor (or his/her nominee) may be accompanied by an administrative assistant or another Assessor to take notes.

The Assessor (or his/her nominee) will then carry out any necessary further investigations required to establish the facts of the matter and assess whether the disclosure has merit and, if so, whether it can be resolved internally or not. The initial assessment may identify the need to:

- take further action or close the matter;
- involve third parties to provide further information, advice or assistance, for example, College staff, the College's auditors, legal or personnel advisors, the police, the Department for Education ('DfE') and the Education and Skills Funding Agency ('ESFA');

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- invoke the College disciplinary procedures;
- seek redress through the grievance or complaints procedure instead; and
- pursue simultaneous investigations.

The Assessor (or his/her nominee) (in conjunction with the Corporation, if appropriate) will consider how best to report the findings and what corrective action needs to be taken. Recommendations arising from the initial investigation (including actions to be taken) will then be made to the Principal, unless there are reasonable grounds for not doing so, in which case, the recommendations will be made to the Chair or the Vice Chair of the Corporation. The Principal or the Chair or the Vice Chair of the Corporation (as the case may be), having considered the Assessor's recommendations, will have the final say on the appropriate actions to be taken.

The College will retain records of its investigation, recommendations made, and actions taken.

Depending on the nature of the concern or allegation and whether or not it has been substantiated, the matter may be reported to the Corporation, the ESFA and/or any other appropriate organisation.

The College commits to treating all disclosures seriously and consistently.

#### **4 External disclosure**

If, having followed this procedure, the Discloser is not satisfied with the results of the investigation, he/she may raise the matter on a confidential basis directly with the police, the ESFA, the DfE, a member of parliament or other appropriate public authority. A list of prescribed persons, which includes regulators and professional bodies and other persons and bodies such as MPs, to whom a Discloser may also make a disclosure can be found here:

<https://www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies--2>

It should be noted that the relevant prescribed person depends on the subject matter of the disclosure so care should be taken to ensure any disclosure is made to the appropriate person.

Before taking any such action the Discloser should inform the Assessor in writing.

The Discloser may also raise the matter externally if he/she has reasonable grounds for believing that he/she will be subject to a detriment as a result of making the disclosure, or that all the Assessors are or were involved in the malpractice.

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 either at their own expense or via their trade union.

#### **5 Third party disclosure**

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Third parties (i.e. those individuals or organisations not mentioned in section 1 (above)) may also raise concerns under this policy. However, it should be notified to the Discloser by the Assessor (or his/her nominee) that the same protection afforded to Disclosers under the College procedure cannot be extended or guaranteed to third parties although protection might be provided under the wider legislation covered by the Public Interest Disclosure Act 1998. The Discloser should seek legal advice in this matter.

## **6 Respecting confidentiality**

The law does not compel the College to protect the confidentiality of a Discloser. However, the College commits to take all reasonable steps to maintain the confidentiality of the Discloser where it is requested (unless it is required by law to break that confidentiality).

The College will document whether the Discloser has requested confidentiality.

Disclosers may provide information anonymously. However, accusations made anonymously may limit the College's ability to ask follow-up questions or provide feedback if the Discloser cannot be contacted. Disclosers should be aware that, where information is given anonymously, it can be more difficult for them to qualify for protections as a whistleblower. This is because there will be no documentary evidence linking the Discloser to the disclosure for an employment tribunal to consider.

Anonymous whistleblowers may seek feedback through a telephone appointment by anonymously contacting the relevant Assessor and providing an anonymous telephone number.

## **7 What protection does the discloser have?**

Where the Discloser passes on a wrongdoing in accordance with the rules set out in section 1, he/she will not face any detriment from the College as a result of such disclosure.

Victimisation of a Discloser is not acceptable, and any instances of victimisation will be taken seriously and managed appropriately.

## **8 Raising unfounded malicious concerns**

Individuals are encouraged to come forward with genuine concerns with the knowledge they will be taken seriously. If individuals use this policy to make deliberately false or malicious accusations or mischief, they will be committing a disciplinary offence. Wilful misuse of this procedure may constitute an act of gross misconduct and could lead to dismissal. However, it is important to note that if an investigation determines that a disclosure is untrue, the College will not conclude that it was raised maliciously by the Discloser unless there is sufficient evidence to the contrary.

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## 9 Training and Support

The College is committed to training workers at all levels of the organisation in relation to whistleblowing law and the organisation's policy wherever necessary and all training requests should be submitted to the College's Clerk and Legal Officer.

## 10 Further Information

For further information regarding whistleblowing please see the Government's guidance for whistleblowers:

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/415175/bis-15-200-whistleblowing-guidance-for-employers-and-code-of-practice.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/415175/bis-15-200-whistleblowing-guidance-for-employers-and-code-of-practice.pdf)

Disclosers can also contact the Advisory, Conciliation and Arbitration Service (Acas) for guidance on whistleblowing and grievances: <https://www.acas.org.uk/contact>

## 11 Useful contacts

Education and Skills Funding Agency (ESFA)  
Cheylesmore House  
Quinton Road  
Coventry  
CV1 2WT

email: [complaints.esfa@education.gov.uk](mailto:complaints.esfa@education.gov.uk)

The ESFA has its own procedures for dealing with complaints about providers of education and training.

The College's Internal Auditors  
ICCA Education Training and Skills  
McLaren House,  
46 Priory Queensway  
Birmingham  
B4 7LR

Telephone: 0844 800 9870  
email: [ets@icca-ets.com](mailto:ets@icca-ets.com)

Public Concern at Work  
The Green House  
244-254 Cambridge Heath Road  
London  
E2 9DA

Telephone: 020 3117 2520  
email: [helpline@pcaw.co.uk](mailto:helpline@pcaw.co.uk)

Public Concern at Work is a charity which can provide people with free,

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confidential and practical advice if they are unsure of whether or how to raise a concern about danger or illegality that they have witnessed at work.

National Society for the Prevention of Cruelty to Children (NSPCC)  
Weston House,  
42 Curtain Road,  
London  
EC2A 3NH

Telephone: 020 7825 2500  
email: [help@nspcc.org.uk](mailto:help@nspcc.org.uk)

The NSPCC whistleblowing helpline is available for workers who do not feel able to raise concerns regarding child protection failures internally.

Rights of Women sexual harassment at work helpline

Telephone: 020 7490 0152

Rights of Women can provide free advice regarding sexual harassment at work.

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## Appendix One: Screening Tool

### Public sector equality duty

The Public Sector Equality Duty requires College to have **due regard** for the need to:

- eliminate discrimination, harassment and victimisation and other conduct prohibited by the Equality Act 2010;
- advance equality of opportunity between people from different groups; this involves considering the need to:
- remove or minimise disadvantages suffered by people due to their protected characteristics;
- meet the needs of people with protected characteristics;
- encourage people with protected characteristics to participate in activities where their participation is low; and to
- foster good relations between people from different groups - this involves tackling prejudice and promoting understanding between people from different groups.

Consequently, we need to assure ourselves that our policies will not have an adverse differential impact on any particular group. This pre-screening section will enable you to identify whether your policy is likely to have an adverse differential impact.

Please use the following template to help determine whether an equality analysis is required

|   |
|---|
| <b>Name of the policy: 'Whistleblowing' (Public Interest Disclosure) Policy</b> |
| Author(s): Clerk and Legal Officer  |
|   |

|                                       |
|---------------------------------------|
| <b>Author(s) of Equality Analysis</b> |
| Name: Sam Cremore                     |
| Job title: Clerk and Legal Officer    |
| Date: 02.06.20                        |
| Signature: <i>Sam Cremore</i>         |

In order to decide whether the policy requires further action, please complete the following questions:

**1. What are the main aims, purpose and outcomes of the policy?**

To inform employees and other College workers of the process for 'whistleblowing' and their rights should they do so.

**2. Will these aims affect our duty to:**

|  | <b>Yes / No</b> | <b>How?</b> |
|--|-----------------|-------------|
| advance equality of opportunity?   | No              | N/A         |
| eliminate discrimination?  | No              | N/A         |
| eliminate harassment?  | No              | N/A         |
| foster good relations between people from different groups?                      | No              | N/A         |
| tackle prejudice and promote understanding between people from different groups? | No              | N/A         |

**3. What aspects of the policy, including how it is delivered, or accessed, could contribute to inequality?**

None.

**4. Will the policy have an impact (positive or negative) upon the experience of people, including those who share a protected characteristic?**

Please complete the following table:

| <b>Protected characteristic</b> | <b>Meet needs of people with this characteristic</b> | <b>Encourage participation (if under-represented)</b> | <b>Remove or minimise disadvantages</b> | <b>Possible negative impact</b> |
|---------------------------------|--|---|---|---------------------------------|
| Race                            | Yes  | N/A   | Yes                                     | No                              |
| Gender                          | Yes  | N/A   | Yes                                     | No                              |
| Disability                      | Yes  | N/A   | Yes                                     | No                              |
| Religion / belief               | Yes  | N/A   | Yes                                     | No                              |
| Sexual orientation              | Yes  | N/A   | Yes                                     | No                              |
| Gender reassignment             | Yes  | N/A   | Yes                                     | No                              |
| Pregnancy /maternity            | Yes  | N/A   | Yes                                     | No                              |
| Age                             | Yes  | N/A   | Yes                                     | No                              |
| Marriage / civil partnership*   | Yes  | N/A   | Yes                                     | No                              |

**Evidence:**

The processes and rights are applied equally to all.

**6. What different needs, experiences or attitudes are particular communities or groups likely to have in relation to this policy?**

None.

**Next steps**

If your answers to these questions have identified potential negative impacts, then you should consider further consultation or action to minimise the differential impact. Please contact the Executive Director Quality and Planning for support.

If no further action is required, please sign the declaration below and include with all published copies of the policy.

**Declaration**

The policy does not have a significant impact upon equality issues and therefore does not require any further action.

|                                    |
|------------------------------------|
| <b>Author(s) of EA.</b>            |
| Name: Sam Cremore                  |
| Job title: Clerk and Legal Officer |
| Date:02.06.20                      |
| Signature: <i>Sam Cremore</i>      |