

## Public Interest Disclosure (Whistleblowing) Policy

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| <b>Lead:</b> Nils Elgar                | <b>Status:</b> Approved                  |
| <b>Version:</b>                        | <b>Date of Version:</b> 27 June 2017     |
| <b>Approving Body:</b> Audit Committee | <b>Supersedes:</b> November 2013 version |
| <b>Approved on:</b> 27 June 2017       | <b>Next Review date:</b> June 2020       |

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

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|----|--|----|
| 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)  |
|---------|--------------|--|
|         | 27 June 2017 | <ul style="list-style-type: none"> <li>• introduction of the term College "worker" which includes apprentices, agency staff and employees of subcontractors;</li> <li>• update policy to include new titles and names of organisations;</li> <li>• update list of contacts to include the National Society for the Prevention of Cruelty to Children (NSPCC), in relation to concerns about child protection matters.</li> </ul> |

### Access

| Location        | Address/Link  |
|-----------------|---|
| Sharepoint      |   |
| Service Centre  | Finance and Risk: Fraud and Whistleblowing (link to College website fails – the Policy section of the College website seems to have been removed) |
| Document Centre | A-Z Policies and Procedures   |
| College website | Corporate Information   |

<sup>1</sup> If the answer to any of these questions is yes, please complete the Screening Template provided and include as an Appendix to your policy.

## Communication

| Medium   | Audience  |
|--|---|
| College Service Centre, A-Z<br>Policies and Procedures | All College workers (staff, apprentices, agency staff and employees of subcontractors)) |
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## Wakefield College

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

**Review Cycle:** Every three years

**Next Review Date:** May 2020

**Person Responsible:** Clerk to the Corporation

**Approving Body:** Audit Committee

#### 1 Background

The Corporation is committed to ensuring that the business of the Board and of the College is conducted openly and with accountability. College employees, including apprentices, agency staff and employees of subcontractors ("workers") are hereby provided with a procedure, which is clear and independent, by which concerns about malpractice or improper actions can be raised without fear of intimidation or reprisal.

Throughout this policy, the term 'discloser' is used to denote the person raising the concern or making the complaint.

There will be circumstances where the ordinary processes available to workers to report on matters of concern in the workplace cannot be used. The Public Interest Disclosure legislation, commonly referred to as the "Whistleblowing Act", encourages and enables workers to raise their concerns about:

- fraud;
- financial irregularities or serious financial maladministration arising from improper conduct;
- corruption, bribery, dishonesty or blackmail;
- a breach of health and safety regulations;
- abuse of position;
- any criminal activity;
- miscarriages of justice;
- failure to comply with legal obligations;
- serious breaches of College procedures which may advantage a particular party;
- unethical conduct;
- endangering or damaging the environment;

The Whistleblowing Policy is an essential part of the College's internal control mechanism.

The Public Interest Disclosure Act and amending legislation has the following rules for making a protected disclosure:

- the worker must honestly believe what they are reporting to be substantially true;

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- the worker must believe they are telling the right person;
- the worker must reasonably believe that their disclosure is made in the public interest.

The Whistleblowing Policy is not intended as an extra mechanism for workers to challenge decisions, practices and policies with which they disagree; but is reserved for raising concerns about malpractice or improper actions where the normal route for these concerns appears to be blocked. Workers may raise a concern by giving their name or may raise a concern anonymously.

## 2 Introduction

The management and Governors of Wakefield College are committed to:

- seeking to run all aspects of College business and activity with full regard for high standards of conduct and integrity;
- tackling fraud and other forms of malpractice, should they arise;
- creating a climate of trust and openness so that a person who has a genuine concern or suspicion can raise the matter with full confidence that the matter will be appropriately considered and resolved.

The further education sector is subject to a high degree of external scrutiny from a variety of bodies including: the Department for Education (DfE), the Education and Skills Funding Agency (ESFA), Ofsted, the National Audit Office and the College's own internal and financial statements' auditors. These checks and balances should ensure that the opportunity for fraud or impropriety has little chance of success.

The College has established this Whistleblowing Policy to act as a framework to allow workers and Governors to raise concerns confidentially and to provide for a thorough and appropriate investigation of the matter to bring it to a satisfactory conclusion.

The provisions of this policy apply to matters of suspected fraud and impropriety, as outlined in section 1, and not to matters of more general grievance, including breaches of an employee's own employment contract, which should be dealt with under the Wakefield College grievance procedures.

This Whistleblowing Policy establishes a framework within which issues can be raised confidentially within and, if necessary, outside the management structure of the College. Disclosure outside the organisation (to, for example, regulatory bodies, the police, media or a member of parliament) is the final resort but only if the discloser honestly and reasonably believes that the allegations are true and there is good cause and justification for not pursuing matters internally.

All workers have both a right and a moral responsibility to report improper actions and omissions. Workers who act in compliance with the law are protected from interference in or retaliation for reporting improper actions and co-operating with subsequent investigations or proceedings. Note that in some circumstances an

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individual may be breaching their contract and/or breaking the law if they do not raise their concerns with management or an appropriate body.

### **3 What action should the discloser take?**

The discloser should raise their concerns internally in the first instance to allow those College staff and/or Governors in positions of responsibility and authority the opportunity to investigate, to be given an explanation for the behaviour or activity, and to take appropriate action.

The following individuals have been designated assessors to specifically deal with such matters and the discloser is invited to decide which of these individuals would be the most appropriate person to deal with the matter:

- Principal (Sam Wright: s.wright@wakefield.ac.uk);
- Clerk to the Corporation (Nils Elgar: n.elgar@wakefield.ac.uk);
- Executive Director: Human Resources and Organisational Development (Karen Sykes: k.sykes@wakefield.ac.uk);
- Chair of the Corporation (Paul Campbell: paulcampbell@chadlaw.co.uk);
- Chair of the Audit Committee (Ian Parsons: ian.parsons@parsons.co.uk)

Any disclosure to an assessor under this procedure shall, wherever possible, be in writing. The discloser should provide as much supporting written evidence or other documentation as possible.

Confidentiality will be maintained so far as is reasonably possible but there may be circumstances where the identity of a whistleblower would be revealed in order to gain the protection of the Public Interest Disclosure Act. Accusations made anonymously are difficult to follow up and substantiate; however an investigation will be instigated providing there are sufficient grounds disclosed.

### **4 How will the matter be progressed?**

A written acknowledgement of the receipt of the concern 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 stipulate specific timescales beyond the initial acknowledgement. However, the discloser will be kept informed of the progress of the investigation and the College will use its best endeavours to bring matters to a speedy conclusion.

On receipt of the disclosure, an assessor (or his/her nominee) will normally offer to interview, in confidence, the person making the disclosure. Consideration should be given by the assessor (or his/her nominee) to the timing, location and duration of any such interview as well as any special requirements. 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.

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The assessor (or his/her nominee) will carry out a preliminary investigation to establish the facts of the matter and assess whether the concern has foundation and can be resolved internally. The initial assessment may identify the need to:

- take further action or not;
- involve third parties to provide further information, advice or assistance, for example, involvement of other members of College staff, the College's auditors, legal or personnel advisors, the police, the DfE and ESFA;
- invoke the College disciplinary procedures;
- seek redress through the grievance or complaints procedure instead;
- pursue simultaneous investigations.

Recommendations arising from the initial investigation will 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.

Records will be kept of work undertaken and actions taken throughout the investigation. 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 on corrective action will 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. Recommendations made and the action taken in response will be documented.

It is the responsibility of the assessor (or his / her nominee) to keep the discloser informed on a timely basis of progress with investigations undertaken. The discloser will be informed, in writing, also on a timely basis, of the results of the investigation and the action taken to address the matter, within the confines of the College's policies and procedures. Depending on the nature of the concern or allegation and whether or not it has been substantiated, the matter will be reported to the Corporation and/or the ESFA.

## **5 External disclosure**

If, having followed this procedure, the person making the disclosure is not satisfied with the results of the investigation, he or 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. Before taking any such action the discloser will inform the assessor in writing.

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

The person making the disclosure 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.

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## **6 Third party disclosure**

Third parties (i.e. those individuals or organisations that are not workers or Governors) to the College may also attempt to raise concerns under this procedure and the nature of these concerns should be considered on their merits. However, it should be notified to the discloser by the assessor (or his / her nominee) that the same protection afforded to workers 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.

## **7 Respecting confidentiality**

In cases where the discloser is either a worker or Governor, wherever possible Wakefield College will seek to respect their confidentiality and anonymity and as far as possible protect him/her from suffering a detriment, bullying or harassment, including those by the individuals' colleagues. Wakefield College will not tolerate any attempt to prevent concerns being raised, including by the discloser's colleagues, and will consider any necessary disciplinary or corrective action appropriate to the circumstances. Disclosers should raise issues with an appropriate individual at Wakefield College if they feel they are being victimised.

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

It is clearly established in law that the disclosure of confidential information in the public interest is a lawful act. The discloser is therefore protected in law from disciplinary action by the employer provided that s/he:

- honestly believes what they are reporting to be substantially true;
- believes they are telling the right person;
- reasonably believes that their disclosure is made in the public interest.

## **9 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 false or malicious accusations or attempt to make mischief, they will be committing a disciplinary offence. Wilful misuse of this procedure could constitute an act of gross misconduct and lead to dismissal.

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## 10 Useful contacts

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

Telephone: 0845 377 5000  
email: [complaintsteam@sfa.bis.gov.uk](mailto:complaintsteam@sfa.bis.gov.uk)

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

- (ii) 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)

- (iii) Public Concern at Work  
CAN Mezzanine  
7 - 14 Great Dover Street  
London  
SE1 4YR

Telephone: 020 7404 6609  
email: [helpline@pcaw.co.uk](mailto:helpline@pcaw.co.uk)

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

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

Telephone: 0800 028 0285  
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.

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