



Solihull College

# Whistleblowing Policy

Approved: April 2004

Approved: July 2007

Approved: Audit Committee June 2014 – Corporation July 2014

## **1. Introduction**

The College is committed to maintaining the highest ethical standards in all its activities. It regards impropriety and malpractice as serious matters and seeks both to prevent them arising and to ensure that legitimate concerns, raised properly and in good faith, are addressed.

The College takes seriously the need to operate in a climate of openness in which legitimate grievances can be raised without fear of reprisal and is committed to:

- Fostering a culture of openness
- Encouraging a consultative style of management;
- Ensuring that the standards of conduct the College sets itself (e.g. in its code of ethics and codes of conduct for staff and governors) are understood and observed;
- Promoting accountability;
- Raising awareness that genuine and legitimate concerns will be treated seriously.

In line with best practice and to meet the requirements of the Public Interest Disclosure Act 1998, the following Policy has been adopted in consultation with the recognised trade unions.

## **2. Application**

This Policy applies to employees, including senior post holders, and to contractors of the College and is intended to reflect the Public Interest Disclosure Act. It therefore relates to concerns about matters of public interest. Section 4 sets out in more detail about issues which fall within the remit of the Policy.

The College also has in place a range of policies and procedures relating to the conduct and expectations of its staff and students. These include codes of conduct, grievance, disciplinary, malpractice and complaints procedures and a policy relating to suspicions of fraud, irregularity or impropriety. Allegations of injustice, discrimination or malpractice against individuals should normally be raised under these procedures.

Throughout this Policy, the term employee will be used to refer to the individual raising the concern.

Throughout this Policy, the term Clerk is used to refer to the Clerk to the Corporation. The document assumes that the Clerk is the first point of contact when a concern is raised. Section 7 below set outs the procedure where any allegations involve the Clerk.

## **3. Definition**

The term “whistleblowing” relates to the disclosure of information, in the public interest, when wrongdoing has been witnessed or observed in the organisation. It can be made by an employee or ex-employee of the organisation. The term can include both raising the matter internally (see 7.1 below) as well as a wider external disclosure. However, external disclosure is usually only used as a last resort by employees or contractors when internal regulation and audit has failed to address appropriately the issues raised.

There is no legal definition of “whistleblowing” either within EC or UK law.

## **4. Remit**

Activities that fall within the remit of this Policy include:

- suspected fraud and financial irregularities;
- serious maladministration arising from the deliberate commission of improper conduct;
- unethical or dishonest activities which may be of a criminal nature including theft, corruption and bribery
- dangerous acts or omissions which create a risk to health, safety or the environment.
- failure to comply with a legal obligation or causing a miscarriage of justice.

The Policy does not cover matters which may arise from weak management rather than malpractice. Nor should the Policy be used by an employee to raise grievances about their personal employment situation.

Attention is drawn to the College's Financial Regulations and associated Procedures and to the College's policies on registering financial and personal interests which are part of the Codes of Conduct for staff and governors. Where there are allegations of fraud or financial irregularities, the College's Policy and Procedure to prevent and respond to Fraud, Corruption and Bribery should be referred to.

## **5. Confidentiality**

An employee who raises a concern will have the right to have the matter treated confidentially and not to have their name disclosed to the alleged perpetrator of wrongdoing without their prior approval. However, it must be noted that in some instances the identity of the employee may need to be revealed to progress the concern, for example, when a disciplinary procedure needs to be undertaken.

## **6. Protection for the Employee**

Employees who raise legitimate concerns about impropriety or malpractice in accordance with this Policy will not face any detrimental consequences. In particular, they will not be subject to harassment or victimisation. There is statutory protection (the Public Interest Disclosure Act, 1998) from dismissal or penalties imposed by employers for those who disclose information in the proper manner.

## **7. Procedure:**

### **7.1. Reporting the Matter**

If staff have reasonable grounds for believing that there is alleged malpractice of the type, for example, listed in section 4 above s/he should contact the Clerk to the Corporation immediately and set out the allegations having considered whether another College policy or procedure would be more appropriate to follow. The employee may raise their concern orally rather than in writing in order that confidentiality is not accidentally breached. A full note (which will not identify the employee) will be made by the Clerk and agreed with the employee raising the concern.

If it is suspected that the Clerk to the Corporation is involved in the concerns then the Principal should be the first point of contact. The Principal will advise the Chair of the Corporation. Similarly, if it is suspected that both the Principal and the Clerk are involved, the Chairman of the Corporation should be the first point of contact. Where an allegation includes the Chair of the Corporation, the Clerk should advise the Vice-Chair of the Corporation and the Chair of the Audit Committee and the Principal.

The Clerk will consider the concern raised and if it does not fall within the remit of this procedure, the employee will be so advised and referred to the appropriate procedure e.g. grievance, harassment etc.

If the complaint falls within the remit of this procedure then, the Clerk will arrange for an appropriate investigation to be carried out and will advise the Chair of the Corporation, the Chair of the Audit Committee and the Principal, as appropriate.

All responses made to the employee will be in writing and sent to their home address. The Clerk will respond to the employee, as set out below, within 5 working days of the concern being raised:

- a written acknowledgement of the concern
- an indication of how the College will deal with the matter
- an estimate of how long it will take to provide a final response
- whether initial enquiries have been made
- whether further investigations will take place and if not, the reason of this

- information on staff support mechanisms.

In most cases you should not find it necessary to alert anyone externally, however, the law recognises that in some circumstances it may be appropriate for you to report your concerns to an external body, such as a regulator. It will very rarely, if ever, be appropriate to alert the media. We strongly encourage you to seek advice before reporting a concern to anyone external. The independent whistleblowing charity, Public Concern at Work, operates a confidential helpline. They also have a list of prescribed regulators for reporting certain types of concern. Their contact details are as follows:

Helpline: (020) 7404 6609

Email: [whistle@pcaw.co.uk](mailto:whistle@pcaw.co.uk)

Website: [www.pcaw.co.uk](http://www.pcaw.co.uk)

You may also wish to discuss your concerns with your union representative.

## **7.2. Investigation**

The Clerk will investigate the matters raised unless he/she considers that the nature of the complaint is such that the services of the internal auditors or financial statements auditors would be more appropriate. If this applies, then the Clerk must make a recommendation to the Chair of the Audit Committee that the auditors are appointed/commissioned to undertake an investigation. The Chair of the Audit Committee might want to convene a special meeting of the Audit Committee to consider this recommendation. Such meetings will be arranged by the Clerk.

The Clerk has authority to request and obtain information required in connection with the investigation and to meet with employees, contractors etc. Any meetings involving employees will be conducted in consultation with the Assistant Principal, HR & Student Services.

## **7.3. Criminal Activity**

If there is evidence of criminal activity then the police will be informed by the Clerk without delay. The Chair of the Corporation, the Chair of the Audit Committee and the Principal will be notified prior to this action being taken, as appropriate.

## **7.4. Timescale**

Where possible, the investigation will be completed within 15 working days of the concern being raised. However, it should be noted that investigations may take longer depending on the complexity and gravity of concerns raised.

Where the auditors are conducting the investigation, they must report back to the Audit Committee within a time scale agreed by the Audit Committee. The Audit Committee will then make a report to the Corporation, as appropriate. The Clerk will arrange any meetings required in the usual way.

## **7.5. Response**

The Clerk will inform Chair of the Corporation, the Chair of the Audit Committee and the Principal of the concern raised and, when known, the outcome and any action proposed. *Consideration will also be given to the need to advise stakeholders, where appropriate, of the concerns raised and/or the outcomes from any investigations.*

At the conclusion of the investigation, a report will be prepared for the next scheduled meeting of the Audit Committee setting out the concerns raised, the outcome of the investigation and any actions proposed. In the event of a prolonged investigation, the Audit Committee will be advised of progress at each of the scheduled meetings.

The Clerk will inform the employee raising the concern on the outcome of the investigation and on any actions proposed. If the investigation is prolonged, then the Clerk / Auditors will keep the employee who raised the concern informed, in writing, as to the progress of the investigation and as to when it is likely to be concluded.

If the employee is not satisfied that the concern has been dealt with properly they will have the right to raise the matter in confidence with the Governing Body. Concerns should be communicated to the Chair and/or Vice-Chair of the Corporation, within 5 working days of the proposed outcome being confirmed in writing. The Chair and Vice-chair will liaise with the Clerk relating to the subsequent correspondence and the investigation that has taken place and will consider any further action required, including recommending to the Corporation the appointment of the internal or the financial statements auditors to carry out a further investigation. The employee raising the concern will be kept informed of any actions proposed or taken and of any outcomes.

If the employee raising the concern is still not satisfied that the matter has been dealt with properly and all the internal procedures have been exhausted, then they may report the matter to an appropriate Regional Officer of the SFA. The Chair of the Corporation, Chair of the Audit Committee and the Principal should also be notified.

## **7.6 Anonymous Allegations**

The College encourages employees to disclose their identity in raising any concerns. Concerns expressed anonymously will be considered at the discretion of the Clerk, who will advise the Chair of the Corporation, the Chair of the Audit Committee and the Principal.

In exercising this discretion, the Clerk will take into account:

- the seriousness of the matters raised
- the credibility of the matters raised
- the likelihood of confirming any allegations made based on the information supplied or on evidence that can be obtained from non-anonymous sources.

Such allegations may be referred for investigation under other policies and procedures of the College, if appropriate.

## **7.7 Malicious Accusations**

If this procedure is used knowingly to make false or malicious accusations it will be regarded as a disciplinary offence. Wilful misuse of this procedure could constitute an act of gross misconduct and could lead to dismissal.