



Whistle Blowing Policy & Procedure

If an employee brings information about a wrongdoing to the attention of the College or a relevant organisation, they are protected in certain circumstances under the Public Interest Disclosure Act 1998, and this is commonly referred to as 'blowing the whistle'. Blowing the whistle is more formally known as 'making a disclosure in the public interest'. A protected disclosure must consist of information and not merely be allegations of suspected malpractice.

Qualifying disclosures are disclosures of information, which are in the public interest, where an individual reasonably believes that one or more of the following matters is either happening, has taken place or is likely to happen in the future:

- A criminal offence
- The breach of a legal obligation
- A miscarriage of justice
- A danger to the health and safety of any individual
- Damage to the environment
- Deliberate attempt to conceal any of the above

Whilst this policy is applicable to all employees, volunteers, students, suppliers and those providing a service on the College premises, there are sections within this document that are solely applicable to staff.

This policy and procedure is not for raising concerns regarding an individual's contract of employment and terms and conditions of employment, as these can be raised through the College's Grievance Procedure.

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1. INTRODUCTION

- 1.1 Employees and students are often the first to realise that there may be something seriously wrong within the College. However, they may not express their concerns because they feel that speaking up would be disloyal to their colleagues or to the College. They may also fear harassment or victimisation. In these circumstances, it may be easier to ignore the concern rather than report what may just be a suspicion of malpractice.
- 1.2 The College is committed to the highest possible standards of openness, probity and accountability. In line with that commitment we expect employees, and others that we deal with, who have serious concerns about any aspect of the College's work to come forward and voice those concerns. It is recognised that all cases should proceed on a confidential basis.
- 1.3 This policy document makes it clear that you can do so without fear of victimisation, subsequent discrimination or disadvantage. This Whistleblowing Policy is intended to encourage and enable employees, students, volunteers and suppliers to raise genuine serious concerns within the College rather than overlooking a problem or 'blowing the whistle' outside. The policy also makes provision for concerns to be raised outside of the College's line management structure if this is preferred.
- 1.4 The law allows for employees to raise such concerns externally and this policy advises how that may be done. However, a failure to raise a concern under this Whistle Blowing policy in the first instance may result in a disclosure losing its protected status under the law. The same would apply should any disclosure be deemed not to be in the public interest.
- 1.5 The Whistle Blowing policy applies to **all** employees regardless of length of service, students, volunteers, teacher trainees and other trainees, those contractors working for the College on College premises, for example, agency staff, builders and members of the Corporation. It also covers suppliers and those providing services under a contract with the College in their own premises.
- 1.6 Workers who 'blow the whistle' on wrongdoing in the workplace can claim unfair dismissal if they are discriminated or victimised for doing so. An employee's dismissal (or selection for redundancy) is automatically considered unfair if it is wholly or mainly for making a protected disclosure. If a case goes to tribunal and the tribunal thinks the disclosure was made in bad faith, it will have the power to reduce the compensation by up to 25%.
- 1.7 Whistle blowers must not be subjected to any detriment by a work colleague or agent of the College as a result of their disclosure and they are entitled to bring a claim to a tribunal against an individual as well as the College. Any such act would be treated as if carried out by the College, whether it was undertaken with or without the College's knowledge or approval.

2. AIMS AND SCOPE OF THIS POLICY

- 2.1 This policy aims to:
 - encourage you to feel confident in raising serious concerns and to question and act upon concerns about practice
 - provide avenues for you to raise those concerns and receive feedback on any action taken
 - ensure that you receive a response to your concerns and that you are aware of how to pursue them if you are not satisfied
 - reassure you that you will not be subjected to any detriment by any fellow worker or agent of the College as a result of 'whistleblowing'.

2.2 There are existing procedures in place to enable you to lodge a grievance relating to your own employment and studies. The Whistle Blowing Policy is intended to cover major concerns that fall outside the scope of other procedures. These include:

- conduct which is an offence or a breach of law, e.g. a criminal offence has been committed, is being committed or likely to be committed
- disclosures related to miscarriages of justice
- health and safety risks, including risks to the public as well as other employees and students
- damage to the environment
- the unauthorised use of public funds
- possible fraud and corruption
- other unethical conduct

2.3 Any serious concerns that you have about any aspect of service provision or the conduct of employees or students of the College or Corporation members or others acting on behalf of the College can be reported under the Whistle Blowing Policy. This may be about something that:

- makes you feel uncomfortable in terms of known standards, your experience or the standards you believe the College subscribes to; or
- is against the College's Articles & Instruments and policies; or
- falls below established standards or practice; or
- amounts to improper conduct

3. SAFEGUARDS FOR MAKING A DISCLOSURE

Harassment or Victimisation

3.1 The College is committed to good practice and high standards and wants to be supportive of employees and students.

3.2 The College recognises that the decision to report a concern can be a difficult one to make. You should have nothing to fear because you will be doing your duty to your employer and to the College as a whole.

3.3 A worker will not suffer dismissal or any detrimental action or omission of any type (including any form of victimisation) by the College for making a protected disclosure in accordance with this policy and procedure. Equally, where a worker is threatened, bullied, pressurised or victimised by a work colleague for making a protected disclosure, disciplinary action will be taken by the College against the work colleague in question.

3.4 Any investigation into allegations of potential malpractice will not influence or be influenced by any disciplinary or redundancy procedures that might already affect you. This does not prevent the College from bringing disciplinary action against an employee 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.

Confidentiality

3.5 All concerns will be treated in confidence and every effort will be made not to reveal your identity if you so wish. At the appropriate time, however, you may be asked to come forward as a witness.

Anonymous Allegations

- 3.6 This policy encourages you to put your name to your allegation whenever possible.
- 3.7 If an anonymous disclosure is made, the College will not be in a position to notify the individual making the disclosure of the outcome of action taken against the College. Anonymity also means that the College will have difficulty in investigating such a concern.
- 3.8 In exercising this discretion, the factors to be taken into account would include:
- the seriousness of the issues raised
 - the credibility of the concern; and
 - the likelihood of confirming the allegation from attributable sources.

Untrue Allegations

- 3.9 If you make an allegation in good faith, but it is not confirmed by the investigation, no action will be taken against you. If, however, you make an allegation frivolously, maliciously or for personal gain, disciplinary action may be taken against you. Raising unfounded allegations may also give rise to a claim for defamation against you.

4. HOW TO RAISE A CONCERN

- 4.1 The procedure allows for referral to a number of specified post holders so that if necessary an allegation can be made against any member of staff or the Corporation.

| Allegation against: | Allegation should be communicated to: |
|----------------------------------------------------------------|-------------------------------------------------------------------------|
| Any committee of the Corporation excluding the Audit Committee | Chair of Audit Committee via the Clerk |
| Chair of the Corporation | Chair of Audit Committee via the Clerk |
| Individual member of the Corporation and/or Audit Committee | Chair of the Corporation via the Clerk |
| Principal | Chair of the Corporation and Chair of the Audit Committee via the Clerk |
| Member of the senior management team | Principal |
| Any other member of staff | Principal or Deputy Principal |

- 4.2 Concerns may be raised verbally or in writing. Those who wish to make a written report are invited to use the following format:
- the background and history of the concern (giving relevant dates)
 - the reason why you are particularly concerned about the situation
- 4.3 The earlier you express the concern the easier it is to take action.

- 4.4 Although you are not expected to prove beyond doubt the truth of an allegation, you will need to demonstrate to the person contacted that there are reasonable grounds for your concern.
- 4.5 Advice and guidance on how matters of concern may be pursued is available from the Clerk to the Corporation. Independent advice may be sought from the Public Concern at Work (www.pcaw.org.uk).
- 4.6 If you are a member of staff you may wish to invite your trade union representative or an appropriate work colleague to be present during any meetings or interviews in connection with the concerns you have raised. If you are a student you may wish to invite a student friend to any meetings or interviews in connection with the concerns you have raised.

5. HOW THE COLLEGE WILL RESPOND

- 5.1 The Principal and/or Deputy Principal will advise the Clerk immediately of any Whistle Blowing reports that they have received. Equally, the Clerk will advise the Principal, the Chair of the Audit Committee and the Chair of the Corporation of any concerns that are reported (unless these individuals are implicated in any way). The Clerk reserves the right to inform the police if he/she believes that a crime has been committed and/or there is an immediate danger. The Principal and Deputy Principal will be expected to do the same.
- 5.2 The College will respond to your concerns. Within five working days of receipt of notice of your concern, the person you have reported your concern to (the Principal, Deputy Principal or Clerk) will acknowledge its receipt in writing.
- 5.3 The College will then determine whether or not it believes that the disclosure is wholly without substance or merit. This decision will be made jointly by at least three of the following individuals and at least one other External Governor: Principal, Deputy Principal, Chair of the Corporation, Chair of the Audit Committee, Clerk. In order to protect individuals and those accused of misdeeds or possible malpractice, initial enquiries will be made to decide whether or not a fuller investigation is appropriate and if so, what form it should take. The College will always give the highest priority to the public interest.
- 5.4 Some concerns may be resolved by agreed action without the need for further investigation. If urgent action is required this will be taken into account before any investigation is conducted.
- 5.5 Within **ten** working days the person to whom you reported your concern to will write to you again:
 - indicating how it is proposed that the matter be dealt with
 - giving an estimate of how long it will take to provide a final response
 - telling you whether any initial enquiries have been made
 - supplying you with information on support mechanisms, and
 - telling you whether further investigations will take place and if not, why not.
- 5.6 If the College decides that the disclosure does not have sufficient merit to warrant further action, you will be notified in writing of the reasons for the College's decision and advised that no further action will be taken by the College under this policy and procedure. Considerations to be taken into account when making this determination may include the following:
 - If the College is satisfied the individual does not have reasonable belief that suspected malpractice is occurring; or

- If the matter is already the subject of legal proceedings or appropriate action by an external body; or
 - If the matter is already subject to another appropriate College procedure.
- 5.7 When an individual makes a disclosure which has sufficient substance or merit warranting further action, the College will take action it deems appropriate (including action under any other applicable College policy or procedure). Possible actions could include internal investigation; referral to the College auditors; a professional advisor, referral to relevant external bodies such as the Police, Ofsted, Health and Safety Executive or the Information Commissioner's Office.
- 5.8 If appropriate, any internal investigation will be conducted by a senior manager without any direct association with the individual to whom the disclosure relates, or by an external investigator appointed by the College Corporation if appropriate.
- 5.9 Any recommendations for further action arising from an incident of Whistle Blowing will be advised to the Corporation immediately via the Clerk.
- 5.10 The amount of contact between the senior member of staff considering the issues and you will depend on the nature of the matter raised, the potential difficulties involved and the clarity of the information provided. If necessary, the College will seek further information from you.
- 5.11 Where any meeting is arranged, off-site if you so wish, you may be accompanied by for example: a union representative, workplace colleague or student friend.
- 5.12 The College will take steps to minimise any difficulties which you may experience as a result of raising a concern. For instance, if you are required to give evidence in criminal or disciplinary proceedings the college will arrange for you to receive advice about the procedure.
- 5.13 The College accepts that you need to be assured that the matter has been properly addressed. Thus, subject to legal constraints, we will inform you of the outcome of any investigation.

6. THE RESPONSIBLE PERSON

- 6.1 The Corporation (through the Chair) has overall responsibility for the maintenance and operation of this policy.

7. HOW THE MATTER CAN BE TAKEN FURTHER

- 7.1 If you wish to make a disclosure externally this should only be done if you think the College:
- will cover it up
 - would treat you unfairly if you complained
 - hasn't sorted it out and you've already told them

An external disclosure must be made to a prescribed person. A list of prescribed persons can be viewed at www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies.

- 7.2 This policy is intended to provide you with an avenue within the College to raise concerns. The College hopes you will be satisfied with any action taken. If you are not, you may raise it, in confidence, with the Chair of the Corporation. If you are still not satisfied you may feel it is right to take the matter outside the College. The following are possible contact points:

- the College's Head of Internal Audit
- your trade union
- your local Citizens Advice Bureau
- relevant professional bodies or regulatory organisations, e.g. Ofsted
- a relevant voluntary organisation, for example the charity Public Concern at Work (telephone 020 3117 2520 or e-mail helpline@pcaw.co.uk)
- the Police
- Health and Safety Executive

7.3 If you do take the matter outside the College, you should ensure that you do not disclose confidential information.

Reference

Please refer any comments or queries regarding this document to: Clerk to the Corporation: Lynda Dine (portsmouthcollegeclerk@gmail.com)

This document is available from the Personnel Department in large print or digital format.

| Associated College Documents | |
|-------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------|
| Name of Document | Author |
| Code of Conduct | HR Director |
| Grievance Procedure | HR Director |
| Appendix 4 – Professional Duties for Teaching Staff | National Joint Council for Staff in Sixth Form Colleges – Teaching Staff Conditions of Service Handbook |
| Anti-Fraud Policy | Finance Director |
| Anti-Bribery Policy | Finance Director |
| Safeguarding Children, Young Persons and Vulnerable Adults Policy | Deputy Principal |