



HUDDERSFIELD NEW COLLEGE FURTHER EDUCATION CORPORATION

Code of practice and procedure on whistleblowing.

1.0 Policy Statement

- 1.1 The College is committed to the highest standards of openness, probity and accountability.
- 1.2 An important aspect of accountability and transparency is a mechanism to enable staff, students and other stakeholders of the College to voice concerns in a responsible and effective manner. It is a fundamental term of every contract of employment that an employee will faithfully serve his or her employer and not disclose confidential information about the employer's affairs or act in a manner that will undermine the mutual trust and confidence on which the employment relationship is based. Nevertheless, where an individual discovers information which they believe shows serious malpractice or wrongdoing within the organisation then this information should be disclosed internally without fear of reprisal, and there should be arrangements to enable this to be done independently of line management if appropriate. Since complaints in these areas may be made by any person or persons who are part of an institution, whatever their status, this policy and procedure does not confine itself to staff, but includes students and members of the College's Corporation. The Public Interest Disclosure Act 1998, which came into effect on 2nd July 1999, gives legal protection to employees against being dismissed or penalised by their employers as a result of publicly disclosing certain serious concerns. The Human Rights Act, which came into force on 2 October 2000, gives the right to freedom of expression (Article 10). The College has endorsed the provisions set out below so as to ensure that no-one should feel at a disadvantage in raising legitimate concerns. The College will also ensure that other members of the College community do not mistreat someone who raises a concern under this policy.
- 1.3 It is hoped that most concerns raised by staff can be handled effectively through their line manager. However, this procedure is designed to give staff, students and Corporation members the opportunity, along with the appropriate safeguards, to raise concerns of a serious nature within the College through a separately designated route. This policy is not designed to question financial or business decisions taken by the College nor should it be used to reconsider any matters which have already been addressed under harassment, complaint, disciplinary or other procedures. **This policy is not a substitute for the College's Grievance Policy or the College's Bullying and Harassment Policy.** Once "whistle blowing" procedures are in place, it is reasonable to expect Staff, Student and Governors to use them rather than air their complaints outside the College.

2.0 Scope of Policy

This policy is designed to enable everyone at the College to raise concerns internally and at a high level and to disclose information which the individual believes shows malpractice or impropriety. This policy is intended to cover concerns raised in relation to specific issues which are in the public interest and which fall outside the scope of other policies and procedures. These concerns could include

- Financial malpractice or impropriety or Fraud
- Suspicion of bribery or corruption

- Failure to comply with a legal obligation or Statutes
- Dangers to Health & Safety or the environment
- Criminal activity e.g. fraud
- Abuse of students
- concerns about poor or unsafe practice and potential failures in the college's safeguarding regime
- Improper conduct or unethical behaviour
- Academic or professional malpractice
- Miscarriage of justice
- risk or actual damage to the environment
- Attempts to suppress and conceal any information relating to any of the above

If in the course of investigation any concern raised in relation to the above matters appears to the investigator to relate more appropriately to grievance, bullying or harassment or discipline, those procedures will be invoked. Staff complaints about breaches of employee's own contracts of employment should be raised using the grievance procedure.

3.0 Safeguards

3.1 Protection

This policy is designed to offer protection to those employees and/or other member of the College's community who disclose such concerns provided the disclosure is made:

- in the public interest
- in the reasonable belief of the individual making the disclosure that it tends to show malpractice or impropriety and if they make the disclosure to an appropriate person (see below).

It is important to note that protection from internal disciplinary procedures will only be offered to those who choose to use this procedure; however extreme cases of malicious or wild allegations could give rise to legal action on the part of the persons about whom a complaint is made.

3.2 Confidentiality

The College will treat all such disclosures in a confidential and sensitive manner. The identity of the individual making the allegation will be kept confidential so long as it does not hinder or frustrate any investigation. However, the investigation process may reveal the source of the information, if required by law, and the individual making the disclosure may need to provide a statement as part of the evidence required.

3.3 Anonymous Allegations

This policy encourages individuals to put their name to any disclosures they make. Concerns expressed anonymously (where the individual does not identify him or herself at any stage to anyone) are much less credible. Also from a practical point of view, the College cannot provide protection to a person whose identity is not known.

It also becomes difficult to judge whether the person raised the concern in the public interest or maliciously.

If individuals consider that they cannot give their name, sufficient corroborating evidence must be provided by the anonymous whistle-blower to justify the commencement of an investigation. Any decision to consider or to act on an anonymous complaint (or not act) will however be dealt with at the discretion of the recipient of the complaint.

In exercising this discretion, the factors to be taken into account will include:

- The seriousness of the issues raised
- The credibility of the concern
- The likelihood of confirming the allegation from attributable sources
- Fairness to any individual mentioned in the complaint

3.4 Untrue Allegations

If an individual makes an allegation which is not confirmed by subsequent investigation, no action will be taken against that individual if, in making the disclosure, the individual exercised due care to ensure the accuracy of the information. If, however, an individual makes malicious or vexatious allegations, and particularly if he or she persists with making them, action may be taken against that individual.

4.0 How to raise a concern

4.1 As a first step, staff and students should raise concerns with their respective line manager / tutor. This depends, however, on the seriousness and sensitivity of the issues involved and who is suspected of malpractice. If their line manager /tutor are not appropriate for any reason, concerns are to be raised with a relevant member of the Senior Leadership Team. Governors are to raise any concerns with the Clerk of the Corporation, if the Clerk is not appropriate for any reason, concerns should be directed to the Chair of the Corporation. Concerns can be raised verbally or in writing. The College will respond to these concerns.

4.2 Where appropriate, the matters raised may:

- be examined by the Corporation
- be investigated by management, or through the disciplinary or other process
- be referred to the police
- be referred to the external and internal auditors
- form the subject of an independent enquiry.

4.3 Any investigation deemed necessary will be conducted by one or more designated people, as appropriate. The composition of any investigatory panel will be determined in accordance with the circumstances of any disclosure.

4.4 In the case of a complaint, which is any way connected with the Principal, the Chair of the Corporation will act as the lead investigating officer.

- 4.5 Complaints against the Chair of the Corporation or other Governors should be passed to the Clerk to the Corporation, who will nominate an appropriate investigating officer/panel.
- 4.6 In the event of allegations of malpractice being made against the Clerk, the matter should be raised with the Chair of the Corporation.
- 4.7 The complainant has the right to bypass the line management structure and take their complaint directly to the Principal. The Principal has the right to refer the complaint back to another senior manager if it is deemed that the manager, without any conflict of interest, can more appropriately investigate the complaint.

5.0 Timescales

- 5.1 Due to the varied nature of these sorts of complaints, which may involve internal investigators and / or the Police, it is not possible to lay down precise timescales for such investigations. The investigating officer/panel should ensure that the investigations are undertaken as quickly as possible without affecting the quality and depth of those investigations.
- 5.2 The investigating officer/panel, should as soon as practically possible, send a written acknowledgement of the concern to the complainant and thereafter report back to them in writing the outcome of the investigation and on the action that is proposed. If the investigation is a prolonged one, the investigating officer/panel should keep the complainant informed, in writing, as to the progress of the investigation and as to when it is likely to be concluded.
- 5.3 If the person to whom the disclosure is made decides not to proceed with an investigation, the decision will be explained as fully as possible to the individual who raised the concern.
- 5.4 All responses to the complainant should be in writing and sent to their home address.

6.0 Investigating Procedure

- 6.1 Any investigation will be conducted as sensitively and speedily as possible. The investigating officer/panel should also follow these steps:
- Full details and clarifications of the complaint should be obtained.
 - The investigating officer/panel should inform the member of staff against whom the complaint is made as soon as is practically possible and provide details of supporting evidence. The member of staff will be informed of their right to respond and their right to be accompanied by a trade union or other representative at any future interview or hearing held under the provision of these procedures.
 - The investigating officer/panel should consider the involvement of the Police or any other appropriate external agency at this stage and should consult with the Principal/Chair of Corporation.
 - Should any significant instance of fraud, irregularity or major weakness or breakdown in the accounting or other control framework be suspected or discovered, the Chair of the Audit Committee, ESFA and both external and internal auditors are informed by the Clerk as soon as practically possible.

Significant fraud is usually where one or more of the following factors are involved:

- The sums of money are in excess of £10,000

- There is likely to be public interest because of the nature of the fraud or the people involved
 - The particulars of the fraud are novel or complex
 - The fraud is systematic or unusual in nature.
- The allegations should be fully investigated by the investigating officer/panel with the assistance where appropriate, of other individuals / bodies.
 - A judgement concerning the complaint and validity of the complaint will be made by the investigating officer/panel. This judgement will be detailed in a written report containing the findings of the investigations and reasons for the judgement. The report will be passed to the Principal or Chair of the Corporation, as appropriate.
 - The Principal/Chair of the Corporation will decide what action to take. If the complaint is shown to be justified, then they will invoke the disciplinary or other appropriate College procedures.
 - The complainant should be kept informed of the progress of the investigations and, if appropriate, of the final outcome.
 - If appropriate, a copy of the outcomes will be passed to the College Auditors to enable a review of the procedures.
 - If a complaint is to be referred to the Police, the College will co-operate fully with the Police in the course of their enquiries.
- 6.2 Should the investigating officer/panel conclude that there has been a breach in discipline, the member(s) of staff responsible may, in addition to civil or criminal proceedings, be subject to disciplinary action in accordance with the appropriate disciplinary procedures.
- 6.3 If the complainant is not satisfied that their concern is being properly dealt with by the investigating officer/panel, they have the right to raise it in confidence with the Principal/Chair of the Corporation.
- 6.5 If the investigation finds the allegations unsubstantiated and all internal procedures have been exhausted, but the complainant is not satisfied with the outcome of the investigation, the College recognises the lawful rights of employees and ex-employees to make disclosures to prescribed persons (such as the Health and Safety Executive, the Audit Commission, or the utility regulators), or, where justified, elsewhere.

7.0 **How the matter can be taken further**

- 7.1 This policy is intended to provide an avenue within the College to raise concerns. The College hopes complainants will be satisfied with any action taken. If not, the matter may be raised in confidence, with the Clerk of the Corporation or the Chair of the Corporation. If the complainant is still not satisfied and feels it is appropriate to take the matter outside the College, the following are possible contact points:
- Education Skills and Funding Agency, www.gov.uk/government/organisations/education-and-skills-funding-agency/about/complaints-procedure Tel: : 0370 2670001
 - The College external auditors Wylie & Bissett LLP, 168 Bath Street, Glasgow, G2 4TP
Tel: (0)141 566 7000. Website: www.wyliebissett.com
 - Appropriate Trade Union
 - The Citizens Advice Bureau

- Relevant professional bodies or regulatory associations
- The Police.
- The NSPCC whistleblowing helpline 0800 028 0285 and email: help@nspcc.org.uk
- Public Concern At Work, the whistleblowing charity tel: 020 7404 6609 or Website: <http://www.pcaaw.org.uk/>
- Advisory, Conciliation and Arbitration Service (Acas) www.acas.org.uk or tel: 0300 123 1100
- Action Fraud www.actionfraud.police.uk or tel: 0300 123 2040

7.2 A member of staff, who makes an external complaint to any prescribed body or person after exhausting the College's procedure, believing the disclosure of information is in the public interest, will be protected-from suffering a detriment, bullying or harassment from another employee.

8.0 Access to the Policy

This policy is available to all governors, staff and students at point of induction and via the College's Virtual Learning Environment, the governance web page (<http://huddnewcoll.ac.uk/college-information/governance>) and on request from the Clerk to the Corporation.

9.0 Policy Review

This policy is the responsibility of the Corporation and will be reviewed annually.

Document History					
Version	Date	Author	Comments	Authorised by	Date
2	June 2011	Claire Coupland	Revision to existing policy.	Recommended by the Quality & Standards Committee	14 th June 2011
				Approved by the Corporation	6 th July 2011
3	June 2013	Claire Coupland	Revision to existing policy to ensure compliance with relevant legislation and to reflect good practice	Recommended for approval by the Audit Committee	25 th June 2013
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4	June 2014	Claire Coupland	Review of existing policy.	Recommended for approval by Audit Committee	June 2014
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5	June 2015	Claire Coupland	Review of existing policy	Recommended for approval by Audit Committee	September 2015
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6	March 2017	Claire Coupland	Revision to existing policy to ensure compliance with amendments to "Keeping Children Safe in Education" (Sept 2016) and the revised Government Guide on Whistleblowing for employees (march 2017)	Recommended for approval by Audit Committee Approved by Corporation	March 2017 April 2017
7	June 2018	Claire Coupland	Revision to existing policy to ensure compliance with ACAS advice that this policy is only concerned with matters of 'public interest'	Recommended for approval by Audit Committee Approved by Corporation	June 2018 July 2018