

WHISTLEBLOWING/PUBLIC INTEREST DISCLOSURE POLICY

1. BACKGROUND

- 1.1 The recommendation of Lord Nolan in the second report of the Committee on standards in Public Life states that: "local public spending bodies should institute codes of practice on whistleblowing appropriate to their circumstances, which would enable concerns to be raised confidentially inside, and if necessary, outside the organisation"
- 1.2 The College's 'Code of Ethics' states that procedures on whistleblowing which will enable concerns, where appropriate, to be raised on a confidential basis will be adopted.
- 1.3 The Public Information Disclosure Act ("PIDA") 1998 came into force in July 1999 and will protect 'Whistleblowers' who fear reprisal or victimisation. The Employment Rights Act 1996 ("ERA" 1996 confers protection to workers from any detriment as a result of making a protected disclosure under this policy.

2. INTRODUCTION

- 2.1 Blackburn College as a publicly funded organisation is committed to the highest standards of honesty and integrity. The College seeks to ensure that its affairs are conducted with probity and that a culture of openness exists throughout the organisation. Such a culture should help all employees, at all levels, to feel free to report genuine concerns about malpractice without fear of reprisals.
- 2.2 Blackburn College is committed to:
 - fighting fraud, bribery, corruption and malpractice whether the perpetrators are internal or external to the College;
 - encouraging genuine concerns to be raised by staff in a professional manner within the line management structure without fear of victimisation.
 - respecting the confidentiality of the informer, to ensure that their name is not disclosed to the alleged perpetrator of

fraud, corruption or malpractice without their prior approval;

- facilitating mechanisms outside the line management structure to receive information relating to fraud, corruption and malpractice;
- actioning urgently a full and thorough investigation of all the concerns raised;
- reporting the outcomes and actions of the investigations, as is appropriate, to those concerned

2.3 Blackburn College considers the following as serious disciplinary offences:

- Any management or staff action designed to prevent, deter or victimise an individual from raising a genuine concern relating to fraud, corruption or malpractice
- Any abuse of the whistleblowing system through maliciously raising unfounded allegations;
- Making public any allegation of fraud, corruption or malpractice without raising it internally and allowing full investigation through the established procedures

2.4 The following whistleblowing procedure is designed to address 2.2 and 2.3 above

3. SCOPE OF THE POLICY

- 3.1 The policy covers all employees (permanent, temporary, casual, full and part time) and members of the Board.
- 3.2 The policy does not exist for the promotion of grievance by individuals in relation to their personal employment situation or as appeals against decisions of management unless they involve malpractice, fraud, corruption, etc.

4. PURPOSE OF THE POLICY

- 4.1 The policy exists to uncover any suspected malpractice or a disclosure which is in the public interest. This extends to allegations of suspected fraud, malpractice, financial irregularity, corruption, bribery, dishonesty, criminal activities, miscarriages of justice and breaches of the code of conduct and where a serious risk to health, safety or the environment has been created or ignored.

N.B. IN the public interest must be distinguished from OF the public interest and matters which are simply interesting to the public.

4.2 The College has established procedures for dealing with staff grievances, discipline, harassment and complaints.

4.3 The College also believes that the availability of this procedure will eliminate any reasonable grounds for employees going 'outside' the organisation before the internal mechanisms have been invoked and applied.

5. CONFIDENTIALITY

5.1 Any employee who raises a concern has an assurance that the matter will be treated as confidentially as is possible and appropriate and unless the law requires otherwise. For example, the 'whistleblower's' identity will not be routinely disclosed to the alleged perpetrator of malpractice (unless the 'whistleblower' consents to disclosure). In all circumstances the 'whistleblower's' identity will only be disclosed with their specific consent.

5.2 To whatever extent it is necessary and appropriate to take steps to preserve such confidentiality, the College will make appropriate arrangements (e.g. evidence can be oral or can be given away from the usual workplace). This is not to suggest that written records will not be made, but any such documentation will avoid revealing the identity of the 'whistleblower'.

5.3 There has, however, to be suitable regard to the rights of anyone who is accused of malpractice including such a person's right to be fully informed of any case which he/she is required to answer.

5.4 If disciplinary or other proceedings follow the investigation, it may not be possible to take action as a result of a disclosure without the 'whistleblower's' help and thus they may be asked to come forward as a witness.

5.4 As with other procedures, depending on the circumstances the College would not always act on a totally anonymous representation.

6. REPORTING PROCEDURE

6.1 No particular mode of reporting of whistleblowing is prescribed.

6.2 Employees (or members of the Board) may telephone the Clerk to the Corporation, or use a sealed envelope marked 'Whistleblowing - strictly confidential'

6.3 The latter device will ensure that the Clerk to the Corporation alone opens the envelope in question.

- 6.4 In the event that the allegations or concerns relate to the Clerk to the Corporation, employees or members of the Board should report the allegations to the Principal and Chief Executive using the same procedure.

7. INVESTIGATION PROCEDURE

- 7.1 Responsibility for conducting investigations (into allegations against all staff and all Board Members) rests with the Clerk to the Corporation.
- 7.2 The Clerk to the Corporation's position as a senior post holder appointed by the Board is one of considerable relative independence, and at least as well-placed as any other position to afford objective, independent treatment of matters brought to his/her attention through this procedure.
- 7.3 The Clerk to the Corporation will then investigate the matter.
- 7.4 In the first instance, the Clerk to the Corporation will proceed with due discretion to conduct a preliminary investigation.
- 7.5 Depending upon the nature of the complaint, the Clerk to the Corporation may commission Internal or External Audit to take over the investigation.
- 7.6 Any criminal activity may necessitate police involvement.
- 7.7 In the event that the allegation or concerns relate to the Clerk to the Corporation, the Principal and Chief Executive will take responsibility for the investigative procedure (7.1-7.6).

8. TIMESCALE AND COMMUNICATION

- 8.1 The Clerk to the Corporation (or Principal and Chief Executive, if it is the Clerk to the Corporation being investigated) will ensure that investigations are, at all stages, conducted as expeditiously as possible, taking into account the confidentiality considerations already identified above.
- 8.2 In any event, the Clerk to the Corporation (or Principal and Chief Executive, if it is the Clerk to the Corporation being investigated) will send immediately a written acknowledgement to the home of the 'whistleblower'.
- 8.3 It is not possible to stipulate specific timescales due to the nature of investigations of this type but the Clerk to the Corporation (or Principal and Chief Executive, if it is the Clerk to the Corporation being investigated) will keep the 'whistleblower' generally informed on the progress of the investigation.

- 8.4 When the outcome of an investigation is reached, the 'whistleblower' will be notified of that outcome and any recommendations again, at their home address.
- 8.5 Any recommendations for further action made by the College will be addressed to the Principal and Chief Executive or Chair of the Corporation Board as appropriate in the circumstances. The recipient will take all steps within their power to ensure the recommendations are implemented unless there are good reasons for not doing so.
- 8.6 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 Chief Executive of the Education and Skills Funding Agency (ESFA).
- 8.7 In accordance with the Post 16 Audit Code of Practice, where any significant instance of fraud, irregularity or major weakness or breakdown in the accounting or other control framework is suspected or discovered, the Chair of the Audit Committee, the relevant funding body and both external and internal auditors (if applicable) will be informed as soon as practically possible.

9. ACCESS TO THE CORPORATION/FURTHER APPEAL

- 9.1 **In cases where the investigation has been undertaken by the Clerk to the Corporation**
- 9.2 If the 'whistleblower' is not satisfied that their concern has been properly dealt with they may, after informing the Clerk to the Corporation, appeal against the outcome by raising the issues in writing with the Principal and Chief Executive. The Principal and Chief Executive will make any further enquiries as he/she deems necessary and respond to the appeal in writing.
- 9.3 In respect of any allegations concerning the Principal and Chief Executive, the 'whistleblower' may, after informing the Clerk to the Corporation directly contact the Chair of the Corporation to appeal against the outcome.
- 9.4 **In cases where the initial investigation has been undertaken by the Principal and Chief Executive**
- 9.5 If a 'whistleblower' is not satisfied that his/her concern has been properly dealt with by the Principal and Chief Executive, then the 'whistleblower' has the right to appeal against the outcome by raising the issues, in total confidentiality, with the Chair of the Corporation.

- 9.6 The 'whistleblower' should make such representations by writing to the Chair of the Corporation Board in a sealed envelope (which should be clearly marked 'For the Attention of the Chair of the Corporation Only - Strictly Private and Confidential).
- 9.7 The envelope should be handed to the Executive PA to the Principal and Chief Executive for onward delivery to the Chair of the Corporation.
- 9.8 The Chair of the Corporation will make any further enquiries as he/she deems necessary and respond to the appeal in writing.

10. ACCESS TO EXTERNAL BODIES

- 10.1 Only after the above procedure is exhausted, is it appropriate for the 'whistleblower' to have a right of access to the appropriate external agency, e.g. the College Auditors, the Chief Executive of the Education and Skills Funding Agency, Department for Education, Health and Safety Executive. The NSPCC whistleblowing helpline is available for staff who do not feel able to raise concerns regarding child protection failures internally. Staff can call 0800 028 0285 or email hel@nspcc.org.uk. Further information can also be found on the GOV.UK website at:

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

- 10.2 Before taking such action, the 'whistleblower' will inform the Clerk to the Corporation (or Principal and Chief Executive, as appropriate) in writing.
- 10.3 It should be noted that in cases of referral to external bodies, the individual may be protected under PIDA if the employer has authorised the disclosure, or in such extreme circumstances where the worker has not initially raised the issue with the employer in the belief that the evidence would be concealed or destroyed and there is no regulatory body to which genuine concerns can be expressed.
- 10.4 If a worker seeks advice inside or outside of the College, they must be careful not to breach any confidential obligations or damage the College's reputation in so doing.

11. MALICIOUS ACCUSATIONS

- 11.1 As with other procedures, the College will take disciplinary action against any employee who makes deliberately false and/or malicious accusations under this Whistleblowing Policy.

12. PROTECTING WHISTLEBLOWERS

- 12.1 Finally, assurance is hereby given that employees will be protected from dismissal or other unfavourable treatment for raising a genuine concern so long as he/she follows the whistleblowing procedure, in accordance with the Public Interest Disclosure Act 1998.
- 12.2 It is in the College's overall interest that employees should raise genuine concerns, even if such concerns ultimately prove to be unfounded.
- 12.3 The College will regard an employee's actions as legitimate in this context if the following conditions are met:
- (i) the employee has followed the College Procedure for Whistleblowing
 - (ii) the employee did not act for personal gain or out of personal motive
 - (iii) the employee has, by following the Procedure, afforded the College the opportunity to investigate and to take appropriate action before any disclosure reaches the public domain.
- 12.4 The law allows workers to raise what it defines as 'protected disclosure'. In order to be a protected disclosure, a disclosure must relate to a specified subject matter (a qualifying disclosure) (see 12.5 below) and the disclosure must also be made in an appropriate way (see 6 above). A 'protected disclosure' must, in the reasonable belief of the worker making it, also be made in the public interest¹. A protected disclosure must consist of information and not merely be allegations suspected malpractice.
- 12.5 Disclosures about the following are considered to be qualifying disclosures:
- A criminal offence has been, is about to be, or is likely to be committed
 - A person has failed, or is about to fail to comply with a legal obligation imposed upon them. This includes an obligation imposed upon them by a contract of employment
 - The health and safety of any person has been, or is being or is likely to be endangered
 - A miscarriage of justice has occurred, is occurring, or is likely to occur
 - The environment has been, or is being, or is likely to be damaged

¹ See Enterprise and Regulatory Reform Act 2013

- Information tending to show that one of the above matters has been, or is likely to be deliberately concealed

13. STAKEHOLDER CONSULTATION

13.1 The Policy was created following consultation with the JCC.

14. MONITORING AND REVIEW

14.1 The Clerk to the Corporation Board will be responsible for monitoring the implementation and effectiveness of this policy/procedure. The policy/procedure will be reviewed by the Corporation Board every 3 years.

15. RELATED POLICIES/PROCEDURES/CODES AND GUIDANCE

15.1 The following policies and procedures relate to the Whistleblowing Policy:

- Financial Regulations and Procedures
- Risk Management Policy & Procedures
- Staff Disciplinary Procedures
- Individual Grievance Procedures
- Gifts & Hospitality Policy

16. MANAGEMENT RESPONSIBILITY

16.1 The Clerk to the Corporation will manage the effective operation of the Policy.

17. EQUALITY IMPACT ASSESSMENT

17.1 Blackburn College is committed to the promotion of equality, diversity and providing a supportive environment for all members of our community. Our commitment means that this policy has been reviewed to ensure that it does not discriminate (either intentionally or unintentionally) any of the protected characteristics of age, disability, gender (including gender identity), race, religion or sexual orientation and meets our obligations under the Equality Act 2010. Therefore, this policy has no adverse impact on any of the above protected groups.

18. DISSEMINATION OF AND ACCESS TO THE POLICY

18.1 The policy will be made available:

- on the College's internet site under Publication Scheme – - Our Policies and Procedures - Procedures and Policies Relating to Human Resources
- on the College's internet site under HR and Employment - Staffing – Employment Procedures

Author: Jean Tracy
Owner: Clerk to the Corporation
Date last approved: 9 November 2018
Date of Review: January 2020
Consulted with: JCC
Consultation date(s): 30 January 2020
Date of Approval: 27 March 2020 (via written resolution)
Approved by: Corporation Board
Next Review Date: January 2023