

## Whistleblowing Policy

Approval by the Corporation

Reviewed every 2 years

### 1. Introduction

- 1.1. This Policy has been developed in accordance and under the guidance of the:
  - 1.1.1. Public Interest Disclosure Act 1998 (PIDA)
  - 1.1.2. Employment Rights Act (1996)
  - 1.1.3. Enterprise and Regulatory Reform Act (2013)
  - 1.1.4. Association of Colleges' Whistleblowing Guidance for Colleges (2013)
- 1.2. The Corporation will keep its policy and procedures on whistleblowing under review to take account of any new Government legislation, regulations, or best practice documents to ensure that the Corporation is kept fully up to date with its responsibilities and duties regarding whistleblowing and protection of whistleblowers.
- 1.3. This policy applies to
  - 1.3.1. all employees of the College, including apprentices;
  - 1.3.2. workers which include any casual workers and home-based casual workers;
  - 1.3.3. employees of subcontractors;
  - 1.3.4. agency workers engaged by the College
  - 1.3.5. consultants engaged by the College
- 1.4. For the avoidance of doubt the use of the term "worker" in this policy applies to all categories of person to whom this policy applies as set out above.
- 1.5. This policy needs to be read and considered alongside any policy, process or practice that is relevant. This will include College policies and procedures, Government/bodies or other agency guidance or code of conduct. This type of guidance should be referred to when considering a disclosure. However, there may be others that are more relevant, such as the College's Grievance or Complaints procedures. The HR or Safeguarding Team can provide guidance or advice if required.
- 1.6. This policy is non-contractual and does not form part of a worker's contract of employment and can be varied from time to time.

### 2. Policy Aims

- 2.1. To provide a transparent and confidential process for dealing with concerns.
- 2.2. To reassure anyone making a disclosure that they will be listened to and protected from possible reprisal or victimisation for whistleblowing
- 2.3. To be aware that there are other College processes for workers to raise concerns arising from their employment or College activities as outlined above.

### **3. Safeguards for Workers Making a Disclosure**

- 3.1. A worker making a disclosure under this procedure can expect their matter to be treated confidentially by the College and, where applicable, their name will not be disclosed to anyone implicated in the suspected wrongdoing, without their prior approval.
- 3.2. The College will take all reasonable steps to ensure that any report of recommendations, or other relevant documentation, produced by the College does not identify the worker making the disclosure without their written consent, or unless the College is legally obliged to do so, or for the purposes of seeking legal advice.
- 3.3. No formal disciplinary action will be taken against a worker on the grounds of making a disclosure made under this policy or procedure. This does not prevent the College from bringing disciplinary action against a worker 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.
- 3.4. A worker will not suffer dismissal or any detrimental action or omission of any type (including informal pressure or any form of victimisation) by the College for making a disclosure in accordance with this policy and procedure. Equally, where a worker is threatened, bullied, pressurised, or victimised by a colleague for making a disclosure, disciplinary action will be taken by the College against the colleague in question.

### **4. Definition of Whistleblowing**

- 4.1. The law does not define the term 'whistleblowing'. Whistleblowing can be described as the action of an individual exposing evidence of wrongdoing by employers or third parties in the context of the workplace.

### **5. Qualifying Disclosures**

- 5.1. The law protects workers who out of a sense of public duty want to reveal suspected wrongdoing or malpractice. The law allows workers to raise what is defined as a "qualifying disclosure". In order for it to be a qualifying disclosure, a disclosure must relate to a specific subject matter and the disclosure must also be made in an appropriate way. A qualifying disclosure must be in the reasonable belief of the worker making it and made in the public interest. A qualifying disclosure must consist of information and not merely be allegations of suspected malpractice.
- 5.2. A "qualifying disclosure" means any disclosure which, in the reasonable belief of the worker making it, tends to show one or more of the following:
  - 5.2.1. that a criminal offence has been committed, is being committed, or is likely to be committed.
  - 5.2.2. that a person has failed, is failing, or is likely to fail to comply with any legal or regulatory obligation to which he/she is subject
  - 5.2.3. that a miscarriage of justice has occurred, is occurring or is likely to occur

- 5.2.4.that the health and safety of any individual has been, is being, or is likely to be endangered
- 5.2.5.that the environment has been, is being or likely to be damaged
- 5.2.6.that information tending to show any matter of failing within any of the preceding paragraphs has been, is being, or likely to be deliberately concealed.

## **6. Procedure for making a disclosure**

- 6.1. Information which a worker reasonably believes tends to show one or more of the situations detailed in Section 5 above, should promptly be disclosed to the Director of Governance so that any appropriate action can be taken. Information can be emailed to [whistleblowing@hull-college.ac.uk](mailto:whistleblowing@hull-college.ac.uk)
- 6.2. If the matter directly concerns the Director of Governance, then the disclosure should be made to the Principal/Chief Executive. If the matter directly concerns both these individuals, then the Chair of the Governing Board should be approached. An appropriate individual will become the Investigation Manager for the subsequent procedures
- 6.3. The College actively encourages all workers to identify themselves when making a disclosure. If an anonymous disclosure is made, the College will not be able to notify the worker making the disclosure of the outcome of action taken by the College. Anonymity also means that the College will have difficulty in investigating such a concern. The College reserves the right to determine whether to apply this procedure in respect to an anonymised disclosure in light of the following considerations:
  - 6.3.1.The seriousness of the issues raised in the disclosure;
  - 6.3.2.The credibility of the concern; and
  - 6.3.3.How likely it is that the concern can be confirmed from attributable sources.
- 6.4. The worker reporting the concern should be as factual as possible and will include for example dates, times, and any conversations etc. The concern should be reported in writing where possible. If a report is made orally, the person to whom the concern is reported should record full details of the statements and allegations made.
- 6.5. The Audit Committee must be informed immediately, via the Director of Governance of all whistleblowing allegations along with the proposed steps that will be taken to investigate the allegations and the outcomes of that investigation. It is the responsibility of the Audit Committee to ensure that such proposed investigations are proper, proportionate, and independent.
- 6.6. For further guidance in relation to this policy and procedure, or concerning the use of the disclosure procedure generally, workers should speak in confidence to the Director of Governance.

## **7. Procedure for the investigation of a disclosure**

- 7.1. When a worker makes a disclosure, the College will acknowledge its receipt, in writing, within 7 working days.
- 7.2. The College will then determine whether or not it believes that the disclosure is wholly without substance or merit. If the disclosure is considered not to have sufficient merit to warrant further action, the worker 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:
  - 7.2.1. If the matter is already the subject of legal proceedings or appropriate action by an external body; or
  - 7.2.2. If the matter is already subject to another, appropriate College procedure.
- 7.3. Where a worker makes a disclosure which has sufficient substance or merit warranting further action the College will take any action deemed appropriate (including action under any other applicable College policy or procedure). Possible actions could include internal investigation; referral to the College's auditors; or referral to relevant external bodies such as the police, OFSTED, Health and Safety Executive or the Information Commissioner's Office.
- 7.4. If appropriate, any internal investigation would be commissioned by the Director of Governance, Principal/Chief Executive or Chair of the Audit committee as applicable, and this may be conducted by an external investigator appointed by the College. Any person undertaking an investigation should be trained and have an understanding of how the policy operates before they handle a disclosure. A timetable for the investigation will be drafted and will be shared with the worker making the disclosure and the timetable will vary from case to case depending upon the complexity of the case.
- 7.5. At any meeting to discuss the disclosure the worker making the disclosure may be accompanied by a trade union representative or colleague. For the avoidance of doubt, this is not permitted to be a legal adviser. Companions must respect the confidentiality of the disclosure and subsequent investigation.
- 7.6. Any worker named in a Whistleblowing disclosure will be informed of the allegation and supporting evidence at least 5 working days before any meeting involving them. They will have the right to be accompanied by a workplace colleague or recognised trade union representative to any investigation meeting.
- 7.7. If the investigation is delayed or prolonged for any reason, the Director of Governance, Chief Executive or Chair of the Audit committee as applicable, will inform all parties involved, providing an estimated timeframe for conclusion.
- 7.8. A report of the investigation conclusions must go to the Audit committee along with the proposed actions.
- 7.9. Any recommendations for further action made by the investigation manager will be addressed to the Chief Executive 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.

7.10. The worker who made the disclosure will be informed in writing of the actions taken by the College within a reasonable period following the investigation. All information shared will be subject to confidentiality, data protection and information sharing protocols. There will be no automatic right for the individual who made the disclosure to receive detailed investigation reports.

7.11. If the worker is not satisfied that their concerns have been appropriately addressed, they can appeal against the outcome within ten working days of being informed of the outcome of the investigation by raising the issue with the Chief Executive within 10 working days. The Chief Executive will make a final decision on the action to be taken and notify the worker making the disclosure. Should the disclosure have concerned the Chief Executive then any appeal should be directed to the Chair of the Audit committee.

7.12. The procedure encourages timely investigation of disclosures, although the College acknowledges that timescales need to be flexible, as different types of concerns will require varying time for investigation.

7.13. All communications with the worker making the disclosure will be in writing and sent to the worker's home address rather than through the College's internal mail. If investigations into the concern are prolonged, the College should keep the worker concerned updated as to the progress of the investigation and estimated timeframe for its conclusion.

## **8. Disclosure to external bodies**

8.1. This policy and procedure has been implemented to allow workers to raise disclosures internally within the College. A worker may make a disclosure outside of the College where there are reasonable grounds to do so and in accordance with the law and data protection.

8.2. Workers may make a disclosure to an appropriate external body prescribed by the law. This list of 'prescribed' organisations and bodies can be found in information on the GOV.UK website at <https://www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies--2/whistleblowing-list-of-prescribed-people-and-bodies#education>

8.3. Workers can also make disclosures on a confidential basis to a practising legal professional.

8.4. If a worker makes disclosures or seeks advice outside of the College, they must be careful not to breach confidentiality obligations or damage the College's reputation in so doing.

## **9. Accountability**

9.1. The College will keep a confidential record of all concerns raised under this policy and procedure including cases where the designated person deems that there is no case to answer

and therefore that no action should be taken. The College will report to the Audit Committee on an annual basis or earlier as appropriate.

## **10. Further Assistance for Employees**

- 10.1. The College will not tolerate any form of bullying, harassment or victimisation of employees who make disclosures. If at any stage of this procedure a member of staff feels that they are being subject to informal pressures, bullying or harassment due to making a disclosure, they should raise this matter in writing, to the Head of Human Resources and the Director of Governance as the investigating manager. Such behaviour may lead to the College taking disciplinary action.
- 10.2. A worker making a disclosure may want to confidentially request counselling or other support from the College's occupational health service. Any such request for counselling or support services should be addressed to the VP of Human Resources. Such a request would be made in confidence.
- 10.3. Workers can also contact the charity Protect - Speak up stop harm ([protect-advice.org.uk](https://protect-advice.org.uk)) for confidential advice on whistleblowing issues. Contact details are as follows The Green House, 244=254 Cambridge heath Road, London E2 9 DA Whistleblowing Advice Line: 020 31172520