



Policy Number	0010
Issue Number	1
Re-Approval Date (by the Corporation Board)	9th December 2013
Originator	Clerk to the Corporation
Responsibility	Andy Armiger

COLLEGE WHISTLE BLOWING POLICY

1. CONTEXT

- 1.1 Accrington and Rossendale College is committed to promoting a culture of openness, honesty and integrity within which all staff are encouraged to act responsibly and where malpractice is not tolerated.
- 1.2 To this end, College policies and procedures set out good practice and guidance for College staff.
- 1.3 As part of this culture, staff (and learners) are able to raise, in a responsible way, concerns about known, suspected or apparent malpractice by College staff or governors without fear of recrimination or victimisation and, in so doing, to uphold public confidence and the reputation of the College.
- 1.4 The College will not tolerate harassment or victimisation of anyone raising a concern, whether or not it is proven.
- 1.5 It is recognised that individuals may not always be sure whether or not malpractice is taking place. It is preferable for concerns to be raised which may prove to be unfounded, providing this is done in good faith, rather than for concerns to be ignored which turn out to be serious.

2. PURPOSE AND SCOPE

- 2.1 The purpose of this procedure is to enable and encourage staff and learners to raise, in confidence, concerns about malpractice without fear and in the knowledge that they will be taken seriously and investigated fully.
- 2.2 Where appropriate, concerns raised under this procedure may instead be referred for investigation under the Fraud and Corruption Policy (which takes precedence over other policies for any matters within its remit). The protection afforded by the procedure will still apply.
- 2.3 Staff should use the College Grievance Procedure for all matters falling within its scope. Learners should similarly use the college Complaints Procedure unless malpractice is involved.

A separate complaints procedure should be used to raise concerns with regard to the Governing Body of the Corporation

3. DEFINITION OF MALPRACTICE

3.1 Serious malpractice may be defined as including:

- Fraud*
- Corruption*
- Bribery*
- Financial irregularities
- Dishonesty
- Acting contrary to the College Ethics Policy or Codes of Conduct for Staff and Governors
- Miscarriage of justice
- Cheating
- Criminal activity
- Failure to comply with a legal obligation
- Creating a serious risk to health and safety or the environment
- Deliberately seeking to conceal any of the foregoing.
- Poor or unsafe practice in regard to safeguarding and protecting learners

Note: the first three listed above(*) fall to be investigated under the Fraud and Corruption Policy (see 2.2 above)

4. RAISING A CONCERN

- 4.1 All disclosures under this procedure should be made internally before any external bodies are involved.
- 4.2 Disclosures may be made through line management at any level or, where the Discloser does not feel this to be appropriate, through this procedure. Referral to line management does not preclude the use of this procedure at any stage (see 4.4).
- 4.3 Line managers will as soon as practicable, and in any event within 5 working days, inform the Clerk to the Corporation of any disclosures made to them. The Clerk to the Corporation will record all relevant matters so raised.
- 4.4 All disclosures, other than those raised with line management under 4.2 above, should be made to the Clerk to the Corporation, who is the designated 'Assessor' for the purpose of this procedure. The Clerk to the Corporation is independent of College management and responsible directly to the Corporation (Governing Body). In the Clerk's absence, the Director of People and Performance will be the designated Assessor.
- 4.5 Any disclosure relating to the Clerk should be made to the Chair of the Corporation.
- 4.6 Disclosures should preferably be in writing, accompanied by any evidence. However, the Discloser may elect to do so orally.
- 4.7 The Discloser may wish to seek advice from a recognised trade union or from the independent charity 'Public Concern at Work' which advises on serious malpractice in the workplace (tel 020

7404 6609, www.pcaaw.co.uk). It is also open to the Discloser to seek legal advice, should he/she feel this to be appropriate.

- 4.8 In the interests of natural justice, all parties involved in a disclosure are expected to maintain confidentiality regarding the circumstances and the identity of the implicated individual(s).

5. PROCEDURE

- 5.1 The Assessor will acknowledge receipt of the disclosure and arrange a confidential interview with the Discloser at an early opportunity (within 5 working days of initial contact).
- 5.2 The purpose of the interview is to enable the Assessor to obtain, clarify and confirm all available information concerning the alleged malpractice. The Assessor may be accompanied by a second person to assist with note taking. The Discloser who is a member of staff may be accompanied by a colleague or trade union representative in the capacity of 'friend'. If a learner, the Discloser may be accompanied by a 'friend' of his/her choice, who must **not** be a solicitor or barrister acting in that capacity. The role of the 'friend' is to support, not represent, the Discloser.
- 5.3 The Assessor will, unless impractical to do so, agree his/her note of the interview with the Discloser before proceeding further (within 5 working days of the interview).
- 5.4 Any disclosure will be treated in confidence and every effort made to maintain the anonymity of the Discloser, if that is his/her wish. It must be noted, however, that anonymity may not always be possible depending on the nature of the disclosure.

The identity of the Discloser will not normally be revealed without his/her prior consent unless:

- the Assessor is under a legal obligation to do so;
- the Assessor needs to seek external professional advice (e.g. legal or audit service);
- the Disciplinary Procedure is invoked;
- the Assessor believes that the discloser has acted maliciously.

The Assessor will advise the Discloser should this occur.

- 5.5 The Assessor will determine whether there are grounds to proceed on the basis of the available information and, if so, whether the alleged malpractice, in whole or in part, falls to be considered under another College policy or procedure (i.e. the Fraud and Corruption Policy or Grievance Procedure). The Assessor will advise the Discloser accordingly.
- 5.6 Depending on the nature of the disclosure, the Assessor will, at his/her discretion, either investigate the allegation personally or commission another competent person or agency to do so. In the latter case, the investigator will report back to the Assessor.
- 5.7 Where there is evidence of criminal activity, the Police will be informed. In these circumstances, the procedure will still be followed to the extent that it does not hinder formal Police investigations.
- 5.8 The Assessor will inform the Chair of the Corporation and (unless the alleged malpractice involves him/her directly) the Principal of the nature of the disclosure and the investigative process to be followed. Where appropriate, the Chair of the Audit Committee and Internal

Auditors will also be informed.

- 5.9 Investigations under 5.6 above will normally be completed within 30 working days from the initial interview, with recommendations being made by the Assessor to the Principal and/or Corporation as appropriate.

6. NOTIFICATION OF OUTCOME

- 6.1 As far as possible, and subject to third party rights, the assessor will notify the Discloser in writing of the outcome of the investigation within 5 working days of the recommendations being made by the Assessor under 5.9 above.

7. TIMESCALES

- 7.1 Every effort will be made to adhere to the timescales set out in the procedure. However, it is recognised that such timescales should be flexible, bearing in mind the variation in the length of time it may take to investigate different types of concerns.
- 7.2 In the event that the investigation is a prolonged one, the assessor will keep the Discloser informed, in writing, as to the progress of the investigation, and as to when it is likely to be concluded.

8. ACCESS TO THE GOVERNING BODY

- 8.1 A Discloser who is not satisfied that his/her concern is being properly dealt with by the Assessor has the right to raise it in confidence with the Chair of the Governing Body (or the Vice-Chair should the alleged malpractice relate to the Chair). This should be in writing. However, in some circumstances, it may be appropriate for the concern to be raised orally. This can be done at any time during the investigation. Concerns about the outcome of an investigation are dealt with separately under paragraph 9 below.
- 8.2 Where appropriate, the Chair (or Vice-Chair) of the Governing Body may assist the assessor with the investigation and make recommendations.

9. ACCESS TO EXTERNAL BODIES

- 9.1 Where the Assessor finds the allegation unsubstantiated, the Discloser has the right to access an appropriate official external body. Depending on the nature of the matter, an appropriate outside body might be internal or external auditors, the funding agencies, HEFCE, an MP, or a local councilor.
- 9.2 This recourse should only be used when internal procedures have been exhausted.

10. PROTECTION FOR THE DISCLOSER

- 10.1 If the disclosure is made in accordance with the provisions of the Public Interests Disclosure Act 1998, statutory protection is given to the Discloser. (See paragraph 12 below for further information)
- 10.2 The College will take all reasonable steps to ensure that Disclosers are protected from bullying,

harassment or victimisation and will take disciplinary action where appropriate.

11. MALICIOUS ACCUSATIONS

- 11.1 No one will be disciplined for raising a legitimate concern so long as he/she follows the procedure to be adopted when raising concerns about malpractice.
- 11.2 Disciplinary action will only be taken where it is considered that someone has used this procedure to raise false concerns in bad faith.

12. THE PUBLIC INTEREST DISCLOSURE ACT 1998

- 12.1 This Act protects those who disclose information in the correct manner and applies to individuals who are employees (including agency staff and work experience trainees). The procedure is however extended to all Disclosers, including learners and college Governors, who will be afforded equal protection.
- 12.2 The Act provides statutory protection in the event of either victimisation or dismissal of the Discloser.
- 12.3 To qualify for protection the Discloser must:
- be acting in good faith;
 - have reasonable grounds for believing the information disclosed indicates the existence of malpractice as set out in paragraph 3.1 of the Procedure; and
 - have made the disclosure to an authorised person, in line with paragraph 4 above.
- 12.4 A protected disclosure means any information which, in the reasonable belief of the Discloser, tends to show one or more of the following:
- that a criminal offence has been committed, is being committed or is likely to be committed;
 - that a person has failed, is failing or is likely to fail to comply with any legal obligation to which he/she is subject;
 - that a miscarriage of justice has occurred, is occurring or is likely to occur;
 - that the health and safety of any individual has been, is being or is likely to be endangered;
 - that the environment has been, is being or is likely to be damaged; or
 - that information tending to show any matter falling within any one of the categories set out above has been, is being or is likely to be deliberately concealed.

Only a disclosure which relates to one of these categories may qualify for statutory protection.

- 12.5 In certain circumstances, the Discloser will be protected if the disclosure is made to an external body providing it is made in good faith (e.g. where the Discloser reasonably believes that he/she will be subject to detriment or that evidence relating to the issue will be concealed or destroyed in the event of internal disclosure). Statutory protection may also apply where action is taken under paragraph 9 of this Procedure.

13. DEFINITIONS

- Malpractice: This is defined in paragraph 3.1 of the Procedure.
- Discloser: The individual raising concerns under the Procedure.
- Assessor: The Clerk to the Corporation or, in his/her absence, the Director of People and Performance, will be responsible for implementing the Procedure.
- Line Manager: Will normally be the line manager with responsibility for the person(s) against whom malpractice is suspected. This may be at any level up to Senior Manager. If you are unsure of the identity of the appropriate line manager, you may contact the Clerk to the Corporation.

14. GUIDANCE

- 14.1 Guidance on this procedure is available from the Clerk to the Corporation or Director of People and Performance.

15. REVIEW OF THE PROCEDURE

- 15.1 This procedure will be reviewed in accordance with legislative developments and good practice guidance and, in any event, at least every three years i.e. December 2016

Note: Assessor contact details are as follows:

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| Clerk to the Corporation: | Tel: 01254 354112 |
| Andy Armiger | Email: aarmiger@accross.ac.uk |
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This policy was reviewed and Equality Impact Assessed in October 2010 by:

Mrs C Scheffmann - HE & Higher Skills Manager, Accrington and Rosendale College
Mr R Kelly - IT Manager, Accrington and Rosendale College

This policy was reviewed and Equality Impact Assessed in November 2013 by:

Mrs Lorraine Higham – Director of People and Performance