

## Code of Practice on Whistleblowing

### 1.0 Background

The Public Interest Disclosure Act 1998 (and subsequent amendments) is designed to protect individuals who make disclosures of information to outside agencies or the media relating to legal activities of their employer or colleagues. The Act allows that in certain limited areas where an employee reasonably believes that making a disclosure to their employer may result in victimisation or detrimental treatment the duty of confidentiality which they would normally have to their employer would not apply. They would then have a remedy against their employer in the event that such treatment is afforded to them.

### 2.0 Definition

The term 'whistleblowing' is most commonly used when a member of staff or former member of staff publicly discloses alleged wrongdoing within an organisation. The act extends protection to "any disclosure of information which in the reasonable belief of the member of staff making the disclosures shows":

- The commission or likely commission of a criminal offence;
- A failure or likely failure to comply with a legal obligation;
- The occurrence or likely occurrence of a miscarriage of justice;
- Danger to health and safety of any individuals;
- Damage or likely damage to the environment; or
- The deliberate concealment of information showing any of the above

A member of staff making a disclosure will have to show that there were reasonable grounds for their belief. The disclosure will not qualify for protection under the Act if the person making it commits an offence by doing so e.g. under the Data Protection Acts 1988 and 2003 or the Official Secrets Act, etc.

The Board of Management considers any such malpractice as a serious issue and will support either internal or external investigation.

### 3.0 Distinction between grievance and whistleblowing concerns

Whistleblowing concerns generally relate to a risk, malpractice or wrongdoing that affects others, and may be something which adversely affects students, the public, other staff or the College itself. A grievance differs from a whistleblowing concern as it is a personal complaint regarding an individual's own employment situation. A whistleblowing concern is where an individual is a complainant. Grievances are dealt with under the College Grievance Policy and Procedure.

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#### **4.0 Confidentiality**

In many cases, the best way to raise a concern is to do so openly. Openness makes it easier for the College to assess the issue, work out how to investigate the matter, understand any motive and to get more information.

A member of staff or former member of staff who raises a legitimate concern will normally have the right to have the matter treated confidentially and not to have their identity disclosed to the alleged perpetrator of malpractice without their prior approval. Notwithstanding these principles however, whistleblowing by its nature may lead to involvement in a number of internal and/or external procedures. In these circumstances it may not be possible to guarantee anonymity.

A member of staff or former member of staff raises a concern anonymously if they do not provide their name at all. If this happens, it is best for the College to assess the anonymous information as best it can, to establish whether there is substance to the concern and whether it can be addressed. Clearly if no-one knows who provided the information, it is not possible to reassure or protect them.

#### **5.0 Pre Disclosure**

If you have been required or requested to act in a manner which you consider to be unlawful or improper, or you are aware of other persons associated with the College acting in such a manner you should report the matter to your Associate Principal, Depute Head of Faculty or Head of Department, who following consultation, as appropriate, with senior colleagues (usually a fellow member(s) of the College Management Team) will determine what action should be taken and will inform you of their decision.

If you feel unable to approach your Associate Principal, Depute Head of Faculty or Head of Department for any reason, the matter should be reported to the Clerk to the Board as detailed below.

#### **6.0 Initial Disclosure**

Initial disclosure should be made directly the Clerk to the Board who, together with the complainant, will determine whether there is a malpractice concern to investigate. Subsequently, if deemed appropriate, the Clerk to the Board will expeditiously initiate an internal investigation and dependent upon the nature of the complaint, will agree with the complainant any future course of action.

In the event that allegations of malpractice are made against the Clerk to the Board, the Head of Human Resources as the alternative designated manager, will follow the above process.

In either case the investigating manager will discharge the investigative responsibilities with the full support of the Board. The investigation should not be carried out by the person who will have to take a decision on the matter.

## **7.0 Investigation**

It is anticipated that three potential courses of action are available to be taken if the decision to progress is made.

The matter may become subject to investigation:-

- Internally by the designated manager;
- Internally by the designated manager in association with a Committee of the Board;
- Externally by the College's auditors or a recognised body such as Public Concern at Work, or the Police.

The results of any internal investigations together with any recommendations for action will be formalised in a report which will be brought to the attention of the appropriate authority. In most cases, the Principal of the College will be such an authority. In other cases, the matter may be appropriately referred to the Chair of the Board of Management, or the Chair of the Audit Committee.

## **8.0 Timescales**

Specific Timescales for actions and responses are given in recognition of the likely variations in the length of time it may take to investigate different issues. However, it is recognised that sensitive and timely handling is essential to ensure effective operation of the Code.

## **9.0 Penalties for making False or Malicious Allegations**

This Code of Practice gives guidance on actions which may be taken by members of staff where there is a genuine or legitimate concern. It recognises the need for the members of staff to be protected against victimisation or dismissal for raising such a concern through an approved process.

No member of staff will be disciplined for raising a concern in good faith, in line with the provisions set out in the Code of Practice.

In the event that the Code is used to raise false concerns, in bad faith, and the Board is satisfied that allegations are false and malicious, it reserves the right to initiate disciplinary proceedings in accordance with the College Staff Disciplinary Procedure and to take any further external action deemed necessary.

## **Appendix 1**

The Board of Management of South Lanarkshire College takes very seriously its legal and regulatory responsibilities and has a very clear commitment to Nolan's Seven Principles of Public Life.

**SELFLESSNESS:** Holders of public office should take decisions solely in terms of public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.

**INTEGRITY:** Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might influence them in the performance of their official duties.

**OBJECTIVITY:** In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

**ACCOUNTABILITY:** Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

**OPENNESS:** Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for the decisions and restrict information only when the wider public interest clearly demands.

**HONESTY:** Holders of public office have a duty to declare any private interest relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

**LEADERSHIP:** Holders of public office should promote and support these principles by leadership and example.