

# Quality System

## Policy Number

POL-HR-11

## Policy Title

Public Interest Disclosure (Whistleblowing) Policy

Written by:	Equality Impact Assessment	Date of Policy/ last reviewed:	Date of next review
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# Public Interest Disclosure (Whistleblowing) Policy

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## 1.0 Introduction

- 1.1 Bishop Auckland College, South West Durham Training, Durham Gateway and the College Nursery (thereafter to be termed 'the Organisation') is committed to high standards and openness in management and governance. If fraud, corruption or malpractice occurs, they must be tackled.
- 1.2 This Policy encourages staff to inform senior management if they are concerned about suspected serious malpractice, fraud or corruption so that it may be investigated.
- 1.3 As this policy can involve processing personal data, data protection regulations will be adhered to. Please refer to the General Data Protection Regulation Policy (ref: POL-DP-01) for further information.

## 2.0 Definition

- 2.1 Whistleblowing can be defined as the disclosure of confidential information which relates to malpractice, fraud or other illegal or unethical conduct connected with the workplace. This extends to allegations of suspected fraud; malpractice; financial irregularity; corruption; bribery; dishonesty; criminal activities; miscarriage of justice; breach of any code of ethics or ignoring a serious risk to health and safety or the environment.

The following are examples of serious malpractice:

- Fraud
- Financial irregularities
- Corruption
- Bribery
- Dishonesty
- Acting in a manner contrary to any code of ethics
- Miscarriage of justice
- Criminal activity or failing to comply with a legal obligation
- Creating or ignoring a serious risk to health and safety

## 3.0 Confidentiality

- 3.1 Any employee who raises a concern has an assurance that the matter will be treated in a confidential manner as far as possible. For example, the identity of the whistleblower will not be disclosed routinely to the alleged perpetrator of the alleged incident, unless the whistleblower consents to disclosure. In all circumstances, the whistleblower's identity will only be disclosed with their specific consent.
- 3.2 The Organisation will make appropriate arrangements to take whatever necessary and appropriate steps required to safeguard and preserve such confidentiality, for example, evidence can be given away from the workplace or verbally. All documentation relating to the incident will avoid revealing the identity of the whistleblower.
- 3.3 However, there must be a proper acknowledgement of the rights of anyone who is accused of malpractice, including the right to be fully informed of any case he/she is required to answer. Also, cases involving alleged criminal activity may need to be reported to the police, in which case there can be no guarantee of anonymity.
- 3.4 The Organisation will not normally respond to an anonymous communication or representation, but may do so in exceptional circumstances.

#### **4.0 Scope**

- 4.1 This policy applies to all staff employed by the Organisation including agency and voluntary staff.
- 4.2 Appropriate disciplinary procedures may be invoked against staff if matters are raised maliciously.
- 4.3 This Policy does not exist as an alternative method for an employee raising a grievance or as an appeal against actions taken by managers under the Organisation's Capability (BAC-HR-1-02) or Disciplinary (BAC-HR-1-01) Procedures.
- 4.4 The Organisation also believes that the accessibility of this policy should eliminate the need for staff going to external agencies before internal Organisation policies/procedures have been followed.
- 4.5 This policy should be read in conjunction with the Anti-Fraud & Bribery Policy (POL-F-03).
- 4.6 At any point, this procedure may link to the Disciplinary Procedure, Safeguarding Policy (including the duty to prevent) or Safeguarding Allegations against a member of staff.
- 4.7 If at any point, it is found that the allegation is in relation to a safeguarding issue (including radicalisation or extremism), the Safeguarding Policy should be referred to.

#### **5.0 Dissemination**

- 5.1 This policy is available through the Quality System on the staff portal or SWDT's QMS and is referred to in the staff induction programme.

#### **6.0 Protected Grounds for Disclosures**

- 6.1 The Organisation will not tolerate harassment or victimisation of anyone raising a concern in good faith, whether or not the case is proven, however the staff member must be acting in good faith and have reasonable grounds for believing the information disclosed indicates the existence of one of the problems itemised below.
- 6.2 The staff member making the disclosure must do so in the belief that it shows one or more of the following:
- That a criminal offence or malpractice 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 s/he is subject;
  - That the health and safety of any individual has been, is being or is likely to be, damaged. It must indicate a greater danger than is associated with the normal use of the process/product, or a danger that is not usually associated with it;
  - That information highlighting any matter above has been, is being or is likely to be deliberately concealed.
- 6.3 A staff member is also protected under the Public Interest and Disclosure Act (PIDA) if:
- The staff member has previously raised the matter with the employer;
  - The staff member had not done so because of a reasonable fear of being penalised or because he/she believes that evidence would be concealed or destroyed and there is no regulating body to which genuine concerns can be expressed.

6.4 Any deliberately false and malicious accusations will be dealt with under the Disciplinary Procedure.

## 7.0 Investigatory Process

**Note:** *Due to the Covid-19 pandemic and large periods of remote working, it is expected that slight amendments to this process may need to be accepted. For example, an e-mail may be accepted instead of a signature and meetings may be virtual.*

*Any person who is approached to investigate an issue of concern should firstly read the guidelines set out in Section 8.0*

- 7.1 A member of staff who wishes to raise a concern under this policy should complete Sections A and B of the Issue of Concern Pro-forma (HR-PID-01) and discuss this with their Line Manager. If the Line Manager is able to resolve the issue, s/he should complete Section C of the Issue of Concern pro-forma and discuss the outcome and recommendations with the staff member. If the issue is resolved then Section C of the Issue of Concern pro forma should be signed and dated by both the staff member and the Line Manager. A copy of this should be then sent under confidential cover to the Principal/Chief Executive (for Bishop Auckland College) or Chief Executive (for South West Durham Training) and the Head of Human Resources.
- 7.2 If the Line Manager is unable to resolve the issue, s/he should complete Section C of the Issue of Concern pro-forma, discuss this with the employee and sign and date it. The staff member does not sign this section. The Line Manager should still forward a copy of this to the Principal/Chief Executive or Chief Executive and the Head of Human Resources.
- 7.3 If the Line Manager has been unable to resolve the issue or if the allegation involves the staff member's Line Manager, the staff member may refer the issue to an Investigating Officer of their choice. The staff member may choose an Investigating Officer from any member of the Organisation's Directorate, apart from the Principal/Chief Executive or Chief Executive (SWDT). In order to refer the issue to an Investigating Officer, you should discuss the Issue of Concern Pro-forma with the Investigating Officer of your choice and forward to them a copy of the unsigned Issue of Concern Pro forma.
- 7.4 Upon receipt of the Issue of Concern Pro forma, the Investigating Officer will investigate the allegation as soon as is reasonably possible. Upon completion of the investigation, the Investigating Officer should complete Section D of the Issue of Concern pro-forma and discuss the outcome and any recommendations with the staff member. If the staff member is satisfied with the outcome, both the staff member and the Investigating Officer should sign and date the pro-forma. The Investigating Officer should forward copies of the pro-forma under confidential cover to the Principal/Chief Executive or Chief Executive (SWDT) and the Head of Human Resources.
- 7.5 If the Investigating Officer has been unable to resolve the issue, s/he should complete Section D of the Issue of Concern Pro-forma, discuss this with the employee and sign and date it. The staff member does not sign this section. The Investigating Officer should still forward a copy of this under confidential cover to the Principal/Chief Executive or Chief Executive (SWDT) and the Head of Human Resources.
- 7.6 If the Investigating Officer has been unable to resolve the issue or if the allegation involves all of the Organisation's Directorate, the staff member may refer the issue to the Principal/Chief Executive or Chief Executive. In order to do this, the staff member should discuss the Issue of Concern pro-forma with Principal/Chief Executive or Chief Executive (SWDT) along with a covering letter with additional information where necessary.
- 7.7 On receipt of the Issue of Concern Pro-forma, the Principal/Chief Executive or Chief Executive (SWDT) will investigate the allegation as soon as is reasonably possible. Upon completion of the investigation, the Principal/ Chief Executive or Chief Executive (SWDT) should complete Section E of the Issue of Concern Pro-forma and discuss the outcome and any recommendations with the staff

member. If the staff member is satisfied with the outcome, the staff member and the Principal/ Chief Executive or Chief Executive (SWDT) should sign and date the pro-forma. The Principal/Chief Executive or Chief Executive (SWDT) should forward a copy of the pro forma under confidential cover to the Chair of the Corporate Board and Director of Service Standards.

- 7.8 If the Principal/Chief Executive or Chief Executive (SWDT) has been unable to resolve the issue, s/he should complete Section E of the Issue of Concern pro-forma, discuss this with the employee and sign and date it. The staff member does not sign this section. The Principal/ Chief Executive or Chief Executive (SWDT) should still forward a copy of this under confidential cover to the Chair of the Corporate Board and the Head of Human Resources.
- 7.9 If the Principal/Chief Executive or Chief Executive (SWDT) has been unable to resolve the issue or the allegation involves the Principal/ Chief Executive or Chief Executive (SWDT), the staff member may refer the issue to the Chair of the Corporation. In order to refer the issue to the Chair of the Corporation, the staff member should forward a copy of the Issue of Concern Pro-forma to the Chair of the Corporate Board. A covering letter should also be included.
- 7.10 On receipt of the Issue of Concern Pro-forma, the Chair of the Corporate Board will investigate the allegation as soon as is reasonably possible. Upon completion of the investigation, the Chair of the Corporate Board should complete Section F of the Issue of Concern Pro-forma and discuss the outcome and any recommendations with the staff member. If the staff member is satisfied with the outcome, the staff member and the Chair of the Corporate Board should sign and date the pro-forma. The Chair of the Corporate Board should forward a copy of the pro forma under confidential cover to the Head of Human Resources.
- 7.11 If the Chair of the Corporate Board has been unable to resolve the issue, s/he should complete Section F of the Issue of Concern Pro-forma, discuss this with the employee and sign and date it. The staff member does not sign this section. The Chair of the Corporate Board should still forward a copy of this under confidential cover to the Head of Human Resources
- 7.12 The Chair of the Corporate Board will endeavour to resolve any issues of concern. If in exceptional circumstances, the Chair of the Corporate Board has been unable to resolve the issue or has resolved the issue in a manner, which is unacceptable to the staff member, it is understood that the staff member may choose to refer the issue to an external agency such as the Skills Funding Agency, the Department of Education, OFSTED or the Health and Safety Executive. The staff member should only refer the issue to an external agency after having exhausted the process, as detailed above.

Before taking such action, the staff member should inform the Principal/ Chief Executive or Chief Executive (SWDT) or Chair of the Corporate Board as appropriate, in writing.

## **8.0 Guidelines for the Investigatory Process**

- 8.1 It is very likely that the issues raised under the policy will be of an extremely sensitive nature. Managers involved with staff who raise issues under the policy should deal sensitively with all issues and should treat any issues raised in a confidential manner.
- 8.2 Throughout the investigation process, staff members may need to be invited into meetings. At such meetings, staff members have the right to be accompanied by a trade union representative or workplace colleague
- 8.3 Any person who has been asked to investigate an allegation has the right to be accompanied by another person in order that they can take comprehensive notes of meetings, whilst ensuring that confidentiality is maintained.
- 8.4 Depending upon the nature of the complaint the person investigating may appoint either an internal or external auditor or other independent person to carry out the investigation.

8.5 Any criminal activity will require the involvement of the police.

8.6 In exceptional circumstances, it may be deemed necessary for the person investigating a concern to request support from a second member of Senior Management/ Corporate Board e.g. where there is an excessive amount of paperwork to be analysed. Where this is deemed necessary, the staff member raising the concern should be spoken to prior to a second person being given any details.

## **9.0 Timescale and Communication**

9.1 The person who is asked to investigate an issue of concern will ensure that all investigations are carried out as speedily as possible, taking into account the confidentiality considerations.

9.2 Due to the nature of the type of investigation required, it is not possible to stipulate specific timescales. However, the designated person will keep the staff member fully informed regarding the progress of the investigation.

9.3 Depending on the nature of the allegation or concern and whether or not it has been proven, the matter will be reported to the Principal/ Chief Executive or Chief Executive (SWDT) who may refer the matter to the Chair of the Corporate Board.

9.4 Where necessary any investigations concerning the safeguarding of children or vulnerable adults will be referred to the appropriate body.

## **10.0 Protecting staff members who raise a concern under the Public Interest Disclosure (Whistleblowing) Policy**

10.1 The Organisation gives assurance that staff will be protected from dismissal or other unfavourable treatment for raising a genuine concern, providing the complainant follows the Public Interest Disclosure Policy.

10.2 It is in the Organisation's interest that staff should feel able to raise genuine concerns, even if such concerns ultimately prove to be unsubstantiated.

10.3 The Organisation will regard a staff member's actions as legitimate in this context if the following conditions are met:

- The staff member has followed the Organisation's Public Interest Disclosure Policy;
- The staff member has acted in good faith and not out of personal gain or personal motive;
- The staff member has, by following the policy, allowed the Organisation the opportunity to investigate the complaint and take appropriate action before the disclosure reaches the public domain

10.4 In the rare instance of an 'exceptionally serious' breach which is of such enormity it justifies the bypassing of the above policy; the staff member will only have statutory protection if:

- They have acted in good faith in making the disclosure;
- They reasonably believe their allegation is true;
- They are not acting for personal gain;
- The disclosure is of a very serious nature;
- It is reasonable, in all circumstances, for the disclosure to be made;

- At the time of the disclosure, they reasonably believed they would be subjected to a detriment;
- There was a reasonable belief that it was likely that evidence relating to the incident would be concealed, tampered with or destroyed if a disclosure was made to the employer;
- They have previously made the disclosure to their employer.

**For further information contact:**

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