



**WORTHING COLLEGE**

**PUBLIC INTEREST DISCLOSURE (“Whistleblowing”)  
POLICY AND PROCEDURES**

Policy name	<b>PUBLIC INTEREST DISCLOSURE  (“Whistleblowing”) POLICY AND PROCEDURES</b>
Author:	<b>Joanna Cox, Clerk to Corporation</b>
Approved by SMT	<b>May 2018</b>
Approved by Audit Committee	<b>June 2018</b>
Date for next review:	<b>June 2020</b>

## **WORTHING COLLEGE**

### **PUBLIC INTEREST DISCLOSURE (“Whistleblowing”) POLICY AND PROCEDURES**

#### **Mission**

*To inspire, build confidence and prepare you for the life you want to live.*

#### **Vision**

*“We’ll believe in you”*

Whatever your background, identity or experience of learning to date, we believe in you. We will support your achievement and success.

*“We’ll take you further than you expect”*

You’ll have the opportunity to choose from the widest possible range of courses in one place and we’ll stop at nothing to connect you with the best university, employer, or apprenticeship for you. And if you’re already working, we’ll help you to keep developing and growing.

*“We’ll provide an inspirational environment for you”*

You’ll experience a warm welcome from our community. You’ll grow in confidence, resilience and be ready for progression to the next step in your life, whether that’s further study, the world of work or your own unique adventure.

#### **Values**

For us to succeed in our mission and vision, the College has shared community values which help pull us together to act in agreed ways as part of an inspirational community:

We listen intently to the voice of those we serve and show unending commitment to continuous improvement and innovation.

We engage fully with the needs of the local community, employers and universities so we can secure your achievement, success and progression.

We respond quickly, so we’re always able to give you the best support, information, advice and guidance, just when you need it.

We celebrate together the successes and diversity of our community

#### **1: Purpose of policy and procedures**

This policy aims to provide a clear framework so that any person who suspects serious malpractice within the College:

- knows when it is appropriate to use the policy and procedures;
- has a clear set of procedures to follow when raising concerns;
- is reassured that their concerns will be dealt with fairly and that their welfare will be safeguarded.

## **2: Policy statement**

It is the policy of Worthing College that:

- i) a culture of openness and shared integrity should exist within the College so that all staff and students share responsibility for upholding the reputation of the College and maintaining public confidence;
- ii) it will aim to apply the Nolan Committee Seven Principles of Public Life to every aspect of its work: selflessness; integrity; objectivity; accountability; openness; honesty; leadership;
- iii) an individual should feel able to raise serious concerns without fear of harassment, victimisation, subsequent discrimination or disadvantage;
- iv) all effort will be taken to keep the concern and the Discloser's identity confidential;
- v) all concerns raised in good faith will be dealt with swiftly and constructively;
- vi) the burden of proof should not be on the Discloser;
- vii) the College should deal with all concerns initially and that concerns should not be taken to any external party unless the criteria in section 8 is fully met;
- viii) any individual who makes a disclosure maliciously, or who breaches the procedure without reasonable grounds, is at risk of disciplinary action.

## **3: Legal framework**

The Public Interest Disclosure Act 1998 came into force on 2 July 1999. The Act gives protection for workers against detriment or dismissal for raising concerns about matters in the public interest. The Act seeks to ensure that any person suspecting malpractice knows how to raise concerns and what procedures are in place to deal with the concern. A series of amendments to this Act have clarified a list of prescribed persons or bodies that a discloser may contact if certain conditions are met (see Section 8).

## **4: Other related college policies**

Individuals may find it more appropriate to raise an issue through one of the following policies and advice can be taken from one of the Designated Assessors (section 7.3).

- Anti Fraud, Corruption and Irregularity Policy
- Bullying and Harassment Policy
- Child Protection & Safeguarding Policy
- Complaints Policy
- Data Protection Policy
- Equality and Diversity Policy
- Staff Grievance Policy

## **5: Who might use this policy?**

This policy expands the provision of the Act and applies to any person who, in dealing with the college, has serious concerns about any aspect of the way the College is run. These may include:

- staff of the college;
- students at the college (or their parents/guardians);
- parents of children at the college's nursery;
- members of the college Corporation;
- contractors working on college premises, e.g. agency staff, builders;
- suppliers and those providing services under a contract with the college in their own premises;
- representatives of organisations in partnership with the College;
- others who may work with the college.

## **6: Scope of the Policy**

The type of disclosure covered by this procedure involves information which in the reasonable belief of the person making the disclosure, tends to show one or more of the following:

- that a criminal offence (e.g. suspected fraud, financial irregularities, corruption, bribery, dishonesty has been, is being 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 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;
- that information tending to show any matter falling within any of the above categories has been, is being or is likely to be deliberately concealed.

This policy is not designed to:

- replace the Grievance Procedure, which should be used where an employee is aggrieved about an issue in relation to his/her employment;
- tackle, in the first instance, cases of bullying or harassment. These are dealt with in the Harassment Policy and Procedures;
- deal with routine Health and Safety issues, guidelines on which are provided in the College Health and Safety policy;
- replace the college Fraud policy, which should be referred to first if fraud or corruption is suspected;

- replace the college Child Protection & Safeguarding policy which contains procedures for reporting suspected child abuse;
- cover complaints against the college arising from dissatisfaction about its services, for which a separate Complaints Policy and Procedure exists;
- cover concerns covered by the Equality and Diversity Policy.

## **7: Responsibilities under the policy**

### **7:1 Responsibilities of staff**

It is the responsibility of all staff to raise concerns about serious malpractice and to do so in accordance with this policy and procedure.

Staff who raise a concern need to be clear about what the issue is and which procedure applies. If in doubt, staff should ask for procedural advice from:

- his or her line manager;
- a Designated Assessor (as defined in paragraph 7.3);
- a Trade Union representative;
- “Public Concern at Work”, a registered charity which advises on serious malpractice within the workplace. Tel 0207 404 6609; [www.pcaw.co.uk](http://www.pcaw.co.uk)

A member of staff who raises a concern must declare any personal interest he or she has in the matter.

Where a member of staff (“the Discloser”) seeks assistance from a local Trade Union representative or work colleague/line manager, the Discloser is under an obligation to ensure that the other party keeps the matter strictly confidential except as required by law. The Discloser should inform the other party that disciplinary action may be brought against them in the event of a breach of confidence.

### **7:2 Responsibilities of students (or their parents/guardians)**

Any student (or their parent/guardian) who has a concern that there may be a serious malpractice under one of the headings in section 6 of this policy should seek to raise this issue with the college. A student (or their parent) would raise the issue with their Teacher or Tutor in the first instance but if it is felt that the issue is of a very serious or sensitive nature, the issue should be raised with one of the Designated Assessors (Section 7.3 below).

Section 9 of this policy outlines the relevant procedures to be followed in more detail.

### **7.3 Designated Assessors**

The role of Designated Assessor is to:

- advise the Discloser of the appropriate route to lodge the complaint if it does not fall under the College Public Interest Disclosure (PID) Procedure;
- initiate investigations into complaints which do fall within the scope of the PID procedure;
- make recommendations to management for appropriate remedial action if required, and monitor management action to implement these recommendations;
- make an annual report to the Corporation, via the Reporting Assessor, on the number of times that this procedure has been formally invoked, and the outcome.

The Designated Assessors are:

- The Clerk to the Governing Body (the Reporting Assessor who reports to the Audit Committee)
- Human Resources Manager
- The Vice Principal

The Human Resources Manager will ensure that all relevant staff members are aware of this policy and how to use it.

#### **7:4 Governing Body**

The Corporation will be responsible for ensuring that the policy and procedures are implemented and for reviewing and monitoring action taken under these procedures. This responsibility is delegated to the Audit Committee who will provide reports to the Corporation as appropriate.

### **8 Disclosure to an external body**

Disclosures should be made internally according to this Policy and Procedures. However, there may be very rare occasions when an individual feels it more appropriate to make the initial disclosure to an external body (e.g. Education and Skills Funding Agency (and its replacement bodies), Department for Business, Energy & Industrial Strategy the Local Safeguarding Children's Board or other relevant public authority).

It is important to note that members of staff disclosing information other than through these procedures (i.e. internally) will have no protection in law unless there are exceptional circumstances, for example:

- where the member of staff has attempted to use internal channels but has been frustrated in doing so;
- where the member of staff has a reasonable fear of reprisals being taken by the College;
- where the member of staff has a reasonable fear of evidence being concealed;
- where the conduct disclosed is of an exceptionally serious nature e.g. where life is at risk.

## 9: PROCEDURES FOR IMPLEMENTING THE PUBLIC INTEREST DISCLOSURE POLICY

9.1 As a first step staff should raise concerns with their line manager and students with their Teacher or Tutor. Other parties should contact a Designated Assessor straight away. This may be done orally or in an email, using the template provided in Appendix I. Alternatively, should the employee or student wish to remain anonymous, the template can be printed off completed.

9.2 If an employee or student feels unable to follow this route, depending on the seriousness and sensitivity of the issues involved and who is suspected of the malpractice, the concern should be raised with one of the Designated Assessors.

9.3 The Discloser may choose from the list of Designated Assessors. A Designated Assessor may, however, decline to be involved on reasonable grounds, including possible previous involvement or interest in the matter concerned. Another Designated Assessor might be considered more appropriately qualified to deal with the matter (e.g. Child Protection or Safeguarding issues should normally go to the Principal unless the alleged malpractice concerns this postholder).

9.4 Any disclosures made to a Designated Assessors should ideally be in an email using the template provide in Appendix I. If an individual feels unable to put his or her concerns in writing, he or she should telephone or meet the Designated Assessor. The Discloser should provide as much supporting evidence as possible about the disclosure and the grounds for belief of malpractice.

9.5 In the event that an allegation is made against one of the Designated Assessors, the concern should be raised with one of the other Designated Assessors.

9.6 On receipt of the disclosure, the Designated Assessor will offer to interview the Discloser, in confidence, within seven working days, or immediately if there is any danger of loss of life or serious injury (standard email template provided in Appendix II). The purpose of the interview will be for the Designated Assessor to obtain as much information as possible from the Discloser about the grounds for the belief of malpractice (see Appendix III for interview guidelines).

9.7 The Discloser may be accompanied by a Trade Union representative or work colleague at the interview. The college will assist with language or communication support if this is required. The Designated Assessor should be accompanied by an administrative assistant to take notes (if appropriate). The confidentiality of the interview will not be affected.

9.8 The Designated Assessor will normally recommend what further steps should be taken within **ten working days** days of the interview (or after the initial disclosure if no

interview takes place), or immediately if there is any danger of loss of life or serious injury. Recommendations may include one or more of the following:

- that the matter should be investigated internally using appropriate College Managers, the Audit Committee or other investigators appointed by the College, in accordance with the guidelines for investigations in Appendix III;
- that a member of staff should be given the opportunity to seek redress through the College Grievance Procedure, or a student through the Complaints Procedure;
- that the matter should be reported to the Education and Skills Funding Agency (or its replacement bodies), Department for Education, the Local Safeguarding Children's Board or other relevant public authority;
- that the matter should be reported to the police.

9.9 The grounds on which the Designated Assessor may recommend that no further action by the College should be taken are as follows:

- That the Designated Assessor is satisfied that, on the balance of probabilities, there is no evidence of malpractice;
- That the Designated Assessor believes that the Discloser is not acting in good faith;
- That the matter is already (or has been) the subject of proceedings under one of the College's other procedures;
- That the matter concerned is already the subject of legal proceedings, or has already been referred to the Education and Skills Funding Agency (or its replacement bodies), Department for Education, the Local Safeguarding Children's Board or other relevant public authority or the Police.

9.10 If the Designated Assessor considers an investigation to be the appropriate step to take, he or she will initiate this investigation, aiming to convey an initial conclusion to the Discloser within 28 days. If, however, there is any danger of loss of life or serious injury, the investigation will be completed within 10 working days. The investigations will be made without revealing the identity of the Discloser except as provided in paragraph 12.1.

9.11 The Designated Assessor should make recommendations under this procedure to the Principal unless it is alleged that the Principal is involved in the alleged malpractice or unless there are other reasonable grounds for not doing so, in which case the recommendations should be made to the Chair of the Audit Committee. The recipient of the recommendations will take all steps within his or her powers to ensure that they are implemented. If the Principal's view is that full implementation is inappropriate, that recommendation will be notified in writing by the Reporting Assessor to the Chair of the Governing Body and the Chair of the Audit Committee, together with the reason for it. The two Chairs will make a final decision.

9.12 A copy of the report will also be sent to the Human Resources Manager where there are implications for member(s) of staff to ensure that relevant recommendations are put into place as well as providing any support/information/mentoring needs that arise.

9.13 All responses to the Discloser will be made in writing and **will normally be** sent to the Discloser's home address rather than through the College internal mail system. If no further steps by the College are proposed, the Designated Assessor will give the reasons for this.

## **10: Appeal and External Disclosure**

10.1 If the Discloser has not had a response within the above stated time limits or if, having followed this procedure, the Discloser is not satisfied with the further steps (if any) decided upon or the outcome of any such steps, the Discloser may take the following action:

- the Discloser may appeal within 21 calendar days to the Chair of the Audit Committee (Section 11 details the appeal process);
- or the Discloser may raise the matter in confidence directly with the Education and Skills Funding Agency (or its replacement bodies), Department for Education, the Local Safeguarding Children's Board, other relevant public authority or the Police. Before taking any such action, the Discloser will inform the Designated Assessor.

10.2: The Discloser may also raise the matter in accordance with paragraph 10.1 if the Discloser has reasonable grounds for believing that all Designated Assessors are or were involved in the alleged malpractice or that the Discloser will be subject to a detriment as a result of making the disclosure.

10.3: The Discloser may at any time disclose the matter on a confidential basis to a professionally qualified lawyer for the purpose of taking legal advice.

## **11 APPEAL PROCESS**

If the Discloser is not satisfied with the outcome of the investigation, they shall have the right to raise the matter directly and in confidence with the Chair of the Audit Committee. The Discloser shall also have the right to ask the Chair of the Audit Committee to refer the matter to the College Auditors who shall investigate the matter within a reasonable time period, and normally within **21 calendar** days of receiving the disclosure. In such circumstances, the Chair of the Audit Committee shall have the power to incur such reasonable expenses as are necessary to gain legal or professional advice.

The Discloser shall have the right to raise the matter in confidence as outlined in Section 10.1 above if they are not satisfied with the outcome to the appeal process (or if the criteria in section 8 is met.)

## **12 Assurances and safeguards**

12.1: Any report or recommendations by the Designated Assessor in relation to the matter will not identify the Discloser, unless:

- the Discloser otherwise consents in writing; or
- there are grounds to believe that the Discloser has acted maliciously; or
- the Designated Assessor is under a legal obligation to reveal the identity of the Discloser; or
- where the information is already in the public domain; or
- on a strictly confidential basis to the Designated Assessor's administrative assistant for the time being; or
- On a strictly confidential basis to a professionally qualified lawyer for the purpose of obtaining legal advice.

12.2 Any documentation (including computer files and discs/external drives) kept by the Designated Assessor relating to the matter will be kept secure, so that as far as practicable only the Designated Assessor and his or her administrative assistant have access to it. Documentation prepared by the Designated Assessor will not reveal the identity of the Discloser. This data is collected and processed for the legitimate interests of the College and may be collected and processed in order to comply with a legal obligation. This information will be disposed of in accordance with the Worthing College Disposal of Records Schedule.

12.3: The Discloser will normally be expected to participate in any enquiry or investigation into the matter established by the College. The Discloser will not, however, be required to participate without his or her consent, unless there are grounds to believe that the Discloser may have been involved in misconduct or malpractice.

12.4: Where a Discloser participates in any such enquiry or investigation, that participation will usually be required to be on an open rather than a confidential basis. The obligations of the Designated Assessor will remain in relation to the identity of the individual as the original Discloser of information.

12.5: Subject to paragraph 12.6 the College will not (and will use all reasonable endeavours to ensure that its employees do not) subject the Discloser to any detriment, on the grounds of the individual's disclosure of information under this procedure. The Discloser should notify any complaints of such treatment to the Designated Assessor. If the Discloser wishes the Designated Assessor to take action in relation to such complaints, the Discloser may be asked to consent in writing to the Designated Assessor revealing the Discloser's identity.

12.6: No disciplinary action will be taken against a Discloser on the grounds of a disclosure made by the Discloser in accordance with this procedure. This will not prevent the College from bringing disciplinary action in cases where:

- there are grounds to believe that a disclosure has been made maliciously or for personal gain;
- where an external disclosure is made in breach of this procedure without reasonable grounds or other than to an appropriate authority. The College will consider such actions to be gross misconduct.

### **Review**

This procedure will be reviewed every 2 years.



Please contact me as soon as possible to arrange a date for a meeting (The PID Policy and Procedure requires the Designated Assessor to offer an interview within seven working days)

**Name:** \_\_\_\_\_

**Contact details:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Signed:** \_\_\_\_\_

**Date:** \_\_\_\_\_

WORTHING COLLEGE

PUBLIC INTEREST DISCLOSURE PROCEDURE EMAIL TEMPLATE

**Confidential**

**To:** \_\_\_\_\_

**From:** \_\_\_\_\_  
(Designated Assessor)

CONCERN ABOUT MALPRACTICE UNDER THE COLLEGE PUBLIC INTEREST DISCLOSURE POLICY AND PROCEDURE.

With reference to your memorandum dated: \_\_\_\_\_

Thank you for raising your concern about malpractice.

I would like to invite you to discuss the matter further at a meeting on \_\_\_\_\_  
This will be undertaken within the College unless you would prefer an alternative venue.  
Please indicate whether you will be accompanied by a trade union representative or a work colleague.

The purpose of this meeting is for me to obtain as much information about your concern as possible and to discuss any further steps that might be taken. If you have any additional evidence which supports your concern, please bring this with you to the meeting.

## WORTHING COLLEGE

### PUBLIC INTEREST DISCLOSURE PROCEDURE

#### GUIDELINES FOR INVESTIGATING ALLEGED MALPRACTICE

**– these should be read in conjunction with the policy and procedures and reports made to the appropriate body (SEE SECTION 9.8)**

1. This appendix outlines guidelines on procedures which may be appropriate in carrying out formal investigations, internal and external, of alleged malpractice. Prompt action is important.

1.1 An investigator (the Designated Assessor) should normally be someone who has had no **previous involvement** or connection with the case. On occasion it may be necessary to appoint an external person to conduct an investigation.

1.2 An investigation needs to be focused and comprehensive. Its objective is to take a reasonably considered view as to the likely facts and whether there is a case to answer. Its aim is to find out as much as possible about what happened. Investigations, both internal and external, should comply as far as possible with the Rules of Natural Justice. As a minimum, these rules state that an individual should be told of the nature of their alleged misconduct, of their right to be accompanied at the investigation by a College Trade Union representative or work colleague, and given a chance to state their case before any decision is made.

#### 2. Preparation for an Investigatory Interview

2.1 An investigator (the Designated Assessor) should:

- Identify the key issues to be investigated, e.g. was there a breach of procedure, by whom, and when?
- Identify the people to be interviewed
- Ascertain the policies, rules or procedures which are at issue, obtain a copy of them and check whether the student/s or employee/s involved have been given them and, if so, when
- In consultation with the Head of Human Resources (HR), decide whether, to relieve the stress and pressure on one or both parties or to ensure the smooth progress of the investigation, a person under investigation should be redeployed elsewhere in the College or removed from the College during the investigation. If an employee is suspended, the suspension should be on full pay.
- Consider the following factors relating to any employee:

- age, start date and length of service/study
- current position and time in that position (if an employee)
- any live disciplinary warnings
- medical or domestic circumstances
- If a search of an individual's desk, cupboard etc is needed, obtain their consent to do this and ensure that the search is done in their presence and that of a witness.
- Decide the order of people to be interviewed. Normally this will be:
  - the person who raised the issue: and
  - the person alleged to have acted incorrectly
  - anybody named by the student/employee/any other person as relevant to the issue
- Arrange suitable accommodation so that the meeting can be held in private, inform those to be interviewed of time and place, and arrange for someone to take concise notes of the meeting/s (N.B. witness statements may be used where they are felt to be useful)
- Ensure that the meeting is expressly described as an "investigatory interview"
- Ensure interviewees know they have the right to be accompanied by a work colleague or College Trade Union Representative
- Take into account and plan to accommodate any difficulties in understanding or answering questions which may arise for an interviewee with a disability

### 3. Conduct of Investigatory Interviews

Investigators should:

- Introduce the meeting as an "investigatory interview"
- Introduce all people present
- Defer an interview if it is apparent that the interviewee is incapacitated due to illness or other reason and make a note of the reason for deferment
- clarify that anyone accompanying an interviewee may not answer questions on the latter's behalf, though they may offer advice on whether a question should be answered and on whether the questioning is fair
- Clarify that the interviewee has a right to remain silent or to decline or to end an interview
- Clarify that the interviewee must not discuss the issues with anyone other than their college trade union representative or work colleague
- Describe the format of the meeting as follows:
  - “I am going to explain the relevant issues, ask you some questions, note your replies, and then ask you to review the notes to see if they accurately record what was said”
- Explain that at the end of the investigatory interview s/he will be asked to state whether or not they agree to their statement being disclosed either in its entirety or in an anonymised or reduced version (*n.b. it may only be possible to obtain witness statements if witnesses feel assured of confidentiality, however, they should know that, there may come a time when there is a legal order for disclosure of his/her statement in its entirety or an anonymised or reduced version of it depending on the*

*circumstances. This is because any employee against whom an allegation of malpractice has been raised may have a right to know the full case against him or her. This may also apply to other parties to the investigation).*

- Ask clear and focused questions relevant to the investigation – preferably start with open questions. Questions should never be leading, accusatory or intimidating. All questions should be asked one at a time and only after the interviewee has finished replying to the previous one. No question should be repeated more than once.
- Ask interviewees to comment on facts as they appear rather than speculate or theorise.
- Make an effort to understand every reply and seek clarification if necessary
- In cases of suspected breach of procedure, ask the employee concerned:
  - to explain the procedure
  - to explain its purpose and seriousness
  - when s/he first knew of the procedure
  - whether s/he know of anyone who has broken that procedure in the past
  - whether s/he has always complied with it and, if not, when and why
- After all questions and replies have been given, ask the interviewee to read the notes of the meeting, amend them if necessary, and to agree and sign that they are accurate. If there is a difference of opinion as to what was said, the notes should record this and be signed by both parties. The investigator should record whether or not the interviewee agrees that his/her statement may be disclosed to all parties at later stages of the procedure.

#### 4. After the investigatory interview

Investigators should:

- Decide whether, after all interviewees have been seen, the investigation is complete and if not, arrange for further interviews or research into facts to be undertaken
- Decide, if the investigation is complete, whether there is a case to answer
- Prepare a short focused report (probably no more than two sides of A4) and attach it to any other individual's written reports for the relevant person responsible for taking action on any recommendations made stating:
  - the dates of the investigation
  - the names of everyone interviewed
  - the key issues investigated
  - how the investigation was conducted
  - the evidence and information obtained and his/her evaluation as to likely facts
  - his/her view on whether there is a case to answer and what action, disciplinary or otherwise, is recommended
- If evidence indicates that a criminal offence may have been committed, give urgent consideration to the need to refer the matter to the Police
- Be prepared to explain and account for his/her investigation at any subsequent disciplinary **or other college procedure**

**The report will be forwarded as appropriate to the persons outlined in sections 9.11 to 9.12 within the policy.**