

Name of Policy **WHISTLEBLOWING POLICY**

Purposes To ensure that concerns about malpractice or improper actions can be raised without fear of intimidation or reprisal.

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Equality Assessment By Whom Vice Principal: Finance and Resources **Date** May 2013

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		Date
Approved by	Senior Manager	
	ELT	29 Nov 2016
	Corporation	

Related policies or procedures or parent policy if applicable Financial Regulations
Fraud and Bribery Policy
Disciplinary Procedures
Grievance Procedure

Groups/bodies consulted in the development of the policy SMT

To be published on College website YES

WHISTLEBLOWING POLICY

1 INTRODUCTION

The Corporation is committed to ensuring that the business of the Board and of the College is conducted openly and with accountability. Employees are hereby provided with a procedure, which is clear and independent, by which concerns about malpractice or improper actions can be raised without fear of intimidation or reprisal.

Throughout this policy, the term *discloser* is used to denote the person raising the concern or making the complaint.

There will be circumstances where the ordinary processes available to staff to report on matters of concern in the workplace cannot be used. The Public Interest Disclosure Act (1998) commonly referred to as the “Whistleblowing Act”, encourages and enables employees and agency staff to raise their concerns about:

- fraud and corruption (please refer to the Fraud and Corruption Policy)
- financial irregularities or serious financial maladministration arising from improper conduct
- bribery, dishonesty or blackmail
- a danger to the health and safety of any individual
- abuse of position
- bullying and discrimination
- any criminal activity
- miscarriages of justice
- failure to comply with legal obligations
- serious breaches of College procedures which may advantage a particular party
- unethical conduct
- endangering or damaging the environment
- deliberate covering up of information tending to show any of the above.

The Public Interest Disclosure Act has the following rules for making a protected disclosure:

- you must believe the information in good faith
- you must believe it to be substantially true
- you must not act maliciously or make false allegations
- you must not seek any personal gain.

The Whistleblowing Policy is an essential part of the College’s internal control mechanism and is not intended as an extra mechanism for staff to challenge decisions, practices and policies with which they disagree; but is reserved for raising concerns about malpractice or improper actions where the normal route for these concerns appears to be blocked.

The management and governors of Macclesfield College are committed to:

- seeking to run all aspects of College business and activity with full regard for high standards of conduct and integrity
- tackling fraud and other forms of malpractice, should they arise

- creating a climate of trust and openness so that a person who has a genuine concern or suspicion can raise the matter with full confidence that the matter will be appropriately considered and resolved.

The further education sector is subject to a high degree of external scrutiny from a variety of bodies including: the Department for Education and Skills (DfES), the Provider Financial Assurance Audit Team of the Skills Funding Agency (SFA), Ofsted and the College's own externally appointed internal and financial statements and regularity auditors. These checks and balances should ensure that the opportunity for fraud or impropriety has little chance of success.

The College has established this Whistleblowing Policy to act as a framework to allow members of the College's staff, managers and governors to raise concerns confidentially and to provide for a thorough and appropriate investigation of the matter to bring it to a satisfactory conclusion. The purpose of this framework is:

- to provide a channel and process to encourage individuals to raise genuine and legitimate concerns about various types of malpractice
- to enable those concerns to be dealt with seriously and urgently
- to demonstrate the College's commitment to ensure that the College is managed to the highest standards and is operating in the clear interests of its stakeholders.

This Whistleblowing Policy establishes a framework within which issues can be raised confidentially within and, if necessary, outside the management structure of the College. Disclosure outside the organisation (to, for example, regulatory bodies etc) is the final resort but only if the discloser honestly and reasonably believes that the allegations are true and there is good cause and justification for not pursuing matters internally.

All employees have both a right and a moral responsibility to report improper actions and omissions. Employees who act in good faith and in compliance with the law are protected from interference in or retaliation for reporting improper actions and co-operating with subsequent investigations or proceedings. Note that in some circumstances an individual may be breaching their contract and/or breaking the law if they do not raise their concerns with management or an appropriate body.

2 What action should the discloser take?

The discloser should raise their concerns internally in the first instance to allow those College staff and governors in positions of responsibility and authority the opportunity to investigate, to be given an explanation for the behaviour or activity, and to take appropriate action. If the discloser would wish to speak to someone confidentially prior to this it is suggested that they may ring Public Concern at Work, a charity offering free legal advice. Contact details included at end of policy document.

The following individuals have been designated assessors to specifically deal with such matters and the discloser is invited to decide which of these individuals would be the most appropriate person to deal with the matter:

- Principal
- Chair of Audit Committee
- Chair of Corporation.

Any disclosure to an assessor under this procedure shall, wherever possible, be in writing. This should be addressed to the Clerk to the Corporation marked 'Private and Confidential'. The discloser should provide as much supporting written evidence or other documentation as possible.

Confidentiality will be maintained so far as is reasonably possible but there may be circumstances where the identity of a whistleblower would be revealed in order to gain the protection of the Public Interest Disclosure Act. Accusations made anonymously are difficult to follow up and substantiate; however an investigation will be instigated providing there are sufficient grounds disclosed.

3 How will the matter be progressed?

A written acknowledgement of the receipt of the concern will be sent within 5 working days to the discloser at his/her home address. Because of the nature of investigations of this type it is not possible to stipulate specific timescales beyond the initial acknowledgement. However, the discloser will be kept informed of the progress of the investigation and the College will use its best endeavours to bring matters to a speedy conclusion.

On receipt of the disclosure, an assessor (or his/her nominee) will normally offer to interview, in confidence, the person making the disclosure. Consideration should be given by the assessor (or his/her nominee) to the timing, location and duration of any such interview as well as any special requirements.

The assessor will carry out a preliminary investigation to establish the facts of the matter and assess whether the concern has foundation and can be resolved internally. The initial assessment may identify the need to:

- take further action or not
- involve third parties to provide further information, advice or assistance, for example, involvement of other members of College staff, the College's auditors, legal or personnel advisors, the police, the DfES and SFA
- invoke the College disciplinary procedures
- seek redress through the grievance or complaints procedure instead
- pursue simultaneous investigations.

Recommendations arising from the initial investigation will be made to the Principal providing s/he is not the assessor or unless there are reasonable grounds for not doing so, in which case, the recommendations will be made to the Chair or the Vice Chair of the Corporation (assuming they are not the assessor).

If the allegation is one of fraud, the internal auditors will investigate the matter.

Records will be kept of work undertaken and actions taken throughout the investigation. Recommendations on corrective action will be made to the Principal unless there are reasonable grounds for not doing so, in which case the recommendations will be made to the Chair or the Vice Chair of the Corporation. Recommendations made and the action taken in response will be documented.

It is the responsibility of the assessor(s) to keep the discloser informed on a timely basis of progress with investigations undertaken. The discloser will be informed, in writing, also on a timely basis, of the results of the investigation and the action taken to address the matter. Depending on the nature of the concern or allegation and

whether or not it has been substantiated, the matter will be reported to the Corporation and/or SFA.

Following any investigation a written report will be submitted to the Audit Committee by the assessor.

4 Respecting confidentiality

Wherever possible Macclesfield College will seek to respect the confidentiality and anonymity of the discloser and will as far as possible protect him/her from reprisals. Macclesfield College will not tolerate any attempt to victimise the discloser or attempts to prevent concerns being raised and will consider any necessary disciplinary or corrective action appropriate to the circumstances.

5 What protection does the discloser have?

It is clearly established in law that the disclosure of confidential information in the public interest is a lawful act. The discloser is therefore protected in law from disciplinary action by the employer provided that s/he has acted in good faith and not for personal gain or out of personal motives.

If the discloser feels their concerns have not been fully or appropriately addressed during the investigation they should write to Clerk of the Corporation detailing this. The Clerk will forward the letter to one of the following, who was not involved in the initial investigation, to investigate the matter

- Principal
- Chair of Audit Committee
- Chair of Corporation.

6 Raising unfounded malicious concerns

Individuals are encouraged to come forward in good faith with genuine concerns with the knowledge they will be taken seriously. If individuals use this policy to make false or malicious accusations or attempt to make mischief, they will be committing a disciplinary offence. Wilful misuse of this procedure could constitute an act of gross misconduct and lead to dismissal.