

LEEDS COLLEGE OF BUILDING

'WHISTLEBLOWING' PROCEDURE

1. INTRODUCTION AND SUMMARY

- 1.1 Leeds College of Building wishes to create and sustain an atmosphere of openness, fairness, equal opportunities and to conduct affairs in a transparent way so that employees can raise legitimate concerns without fear of reprisal. 'Whistleblowing' is the term commonly used to describe the procedure by which an employee publicly discloses suspected wrongdoing.
- 1.2 This Whistleblowing Procedure aims to ensure that employees feel able to raise issues internally in the first instance. Wherever possible, the Corporation would wish to be able to resolve such issues internally with the minimum of damage or embarrassment to the College's good name.
- 1.3 The purpose of this procedure is:
 - 1.3.1 to provide a channel and process for individuals to raise genuine and legitimate concerns about fraud or malpractice;
 - 1.3.2 to enable those concerns to be dealt with seriously and urgently
 - 1.3.3 to demonstrate the College's commitment to combating fraud, corruption and malpractice, whether the perpetrators are internal or external to the College.
- 1.4 The Public Interest Disclosure Act exists to protect employees who use the Whistleblowing Procedure. An employee cannot therefore be disciplined for making a disclosure if
 - 1.4.1 the procedure has been followed; and
 - 1.4.2 the employee has acted in good faith and not for personal gain or out of personal motives.
- 1.5 If an employee uses the Whistleblowing Procedure to maliciously or vexatiously accuse another employee then the disciplinary procedure may be invoked, in accordance with clause 7.6. The Whistleblowing Procedure is not to be used for raising grievances about individuals' employment concerns. The College Grievance Procedure should be followed in such cases.

2. MALPRACTICE

- 2.1 The Whistleblowing Procedure should only be used where malpractice is suspected. The types of matters regarded as 'malpractice' are as follows:
- 2.1.1 Fraud or financial irregularity*
 - 2.1.2 Corruption, bribery or blackmail*
 - 2.1.3 Criminal offences
 - 2.1.4 Failure to comply with a legal or statutory obligation
 - 2.1.5 Miscarriage of justice
 - 2.1.6 Endangering the health or safety of any individual, or the environment
 - 2.1.7 Improper use of authority
 - 2.1.8 Serious financial maladministration arising from deliberate misconduct*
 - 2.1.9 Concealment of any of the above.
 - 2.1.10 Where the Corporation is believed to be acting outside the power accorded to it by the Instrument and Articles of Government of the College.

2.2 * The Discloser should refer to the College Fraud Policy if fraud, corruption or irregularity is suspected. If an allegation is received which relates to these matters the Designated Assessor should also refer to the College Fraud Policy. Copies of the policy may be found on the college intranet.

3. DESIGNATED ASSESSORS

- 3.1 The Principal will ensure that at least three members of staff of appropriate experience and standing within the College are designated at any time for the purposes of this procedure as "Designated Assessors" and that one of the members shall be designated as lead designated assessor (the "Lead Assessor"). A list of Designated Assessors can be obtained from the Personnel Department and the College intranet.
- 3.2 The Principal may revoke any such designation from time to time and appoint new Designated Assessors. The Principal will report any such revocation to the next meeting of the Employment Committee together with brief reasons for the revocation.

3.3 The Lead Assessor will co-ordinate the training of the Designated Assessors in the use of this procedure and will report to each meeting of the Audit Committee of the Corporation, on the number of occasions when this procedure has been formally invoked and the outcome.

4. HOW SHOULD A CONCERN BE RAISED?

4.1 If an employee, an agency contract worker, a student on work experience (the "Discloser") has a concern relating to suspected malpractice which has occurred or is likely to occur by a College manager, other employee of the College or member of the Corporation, the concern should be reported to a Designated Assessor. In exceptional circumstances, a concern may be reported directly to the Designated Governor.

4.2 Any disclosure to a Designated Assessor under this procedure should, wherever possible, be in writing. However, oral disclosures may be made at the choice of the Discloser. The Discloser should provide as much supporting evidence as possible about the disclosure and the grounds for the belief of malpractice.

4.3 On receipt of the disclosure the Designated Assessor will offer to interview the Discloser in confidence, as soon as practicable. The purpose of the interview will be to obtain as much information as possible from the Discloser about the grounds of the belief of malpractice and to consult with the Discloser about further steps which could be taken. The Discloser may be accompanied by a local trade union representative or work colleague at the interview. The Designated Assessor may be accompanied by a note taker.

4.4 If a disclosure is oral, the Designated Assessor will (during interview with the Discloser) take full written notes about the alleged malpractice and will seek to agree that note with the Discloser as a correct record.

4.5 The choice of Designated Assessor will be for the Discloser. A Designated Assessor may decline to become involved on reasonable grounds including: possible previous involvement or interest in the matter, incapacity, unavailability, or if after consulting the Lead Assessor the Designated Assessor believes that some other Designated Assessor would be more appropriate to consider the matter.

4.6 The Designated Assessor will acknowledge receipt of the concern within five working days of receiving it. An estimated completion date will be given and updates will be provided as and when necessary. Unless agreed otherwise with the Discloser, any correspondence will be sent to the Discloser's home address.

- 4.7 ***If an anonymous disclosure is received at the college it should be forwarded to the Lead Assessor. The Lead Assessor will have responsibility for assessing the seriousness of the allegation, the credibility of the concern and the likelihood of confirmation of the allegation. The disclosure will be logged, monitored and reviewed by the Lead Assessor as per paragraph 5.7***

5. FURTHER ACTION

- 5.1 As soon as practicable (and normally within five working days) after the interview the Designated Assessor will recommend what further steps should be taken. Such recommendations may (without limitation) include one or more of the following:
- 5.1.1 that the matter should be reported to the police;
 - 5.1.2 that the matter should be reported to the Learning and Skills Council, the DfES or other appropriate public authority;
 - 5.1.3 that the matter should be investigated either internally by the College or by the Audit Committee or some other committee of the Corporation and/or by external or internal auditors or investigators appointed by the College;
 - 5.1.4 that a member of staff should be given the opportunity to seek redress through the College's grievance or other internal procedures relating to staff.
- 5.2 The grounds on which the Designated Assessor may recommend that no further action by the College should be taken are as follows:
- 5.2.1 that the Designated Assessor is satisfied that the Discloser does not have a reasonable belief that malpractice has occurred, is occurring or is likely to occur; or
 - 5.2.2 that the Designated Assessor is satisfied that the Discloser is not acting in good faith; or
 - 5.2.3 that the matter concerned is already the subject of legal proceedings, or has already been referred to the police, the Learning and Skills Council, the DfES or other public authority; or
 - 5.2.4 that the matter is already (or has already been) the subject or proceedings under one of the College's other procedures relating to staff or students.

- 5.3 The Designated Assessor will make any recommendations for action to the Principal, unless there are reasonable grounds for not doing so, in which case the recommendations will be made to the Chairperson or the Vice-Chairperson of the Corporation. The recommendations will be made without revealing the identity of the Discloser, subject to paragraph 7.1 below. The Principal (or Chair of Corporation) will take all steps within his or her power to ensure the recommendations are implemented. [If the Principal decides not to implement fully any such recommendations that decision will be notified in writing to the Chairperson of the Corporation as soon as practicable, together with the reasons for it.]
- 5.4 Once the Principal (or other recipient) has decided what further steps (if any) should be taken, the Designated Assessor will inform the Discloser of the decision. ***The Principal will determine the level of information that is to be conveyed to the Discloser.*** If no further steps by the College are proposed, the Designated Assessor will give the reasons for this.
- 5.5 ***The Principal will conduct a risk assessment to determine whether it is appropriate for the alleged person to be notified of the allegation against them. If an allegation relates to a potentially criminal offence, such as fraud, then advising the alleged person without due consideration could have the potential to jeopardise any criminal investigation or result in the destruction of evidence.***
- 5.6 ***If the Principal decides that the matter is to be investigated internally, an investigation officer will be appointed and the alleged person will be notified of the allegations against them at the appropriate time, in line with the College Disciplinary Policy.***
- 5.7 ***All disclosures will be recorded and logged in a central log file, which will be held securely by the Lead Assessor. The Lead Assessor will be responsible for monitoring the progress of disclosures as per paragraphs 5.1 to 5.6 above.***
- 5.8 If the Discloser is not satisfied that his or her concern has been properly addressed, the Discloser will have the right to raise his or her concern in confidence with a named member of the Corporation who has been designated by the Corporation as “the designated governor”. The name and contact details of the Designated Governor can be obtained from the Personnel Department and from the College’s Intranet.
- 5.9 The Corporation may revoke any such designation from time to time and appoint a new Designated Governor.

5.10 The Designated Governor will review the decision taken by the Principal (or Chair/Vice-Chair of Corporation), and such review may include an invitation by the Designated Governor to interview the Discloser and/or the Designated Assessor. After completing the review, the Designated Governor will notify the Discloser of his/her decision in writing. Such decision will be:

5.10.1 to confirm the decision which has previously been taken; or

5.10.2 to recommend to the Principal (or Chair/Vice-Chair of Corporation) that further steps should be taken, including one or more of those specified in paragraph 4 above.

6. EXTERNAL DISCLOSURE

6.1 If, having followed this procedure, the Discloser is not satisfied with the final outcome notified by the Designated Governor, the Discloser may raise the matter concerned on a confidential basis directly with the police, the Learning and Skills Council, the DfES, a Member of Parliament or other appropriate public authority. Before taking any such action, the Discloser will inform the Designated Governor.

6.2 The Discloser may also raise the matter, in accordance with clause 6.1 above, if he/she has reasonable grounds for believing that all of the available Designated Assessors and the Designated Governor are involved in the alleged malpractice or that the Discloser will be subjected to a detriment as a result of making the disclosure.

6.3 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.

6.4 ***The Discloser may wish to contact 'Public Concern At Work', an independent, non-statutory, charitable body that can provide advice to individuals with concerns about possible malpractice.***

6.5 ***Relevant contact details that may be useful are:-***

West Yorkshire Police – 0113 2435353

West Yorkshire Learning and Skills Council – 01274 444083

Public Concern At Work – 020 7404 6609 or visit their website at www.pcaaw.co.uk

7. SAFEGUARDS

- 7.1 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 unless there are grounds to believe that the Discloser has acted maliciously. In the absence of such consent or grounds, the Designated Assessor will not reveal the identity of the individual as the Discloser of information under this procedure except:
- 7.1.1 where the Designated Assessor is under a legal obligation to do; or
 - 7.1.2 where the information is already in the public domain; or
 - 7.1.3 on a strictly confidential basis to the Designated Assessor's note taker for the time being; or
 - 7.1.4 on a strictly confidential basis to a professionally qualified lawyer for the purpose of obtaining legal advice
- 7.2 Any documentation (including computer files and discs) kept by the Designated Assessor relating to the matter will be kept secure, and as far as practicable, will not reveal the identity of the individual as the Discloser of information under this procedure.
- 7.3 Trade union representatives or work colleagues involved in the Whistleblowing Procedure will be under an obligation to ensure that the matter is kept strictly confidential, unless required by law to disclose such information or if the information is freely available in the public domain.
- 7.4 The Discloser will not be required by the College without his or her consent to participate in any enquiry or investigation into the matter established by the College unless there are grounds to believe that the Discloser may have been involved in misconduct or malpractice.
- 7.5 Where the Discloser participates in any such enquiry or investigation, that participation will usually be required to be on an open rather than a confidential basis. However, the Designated Assessor should retain the anonymity of the Discloser, unless permission has been given to reveal their identity or in cases where paragraph 7.6 applies.
- 7.6 No disciplinary action will be taken against a Discloser for following the Whistleblowing 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 vexatiously or where an external disclosure is made in breach of this procedure without reasonable grounds or otherwise than to a public authority.

Issue:	4	Prepared by:	Authorisation (Principal):
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Signed:Date:
I D Billyard, Principal (on behalf of Leeds College of Building)

Signed:Date:
P Watson (on behalf of NATFHE)

Signed:Date:.....
N Hart/E Smith (on behalf of UNISON)