

## Confidential Reporting Code and Policy

Version No	Purpose/Change	Lead	Impact Assess	Review Date
1.0	Introduction of code and policy	SGJ		January 2012
2.0	Reviewed and updated (approved by Corporation and JCC October 2014)	CAP	✓	September 2014
-	Reviewed- no changes	LAT		March 2019
3.0	Reviewed – minor changes	LHR		March 2022

### 1 Introduction

- 1.1 It is in the interests of all concerned that disclosures of wrongdoing or irregularity are dealt with properly, quickly and discreetly.
- 1.2 Confidential reporting<sup>1</sup> is the disclosure or communication of information about possible malpractice by individuals or organisations, either internally or externally, to an outside authority. The term malpractice has equal validity in relation to breaches of civil and criminal law.
- 1.3 This document gives practical guidance on a Confidential Reporting Policy.
- 1.4 This Code takes into account the requirements of the Public Interest Disclosure Act 1998.<sup>2</sup>

### 2 Purpose and Scope of the Code

- 2.1 A Confidential Reporting Policy is designed to allow employees<sup>3</sup> to disclose allegations of malpractice.
- 2.2 It should be clear to employees that the highest standards of propriety and good practice are expected of them.

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<sup>1</sup> The term 'confidential reporting' is used in the Code instead of 'whistleblowing'.

<sup>2</sup> The Public Interest Disclosure Act provides a worker with potential protection from victimisation and dismissal for making a 'qualifying disclosure'. However, the Act encourages workers to raise matters internally with employers initially and disclosures will only be protected if they meet strict legal requirements. These requirements differ depending on the person the disclosure is made to but, generally, the worker must be acting in good faith and reasonably believe that the information disclosed falls into a defined category.

<sup>3</sup> Though the term 'employees' is used all the way through the Code this should not be seen as incompatible with the term 'workers' under the Public Interest Disclosure Act. The definition is broadly based on section 230(3) of the Employment Rights Act 1996. The following are described as 'workers': employees, quasi-employees (those who are not genuinely self-employed), certain kinds of agency workers and trainees on vocational or work experience schemes.

- 2.3 An employee's concerns about malpractice<sup>4</sup> may in this context include a reasonable belief that one or more of the following has occurred or is likely to occur:
- conduct which is a criminal offence or a breach of law
  - disclosures related to miscarriages of justice
  - dangerous procedures risking health and safety, including risks to the public as well as other employees
  - the unauthorised use of public funds
  - fraud and corruption
  - abuse of students, or
  - other unethical conduct
- 2.4 The overriding concern for all concerned should be that it would be in the public interest for the malpractice to be corrected and, if appropriate, sanctions applied.

### **3 Procedure**

- 3.1 Where an employee has concerns about a possible malpractice, as defined in paragraph 2.3 above and it is not appropriate to raise them through other procedures such as grievance procedures, these should be raised with either:
- a) the direct line-manager, or
  - b) where (a) is inappropriate, with The Principal, or
  - c) where (a) and (b) are inappropriate, with the Clerk to the Corporation
- 3.2 The policy sets out the actions that will be taken when concerns or allegations are raised.
- 3.3 The Confidential Reporting Policy should only be used in appropriate and genuine situations. If it is thought that the person making the disclosure has acted frivolously, maliciously, vexatiously or for personal gain, the College will take disciplinary action.

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<sup>4</sup> The code is wider in scope than the 'qualifying disclosures' of the Public Interest Disclosure Act.

## **Confidential Reporting Policy**

### **1 Preamble**

- 1.1 Employees are often the first to realise that there may be something seriously wrong within a College. However, they may not express their concerns because they feel that speaking up would be disloyal to their colleagues or to the College. They may also fear harassment or victimisation.
- 1.2 The College is committed to the highest possible standards of honesty, openness, probity and accountability. In line with that commitment we expect employees, and others that we deal with, who have serious concerns about any aspect of the College's work, to come forward and voice those concerns.
- 1.3 This policy document makes it clear that you can do so without fear of victimisation, subsequent discrimination or disadvantage. *This Confidential Reporting Policy is intended to encourage and enable employees to raise serious concerns within the College rather than overlooking a problem or 'blowing the whistle' outside.*
- 1.4 The policy applies to all concerned with the College.

### **2 Aims and Scope of this Policy**

- 2.1 This policy aims to:
  - encourage you to feel confident in raising serious concerns and to question practice
  - provide avenues for you to raise those concerns
  - ensure that you receive a response to your concerns
  - reassure you that you will be protected from possible reprisals or victimisation if you have a reasonable belief that you have made any disclosure in good faith
- 2.2 Any serious concerns that you have about any aspect of service provision, or the conduct of employees of the College or Corporation members or others acting on behalf of the College, can be reported under the Confidential Reporting Policy. This may be about something that:
  - makes you feel uncomfortable in terms of known standards, your experience or the standards you believe the College subscribes to; or
  - is against the College's Articles & Instruments and policies; or
  - falls below established standards of practice; or
  - amounts to improper conduct

### **3 Safeguards**

#### **3.1 Harassment or Victimisation**

3.1.1 The College will not tolerate any harassment or victimisation (including informal pressures) and will take appropriate action to protect you when you raise a concern in good faith.

3.1.2 Any investigation into allegations of potential malpractice will not influence or be influenced by any disciplinary or redundancy procedures that might already affect you.

#### **3.2 Confidentiality**

All concerns will be treated in confidence and every effort will be made not to reveal your identity if you so wish. At the appropriate time, however, you may need to come forward as a witness.

#### **3.3 Equality**

This policy applies to all College staff regardless of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation. All individuals will be treated in a fair and equitable manner recognising any special needs where adjustments can be made. No individual will suffer any form of discrimination, victimisation, harassment or bullying as a result of this policy.

#### **3.4 Anonymous Allegations**

3.4.1 This policy encourages you to put your name to your allegation whenever possible.

3.4.2 Concerns expressed anonymously will be considered at the discretion of the College.

3.4.3 In exercising this discretion the factors to be taken into account would include:

- the seriousness of the issues raised
- the credibility of the concern; and
- the likelihood of confirming the allegation from attributable sources

#### **3.5 Untrue Allegations**

If you make an allegation in good faith, but it is not confirmed by the investigation, no action will be taken against you. If, however, you make an allegation frivolously, maliciously or for personal gain, disciplinary action will be taken against you following the normal procedures set out in the College Disciplinary Procedure.

## **4 How to Raise a Concern**

- 4.1 As a first step, you should raise concerns with your line manager. If your line manager is not appropriate for any reason you should raise your concerns with the Principal. Where, exceptionally, you feel that none of the above is appropriate; you may raise your concerns with the Clerk to the Corporation.
- 4.2 Concerns may be raised verbally or in writing.
- 4.3 Although you are not expected to prove beyond doubt the truth of an allegation, you will need to demonstrate to the person contacted that there are reasonable grounds for your concern.
- 4.5 Advice and guidance on how matters of concern may be pursued can be obtained from:
  - The Principal
  - The Clerk to the Corporation
- 4.6 You may wish to consider discussing your concern with a colleague first and you may find it easier to raise the matter if there are two (or more) of you who have had the same experience or concerns.
- 4.7 You may invite your trade union representative or a workplace colleague to be present during any meetings or interviews in connection with the concerns you have raised.

## **5 How the College will Respond**

- 5.1 Where appropriate, the matters raised may:
  - be investigated by management, or through the disciplinary process
  - be referred to the police
  - be referred to the external auditor
- 5.2 In order to protect individuals and those accused of misdeeds or possible malpractice, initial enquiries will be made to decide whether an investigation is appropriate. The overriding principle is the public interest.
- 5.3 Within **ten** working days of a concern being raised, the responsible person will write to you:
  - acknowledging that the concern has been received
  - indicating how the matter will be dealt with
- 5.4 Where any meeting is arranged, off-site if you so wish, you can be accompanied by a union representative or a workplace colleague.
- 5.5 The College will take steps to minimise any difficulties which you may experience as a result of raising a concern. For instance, if you are required to give evidence in criminal or disciplinary proceedings the College will arrange for you to receive advice about the procedure.

- 5.6 The College accepts that you need to be assured that the matter has been properly addressed. Thus, subject to legal constraints, we will inform you of the outcome of any investigation.

## **6 The Responsible Person**

The Principal has overall responsibility for the maintenance and operation of this policy, and maintains a record of concerns raised and the outcomes (but in a form which does not endanger your confidentiality) and will report as necessary to the Corporation.

*Please note: that whilst every effort will be made to follow this policy, circumstances may not always allow this or may render certain parts of the policy inappropriate. Individuals will be treated fairly and in line with legislation in all instances.*