

LEEDS CITY COLLEGE GROUP

PUBLIC INTEREST DISCLOSURE (“WHISTLEBLOWING”) POLICY AND PROCEDURE JUNE 2017

1. Introduction

- 1.1 The Leeds City College Group (‘the group’) is committed to operating in an ethical and principled way. The aim of this policy and procedure is to provide employees and workers (referred to as ‘workers’ in this policy) with a means for raising genuine concerns of suspected bribery, breaches of the law and other serious wrongdoings.
- 1.2 The group encourages workers to raise genuine concerns about suspected wrongdoing at the earliest practicable stage. This policy and procedure is intended to provide safeguards to enable members of staff to raise concerns about malpractice in connection with the group.
- 1.3 This policy and procedure also aims to encourage workers to raise genuine concerns through internal procedures without fear of adverse repercussions being taken against them. The law allows workers to raise such concerns externally and this policy informs workers how they can do so. However, a failure to raise a concern under this procedure may result in a disclosure losing its protected status under the law.
- 1.4 This policy and procedure also seeks to balance the need to allow a culture of openness against the need to protect other workers against vexatious allegations or allegations which are not well-founded.
- 1.5 The principles of openness and transparency which underpin legislation protecting whistleblowers are reflected in this policy and procedure. The group is also committed to ensuring compliance with the Bribery Act 2010.
- 1.6 Students are also encouraged to raise genuine concerns about suspected wrongdoing by using the relevant complaints procedure. This policy and procedure is designed for the use of workers rather than students.

2. Applicability of this Policy and Procedure

- 2.1 This policy applies to all employees of the group, including apprentices; and
- 2.2 Workers which includes any casual workers; home-based casual workers; and employees of subcontractors; and
- 2.3 Agency workers engaged by the group.
- 2.4 Workers might be unsure whether it is appropriate to raise their concerns under this policy and procedure or whether it is a personal grievance, which is more appropriate to raise under the grievance procedure. Any worker in this situation is encouraged to contact the Director of Organisational Development and Human Resources in confidence for advice.
- 2.5 The Leeds City College Group is committed to providing a safe environment for the whole college community and has a legal duty to safeguard. If workers are unsure whether it is appropriate to raise concerns under this policy and procedure or whether it is a safeguarding issue, which should be dealt with under the safeguarding procedure, they should contact the Nominated Senior Manager for Safeguarding. The NSPCC whistleblowing helpline (tel: 0800 028 0285 or email help@nspcc.org.uk) is available for workers who do not feel able to raise concerns regarding child protection failures internally.

3. Protected Disclosures

3.1 Under the Public Interest Disclosure Act 1998 and the Enterprise and Regularity Reform Act 2013, the disclosure of confidential information in the public interest is a lawful act and a member of staff cannot be dismissed, disciplined or unfavourably treated, provided that:

- The procedure has been followed;
- The worker has acted in the public interest and not for personal gain or out of personal motives.

Under no circumstances should workers talk to the media or to any other person or body without first exhausting the proper procedure.

3.2 The law allows workers to raise what it defines as a 'protected disclosure'. In order to be a protected disclosure, a disclosure must relate to a specific subject matter (see section 4 below) and the disclosure must also be made in an appropriate way (see section 5). A 'protected disclosure' must, in the reasonable belief of the worker making it, also be made in the public interest. A protected disclosure must consist of information and not merely be allegations of suspected malpractice.

4. Specific Subject Matter

4.1 If, in the course of employment, a worker becomes aware of information which they reasonably believe tends to show one or more of the following, they must use this policy and procedure:

- That a criminal offence has been committed, is being committed or is likely to be committed.
- That an individual has failed, is failing or is likely to fail to comply with any legal obligation to which they are subject.
- That a miscarriage of justice has occurred, is occurring, or is likely to occur.
- That the health or 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.
- Promotion of extremist behaviour and views (Prevent Duty).
- Potential failure in the organisation's safeguarding arrangements.
- That information tending to show any of the above is being, or is likely to be, deliberately concealed.

4.2 Complaints about disputes/dissatisfaction in employment should be dealt with under the grievance procedure. For instance, complaints about breaches of a worker's own contract of employment should be raised as a grievance.

5. Procedure for making a Disclosure

5.1 Information which a worker reasonably believes tends to show one or more of the situations given in section 4 should promptly be disclosed to a member of the group executive so that any appropriate action can be taken.

5.2 If it is inappropriate to make such a disclosure to a member of the group executive, a worker can raise the issue with the Clerk to the Board.

5.3 If the disclosure relates to the Principal and Chief Executive, a worker can raise the issue with the Clerk to the Board. In the event that the disclosure relates to the Clerk to the Board, a worker can raise the issue with the Chair of the Board.

5.4 Workers are encouraged to identify themselves when making a disclosure. If an anonymous disclosure is made, we will not be in a position to notify the individual

making the disclosure of the outcome of action taken by the group. Anonymity also means that the group will have difficulty in investigating such a concern. The group reserves the right to determine whether to apply this procedure in respect of an anonymised disclosure in light of the following considerations:

- The seriousness of the issues raised in the disclosure;
- The credibility of the concern; and
- How likely it is that the concern can be confirmed from attributable sources.

5.5 For further guidance in relation to this policy and procedure, or concerning the use of the disclosure procedure generally, employees should speak in confidence to the Director of Organisational Development and Human Resources or the Clerk to the Board

6. Procedure for Investigation of a Disclosure

6.1 When a worker makes a disclosure, the recipient will acknowledge its receipt, in writing, within a reasonable time (normally within 5 working days).

6.2 The recipient will then determine whether or not it believes that the disclosure is wholly without substance or merit. If the recipient considers that the disclosure does not have sufficient merit to warrant further action, the worker will be notified in writing of the reasons for that decision and advised that no further action will be taken by the group under this policy and procedure. Considerations to be taken into account when making this determination may include (but is not limited to) the following:

- If the recipient is satisfied that a worker does not have a reasonable belief that suspected malpractice is occurring; or
- If the matter is already the subject of legal proceedings or appropriate action by an external body; or
- If the matter is already subject to another, appropriate group procedure.

6.3 When a worker makes a disclosure which has sufficient substance or merit warranting further action, the recipient will take action it deems appropriate (including action under any other applicable group policy or procedure). Possible actions could include internal investigation, referral to the group's auditors, or referral to relevant external bodies such as the police, Ofsted, Health and Safety Executive or the Information Commissioner's Office.

6.4 If appropriate, any internal investigation would be conducted by a manager without any direct association with the individual to whom the disclosure relates, or by an external investigator appointed by the group as appropriate.

6.5 Any recommendations for further action made as a result of the investigation will be addressed to the Principal and Chief Executive or the Chair of the Board, as appropriate in the circumstances. They will take all steps within their power to ensure the recommendations are implemented unless there are good reasons for not doing so.

6.6 The worker making the disclosure will be notified of the outcome of any action taken by the group under this policy and procedure within a reasonable period of time. If investigations into the concern are prolonged, the group will keep the worker updated as to the progress of the investigation and an estimated timeframe for its conclusion. If the worker is not satisfied that their concern has been appropriately addressed they can appeal against the outcome by raising the issue with the Principal and Chief Executive or, if the disclosure relates to the Principal, the Chair of the Board (via the Clerk) within ten working days. The Principal/Chair of the Board (or nominee) will make a final decision on action to be taken and notify the worker making the disclosure.

7. Safeguards for workers making a Disclosure

- 7.1 A worker making a disclosure under this procedure can expect their matter to be treated confidentially by the group and, where applicable, their name will not be disclosed to anyone implicated in the suspected wrongdoing without their prior approval. For confidentiality purposes, if a worker prefers to raise their concerns verbally then this will be allowed under this policy and procedure. All communications with the worker making the disclosure will be in writing and sent to the worker's home address.
- 7.2 The group will take all reasonable steps to ensure that any report of recommendations, or other relevant documentation, produced by the group does not identify the worker making the disclosure without their written consent, or unless the group is legally obliged to do so, or for the purposes of seeking legal advice.
- 7.3 No formal disciplinary action will be taken against a worker on the grounds of making a disclosure made under this policy or procedure. This does not prevent the group from bringing disciplinary action against a worker where it has grounds to believe that a disclosure was made maliciously or vexatiously, or where a disclosure is made outside the group without reasonable grounds.
- 7.4 A worker will not suffer dismissal or any detrimental action or omission of any type (including informal pressure or any form of victimisation) by the group for making a disclosure in accordance with this policy and procedure. Equally, where a worker is threatened, bullied, pressurised or victimised by a colleague for making a disclosure, disciplinary action will be taken by the group against the colleague in question.

8. Disclosure to External Bodies

- 8.1 This policy and procedure has been implemented to allow workers to raise disclosures internally within the group. A worker has the right to make a disclosure outside of the group where there are reasonable grounds to do so and in accordance with the law.
- 8.2 Workers may make a disclosure to an appropriate external body prescribed by the law. This list of 'prescribed' organisations and bodies can be found in information on the gov.uk website.
- 8.3 Workers can also make disclosures on a confidential basis to a practising solicitor or barrister.
- 8.4 If a worker seeks advice outside of the group, they must be careful not to breach any confidentiality obligations or damage the group's reputation in so doing.

9. Accountability

- 9.1 The group will keep a record of all concerns raised under this policy and procedure (including cases where it deems that there is no case to answer and therefore that no action should be taken) and will report to the Audit Committee as and when appropriate.

10. Further Assistance for Workers

- 10.1 The group will not tolerate any harassment or victimisation of workers who make disclosures. If at any stage of this procedure a worker feels that they are being subject to informal pressures, bullying or harassment due to making a disclosure they should raise this matter in writing to the Principal and Chief Executive or, if relating to the Principal and Chief Executive, the Chair of the Board.

- 10.2 A worker making a disclosure may want to confidentially request counselling or other support from the group's occupational health service. Any such request for counselling or support services should be addressed to the Director of Organisational Development and Human Resources. Such a request would be made in confidence.
- 10.3 Workers can also contact the charity Public Concern at Work for confidential advice on whistleblowing issues. Contact details are as follows:

3rd Floor, Bank Chambers
6-10 Borough High Street
London SE1 9QQ

Whistleblowing Advice Line: 020 7404 6609

<http://www.pcaw.org.uk>