

# **BIRMINGHAM INDEPENDENT COLLEGE**

## **WHISTLE BLOWING POLICY AND PROCEDURE**

### **1. Introduction**

- 1.1 The College is committed to achieving the highest possible standards of service and ethical standards.
- 1.2 Whistle blowing is the reporting by workers or ex-workers, of wrongdoing such as fraud, malpractice, mismanagement, breach of health and safety law or any other illegal or unethical act either on the part of management or by fellow employees.
- 1.3 This policy has been introduced in line with the Public Interest Disclosure Act 1998 (which you can consult at <http://www.opsi.gov.uk/acts/acts1998>) to enable workers to raise issues of concern in an appropriate manner.

### **2. Purpose**

- 2.1 This policy aims to:
  - Encourage workers to feel confident in raising concerns
  - Establish a fair and impartial investigative procedure
  - Provide avenues for workers to raise concerns and receive appropriate feedback
  - Ensure that workers receive a response to concerns and are aware of how to pursue them if they are not satisfied
  - Ensure that workers will be protected from any reprisals or victimisation by the college, provided that there is reasonable belief that the matter disclosed tends to show wrongdoing and that the disclosure has been made in an appropriate manner and in good faith

### **3. Scope**

- 3.1 This policy may be used by all workers at the College to raise concerns where the wellbeing of others or the College itself is at risk.
- 3.2 The term worker broadly includes employees, contractors, agency workers, trainees and a person who is or was subject to a contract to undertake work or services for the academy.
- 3.3 The Whistle blowing policy is designed to sit alongside the College Grievance Policy and Procedure and College Complaints Procedure. As a guideline, concerns, which should be raised through these routes, are as follows:
  - Employment related issues should be raised through the College's Grievance Policy and Procedure
  - The College Complaints Procedure can be used for complaints about the SLT and proprietors.

#### **4. Equal Opportunities**

- 4.1 The whistle blowing procedure must always be applied fairly and in accordance with employment law and College Equal Opportunities Policy.

#### **5. Responsibilities**

- 5.1 The College is responsible for maintaining fair, consistent and objective procedures for matters relating to whistle blowing.
- 5.2 The Head of College has overall responsibility for the internal organisation, control and management of the College.

#### **6. Timing**

- 6.1 The whistle blowing procedure should normally be conducted within the timescales laid down in this document. However, if there is a valid reason to do so, timescales can be varied. If this is initiated by management the employee should be given an explanation if this occurs and informed when a response or meeting can be expected. Delays should not normally exceed 10 working days.

#### **7. What to raise concerns about**

- 7.1 The Public Interest Disclosure Act lists matters about which concerns can be raised, which are as follows:
- a) That a crime has been committed, is being committed, or is likely to be committed
  - b) That a person has failed, is failing, or is likely to fail to comply with any legal obligation to which they are subject, for example a breach of contract.
  - c) That a miscarriage of justice has occurred, is occurring, or is likely to occur.
  - d) That the health and safety of an individual has been, is being, or is likely to be endangered
  - e) That the environment has been, is being or likely to be damaged
  - f) That information tending to show any of a) to e) above has been concealed or is likely to be deliberately concealed.

#### **8. The College's Assurances to workers**

##### *8.1 To ensure workers have the right to disclose a concern*

- 8.1.1 Workers have the right to disclose a concern/issue if the College does not deal with the matter. However, the duty of fidelity is implied by the law in every contract of employment and prohibits employees from disclosing employers' confidential information, unless it is in the public interest that information is disclosed or unless the College fails to properly consider or deal with the issue.

## 8.2 *To protect workers*

- 8.2.1 If a worker makes a disclosure on one or more of the matters listed above and they have a reasonable belief that the concern is real and they are acting in good faith, the worker will not suffer any detriment, even if after investigation it transpires that the concern is unfounded. The College will not tolerate the harassment or victimisation of any worker raising a genuine concern.
- 8.2.2 If a worker requests that their identity is protected, the College will not disclose it unless required to do so in law. If the situation arises where the College is unable to resolve the concern without revealing the worker's identity (for instance because the worker's evidence is needed in court), the College will discuss with the worker how the matter should proceed. However, it must also be stated that if a worker chooses not to disclose their identity it will be much more difficult for us to look into the matter or to protect your position or to give you feedback. Accordingly, while we will consider anonymous reports, it will not be possible to apply all aspects of this policy for concerns raised anonymously.

## 9. **Internal procedure**

### 9.1 **Stage one - notification**

- 9.1.1 The worker (the Representative) raising the concern should do so orally or in writing to their line manager or Head of College. The Representative has the right to have the matter treated confidentially.
- 9.1.2 If the line manager or Head of College believes the concern to be genuine and that it is appropriate to use the Whistle Blowing procedure, the manager should contact the Chair of Proprietors as Assessor).
- 9.1.3 Should it be alleged that the Chair of Proprietors is involved in the alleged malpractice, a member of the Senior Leadership Team should be asked to act as Assessor.
- 9.1.4 If the Representative feels unable to raise their concern with their line manager or the Head of College in the first instance, they may contact the Assessor direct. If this occurs, the Representative will be asked to justify why they feel unable to raise the concern with their Line Manager or the Head of College.

### 9.2 **Stage two – the meeting**

- 9.2.1 The Assessor will interview the Representative within ten working days, in confidence, or earlier if there is an immediate danger to loss of life or serious injury and will:
- Obtain as much information as possible from the Representative about the grounds for the belief of malpractice;
  - Consult with the Representative about further steps which could be taken;

- Inform the Representative of appropriate routes if the matter does not fall within the College's Whistle Blowing Procedure;
- Report all matters raised under this procedure to the Director(s).

9.2.2 At the interview with the Assessor, the Representative may be accompanied by a recognised trade union representative or a work colleague. The Assessor may be accompanied by a note taker.

### **9.3 Stage three – the outcome**

9.3.1 Within ten working days of the interview, the Assessor will recommend to the Head of College one or more of the following:

- The matter be investigated internally by the college
- The matter be investigated by the responsible person from the Board of Governors appointed by the college
- The matter be reported to the Department for Education
- The matter be reported to the Police

9.3.2 The grounds on which no further action is taken may include:

- The Assessor is satisfied that, on the balance of probabilities, there is no evidence that malpractice has occurred, is occurring or is likely to occur;
- The Assessor is satisfied that the Representative is not acting in good faith;
- The matter is already (or has been) the subject of proceedings under one of the college's other procedures or policies;
- The matter concerned is already the subject of legal proceedings, or has already been referred to the police, the responsible person from the Board of Governors, the Department for Education or other public authority.

9.3.3 Should it be alleged that the Head of College is involved in the alleged malpractice, the Assessor's recommendation will be made to the Director(s).

9.3.4 The recipient of the recommendation (Head of College or Director) will ensure that it is implemented unless there is good reason for not doing so in whole or in part.

9.3.5 The conclusion of any agreed investigation will be reported by the Assessor to the Director(s) in writing within twenty eight days.

9.3.6 If the Representative has not had a response within the responsible person from the Board of Governors, but will inform the Assessor before doing so.

9.3.7 The Representative may at any time disclose the matter on a confidential basis to a solicitor for the purpose of taking legal advice.

## **10. External contacts**

10.1 Whistle blowing to an external body without first going through the internal procedure is inadvisable without compelling reasons. A reason may be that the Representative is not content with the conclusion of the Assessor. In particular, this means being careful about what is said to the media. Compelling reasons could be the involvement of the senior managers, serious health and safety issues or possible discrimination. The external bodies that could be used are:

- Public Concern at Work (The Whistleblowing charity) :  
<http://www.pcaw.org.uk>
- Department for Education
- Member of Parliament
- National Audit Office
- Health and Safety Executive
- Police

10.2 If you do not feel able to raise your concern in the ways outlined above, you should consult the Public Interest Disclosure Act for information about other routes by which a disclosure may be made.

## **11. Malicious Accusations**

11.1 Deliberately false or malicious accusations made by a Representative will be dealt with under the College Disciplinary Procedure.

11.2 The College will ensure the Representative is protected from any form of victimisation or discrimination.

## **12. Review**

12.1 This policy will be reviewed every two years.

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