

### Introduction

- 1.1 Members of staff 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 their employer. They may also fear harassment or victimisation. In these circumstances, it may be easier to ignore the concern rather than report what may just be a suspicion of malpractice.
- 1.2 The College encourages members of staff and students to raise genuine concerns about malpractice at the earliest practicable stage rather than wait for proof. Malpractice within the College is taken very seriously.
- 1.3 This procedure is, accordingly, intended to provide safeguards to enable members of staff and students to raise concerns about malpractice in connection with the College. The aim is to provide a rapid mechanism under which genuine concerns can be raised internally, and, if necessary, externally without fear of adverse repercussions to the individual. It is also intended to promote throughout the College a culture of openness and a shared sense of integrity by inviting all employees and students to act responsibly in order to uphold the reputation of the College and maintain public confidence.
- 1.4 This procedure also seeks to balance the need to provide safeguards for members of staff and students who raise genuine concerns about malpractice against the need to protect other members of staff, members of the Corporation, students and the College against uninformed or vexatious allegations which can cause serious difficulty to innocent individuals.

### Malpractice

- 2 The types of matters regarded as “malpractice” for the purposes of this procedure are as follows:
  - Fraud or financial irregularity
  - Corruption, bribery or blackmail
  - Criminal offences
  - Failure to comply with a legal or regulatory obligation
  - Miscarriage of justice
  - Endangering the health or safety of any individual
  - Endangering the environment
  - Improper use of authority
  - Serious financial maladministration arising from the deliberate commission of improper conduct.

## **Designated Assessors**

- 3.1 The Principal of the College will ensure that at least two but not more than 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 ("Designated Assessors") and that one of the members shall be designated as lead designated assessor ("the Lead Assessor"). At the date of the adoption of this procedure the Designated Assessors will be:

**First Designated Assessor (the Lead Assessor)** – James Hibbert, Deputy Principal

**Second Designated Assessor** – David Stokes, Vice Principal

**Third Designated Assessor** – Becky Chapman, Estates Manager

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 Corporation, together with brief reasons for the revocation. Where a revocation arises from the termination of a Designated Assessor's employment (whether by the College or by the officer) brief reasons for the termination will be given to the Corporation.

- 3.2 The Lead Assessor will co-ordinate the training of the Designated Assessors in the use of this procedure and will produce an annual report to the Corporation on the number of occasions when this procedure has been formally invoked and their outcome.

## **Disclosure**

- 4 This procedure applies to disclosure by an individual ("the Discloser") who is an employee, an agency contract worker or a self-employed homemaker employed or engaged by the College or a student at the College, and who has grounds to believe that malpractice has occurred, is occurring or is likely to occur in connection with the College (whether on the part of another employee, a member of the Corporation, or any other person or persons).
- 5 The Discloser should as soon as practicable disclose in confidence the grounds for the belief of malpractice to one of the Designated Assessors. The choice of Designated Assessor will be for the Discloser, but a Designated Assessor may decline to become involved on reasonable grounds, including possible previous involvement or interest in the matter concerned, incapacity or unavailability or if a Designated Assessor is satisfied, after consulting the Lead Assessor, that some other Designated Assessor would be more appropriate to consider the matter in accordance with this procedure.

- 6 Any disclosure to a Designated Assessor under this procedure shall, wherever possible, be in writing, but, if this is not practicable, any such disclosure may be oral, at the choice of the Discloser. The Discloser should provide as much supporting written evidence as possible about the disclosure and the grounds for the belief of malpractice.
- 7 On receipt of the disclosure, the Designated Assessor will offer to interview the Discloser in confidence, such interview to take place as soon as practicable after the initial disclosure. The purpose of the interview will be for the Designated Assessor 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. If the Discloser is a member of staff, s/he may be accompanied by a local trade union representative or work colleague at the interview. If the Discloser is a student and s/he is under 18, s/he may be accompanied by a parent or guardian. A student aged 18 or over may be accompanied by a fellow student. The Designated Assessor may be accompanied by an administrative assistant to take notes, which will not identify the Discloser. For safeguards in relation to confidentiality, see paragraphs 15 to 20 below.

### **Further Steps**

- 8 As soon as practicable after the interview (or after the initial disclosure if no interview takes place) the Designated Assessor will recommend what further steps should be taken. Such recommendations may (without limitation) include one or more of the following:
  - that the matter should be reported to the police;
  - that the matter should be reported to the appropriate public authority, the Department for Education, the National Audit Office or other appropriate public authority;
  - 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;
  - that a member of staff or a student should be given the opportunity to seek redress through the College's grievance or complaints procedures or through an appeal under the College's disciplinary procedures relating to staff or students;
- 9 The grounds on which the Designated Assessor may recommend that no further action by the College should be taken are as follows:
  - that the Designated Assessor is satisfied that the Discloser does not have a reasonable belief that malpractice within the meaning of this procedure has occurred, is occurring or is likely to occur; or
  - that the Designated Assessor is satisfied that the Discloser is not acting in the public interest; or

- that the matter concerned is already the subject of legal proceedings, or has already been referred to the police, the Further Education Funding Council, the Department for Education and Employment or other public authority; or
  - that the matter is already (or has already been) the subject of proceedings under one of the College's other procedures relating to staff or students.
- 10 Any recommendations made under this procedure will be made by the Designated Assessor to the Principal unless it is alleged that the Principal is involved in the alleged malpractice or unless there are other reasonable grounds for not doing so, in which case the recommendations will be made to the Chair or the Vice-Chair of the Corporation. In any case the recommendations will be made without revealing the identity of the Discloser save as provided in paragraph 15 below. The recipient of the recommendations will take all steps within his or her power to ensure that they are implemented except to the extent that in the view of the recipient there are good reasons for not doing so. If the Principal/Chief Executive decides not to implement fully any such recommendations that decision will be notified in writing to the Chair of the Corporation as soon as practicable, together with the reasons for it.
- 11 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. If no further steps by the College are proposed, the Designated Assessor will give the reasons for this.

### **External Disclosure**

- 12 In the event of a safeguarding issue, employees that feel unable to contact the College should seek advice from the NSPCC helpline (0808 800 5000 / [help@nspcc.org.uk](mailto:help@nspcc.org.uk))
- 13 If, having followed this procedure, the Discloser is not satisfied with the further steps (if any) decided upon or the outcome of any such steps, the Discloser may raise the matter concerned on a confidential basis directly with the police, the Department for Education, a Member of Parliament or other appropriate public authority. Before taking any such action, the Discloser will inform the Designated Assessor.
- 14 The Discloser may also raise the matter in accordance with clause 12 above if the Discloser has reasonable grounds for believing that all of the available Designated Assessors are or were involved in the alleged malpractice or that the Discloser will be subjected to a detriment as a result of making the disclosure.
- 15 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.

## Safeguards

- 16 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 or vexatiously. 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:
  - where the Designated Assessor is under a legal obligation to do; or
  - where the information is already in the public domain; or
  - on a strictly confidential basis to the Designated Assessor's administrative assistant for the time being; or
  - on a strictly confidential basis to a professionally qualified lawyer for the purpose of obtaining legal advice.
- 17 Any documentation (including computer files) kept by the Designated Assessor relating to the matter will be kept secure, so that as far as practicable only the Designated Assessor [and his or her administrative assistant] shall have access to it. As far as practicable, any documentation prepared by the Designated Assessor will not reveal the identity of the individual as the Discloser of information under this procedure.
- 18 Where the Discloser involves a local trade union representative or work colleague in this procedure, the Discloser will be under an obligation to use all reasonable endeavours to ensure that the representative or work colleague keeps this matter strictly confidential save, as permitted under this procedure, as required by law or until such time as it comes into the public domain.
- 19 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.
- 20 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, although the obligations of the Designated Assessor under clause 15 of this procedure will remain in relation to the identity of the individual as the original Discloser of information under this procedure.
- 21 Subject to paragraph 21 below, the College will not (and it will use all reasonable endeavours to ensure that its employees do not) subject the Discloser to any detriment, on the grounds of the Discloser's disclosure of information under this procedure. The Discloser should report any complaints of such treatment to a Designated Assessor. If the Discloser wishes the Designated Assessor to take action in relation to such complaints, the Discloser may be asked to consent in writing to

the Designated Assessor revealing the Discloser's identity for the purposes of any such action.

### **Protection Against Disciplinary Action**

- 22 No disciplinary action will be taken against a Discloser on the grounds of a disclosure made by the Discloser in accordance with this 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 otherwise than to an appropriate public authority.

### **Amendments/Review**

- 23.1 This procedure may be amended by the Corporation from time to time.
- 23.2 Any comments or suggestions about the procedure should be referred to a Designated Assessor.

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Approved By: Corporation  
Date of Approval: 3<sup>rd</sup> October 2017  
Frequency of Review: Every Three Years  
Date of Next Review: October 2020  
Updated: minor update January 2018 by SMT

The SMT is delegated to approve minor changes to the policy in response to legal changes and best practice.