

SOUTH KENT COLLEGE FURTHER EDUCATION CORPORATION

**STAFF WHISTLEBLOWING POLICY
(Public Interest Disclosure)**

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| The Policy | <p>1. THE POLICY</p> <p>South Kent College is committed to ensuring that it conducts its business in a way which is open, honest and transparent. As an organisation funded by public money it has an obligation to exercise responsible stewardship and to account for those funds. As a result, it takes allegations of malpractice very seriously and staff who speak freely about matters about which they have a concern in the public interest or the interest of the organization will be protected from harm provided they make such allegations in good faith and follow the procedure outlined in this document.</p> |
| Introduction Eligibility | <p>2. INTRODUCTION</p> <p>2.1 It is often the case that employees or other workers are the first to see or suspect misconduct of some kind in their organisation, which may, in the minority of cases, turn out to be serious malpractice, fraud, corruption or public danger. However, they often do not express their concerns, either because they feel that speaking up would be disloyal to their colleagues or their employer, or because they feel that they might be dismissed, subjected to harassment or victimisation; and in those circumstances it is often easier to ignore the malpractice rather than take action.</p> <p>2.2 In order that individuals should feel free to raise such matters without fear of victimisation or retribution, this procedure has been drawn up to provide a channel whereby individuals may raise genuine and legitimate concerns confidentially inside, and, if necessary, outside the College. It is also intended to promote throughout the College a culture of openness and integrity and to encourage individuals to act responsibly to uphold the College's reputation and the confidence of the public. Such disclosures are warranted in the interests of protecting the public, the College, its employees or students, and the individual will be protected provided that:</p> <ul style="list-style-type: none">(a) the individual has reasonable grounds for suspecting misconduct;(b) s/he is acting in good faith and not for personal gain or for other personal motives. |

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| Scope of the Policy | <p>3. SCOPE OF THE POLICY</p> <p>3.1 This policy and procedure applies to all employees of and workers at South Kent College (the College), including self-employed and casual workers and members of the College Corporation. It provides safeguards for workers who raise genuine concerns, and workers are protected from dismissal or other unfavourable treatment provided that they follow the procedure.</p> <p>3.2 It also offers protection to the College, other staff, workers and students from unfounded or malicious allegations.</p> |
| Terms Used | <p>4. TERMS USED</p> <p>4.1 ‘The Discloser’ Any individual employed by or working for the College who has grounds to believe that malpractice as described has occurred, is occurring or is likely to occur in connection with the College; and who discloses the matter to the appropriate individual.</p> <p>4.2 ‘Workers’ For the purposes of this procedure, this term includes:-</p> <ul style="list-style-type: none"> • employees of South Kent College • agency workers • casual workers • self-employed workers or ‘contractors’ • trainees/work experience trainees. <p>4.3 ‘Disclosure’ Otherwise known as ‘whistleblowing’: the disclosure by an employee or other worker of confidential information which relates to some danger, fraud or other illegal or unethical conduct connected with the workplace, whether committed by the employer or by fellow workers.</p> |
| Malicious Allegations | <p>5. MALICIOUS ALLEGATIONS</p> <p>Any individual who maliciously raises unfounded allegations will be treated as having committed a serious disciplinary offence; if s/he raises the matter externally without having gone through the procedure s/he will be treated as having brought the College into disrepute and subject to disciplinary action, unless s/he can prove that s/he had a reasonable concern based on reasonable facts and had a good reason for not following the procedure. In this context, ‘malicious’ means action taken with intent to harm and knowing the allegation to be untrue.</p> |
| Confidentiality | <p>6. CONFIDENTIALITY</p> <p>6.1 The name of any individual raising a concern under this procedure will not be disclosed to the alleged perpetrator without prior approval by the individual, and the matter will be treated in confidence.</p> |

- 6.2 Notes will be made of the matter in order for it to be treated appropriately, but without disclosing the individual's identity. However, it is not possible to guarantee confidentiality in all circumstances, because investigation of an allegation may reveal the discloser's identity; s/he may also be required to give evidence in the public domain, for example in criminal proceedings.
- 6.3 The discloser's name will as far as possible be kept out of any confidential report submitted by the appropriate investigating group, other than in the following circumstances:
 - (a) where there is a legal obligation to reveal the name; or
 - (b) where the information is already in the public domain; or
 - (c) where the investigator has the need to disclose the name to a legal practitioner for the purposes of obtaining legal advice.
- 6.4 If the discloser brings with him or her a supporter, trade union representative or other companion, it will be the discloser's responsibility to ensure that the companion maintains confidentiality.
- 6.5 The discloser will be required to comply with requests from the investigators to participate in any investigation and to submit all information and evidence held by him/her to such body.

Safeguards for the discloser

7. SAFEGUARDS FOR THE DISCLOSER

- 7.1 If you make an allegation in good faith, but it is not upheld by an investigation, no action will be taken against you and you will not be penalized; the College relies on its staff to behave with integrity, and similarly to bring to its attention examples where others do not.
- 7.2 However, if it transpires that you made the allegation frivolously (in other words, as a 'time-waster'), maliciously (see paragraph 7.1) or for personal gain, then the matter may be regarded as gross misconduct and disciplinary action may be taken against you.
- 7.3 The College will as far as is reasonably practicable protect you from victimisation as a result of having made a complaint under this procedure. You must report any examples of such treatment to the Clerk to the Corporation for consideration of disciplinary action. However, you must also bear in mind that your identity may be revealed in order for such action to be taken.
- 7.4 You must remember, however, that you will only be protected from dismissal, victimisation or other detriment

provided you make the disclosure in the approved way. The emphasis is always on raising the matter internally or in the appropriate way, to give College management every chance to investigate and take appropriate action to deal with the issues before they become public, with all the unwelcome publicity such matters attract. There is no entitlement to disclose a matter externally - for example, to the media – unless the internal procedure has been followed first, other than in exceptional circumstances (see paragraph 8.5.2).

- 7.5 An individual who perceives a potential instance of misconduct covered by this policy and procedure must therefore follow the procedure as set out below.

The Procedure 8. **THE PROCEDURE**

8.1 Who is covered by the procedure?

This procedure applies to all workers at the College and members of the College Corporation. However, if the matter is something for which the College is not legally responsible (for example, the disposal of waste collected from the College), then the disclosure must be made to that person or organisation rather than to the College.

**Issues covered
by the
procedure**

8.2 What issues are covered by the procedure?

- 8.2.1 The types of malpractice covered by this procedure are matters which involve the deliberate misuse of the public money which funds the College. These matters include *(this list is not exhaustive nor exclusive)*:

- (a) Fraud
- (b) Financial irregularity or serious financial maladministration arising from the deliberate commission of improper conduct
- (c) Corruption, bribery, dishonesty or blackmail
- (d) Criminal offences
- (e) Miscarriages of justice
- (f) Failure to comply with a legal obligation
- (g) Endangering the health & safety of any individual
- (h) Endangering or damaging the environment
- (i) Improper use of authority

- 8.2.2 In addition, if the individual has evidence that any of the above matters has been, is being or is likely to be deliberately concealed, that in itself is an example of malpractice which would be treated in the same way.

- 8.2.3 Individual disputes or grievances are not covered by this procedure and will be dealt with according to the appropriate College policy & procedure.

**Informal
Procedure**

8.3 Informal procedure

8.3.1 This procedure is intended to encourage staff to be open about instances of potential misconduct which they perceive within the College.

8.3.2 However, in many cases staff may be unsure whether the matter about which they are concerned is in fact appropriate to be investigated under this procedure - for example, if they feel that an area is being poorly managed but they do not necessarily feel that public money is being misused. Under those circumstances the member of staff should first of all consult one of the individuals listed below to explore the issues and help him or her to decide whether the matter might be dealt with in some other way.

8.3.3 This does not in any way detract from your right to invoke the formal procedure if you feel it is appropriate - it is intended as a help to staff who are uncertain about a matter. If you are sure that what you have identified is a matter appropriate for full investigation under the formal procedure then you should follow the steps as set out in paragraph 8.4 onwards.

8.3.4 Individuals who should be consulted if you have a concern about whether to make a formal disclosure are as follows:

- (a) a Centre Manager other than your own;
- (b) a Director other than your own;
- (c) the Director of Human Resources;
- (d) the Equal Opportunities Officer (HR Advisor);
- (e) a staff or trade union representative.

8.3.5 These individuals will have been trained to help you to identify the issues and to decide how to move the issue forward.

8.3.6 If, after consulting with any of the above individuals, the conclusion is reached that the matter should be investigated under some other College procedure, the individual will be so advised. If no procedure exists for the particular concern raised by the individual, the matter will be referred to the Principal, who may at his discretion set up an investigation if he feels it appropriate.

**Formal
Procedure:
Internal
Disclosure**

8.4 Formal procedure: internal disclosure

8.4.1 If, after consulting with any of the above individuals (if you feel it appropriate), you come to the conclusion that the matter is sufficiently serious to invoke the full formal procedure, in the first instance, a disclosure must be made to the Clerk to the Corporation, who will take notes of the details of the allegation and decide whether and to whom the matter should be passed for investigation. The only circumstances in which this stage may be bypassed are:

- (a) if you have serious and well-founded belief that to do this would cause you to suffer some 'detriment' or harm (see 'external disclosure' below); or alternatively
- (b) if your complaint relates to the Clerk to the Corporation. In this case you should make it direct to the Chair of the Governing Body. If it also relates to the Governing Body, see 'external disclosure' below.

8.4.2 A report will be produced at appropriate intervals to the College Corporation, outlining (without giving precise details such as to identify individuals involved) occasions on which this procedure has been invoked and the outcome of any investigation.

8.4.3 The disclosure should wherever possible be in writing, providing as much supporting evidence as possible about the alleged malpractice in order to give the investigators a starting-point for their investigation. However, the discloser may, if preferred, make the disclosure verbally.

8.4.4 On receipt of the disclosure, whether in writing or verbally, the Clerk to the Corporation will consider the evidence before him/her and make a decision as to further steps. Such steps may include (*this list is not exhaustive or inclusive*):

- (a) that the matter be investigated by an appropriate group of individuals, to be identified according to the circumstances of each individual case; they will generally comprise an appropriate group selected from the College Corporation, though in other cases a group of staff of appropriate experience and standing within the College may be invited to investigate;
- (b) that the matter be reported to the police;
- (c) that the matter be reported to the Learning and Skills Council, the Department for Education & Skills, the National Audit Office or some other appropriate public body.
- (d) that no investigation take place, on the grounds that the matter is not appropriate to be investigated under this procedure and some other College procedure should be invoked (for example, harassment & bullying, discipline, grievance);
- (e) that no further action be taken, on the grounds that
 - (i) the evidence submitted by the discloser does not suggest that malpractice within the meaning of this procedure is occurring, has occurred or is likely to occur; or
 - (ii) the Clerk to the Corporation is not satisfied that the discloser is acting in good faith; or

- (iii) the matter is already the subject of legal proceedings or other action by the police, LSC, DfES or other public body; or
- (iv) the matter is already the subject of proceedings under another college procedure.

External Disclosure

8.5 External disclosure

8.5.1 If the discloser:-

- (a) makes a disclosure in good faith, not for purposes of personal gain; and
- (b) reasonably and genuinely believes that the allegation is true; and
- (c) believes that a disclosure to the employer would result in evidence being destroyed or that s/he would suffer harm; or alternatively
- (d) believes that disclosure has previously been made in the proper way and nothing has been done; or alternatively
- (e) believes that the malpractice is taking place at the highest level in the organisation:

s/he is justified in making a disclosure to some other person. This might include the LSC the DfES, a Member of Parliament, minister of religion, medical practitioner or other appropriate person. However, before taking this step the discloser must notify the Clerk to the Corporation a minimum of five days before taking action.

8.5.2 If the discloser reasonably believes that a criminal offence is being or has been committed, then he or she is justified in going directly to the police. The Clerk to the Corporation must be informed if he or she intends taking this step.

8.5.3 However, the discloser may at any time disclose the matter on a confidential basis to a qualified legal practitioner for the purpose of taking legal advice only.

The Outcome

8.5 The Outcome

If an investigation is carried out by an appropriate group of investigators, the outcome will be made known to the discloser.

References to other documents

9. REFERENCE TO OTHER DOCUMENTS

Reference should also be made to the College's Fraud Policy, Financial Regulations, Grievance Policy and Procedure and Disciplinary Policy and Procedure.