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**POLICY/PROCEDURE: WHISTLEBLOWING POLICY AND PROCEDURE**


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Approval required by:	SMT	Y	Governing Body	Y
SMT Lead:	Vice Principal Corporate Services			
Responsible Manager:	Director of HR			
Date approved:	December 2022			
Date to be reviewed:	December 2024			

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Relevant to:	Students	N	Staff	Y
	Visitors	N	ITS	Y
Relevant to:	All students	N		
	16-18 Vocational	N	Sixth Form	N
	Higher Education	N	Adults	N
	Apprenticeships	N	14-16	N
	Other	N	.....	
Relevant to:	All staff	Y		
	Board	Y	SPH	Y
	Managers	Y		
	Teaching staff	Y	Support staff	Y

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Accessible to	Students	N	Staff	Y
Friendly version	Students	N	Staff	Y

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EQIA required	N
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**Significant changes to policy**


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**Impact of changes**


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**SCOPE AND PURPOSE**

This Policy is intended to cover the disclosure by an employee of confidential information which relates to some danger, fraud or other illegal or unethical conduct connected with the workplace, be it of the employer or of their fellow employees. It is intended to cover concerns which are in the public interest and which may at least initially be investigated separately before leading to the invocation of other procedures. The policy and procedure may also be used by casual staff, agency staff and contractors working at Barnsley College or ITS (“the College”).

Examples of issues that might be raised are:

- Financial malpractice, impropriety or fraud.
- Bribery, corruption, improper conduct or unethical behaviour.
- Dishonesty including criminal activities.
- Failure to comply with a legal obligation.
- Miscarriage of justice.
- Academic or professional malpractice.
- Dangers to health, safety or the environment.
- Attempts to conceal any of the above.

## **BACKGROUND**

The college's Board of Governors is committed to the highest standards of openness, probity and public accountability. The aim of this policy and procedure is to provide employees with a means of raising genuine concerns of suspected serious wrongdoing. By these means, potentially damaging, dangerous and embarrassing matters can be dealt with and resolved internally.

The college encourages employees to raise genuine concerns about suspected wrongdoing at the earliest practicable stage through internal college procedures without fear of adverse repercussions being taken against them. The law allows employees to raise such concerns externally and this policy informs staff 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.

The Public Interest Disclosure Act 1998 (PIDA) gives legal protection to employees against being dismissed or otherwise penalised by their employers as a result of publicly disclosing suspected wrongdoing or malpractice.

Employees are subject to an implied contractual term of confidence and trust, which seeks to prevent them from disclosing their employer's confidential information. There may also be within the Contract of Employment a specific confidentiality clause. The law allows employees to raise what is defined as a 'protected disclosure'. A protected disclosure must relate to a specific subject matter and be made in an appropriate way. A protected disclosure must, in the reasonable belief of the employee making it, be made in the public interest and show past, present or future wrongdoing. It must consist of information and not merely be an allegation of suspected malpractice.

It should be emphasised that this policy and procedure is intended to assist individuals who believe that they have discovered malpractice or impropriety. It is not designed to question financial or business decisions taken by the college, and it is not a mechanism for employees to raise private grievances or grievances about their employment situation.

The college will provide appropriate training for key staff to support the application of this policy.

## **Protection of Staff Raising Concerns**

The law gives protection to employees who raise concerns provided that they have a reasonable belief that their disclosure is in the public interest and they have reasonable grounds for believing that the information disclosed indicates the existence of one or more of the following:

- That a criminal offence has been committed, is being committed or is likely to be committed.
- That a person 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 and safety of any individual has been, is being or is likely to be endangered.
- That information tending to show any matter falling within any one of the preceding paragraphs has been, is being or is likely to be deliberately concealed.

Employees who bring legitimate concerns to the attention of college management will have the right to have the matter treated confidentially and not to have their name disclosed to the alleged perpetrator of malpractice without their prior approval. However, the person may be required to give a statement as part of an investigation. Any information or evidence referred to in the application of this policy will be held securely to ensure that confidentiality is protected and maintained.

If an employee makes a disclosure in accordance with this policy and procedure which is not confirmed by subsequent investigation, no action will be taken against that individual.

The college will treat as a serious disciplinary matter any example of a manager or member of staff seeking to deter an employee from raising a legitimate concern.

It is an abuse of the policy to deliberately bring a false, malicious accusation. Therefore, it must be understood that falsely or maliciously raising unfounded allegations that are not reasonably believed to be in the public interest will be treated as a serious disciplinary offence and, in the case of making such an allegation externally, could involve the offence of bringing the College into disrepute.

Employees who may be unsure whether it is appropriate to raise their concern under this procedure or whether it is more appropriate to raise under the Grievance Procedure are encouraged to approach the Director of Human Resources in confidence.

### **Accountability of Staff Raising Concerns**

The college has a responsibility to ensure that those staff against whom concerns are raised are treated fairly and it is important that staff should realise that an allegation made under this Policy is a serious matter.

### **Raising a Concern**

Employees wishing to raise a concern should do so in accordance with the procedure set out below. It is acknowledged that anyone wishing to raise a concern may wish to seek advice and support from their trade union at any stage of the Procedure.

Employees are encouraged to identify themselves when making a disclosure. It is possible for an anonymous allegation to be made, however the college will not be in a position to notify the individual making the disclosure of the outcome of action taken. Anonymity also makes it difficult to investigate the concern. The college reserves the right whether to apply this procedure in respect of an anonymised disclosure in the light of the following considerations:

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

This policy should be read in conjunction with the Anti-Fraud Policy, the Fraud Response Plan, the Malpractice and Maladministration Policy and Anti-Bribery Policy for the appropriate process to follow in those instances.

### **Stage 1 - Disclosure**

Where an employee wishes to raise a concern, they should ordinarily discuss this with their Line Manager. However, in circumstances where these concerns relate to their Line Manager, or where the employee so chooses, the matter may be raised with any member of the Senior Management Team. SMT members can be contacted via the Principal's PA on 01226 216409 or via their e-mail address as published in the College address book. Alternatively, private and confidential mail marked "Addressee Only" is delivered unopened to SMT members.

If the matter relates to a member of the Senior Management Team it should be raised with the Principal.

The employee may contact the Director of Governance (through the PA to the Principal) if their concerns:

- Relate to a Senior Postholder, or
- Relate to an individual Governor or to the Board of Governors, or
- Where there are exceptional circumstances, for example, where an employee feels that the raising of the concern within the college could lead to the destruction of evidence of criminal activity.

The Director of Governance will deal with such matters under Stage 2.

An employee raising a concern should first make an appointment with the manager with whom they wish to discuss the matter and, at the same time, advise him/her that the matter is one to be dealt with under this policy and procedure and that they therefore wish to be offered protection under the policy. If they wish, the employee may be accompanied by a work colleague or trade union representative.

The matter will be handled in the strictest confidence. The person raising the concern will not be required to put their concern in writing although they may do so if they wish. The manager with whom the matter is being raised will meet the employee and will take notes that do not identify the individual raising the concern.

An employee has the right to make a disclosure outside of the college where there are reasonable grounds to do so and in accordance with the law. The employee must make the disclosure to an appropriate external body prescribed by law; this list of prescribed bodies can be found at:

<https://www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies--2/whistleblowing-list-of-prescribed-people-and-bodies>

Employees may also make disclosures on a confidential basis to a practising solicitor or barrister or their Member of Parliament. Protect (Public Concern at Work) is a service which gives independent advice and guidance to individuals and can be contacted on 020 3117 2520.

This policy and procedure has been implemented to allow employees to raise disclosures internally in the first instance. Any employee seeking outside advice must ensure they do not breach confidentiality obligations or damage the College's reputation.

### **Stage 2 – Investigation**

The Manager with whom the concern has been raised will inform the Principal who will cause the matter to be investigated by an independent person who will follow an evidence-based process and will be able to offer information about support. The investigating officer should inform the member of staff against whom the complaint is made as soon as is reasonably practicable. The member of staff will be informed of their right to be accompanied by a trade union representative or work colleague at any future interview or hearing held under the provision of this or any other procedure. The investigating officer will ensure that evidence is secured appropriately and where necessary provided to external bodies.

If the matter was raised with the Director of Governance due to the seniority of the subject of the complainant or the particular circumstances of the concerns, the Clerk will arrange for an appropriate person to undertake the investigation.

The college will determine, having taken advice where necessary, whether or not it believes that the disclosure is with or without substance or merit.

If the college considers that the disclosure does not have sufficient merit to warrant further action, the employee will be notified in writing of the reasons for the decision and advised that no further action will be taken under this policy and procedure.

Where an employee makes a disclosure that has sufficient substance or merit warranting further action, the college will take the action it deems appropriate (including action under another college policy and procedure). Possible actions may include internal investigation, referral to the college's Internal Audit Service, referral to external bodies, for example Ofsted, Health and Safety Executive or the Police should criminal activity be suspected.

The employee will have the right to raise the matter under Stage 3 of this procedure if they are not satisfied that the matter is being dealt with properly.

### **Stage 3**

Should the employee regard the matter as unresolved and wish to raise the issue with the Board, they may do so by contacting the Director of Governance within 10 days. The Director of Governance will arrange a meeting with the employee and will gather all of the evidence available. If they wish, the employee may be accompanied at such an interview by a work colleague or trade union representative. The Director of Governance will then arrange for the matter to be brought to the attention of the Chair of the Audit Committee. If the disclosure has been made direct to the Director of Governance and is of a criminal nature the Director of Governance may also notify the Police.

The Chair of the Audit Committee will review the action taken by management in relation to the concern raised and decide whether further investigation or action is required. In doing so, the Chair of the Audit Committee may interview the employee and any persons previously involved in dealing with the matter. If they wish, the employees may be accompanied at such interviews by a work colleague or trade union representative. The Chair of the Audit Committee may commission such further investigation as they consider is warranted and may refer the matter to the Chair of the Board of Governors or to the Audit Committee for further action if appropriate.

If the concern reported to the Director of Governance is one which affects the whole Board of Governors, the Director of Governance may seek advice from the relevant funding bodies as to the steps to be taken to deal with the matter. In this eventuality, the Director of Governance must inform the Chair of the Board and the Principal that this has been done.

The Director of Governance will advise the employee, in writing to their home address, of the outcome of the Chair of the Audit Committee's review and any further action taken to resolve the issue.

### **Monitoring**

It will be the responsibility of the Vice Principal Corporate Services to monitor the effectiveness of this policy by:

- Assessing the nature and frequency of complaints or cases and identifying any patterns which need to be addressed.
- Monitoring individual complaints or cases to ensure that they are effectively resolved and that no victimisation occurs.
- Reporting any instances of whistleblowing to the Audit Committee, along with any actions that have been identified as a result of the policy having been triggered.

As part of the process, the Vice Principal Corporate Services will consult with the trade unions on changes to this policy and procedure.

While this policy is to be followed by all employees of the college, it does not form part of an employee's contract of employment.

### EQUALITY AND DIVERSITY

An EqIA is not required for this policy.

### LINKED POLICIES AND PROCEDURES

- Grievance Procedure.
- Code of Conduct.
- Anti-Fraud Policy.
- Anti-Bribery Policy.
- Fraud Response Plan.
- Disciplinary Procedure.
- Malpractice and Maladministration Policy.

### LOCATION AND ACCESS TO THIS POLICY

This policy is available on the college's intranet.



