

Policy & Procedure	Public Interest Disclosure (Whistleblowing) Policy and Procedure
Policy Area	Human Resources
Version Number	02
Approving Committee	Audit Committee
Date of Approval	07 September 2017
Date of Equality Impact Assessment	15 September 2017
Date of Review	15 September 2020
Responsible Senior Manager	Director Organisational Development & HR

History of Amendments

Date	Version/Pages/Sections Affected	Summary of changes
April 2017		updates

Policy Statement

The Board of Management policy is that any concerns raised under the Public Interest Disclosure (Whistleblowing) Procedure will be taken seriously and that all staff will be afforded the rights set out under the Public Interest Disclosure Act 1998.

Equality Statement

The College is committed to providing equal opportunities to ensure its students, staff, customers and visitors are treated equally regardless of gender reassignment, race, religion or belief; disability; age; marriage and civil partnerships; pregnancy and maternity; sexual orientation; sex.

Please note this document is available in other formats, to request another format please email info@wcs.ac.uk

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Public Interest Disclosure (Whistleblowing) Policy and Procedure

1. Introduction

The College has a duty to conduct its affairs in a responsible way with due care for the health and safety of its employees, students and others and to comply with the law. We are committed to conducting our business with honesty and integrity, and we expect all staff to maintain high standards. However, all organisations face the risk of things going wrong from time to time, or of unknowingly harbouring illegal or unethical conduct. This Procedure provides guidance to all members of the College community (Staff, Students and Board Members) on how to inform management if they are concerned about serious malpractice, fraud or corruption within the College.

An internal Guidance Note for Managers in relation to the handling of disclosures made under the Public Interest Disclosure Act is available on the staff intranet:

<https://intranet.westcollegescotland.ac.uk/reference/reference/Public%20Interest%20Disclosure%20Guidance%20for%20Managers.pdf>

This Procedure does not form part of any Staff Member's contract of employment and the College reserves the right to amend the Procedure at its discretion, as it considers appropriate.

2. Interpretation

In this Procedure 'College' means West College Scotland, and 'Member', 'Chair', 'Secretary' and 'Principal' mean respectively the Member, Chair, and Secretary of the Board and Principal of the College. 'Staff' and 'Staff Member' mean staff employed by the College (which for these purposes only includes consultants, contractors, part-time and fixed-term workers, and agency workers). 'Student' means a person currently enrolled as a student of West College Scotland.

3. Public Interest Disclosure

The Public Interest Disclosure Act 1998 gives protection to employees against being subject to detrimental treatment or dismissal by their employer on the grounds that

they have raised a protected disclosure. Detrimental treatment includes disciplinary action, threats or other unfavourable treatment connected with raising a concern. Where an individual discovers information which he/she believes indicates malpractice or wrongdoing or the misuse of public funds within the College, then the information should be disclosed without fear of reprisal and may be made independently of their direct line management. In the instance of allegations of the misuse of public funds being made, the Secretary to the Board must notify the Scottish Funding Council

The aims of this Procedure are:

- To encourage Staff, Students and Board members to report suspected wrong doing as soon as possible in the knowledge that their concerns will be taken seriously and investigated as appropriate, and that their confidentiality will be respected
- To provide Staff, Students and Board members with Guidance as to how to raise those concerns
- To reassure Staff, Students and Board members that they should be able to raise genuine concerns in good faith without fear of detrimental treatment even if they turn out to be mistaken

It is important that Staff, Students and Board members have the confidence to raise concerns about malpractice internally; otherwise they may keep such concerns to themselves. A culture of openness and accountability is essential in order to prevent such situations occurring and to address them when they do occur.

Examples of matters that should be reported under this procedure:

- Financial fraud or mismanagement
- Criminal activity
- Bribery or corruption
- A failure to comply with or a breach of relevant duties, regulatory requirements, professional obligations or legal obligations
- Damage to the environment
- Danger to the health and safety of any person
- Unauthorised disclosure of confidential information

- Harm or the risk of harm to children or vulnerable adults
- Deliberate concealment of any of the above matters.

While Staff, Students and Board members are encouraged to raise concerns, it should be appreciated that raising a concern will not be a qualifying or protected disclosure unless, in the reasonable belief of the person raising the concern, the disclosure is made in the public interest and tends to show that one of the following has taken place, is taking place or is likely to take place:

- Criminal offences
- Breach of any legal obligation
- Danger to the health and safety of any individual
- Damage to the environment
- The deliberate concealing of information about any of the above.

The procedure should not be used in respect of:

- Allegations relating to discrimination or harassment against individuals, which should be dealt with under the Grievance or Bullying and Harassment Procedures; or
- Complaints relating to an individual's own personal circumstances, such as the way he/she has been treated at work, which should be dealt with using the College's established Grievance Procedure; or
- Collective grievances affecting a number of employees, which should also be dealt with using the College's established Grievance Procedure.

4. Confidentiality

Anyone who raises a genuine concern will have the matter treated in a confidential and sensitive manner.

The identity of the individual making the allegation will be kept confidential unless this is genuinely incompatible with a fair investigation of the allegation or if there is an overriding reason for disclosure.

Individuals are encouraged to put their names to any disclosures they make. Proper investigation may be more difficult or impossible if the College cannot obtain further

information from an individual. If he/she is in any doubt they can seek advice from Public Concern at Work, the independent whistleblowing charity, who offer a confidential helpline (Tel: 0207 404 6609). Concerns expressed anonymously may be considered at the discretion of the College.

5. Procedure

If an individual wishes to make a disclosure of the type listed in paragraph 3 it is hoped that in many cases staff will be able to raise any concerns with their line manager or Head of Sector. If the disclosure is about the line manager or Head of Sector then the member of staff should raise their concerns with the Assistant Principal or Vice Principal as appropriate.

Students should raise their concerns with their Guidance Tutor/Lecturer or Head of Sector in the first instance. If the disclosure is about the Guidance Tutor/Lecturer or Head of Sector then they should raise their concerns with the Assistant Principal or Vice Principal as appropriate.

Board Members will be able to raise their concerns with the Senior Independent Member/Chair of Audit Committee or with the Secretary.

The matter may be reported in person or in writing.

The Line Manager or Head of Sector (or other person identified above) may be able to agree a way of resolving their concern quickly and effectively. A note of any meeting held with the individual concerned will be taken and a copy provided to the individual. If a meeting is held, the individual will also be given the opportunity to be accompanied by a trade union representative or work colleague, should they so wish. The note of the meeting and outcomes will be forwarded to the Director, Organisational Development & HR for retention as appropriate. In some cases, the individual to whom the disclosure is made may refer the matter to the Secretary.

Where the matter is more serious, or if the individual feels that the concern has not been addressed, or he/she prefers not to raise it with the persons described above, they can refer the matter to the Secretary. In the event of a matter being reported to the Secretary, the following procedure should be followed:

Stage 1

Initial disclosure should be made directly to the Secretary who will determine in consultation with the Chair of the Audit Committee whether it is a concern that should be investigated. If the Secretary and the Chair of the Audit Committee determine that an investigation is not appropriate, and the disclosure is not to be pursued, the complainant will be advised of this in writing.

In the event that the matters disclosed involve the Secretary, the disclosure should be made to the Chair of the Audit Committee, who will manage the procedure in place of the Secretary.

Stage 2

If it is decided to proceed with an investigation, the next steps may be:

- an initial assessment to determine the scope of any investigation. The individual may be required to attend additional meetings in order to provide further information or as part of a subsequent investigation.
- an internal investigation conducted by a manager or managers designated by the Secretary or Chair of the Audit Committee as appropriate.
- an internal investigation conducted by the designated manager or managers in association with the Audit Committee of the Board.
- to refer the matter to the Scottish Funding Council and/or the College's Internal Auditors for it to consider whether external investigation is appropriate.
- to refer the matter to the police.

Any such steps taken will be initiated expeditiously. The list above is not exhaustive. The complainant will be advised, where appropriate, in writing about which steps are to be taken.

Stage 3

The results of any investigation together with any recommendations for action will be formalised in a report which will be brought to the attention of the appropriate authority. In most cases the Principal and Chief Executive of the College will be such an authority, unless the investigation involved the Principal. In other cases, the matter may

be appropriately referred to the Audit Committee which will provide a report to the Board of Management.

Where an internal investigation has been carried out, the investigation report may make recommendations. Recommendations may include, for example, that a disciplinary process will be followed. No action will be taken against any individual until or unless that individual has had an opportunity to make representations in relation to the allegations, in any disciplinary process followed.

The complainant will, where appropriate, be advised in writing of the outcome of the investigation. Sometimes the need for confidentiality may prevent the College giving the individual who has made the disclosure specific details of the investigation or the recommendations, including any disciplinary action taken as a result. They should treat any information which they are given about the investigation as confidential.

Specific timescales for actions and responses cannot be specified. This recognises the likely variations in the length of time it may take to investigate different issues. However, it is recognised that sensitive and expeditious handling of such disclosures is essential.

The College community is responsible for the success of this procedure and should ensure that it is used appropriately to disclose any suspected danger or wrong doing.

6. External Disclosures

The aim of the procedure is to provide an internal mechanism for reporting, investigating and remedying any wrongdoing within the College. In most cases, an individual should not find it necessary to alert anyone externally.

The law recognises that in some circumstances it may be appropriate for an individual to report his/her concerns to an external body such as a regulator. In such instances it is strongly encouraged that an individual seek advice, for example, from a solicitor, from the Citizens Advice Bureau or from Public Concern at Work, before reporting a concern to anyone external. It is possible that a disclosure which has been made externally will not be protected. Public Concern at Work not only operates a confidential helpline but

they also have a list of prescribed regulators for reporting certain types of concern and will be in a position to assist.

7. Protection From Victimisation

Any individual who makes a protected disclosure shall be protected from victimisation. However, as outlined at paragraph 3 above, there are certain conditions which apply before a disclosure is a protected disclosure and this Procedure does not exhaustively set out those conditions. Victimisation includes dismissal, disciplinary action, threats or other unfavourable treatment connected with raising a concern. All allegations of victimisation will be dealt with under College Disciplinary Procedure and if established, will be treated as gross misconduct.

Anyone who has raised a protected disclosure must not suffer any detrimental treatment on the grounds that they have done so. Staff must not threaten or retaliate against anyone who has raised a concern in any way. Anyone involved in such conduct may be subject to disciplinary action.

8. False And Malicious Allegations

This procedure is designed to offer protection to those employees or other members of the College who disclose such concerns in the reasonable belief that the disclosure tends to show malpractice and is in the public interest.

The Board wishes to emphasise that no individual(s) will be disciplined for raising a genuine protected disclosure, so long as they follow the procedures laid down in this procedure.

In the event that an individual has made false allegations maliciously or with a view to personal gain, then disciplinary action is likely to be taken against that individual.

9. Procedure Implementation

In particular cases, the College may choose to vary the process which is followed, taking alternative or additional steps or omitting steps as it considers appropriate to the facts and circumstances of that case.

10. Contacts

Secretary to the Board	Gwen McArthur 0141 581 2233 gwen.mcarthur@wcs.ac.uk
Chair of the Audit Committee/Senior Independent Member	John McMillan 07757 626133 Jmcmillan8@sky.com
The College's internal auditors	Scott-Moncrieff LLP 25 Bothwell Street Glasgow G2 6NL Chris Brown chris.brown@scott-moncrieff.com
Scottish Funding Council	Scottish Funding Council Apex 2 97 Haymarket Terrace Edinburgh EH12 5HD 0131 313 6500 Chief Executive's fax number: 0131 313 6531
Public Concern at Work (Independent whistleblowing charity)	Helpline: (020) 7404 6609 E-mail: whistle@pcaw.co.uk Website: www.pcaw.co.uk

Equality Impact Assessment

Name of policy/procedure/decision: Public Interest Disclosure (Whistleblowing) Procedure

Provide a brief summary of the aims of the policy/procedure/decision and main activities:

This Procedure provides guidance to all members of the College community (Staff, Students and Board Members) on how to inform management if they are concerned about serious malpractice, fraud or corruption within the College.

Assessed By: Clare Fraser

Date: 15 September 2017

This stage establishes whether a policy, procedure or decision will have a differential impact from an equality perspective on people who share protected characteristics or whether it is “equality neutral” (i.e. have no effect either positive or negative).

The protected characteristics are: age, disability, gender reassignment, pregnancy or maternity, race, religion or belief, sex and sexual orientation.

1. Who will benefit from this (students/staff/stakeholders)? Is there likely to be a positive impact on people who share protected characteristics, and if so, how? Or is it clear at this stage that it will be equality “neutral”? i.e. will not have a differential impact on any equality group/s?

It is not anticipated that this Procedure will have a differential impact on people who share protected characteristics. The Procedure has been developed to ensure that WCS complies with the Public Interest Disclosure Act 1998 which protection to employees against being subject to detrimental treatment by their employers as a result of raising concerns. This protection should apply to all regardless of gender, age etc.

2. Is there likely to be an adverse impact on people who share protected characteristics? If so, who may be affected and why? Or is it clear at this stage that it will be equality “neutral”?

This policy has been developed to comply with UK law and will not have an adverse impact on people who share protected characteristics.

3. What action will you take to ensure that you are monitoring the impact of this Procedure?

Monitoring of this policy will take place through student complaints and HR grievances data.