



PUBLIC INTEREST DISCLOSURE PROCEDURE

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1.1 Introduction

Whilst members of staff and Board members may be amongst the first to identify serious malpractice occurring within the college, they may be reluctant to express their concerns because they feel that speaking up would be disloyal or because they fear harassment or victimisation. The college is, however, anxious that staff or Board members raise any such concerns and do so at an early stage rather than wait for proof.

There are procedures in Section 2 intended to provide a mechanism under which genuine concerns can be raised internally and, if necessary, externally without fear of 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 to act responsibly in upholding the reputation of the college and maintaining public confidence.

Examples of serious malpractice are:

- § fraud or other financial irregularity;
- § corruption (e.g. bribery, blackmail);
- § breach of a legal requirement;
- § criminal offences.

(This is not an exhaustive list).

1.2 Purposes

The procedure is:

- § intended to apply to disclosure by an individual (the Discloser) who maybe a Board member, an employee, an agency contract worker or a self-employed worker engaged by the college, who has grounds to believe that serious malpractice has occurred, is occurring or is likely to occur in connection with the college;
- § designed to provide safeguards to protect those who raise genuine concerns about malpractice in connection with the college;
- § one which requires management to act swiftly and constructively to address breaches of key standards;
- § one which may lead to use of other procedures, e.g., Disciplinary Procedure.

It is:

- § not intended that the Discloser should be asked to “prove” his/her suspicions;
- § not designed to replace the Grievance Procedure, which should be used where an employee is aggrieved about an issue relating to his/her employment;
- § not designed to deal with routine Health and Safety issues, which are currently dealt with by the Health and Safety Advisory Group.

1.3 Assurances

The college will make every effort to keep the Discloser’s identity confidential unless the Discloser otherwise consents in writing or unless there are grounds to believe that the Discloser has acted maliciously. In the absence of such consent or grounds, the Designated Assessor (refer to 2.2) will not reveal the identity of the Discloser except:

- § where the Designated Assessor is under a legal obligation to do so;
- § where the information is already in the public domain;
- § on a strictly confidential basis to the Designated Assessor’s administrative assistant;
- § on a strictly confidential basis to a professionally qualified lawyer for the purpose of obtaining legal advice;
- § where it is essential that the Discloser provide evidence at a Disciplinary Hearing.

The College will not tolerate harassment or victimisation of anyone raising a concern in good faith, whether or not it proves well-founded.

1.4 What the College Requires of Board members and All Staff

It is the responsibility of all to raise any concern about serious malpractice, and to do so in accordance with this procedure and the procedure laid out in Section 2.

Those who raise a concern need to be clear as to what the issue is and which procedure applies, e.g., whether it is a matter that would be better dealt with through the Public Interest Disclosure Procedure or through the Grievance Procedure. If in doubt, staff should ask for procedural advice from the Human Resource Department, trade union

or staff association representative, or Public Concern at Work, a registered charity which advises on serious malpractice within the workplace (Tel: 0171 404 6609).

Those who raise concerns must declare any personal interest he/she has in the matters.

If a disclosure is made maliciously or vexatiously (or where an external disclosure is made in breach of the procedure without reasonable grounds or otherwise than to one of the appropriate bodies), the Discloser who raised the concern is at risk of disciplinary action.

Where the Discloser involves a staff representative to assist him/her, the Discloser will be under an obligation to use all reasonable means to ensure that the representative or friend keeps the matter strictly confidential except as required by law.

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2.1 Raising Concerns

As a first step, the Discloser should normally raise concerns with their immediate manager. This may be done verbally or in writing. If the Discloser feels unable to follow this route, or would like to discuss their concern in confidence, they can refer the matter to one of the college's Designated Assessors.

Board members should raise concerns with one of the Designated Assessors.

Concerns are best raised in writing to one of the Designated Assessors. The Discloser should provide as much supporting evidence as possible about the disclosure and the grounds for the belief of malpractice. If a Discloser feels unable to put their concerns in writing then they can telephone or meet one of the Designated Assessors.

In the event that an allegation is made against one of the Designated Assessors, the concern should be raised with one of the other Designated Assessors.

2.2 Designated Assessors

The Designated Assessors are:

- § Clerk to the Board of Management (the Clerk is the Reporting Assessor who reports to the Audit Committee) ;
- § designated Senior Manager;
- § designated Board Member ;
- § Assistant Principal (only in cases where the concerns are about malpractice falling under child protection legislation).

The role is to:

- § advise the Discloser of the appropriate route to lodge the complaint if it does not fall under the college's Public Interest Disclosure Procedure;
- § initiate investigations into complaints which do fall within the scope of the Public Interest Disclosure Procedure;
- § make recommendations to management for appropriate remedial action if required, and monitor management action to implement these recommendations.
- § make regular reports to the Board of Management's Audit Committee; this will be done by the Reporting Assessor, the Clerk to the Board of Management.

2.3 Investigation

On receipt of the concern, the Designated Assessor will interview the Discloser within seven working days, in confidence, or immediately if there is any danger of loss of life or serious injury. The purpose of the interview will be for the Designated Assessor to obtain as much information as possible from the Discloser about the grounds for the belief of malpractice.

The Discloser may be accompanied by a staff representative or fellow colleague. The Designated Assessor may be accompanied by an administrative assistant to take notes.

If the Designated Assessor considers an investigation to be the appropriate step to take, he/she will initiate this investigation, aiming to convey an initial conclusion to the Discloser within 28 days. However, if there is any danger of loss of life or serious injury, the investigation will be completed within less than 28 days .

2.4 Assessors Recommendations

Within ten working days of 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 include one or more of the following:

- § that the matter should be investigated internally using appropriate College Managers, the Audit Committee or other investigators appointed by the college;
- § that a member of staff should be given the opportunity to seek redress through the college's Grievance Procedure;
- § that the matter should be reported to the Scottish Further Education Funding Council or other relevant public authority;
- § that the matter should be reported to the Police;
- § that no further action should be taken.

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 on the balance of probabilities, there is no evidence that malpractice within the meaning of this procedure has occurred, is occurring or is likely to occur;
- § that the Designated Assessor is satisfied that the Discloser is not acting in good faith;
- § that the matter is already (or has been) the subject of proceedings under one of the college's other procedures;
- § that the matter concerned is already the subject of legal proceedings, or has already been referred to the Scottish Further Education Funding Council or other relevant public authority or the Police.

Unless it is alleged that the Principal and Chief Executive is involved in the alleged malpractice or there are other reasonable grounds for not doing so, recommendations made under this procedure should be made by the Designated Assessor to the Chief Executive and Principal. Otherwise the recommendations should be made to the Chairman of the Audit Committee.

Where the disclosure is made in good faith the identity of the Discloser will not be revealed. The recipient of the recommendations will take all steps within their powers to ensure that they are acted upon, except to the extent that in the view of the recipient there are good reasons for not doing so. Should the Chief Executive and Principal decide not to act upon the recommendations, they will write to the Chairman of the Audit Committee stating the reasons for the decision.

2.5 Responding to the Discloser

All responses to the Discloser will be made in writing direct to the Discloser's home address. If no further steps by the college are proposed, the Designated Assessor will give the reason for this.

2.6 Discloser's Right of Redress

If the Discloser has not had a response within the above stated time limits or otherwise feels that the complaint is not being dealt with appropriately, the Discloser may appeal within 21 days to the Chairman of the Audit Committee. Alternatively, the Discloser may raise the matter in confidence directly with the Scottish Further Education Funding Council, other relevant public authority, or the Police. Before taking any such action, the Discloser should inform the Designated Assessor.

The Discloser may also raise the matter with the SOEID Funding Unit if the Discloser has reasonable grounds for believing that all of the Designate Assessors are, or were, involved in the alleged malpractice, or that the Discloser will be subject to a detriment as a result of making the disclosure.

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.

Once the channels laid out in this procedure have been exhausted, the Discloser has a right and duty to publish his/her concerns publicly provided that he/she is acting in good faith and believes on reasonable grounds that the information is accurate.

2.7 Conclusion

Staff and Board members are encouraged to use the procedure for bringing forward any concerns and evidence of malpractice. The remedial action may be simple and the solution straightforward, and if Disclosures express genuine concern to the right people at an early stage, the benefits to the college can be enormous.

Staff and Board members must not take concerns outside the college, especially to the press or media until the procedure has been exhausted. Staff and Board members approached by the media must ensure that they refer the matter to the College Manager responsible for marketing and Publicity. Staff must obtain approval from their manager before providing any personal response to the media.