

## WHISTLEBLOWING POLICY AND PROCEDURE

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### 1. Introduction

- 1.1. Shrewsbury Colleges Group is fully committed to the highest standards of openness, probity and accountability, seeks to conduct its affairs in a responsible and ethical manner and will take any claims of malpractice seriously. This policy is to provide a process for employees, those staff engaged by the College through an agency, students, governors or any individual to raise genuine and legitimate concerns of suspected bribery, breaches of the law and other serious wrongdoings. This policy and procedure is intended to provide safeguards to enable persons to raise concerns about malpractice in connection with the College.
- 1.2. The College encourages the raising of genuine concerns about suspected wrongdoing at the earliest practicable stage.
- 1.3. Whistleblowing does not include grievances about an individual's personal employment or learning situation or for furthering any private dispute. This procedure is not designed to generally question financial or business decisions taken by the Board unless these decisions fall within the above definition. It may not be used to consider any matters which should be addressed under existing procedures or used to reconsider any matters that have already been addressed under these procedures.
- 1.4. This procedure should be used if you discover serious malpractice or impropriety within the College. If you are unsure about whether the practice you have discovered is deemed serious malpractice you may wish to seek the confidential advice of the independent charity 'Public Concern at Work' 020 7404 6609 or email [whistle@pcaw.org.uk](mailto:whistle@pcaw.org.uk)

Serious malpractice may be defined as:

- Fraud
- Financial irregularities
- Corruption
- Bribery
- Dishonesty
- Miscarriage of justice
- Criminal activity or failing to comply with a legal obligation
- Creating or ignoring a serious risk to health and safety

- 1.5 Any concerns about malpractice should always be raised internally in the first instance without fear of adverse repercussions being taken. The law allows you to raise such concerns externally and this policy informs you how you 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.
- 1.6 This policy and procedure also seeks to balance the need to allow a culture of openness against the need to protect other employees, workers and students against vexatious allegations or allegations which are not well-founded. The Policy should be read in conjunction with the College's Financial Regulations and Gifts & Hospitality Policy.

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1.7 The principles of openness and accountability which underpin legislation protecting whistleblowers are reflected in this policy and procedure. The College is also committed to ensuring compliance with the Bribery Act 2010.

1.8 Students at the College are also encouraged to raise genuine concerns about suspected wrongdoing by making a complaint to the relevant College officer.

### 2 Applicability of this policy and procedure

2.1 This policy applies to all employees and students of the College, including apprentices; and 'workers' which includes any casual workers; home-based casual workers; and employees of subcontractors; and Agency employees and workers engaged by the College.

2.2 Individuals might be unsure whether it is appropriate to raise their concern under this policy and procedure or whether it is a personal grievance, which is more appropriate to raise under the College's grievance procedure. Any employee/worker in this situation is encouraged to approach the Human Resources Department in confidence for advice.

### 3 Protected disclosures

3.1 The law protects employees/ workers who, out of a sense of public duty, want to reveal suspected wrongdoing or malpractice.

3.2 The law allows employees/workers to raise what it defines as a 'protected disclosure'. In order to be a protected disclosure, a disclosure must relate to a specific subject matter (See Section 4 below) and the disclosure must also be made in an appropriate way (See Section A 'protected disclosure' must, in the reasonable belief of the employee/worker making it, also be made in the public interest. A protected disclosure must consist of information and not merely be allegations of suspected malpractice.

### 4. Specific Subject Matter

4.1 If, in the course of employment, you become aware of information which you reasonably believe tends to show one or more of the following, you must use this policy and procedure:

- That a criminal offence has been committed, is being committed or is likely to be committed;
- That an individual 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 or safety of any individual has been, is being, or is likely to be, endangered. That the environment, has been, is being, or is likely to be, damaged.
- That information tending to show any of the above, is being, or is likely to be, deliberately concealed.

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### 5. Procedure for making a disclosure

- 5.1. If you think that malpractice of the type listed above is happening in the College you should, in the first instance, refer to the College's Policy on fraud and irregularities and, in confidence, contact your line manager. Alternatively you may contact the Principal/CEO, Finance Director or Clerk to the Board directly.
- 5.2. If the complaint is about the Principal/CEO or Clerk to the Board, the disclosure should be made to the Chair or Vice-Chair of the Board.
- 5.3. If you have reason to believe that the Chair or the Vice-Chair of the Board may be implicated in the malpractice then you should contact the Chair of the Audit Committee.

Those notified of a concern:

- Have a responsibility to ensure that concerns raised by a discloser are taken seriously;
- Should where appropriate investigate properly and make an objective assessment of the concern;
- Should keep the discloser advised of progress; and
- Have a responsibility to ensure that the action necessary to resolve a concern is taken.

- 5.4 You are encouraged to identify yourself when making a disclosure. If an anonymous disclosure is made, the College will not be in a position to notify the individual making the disclosure of the outcome of action taken by the College. Anonymity also means that the College will have difficulty in investigating such a concern. The College reserves the right to determine whether to apply this procedure in respect of an anonymised disclosure in light of the following considerations:

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

For further guidance in relation to this policy and procedure, or concerning the use of the disclosure procedure generally, you should speak in confidence to the Clerk to the Corporation.

### 6. Procedure for investigation of a disclosure

- 6.1. On receipt of a whistleblowing disclosure, the College will acknowledge its receipt, in writing, within a reasonable time.
- 6.2. The College will then determine whether or not it believes that the disclosure is wholly without substance or merit. If the College considers that the disclosure does not have sufficient merit to warrant further action, you will be notified in writing of the reasons for the College's decision and advised that no further action will be taken by the College under this policy and procedure. Considerations to be taken into account when making this determination may include the following:

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- If the College is satisfied that the complainant does not have a reasonable belief that suspected malpractice is occurring; or
- If the matter is already the subject of legal proceedings or appropriate action by an external body; or
- If the matter is already subject to another, appropriate College procedure.

6.3. When a disclosure which has sufficient substance or merit warranting further action is made, the College will take action it deems appropriate (including action under any other applicable College policy or procedure). Possible actions could include internal investigations; referral to the College's auditors; or referral to relevant external bodies such as the police, OFSTED, Health and Safety Executive, or the Information Commissioner's Office'.

6.4. If you feel that the person responsible for the investigation is not dealing with the matter properly you should raise it, in confidence, with the Chair of the Board. Board members will be informed that a complaint has been received by confidential letter. As a result of the investigation other internal procedures may be involved.

6.5. If appropriate, any internal investigation could be conducted by a) the office most appropriate to the disclosure, or b) a manager of the College without any direct association with the individual to whom the disclosure relates, or c) by an external investigator appointed by the College as appropriate. Depending on the seriousness of the concern raised and the seniority of the worker making the disclosure, it would be appropriate for a senior manager or the Clerk to the Board, to investigate the concern.

6.6. The person investigating your complaint will send you a written acknowledgement of your concern within three working days of receiving the complaint. You will be kept informed of the progress of the investigation, the outcome of the investigation and any proposed action. You will be told, as far as possible and subject to third party rights, the outcome of any action taken. Any correspondence will be sent to your home address and not via the College internal mail.

6.7. If you disagree with the decision taken you should discuss the matter with the Principal/CEO or Chair of the Board within 10 working days. The Principal/CEO or the Chair of the Board will make a final decision on any further action to be taken and notify you.

6.8. You have the right of access to an appropriate external body from those listed at the end of this procedure but this recourse should only be used when all internal procedures have been exhausted and where the disclosure can be deemed in the public interests i.e. in the interests of protecting the public. Under no circumstances should you talk to the media as such a step could have serious implications for the College as a whole.

### 7. Safeguards for persons making a disclosure

7.1. The College will treat all such disclosures in a confidential and sensitive manner. The person or persons against whom you have made an allegation will normally be told of it, the evidence provided to support it and will be allowed to comment before further investigation is made or the action concluded. You have the right to have the matter treated confidentially and not to

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have your name disclosed during the course of the investigation without your prior approval. However, the investigation process may reveal the source of the information and you may need to provide a statement as part of the evidence required.

- 7.2. If you make an allegation in good faith, which is not confirmed by the subsequent investigation, no action will be taken against you. If you use the 'whistleblowing' procedure knowingly to make false or malicious accusations without proof or evidence to support the allegation(s) you will be committing a disciplinary offence as wilful misuse of this procedure will constitute an act of gross misconduct and may lead to your dismissal.
- 7.3. You will not suffer dismissal or any detrimental action or omission of any type (including informal pressure or any form of victimisation) by the College for making a disclosure in accordance with this policy and procedure. Equally, if you are threatened, bullied, pressurised or victimised by a colleague for making a disclosure, disciplinary action will be taken by the College against the colleague in question.

### **8. Disclosure to external bodies**

- 8.1. You have the right to make a disclosure outside of the College where there are reasonable grounds to do so and in accordance with the law.
- 8.2. A disclosure may be made to an appropriate external body prescribed by the law. This list of 'prescribed' organisations and bodies can be found in information on the GOV.UK website.
- 8.3. Disclosures can be made on a confidential basis to a practising solicitor or barrister.
- 8.4. If you seek advice outside of the College, care must be taken not to breach any confidentiality obligations or damage the College's reputation in so doing.

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### 9. Accountability

9.1. The College will keep a record of all concerns raised under this policy and procedure (including cases where the College deems that there is no case to answer and therefore that no action should be taken) and will report to the Audit Committee on an annual basis as appropriate.

### 10. Further assistance for persons making disclosures

- 10.1. The College will not tolerate any harassment or victimisation of persons who make disclosures. If you feel you have been victimised or deterred from raising your concerns this matter must be made known to the person investigating your complaint. If this is proven the matter will be treated seriously and will be regarded as a serious disciplinary offence.
- 10.2. You may want to confidentially request counselling or other support from the College's occupational health service. Any such request for counselling or support services should be addressed to the Human Resources Department. Such a request would be made in confidence.
- 10.3. You can contact the charity 'Protect' (formerly 'Public Concern at Work') for confidential advice on whistleblowing issues. Contact details are as follows:

Advice Line: 0203 117 2520

or submit a contact form at <https://www.pcaw.org.uk/contact-protect-advice-line/>

#### Financial Issues

TIAA Ltd, 53-55 Gosport Business Centre, Aerodrome Road, Gosport, PO13 0FQ

T: 0845 300 3333

#### Health & Safety

Health and Safety Executive

Quinton Business Park, 9 Ridgeway, Quinton, Halesowen, Birmingham B32 1AL

<http://www.hse.gov.uk/contact/contact.htm>

#### Safeguarding of Children

OFSTED Whistleblowing Hotline, Royal Exchange Buildings, St Anne's Square, Manchester, M2 7LA

Email: [whistleblowing@ofsted.gov.uk](mailto:whistleblowing@ofsted.gov.uk) 0300 1233155

#### Equality and Diversity Policy of the College

All individuals will be treated equally and fairly in the application of this Policy.

All reasonable requests to accommodate requirements in terms race, age and disability will be accommodated, as long as it is practicable to do so.

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### **Difference between a personal grievance and a whistleblowing complaint:**

A grievance will concern an employee personally, i.e. the individual may have a complaint about:

- His or her pay or working hours
- The amount of work that he or she is expected to do
- Working conditions, or
- Being bullied by fellow workers.

A protected disclosure, on the other hand, will concern the conduct of another person in the workplace (whether or not that conduct affects the discloser personally), in circumstances where the discloser genuinely believes that the conduct in question amounts to a criminal offence, a breach of a legal obligation, or something likely to endanger health or safety or damage the environment.

Examples of the difference between a grievance and a protected disclosure:

### **Grievance**

An employee's complaint about the type of work that he or she is being asked to do, for example if it is not covered by his or her contract

An employee's complaint that he or she has received insufficient safety training

An employee's complaint about the hours that he or she is expected to work

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### Section A - Protected disclosure

A disclosure that an individual has been instructed to carry out actions that he or she genuinely believes to be illegal e.g. to falsify a tax return

A disclosure that safety rules within the workplace are routinely being flouted, thus endangering safety

A disclosure that the requirements imposed by the company on a group of staff represent a breach of the working time legislation.

Examples of the difference between a grievance and a protected disclosure:

Grievance	Protected disclosure
An employee's complaint about the type of work that he or she is being asked to do, for example if it is not covered by his or her contract	A disclosure that an individual has been instructed to carry out actions that he or she genuinely believes to be illegal e.g. to falsify a tax return
An employee's complaint that he or she has received insufficient safety training	A disclosure that safety rules within the workplace are routinely being flouted, thus endangering safety
An employee's complaint about the hours that he or she is expected to work	A disclosure that the requirements imposed by the company on a group of staff represent a breach of the working time legislation

### Some 'Dos and Don'ts':

Do ...	Don't
... encourage an individual who has come forward to disclose some sort of wrongdoing to explain fully the evidence that he or she has of the wrongdoing	... get angry or defensive if an individual raises allegations of malpractice within an organisation
... ask the whistleblower to provide specific examples of the conduct that he or she has observed or the evidence obtained to support the allegations of malpractice	... allow personal views about the whistleblower to influence the assessment of the allegations that he or she is making
... distinguish between facts and opinions	... react negatively to a disclosure, or adopt a judgmental attitude
... appreciate that it can be very stressful for the person alleging wrongdoing	... dismiss an employee's disclosure as an exaggeration, or as trivial, unless there is clear evidence that the allegations are unfounded
... let the whistleblower know that he or she has the College's support	... attempt to suppress evidence of wrongdoing
... listen attentively to what the employee has to say and take it on board	... penalise an individual for making a disclosure that proves unfounded if, despite making a mistake, he or she had reasonable grounds to suspect the wrongdoing.

*For further information see 'Whistleblowing: Guidance for Colleges' published by the Association of Colleges, September 2013*