

# **Birkenhead Sixth Form College**

## **Policy & Procedure on Whistle-blowing**

### **1. Introduction**

Employees and other workers are protected from dismissal or other unfavourable treatment if they make disclosures in accordance with the Public Interest Disclosure Act 1998. Such disclosures have become known as “Whistle-blowing” and the second report of the Nolan Committee on Standards in Public Life recommended that codes of practice be adopted to enable concerns to be raised confidentially inside, and if necessary outside, the organisation about fraud, malpractice, health and safety or unethical conduct.

Birkenhead Sixth Form College (hereinafter called the College) takes its responsibilities seriously and the procedure that follows is designed to allow all involved to act professionally and with propriety, to preserve the confidentiality of any person raising concern(s) and to ensure that College management will investigate properly concern(s) raised before it or they fall into the public domain. The College expects and encourages employees to use this procedure to raise concerns internally, and that employees will not take their concerns outside the College before they have exhausted the internal procedure.

The College’s Grievance Procedure is designed to deal with employees’ private grievances about their personal employment situation and it is not appropriate for the Whistle-blowing Procedure to be used as well as or instead of the College’s Grievance Procedure.

### **2. What is Whistle-blowing?**

Although not legally defined, whistle-blowing is generally taken to mean the usually public disclosure by an employee of wrong-doing within an organisation. Whistle-blowing does not include personal grievances about managers.

The Public Interest Disclosure Act 1998 protects disclosure if the employee or other worker can show 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 she/he is 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 the environment has been, is being, or is likely to be damaged;

- 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.

### **3. When should the Whistle-blowing Procedure be used?**

This procedure should only be used when a serious malpractice is discovered within the College, for example:

- fraud
- financial irregularity
- corruption
- bribery
- dishonesty
- serious breach of the Code of Ethics or Code of Conduct
- criminal activity
- creating or ignoring a serious risk to health and safety.

This list is for illustrative purposes only and is not exhaustive.

### **4. What to do if there are concerns**

If someone has reasonable grounds for believing that malpractice of the type listed above is happening in the College, s/he should contact the Principal immediately. The earlier that a concern is expressed, the easier it is to take action. Concerns may be raised verbally or in writing.

The Principal will invite the person raising the concern to a meeting where the concern will be listened to. If the person raising the concern is an employee of the College, s/he may if s/he wishes invite a trade union representative or workplace colleague employed by the College to accompany him/her to the meeting. Full notes will be taken at the meeting.

The person raising the concern will need to demonstrate that there are reasonable grounds for concern.

The Principal will decide either that the complaint should be investigated or will reject it if s/he considers that it does not fall within the terms of the Whistle-blowing Procedure (for example, where it relates to an employee's personal situation).

If the Principal rejects the complaint as not falling under the Whistle-blowing Procedure, there will be a right of appeal against the decision to reject the complaint to the Vice Chair of the Corporation.

If the complaint is relating to the Principal, the Clerk to the Corporation should be contacted in the first instance and s/he will pass it to a designated Governor for investigation.

If the complaint is relating to both the Principal and the Clerk to the Corporation, the Chair of Corporation should be contacted directly and a designated Governor will be nominated to investigate the concern.

## **5. Responsibility for investigating the complaint**

The Principal or person receiving the complaint will investigate the complaint. In appropriate circumstances, s/he may choose to appoint someone else to investigate the matter. Depending on the nature of the complaint, Internal or External Auditors to the College may be the appropriate body to conduct an investigation.

The person investigating the complaint will prepare a confidential report on his/her conclusions, which will be sent to the employee and other relevant persons. If it is thought appropriate, consideration will be given to involving the Police. In particular, the Principal will exercise caution to ensure that any investigation does not hinder a formal Police investigation.

If urgent action is required, this will be taken before any investigation is undertaken.

## **6. Keeping the Complainant informed**

The Principal or the person responsible for the investigation will acknowledge in writing, within ten working days, receipt of the complainant's concern and will inform the complainant of the action to be taken. The complainant will be kept up to date with progress at regular intervals. Any correspondence will be sent to the complainant's home address and not via the College internal mail.

Every attempt will be made to try and resolve the matter as quickly as possible.

## **7. The need for confidentiality**

If a matter is raised under this Procedure it will be treated confidentially and the investigating officer will discuss fully with the complainant the procedure and steps that will be followed. The complainant should note that, whilst every effort will be made to maintain confidentiality, it may not always be possible to guarantee anonymity, particularly if disciplinary or other action is taken as a result of the investigation.

Any anonymous complaints will not be considered under the Whistle-blowing Procedure

## **8. Access to the Corporation**

If the complainant is not satisfied with the outcome of the investigation, s/he has the right to raise it in confidence with the Chair of the Corporation. The complainant will receive an initial written response within ten working days, followed by a full response (if appropriate) within a reasonable time.

## **9. What the Claimant can do if not satisfied with the College's decision**

The Chair of the Corporation is ultimately responsible for considering the allegations in the light of the evidence from the investigation and for determining the appropriate course of action. If the claimant does not agree with the decision taken, s/he should discuss the matter with the Chair.

If the claimant remains dissatisfied and feels that the matter is sufficiently serious, s/he may wish to report it to an outside body such as an appropriate department of the Education Funding Agency (EFA) or the College's Internal or External Auditors. The Chair may indicate which external body is appropriate in relation to the individual circumstances of the case.

Before raising the matter externally, the claimant should note that such a step would have serious implications for the College and should only be taken after very careful consideration. The claimant may wish to contact Public Concern at Work (whose website address is [www.pcaaw.co.uk](http://www.pcaaw.co.uk)) for advice.

### **10. Protection for raising a concern under this procedure**

It is clearly established in law that the disclosure of confidential information in the public interest is a lawful act. The claimant cannot, therefore, be disciplined for using this Procedure, providing that the claimant:

- has followed the stages set down within it;
- has acted in good faith and not for personal gain, or out of personal motives.

The College will ensure as far as possible that the claimant is not penalised for raising a legitimate concern under this Procedure and that s/he is protected from reprisals by management or other employees. Any employee who takes such retaliatory action will be subject to disciplinary or other appropriate action.

### **11. Malicious Accusations**

If the Whistle-blowing Procedure is used knowingly to make false or malicious accusation, the claimant will be committing a disciplinary offence. Wilful misuse of this Procedure could constitute an act of gross misconduct and may lead to the claimant's dismissal.

### **12. Reporting**

The Corporation will receive annually a report on any use of the Procedure.

### **13. Complaints falling outside the Whistle-blowing Procedure**

Students, members of the public, and governors wishing to raise complaints against the College should do so under the College Complaints Procedure, a copy of which is available from the Clerk to the Corporation.