

CORPORATION OF KIDDERMINSTER COLLEGE

PUBLIC INTEREST DISCLOSURE PROCEDURE

1. INTRODUCTION

The Public Interest Disclosure Procedure follows the recommendations of Lord Nolan in the second report of the Committee on Standards in Public Life and the introduction of the Public Disclosure Act in July 1998. This procedure is to enable staff to raise confidentially concerns internally or externally if necessary, about fraud, malpractice, health and safety, criminal offences, miscarriages of justice, failure to comply with legal obligations or unethical conduct, without any fear of reprisals. The college believes it is important for these issues to be resolved internally, as far as possible, as a matter of best practice, thus avoiding potentially damaging, dangerous or embarrassing matters which could be resolved internally. It is accepted that an alternative to raising an issue personally, an employee may ask his or her trade union to pursue the issue.

2. DEFINITION OF WHISTLEBLOWING

Lord Borrie QC has defined Whistleblowing as "... the disclosure by an employee (or professional) 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 his fellow employees".

3. EXAMPLES OF MALPRACTICE

As "malpractice" is not easily defined, the list below therefore is not considered exhaustive. The procedure includes:

- * a crime or breach of regulatory, administrative or common law;
- * a miscarriage of justice;
- * danger to health and safety;
- * damage to the environment;
- * financial irregularities

4. RELATIONSHIP TO THE COLLEGE GRIEVANCE PROCEDURE

The Public Interest Disclosure Policy is not a mechanism for employees to raise private grievances about their personal employment situation. The college Grievance Procedure is already in place for that purpose. In general, if the complaint is about matters related to an individual's conditions of service or personal employment position, it is a Grievance Issue and not a Public Interest issue.

5. Public Interest Disclosure Procedure

Should an employee raise a concern under this procedure that is subsequently found to be a deliberately false and a malicious accusation, this will be viewed as a serious disciplinary matter and dealt with under the college's Disciplinary Policy.

KIDDERMINSTER COLLEGE

Public Interest Disclosure Procedure

6. Respecting Confidentiality

An employee who follows the Public Interest Disclosure Procedure has the right to have the matter treated confidentially, as far as is reasonable and practical if action is required. In order to encourage the employee to raise a legitimate concern without fear of the matter being accidentally "leaked" in any way, it is appropriate for the employee to raise his/her concern orally if they so choose. A full note which should not identify the complainant should be made by the person hearing the concern.

However, if action is required, there may be a legal obligation to reveal the name of the person raising the issue, for example:

- * the complainant may be the only witness or the only source of evidence
- * the Investigating Officer may wish to seek the advice of a solicitor where it may become necessary for the person to give evidence at a subsequent disciplinary hearing

If this is the case, the matter should be discussed with the person bringing the concern, explaining the situation.

7. Raising Concern of Malpractice

The person receiving the concern is not required to adjudicate the matter in any way whatsoever. They are required to act in a professional manner and:

- * remember there are two sides to every concern;
- * listen carefully to the concern, taking full notes as appropriate to record an oral concern or to amplify any specific points of a written one;
- * heed legitimate concerns about the employee's own safety or career;
- * advise the employee that the matter will be treated seriously and sensitively, that it will be forwarded for investigation and that the outcome will be reported back to them as soon as possible after the investigation has been completed.

The person receiving the concern must forward the details to the designated Investigating Officer within 5 working days and is responsible for ensuring that confidentiality is maintained on the subject.

8. Investigating a Concern of Malpractice

The college has designated the following personnel to receive concerns of alleged malpractice:

- * Clerk to the Corporation
- * The Director of Finance and Administration where the Clerk to the Corporation is not available or has been implicated.

KIDDERMINSTER COLLEGE

Public Interest Disclosure Procedure

Upon receipt of a concern, the Clerk or Director of Finance and Administration will:

- * inform the Principal or the Chairman of the Corporation if the Principal is implicated or if the Principal and Chairman are both implicated, any other non-implicated Governor;
- * together with the Principal or Chairman or other non-implicated Governor, ascertain whether the matter is something that can be dealt with internally and/or whether it is a criminal matter that should be investigated by the police;
- * together with the Principal or Chairman or other non-implicated Governor, appoint a member of staff at senior level (Investigating Officer), not involved, to investigate on behalf of the college, investigate properly the matter, to agree an action plan, to include any possible suspension of person(s) whilst the investigation is taking place;
- * assist the Investigating Officer to ensure all meetings concerning the allegations are minuted and statements from personnel assisting with the investigation are correctly documented, signed and dated;
- * together with the Principal or Chairman or non-implicated Governor, at the conclusion of the investigation.
 - a) Review the evidence
 - b) consider whether the allegation was substantiated or otherwise

In certain circumstances, it may be appropriate for the Clerk to be the Investigating Officer.

(Appendix A sets out the process)

9. Action

The Director of Finance and Administration or the Personnel Officer should be available to advise how to handle the notification of findings to the personnel involved, especially if further action involves the use of the college's disciplinary process. The outcome of the investigation should be notified to the person(s) under investigation and the employee who raised the concern before the outcome is brought into the public domain.

10. Timescale

An employee raising a concern will receive a formal acknowledgement in writing within 5 working days from the Clerk or Director of Finance and Administration with whom the concern is raised. Thereafter the Clerk should keep the employee informed of the general progress of the investigation at fortnightly intervals to their home and not via internal mail.

It is a part of the Investigating Officer's responsibilities to be expeditious in the investigation of a concern without detriment to any persons against whom the allegation has been made.

The length of time an investigation takes will depend upon the complexity of the concern being investigated.

11. Appeal

An employee who has raised a concern and who is not satisfied that their concern has been properly dealt with by the Investigating Officer, has the right to raise it in confidence with the Principal or Chairman of the Corporation if the Principal is implicated and to receive a written response within 10 working days.

KIDDERMINSTER COLLEGE

Public Interest Disclosure Procedure

12. Access to External Bodies

If the Corporation finds the allegation unsubstantiated, the employee still has the right of access to an appropriate external body. However, the employee will be requested to put in writing, to the Investigating Officer, why they are unable to accept the College's reasons for not supporting an allegation. The college must make a written response to the employee within 10 working days of the employee's submission. Should the college's written response still not satisfy the employee, then the employee may wish to exercise their right to approach relevant external bodies, for example M.P., Councillor, LLSC, National Audit Office or trade union.

Contacting the Clerk to the Corporation

The name and address of the Clerk to the Corporation will be displayed in the college Library.

14. Training

All relevant Senior post-holders and appropriate governors will receive training to enable them to operate the procedure effectively.

15. Inappropriate Action by Managers and other Employees

Managers or other employees who victimise the complainant or deter them from making the complaint will be subject to appropriate action under the college's disciplinary procedure. Such action will reflect the seriousness of such behaviour.

ALAN HOPKINS
Clerk to the Corporation

Reviewed December 2005

KIDDERMINSTER COLLEGE
PUBLIC INTEREST DISCLOSURE PROCEDURE

