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WHISTLEBLOWING POLICY (PUBLIC INTEREST DISCLOSURE)

1. PURPOSE AND PRINCIPLES

1.1 Scope

The Policy applies to all Governors and employees of the College.

This policy applies to all College activity including ESF contracts.

1.2 Policy Aims and Objectives

1.2.1 Members of staff are often the first to realise that there may be something seriously wrong within the College. However, they may not express their concerns because they feel that speaking up would be disloyal to their colleagues or to their employer. They may also fear harassment or victimisation. In these circumstances it may be easier to ignore the concern rather than report what may just be a suspicion of malpractice.

1.2.2 The College encourages members of staff to raise genuine concerns about malpractice at the earliest practicable stage, rather than wait for proof. Malpractice within the College is taken very seriously.

1.2.3 The attached procedure is, accordingly, intended to provide safeguards, to enable members of staff to raise concerns about malpractice in connection with the College. The aim is to provide a rapid mechanism under which genuine concerns can be raised internally and, if necessary, externally without fear of adverse 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 order to uphold the reputation of the College, and to maintain public confidence.

- 1.2.4 The procedure also seeks to balance the need to provide safeguards for members of staff who raise genuine concerns about malpractice against the need to protect other members of staff, governors, students and the College against uninformed or vexatious allegations which can cause serious difficulty to innocent individuals.

1.3 Responsibility, Review and Evaluation

- 1.3.1 The Director of Governance and Policy is responsible for reviewing the Policy and the Procedure biennially and for submitting any revisions required to the Corporation for approval. In carrying out this responsibility the Director of Governance and Policy shall liaise with the Director of Human Resources.

2. PROCEDURES

2.1 Malpractice

The types of matters regarded as “malpractice” for the purposes of this procedure are as follows:

- Corruption, bribery or blackmail.
- Fraud or financial irregularity.
- Criminal offences.
- Failure to comply with a legal or regulatory obligation.
- Miscarriage of justice.
- Endangering the health or safety of any individual.
- Endangering the environment.

2.2 Designated Assessors

- 2.2.1 The Principal of the College will ensure that at least three, but not more than seven members of staff of appropriate experience and standing within the College, are designated at any time for the purposes of this procedure as designated assessors (“Designated Assessors”) and that one of the members shall be designated as lead designated assessor (“The Lead Assessor”).

- First Designated Assessor (the Lead Assessor): Director of Governance and Policy (telephone extension 2023).

- Second Designated Assessor: Director of Human Resources (telephone extension 5545)
- Designated Assessor: Deputy Principal/CEO.

2.2.2 The appointment of Designated Assessors will be reviewed periodically.

2.2.3 The Lead Assessor will co-ordinate the training of the Designated Assessors in the use of this procedure, and will produce an Annual Report to the Corporation on the number of occasions when this procedure has been formally invoked and the outcome. The Annual Report will not identify individuals.

2.2.4 The Lead Assessor will arrange meetings of all Designated Assessors periodically to review the use of the procedure.

2.3 **Disclosure**

2.3.1 This procedure applies to disclosure by an individual (“the Discloser”) who is an employee of the College and who has grounds to believe that malpractice has occurred, is occurring or is likely to occur in connection with the College (whether on the part of another employee, a governor, or any other person or persons).

2.3.2 The Discloser should, as soon as practicable, disclose in confidence, the grounds for the belief of malpractice to one of the Designated Assessors. The choice of Designated Assessor will be for the Discloser, but a Designated Assessor may decline to become involved on reasonable grounds, including possible previous involvement or interest in the matter concerned, incapacity or unavailability or if a Designated Assessor is satisfied, after consulting the Lead Assessor, that some other Designated Assessor would be more appropriate to consider the matter in accordance with this procedure.

2.3.3 Any disclosure to a Designated Assessor under this procedure shall, wherever possible, be in writing but, if this is not practicable, any such disclosure may be verbal, at the choice of the Discloser. The Discloser should provide as much supporting written evidence as possible about the disclosure and the grounds for the belief of malpractice.

2.3.4 On receipt of the disclosure, the Designated Assessor will offer to interview the Discloser in confidence, such interview to take place as soon as practicable after the initial disclosure. The purpose of the interview will be for the Designated Assessor to obtain as much information as possible from the Discloser about the grounds of the belief of malpractice and to consult with the Discloser about further steps that could be taken. The

Discloser may be accompanied by a local trade union representative or work colleague at the interview.

2.3.5 The Designated Assessor may be accompanied by an Administrative Assistant to take notes, which will not identify the Discloser. For safeguards in relation to confidentiality, see paragraph 2.7 below.

2.4 Further Steps

2.4.1 As soon as practicable and in any event not more than five working days after 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 (without limitation) include one or more of the following:

- The matter should be reported to the police.
- The matter should be reported to the appropriate funding agency (the Education and Skills Funding Agency or Office for Students), the Department for Education, the National Audit Office or other appropriate public authority.
- The matter should be investigated either internally by the College or by the Audit Committee of the Corporation and/or by external or internal auditors or investigators appointed by the College.
- A member of staff should be given the opportunity to seek redress through the College's Grievance Procedure.

2.4.2 The outcomes may include, but are not limited to:

- No further action being taken.
- An investigation that may or may not lead to disciplinary action.
- The complaint being channelled into the College's Grievance Procedure.

2.4.3 The grounds on which the Designated Assessor may recommend that no further action by the College should be taken are as follows:

- The Designated Assessor is satisfied that the Discloser does not have a reasonable belief that malpractice within the meaning of this procedure has occurred, is occurring or is likely to occur; or

- The matter concerned is already the subject of legal proceedings, or has already been referred to the police, other relevant public authority; or
- The matter is already (or has already been) the subject of proceedings under one of the College's other procedures relating to staff or students.

2.4.4 Any recommendations made under this procedure will be made by the Designated Assessor to the Principal unless it is alleged that the Principal is involved in the alleged malpractice or unless there are other reasonable grounds for not doing so, in which case the recommendations will be made to the Chair or the Vice Chair of the Corporation. In any case the recommendations will be made without revealing the identity of the Discloser save as provided in paragraph 2.7.1 below.

2.4.5 The recipient of the recommendations will take all steps within his or her power to ensure that they are implemented except to the extent that, in the view of the recipient, there are good reasons for not doing so. If the Principal decides not to implement fully any such recommendations that decision will be notified in writing to the Chair of the Corporation as soon as practicable, together with reasons for it.

2.4.6 Once the Principal (or other recipient) has decided what further steps (if any) should be taken, the Designated Assessor will inform the Discloser of the decision. If no further steps by the College are proposed, the Designated Assessor will give the reasons for this.

2.5 **Appeal**

2.5.1 If the Discloser is dissatisfied with the decision of the Principal, the Discloser may, within five working days of receiving the decision from the Designated Assessor, appeal against the decision. If this happens, then the Designated Assessor will refer the disclosure to the Lead Assessor who, in her capacity as Director of Governance and Policy, will arrange for the appeal to be presented by the Designated Assessor, to the Audit Committee of the Corporation. Separate arrangements will be made for the clerking of the Audit Committee where the Lead Assessor is involved in the presentation.

2.5.2 The Audit Committee will consider the decision of the Principal and may confirm, modify or overturn that decision. The Designated Assessor will inform the Discloser of the decision of the Audit Committee.

2.6 External Disclosure

- 2.6.1 If, having followed the procedure including the appeal, the Discloser is not satisfied with the further steps (if any) decided upon or the outcome of any such steps, the Discloser may raise the matter concerned on a confidential basis with the police, a Member of Parliament or other appropriate public authority. Before taking any such action, the Discloser must inform the Designated Assessor.
- 2.6.2 The Discloser may also raise the matter in accordance with paragraph 2.6:1 above if the Discloser has reasonable grounds for believing that all of the available Designated Assessors are or were involved in the alleged malpractice or that the Discloser will be subjected to a detriment as a result of making the disclosure.
- 2.6.3 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.

2.7 Safeguards

- 2.7.1 Any report of recommendations by the Designated Assessor in relation to the matter will not identify the Discloser, 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 will not reveal the identity of the individual as the Discloser of information under this procedure except:
- Where the Designated Assessor is under legal obligation to do so; or
 - If the information is already in the public domain; or
 - On a strictly confidential basis to the Designated Assessor's Administrative Assistant for the time being; or
 - On a strictly confidential basis to a professionally qualified lawyer for the purpose of obtaining legal advice.
- 2.7.2 Any documentation (including computer files and disks) kept by the Designated Assessor relating to the matter will be kept secure, so that as far as practicable only the Designated Assessor and his or her Administrative Assistant shall have access to it.
- 2.7.3 As far as practicable, any documentation prepared by the Designated Assessor will not reveal the identity of the individual as the Discloser of information under this procedure.
- 2.7.4 Where the Discloser involves a local trade union representative or work colleague in this procedure, the Discloser will be under an obligation to use

all reasonable endeavours to ensure that they and their representative or work colleague keeps this matter strictly confidential save, as permitted under this procedure, as required by law or until such time as it comes into the public domain. Failure to comply with this obligation may lead to disciplinary action.

2.7.5 The Discloser will not be required by the College, without his or her consent, to participate in any enquiry or investigation into the matter established by the College, unless there are grounds to believe that the Discloser may have been involved in misconduct or malpractice.

2.7.6 Where the Discloser participates in any such enquiry or investigation, that participation will usually be required to be on an open rather than a confidential basis, although the obligations of the Designated Assessor under paragraph 2.7.1 of this procedure will remain in relation to the identity of the individual as the original Disclosure of information under this procedure.

2.7.7 Subject to paragraph 2.8 below, the College will not (and it will use all reasonable endeavours to ensure that its employees do not) subject the Discloser to any detriment on the grounds of the Discloser's disclosure of information under this procedure. The Discloser should report any complaints of such treatment to a Designated Assessor. If the Discloser wishes the Designated Assessor to take action in relation to such complaints, the Discloser may be asked to consent in writing to the Designated Assessor revealing the Discloser's identity for the purposes of any such action.

2.8 Protection Against Disciplinary Action

2.8.1 No disciplinary action will be taken against a Discloser on the grounds of a disclosure made by the Discloser in accordance with this procedure. This will not prevent the College from bringing disciplinary action in cases where there are grounds to believe that a disclosure has been made:

- Maliciously or vexatiously; or
- Where there has been a breach of confidentiality under paragraph 2.7.4; or
- Whether an external disclosure is made in breach of this procedure without reasonable grounds; or
- Otherwise than to an appropriate public authority.

2.9 The Role of the Principal as Discloser

2.9.1 The Principal is responsible for advising the Board in writing if any action or policy under consideration by them is incompatible with the terms of the

Financial Memorandum/Funding Agreement or would infringe the requirements of propriety or regularity.

2.9.2 The Principal is also responsible for advising the Board in writing if the Board appears to be failing to act where required to do so by the memorandum/agreement or where required to meet the requirements of propriety or regularity.

3. AMENDMENTS AND REVIEW

3.1 The Corporation may amend this procedure from time to time.

3.2 Any amendments to the procedure will be carried out in accordance with paragraph 1.3 of this Policy.