

# EAST SUSSEX COLLEGE GROUP

## WHISTLEBLOWING POLICY AND PROCEDURE

### 1.0 Introduction

- 1.1 This policy applies to all employees, volunteers & agency workers of the College.
- 1.2 Whistleblowing is where an employee raises concerns about perceived underhand or illegal practices within an organisation or an associated organisation.
- 1.3 The Public Interest Disclosure Act 1998 amended the Employment Rights Act 1996 to provide protection for employees who raise legitimate concerns about specified matters where there is a reasonable belief that it is in the public interest to do so. These are called "qualifying disclosures". A qualifying disclosure is one made in good faith by an employee who has a reasonable belief that:
- a criminal offence;
  - a miscarriage of justice;
  - an act creating risk to health and safety;
  - an act causing damage to the environment;
  - a breach of any other legal obligation; or
  - concealment of any of the above;
  - is being, has been, or is likely to be, committed.

### 2.0 PURPOSE

- 2.1 The College is committed to maintaining an open culture with the highest standards of honesty and accountability, where employees can report any legitimate concerns in confidence. The College takes all malpractice very seriously, and this document sets out the procedure by which employees can report any concerns.
- 2.1 The College encourages employees to raise their concerns under this procedure in the first instance. If an employee is not sure whether to raise a concern, he/she should discuss the issue with his/her line manager or a member of Human Resources (HR) team.
- 2.2 This procedure is for disclosures about matters other than a breach of an employee's own contract of employment. If an employee is concerned that his/her own contract has been, or is likely to be, broken, he/she should use the College's grievance procedure.

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### **3.0 PRINCIPLES**

- 3.1 Everyone should be aware of the importance of preventing and eliminating wrongdoing at work. Employees should be watchful for illegal or unethical conduct and report anything of that nature that they become aware of.
- 3.2 It is not necessary for the employee to have proof that such an act is being, has been, or is likely to be, committed - a reasonable belief is sufficient.
- 3.3 Individuals are encouraged to identify themselves when making a disclosure. If an anonymous disclosure is made, the College will not be in a position to notify the discloser of an outcome or any action taken. Anonymity also means that the College will have difficulty investigating a concern.
- 3.4 Individuals making a disclosure must declare any personal interest in the matter.
- 3.5 The College will offer protection to any employee who honestly and reasonably believes that underhand or illegal practices are taking place, and undertakes to comply with all applicable laws relating to the prohibition of retaliation against good-faith whistleblowers.
- 3.6 The employee has no responsibility for investigating the matter - it is the College's responsibility to ensure that an investigation takes place.
- 3.7 Any matter raised under this procedure will be investigated thoroughly, promptly and confidentially, and the outcome of the investigation reported back to the employee who raised the issue.
- 3.8 No employee will be victimised for raising a matter under this procedure. The College also undertakes not to initiate any disciplinary action. This means that the continued employment and opportunities for future promotion or training of the employee will not be prejudiced because he/she has raised a legitimate concern, (whether the item reported proves to be true or not, providing the reporting was carried out in good faith).
- 3.9 Victimisation of an employee for raising a qualified disclosure will be a disciplinary offence.
- 3.10 If misconduct is discovered as a result of any investigation under this procedure the College's disciplinary procedure will be used, in addition to any appropriate external measures.
- 3.11 Maliciously making a false allegation is a disciplinary offence.

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3.12 An instruction to cover up wrongdoing is itself a disciplinary offence. If told not to raise or pursue any concern, even by a person in authority such as a manager, employees should not agree to remain silent. They should report the matter to a senior manager or HR.

#### 4.0 PROCEDURE

4.1 The College would expect all employees to report any of the following:

- (a) a criminal offence
- (b) a failure to comply with a legal obligation
- (c) a miscarriage of justice
- (d) the endangering of an individual's health and safety
- (e) damage to the environment
- (f) deliberate concealment of information relating to any of the above

Where the nature of a disclosure is not included in the above list, it should be made by way of the College's grievance procedure and not under this whistleblowing policy.

4.2 In the event an employee has reason to believe that underhand or illegal practices are taking place, the employee is encouraged to make his/her disclosure immediately to his/her line manager, who should report it to the HR Department. This can be done verbally or in writing.

4.3 If the employee is concerned that his/her line manager is involved in the wrongdoing, he/she should inform HR directly. If for any other reason the employee does not wish to approach his/her line manager he/she should also in the first instance contact HR. Any approach to HR will be treated with the strictest confidence and the employees identity will not be disclosed without his/her prior consent. However, in certain circumstances, for example if a criminal investigation follows, the employee may be needed as a witness. If this happens HR will inform the employee at the earliest opportunity.

4.4 It is particularly important in matters concerning the health, safety and welfare of those on College premises (whether employees, contractors or visitors) that anyone, including an elected Safety Representative, who becomes aware of a hazard (actual or potential) or dangerous occurrence, is expressly required to immediately notify the Vice Principal before making any other report (e.g. to an outside body) not least so that immediate action can be taken if necessary to deal with the hazard.

4.5 Failure to notify the College when reasonably aware or certain of an occurrence included in the list of categories of disclosures above is regarded by the College as misconduct.

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- 4.6 Failure to notify internally before notifying externally without good cause is also regarded as misconduct. Only if an employee has reasonable grounds for believing that a member of the Senior Management Team may be involved, may contact be made to an outside body in the first instance.
- 4.7 HR will report back in writing to the employee, within ten working days of receiving the disclosure, the process by which the matter will be addressed.
- 4.8 HR will then investigate the alleged offence in conjunction with a member of the Senior Management Team and any other employees as appropriate. The investigation will be carried out in accordance with the principles set out above.
- 4.9 When disclosing any concerns, the employee will not be expected to have absolute proof of malpractice, but will need to be able to show the reasons for his or her concern.
- 4.10 The employee's statement will be taken into account, and he/she will be asked to comment on any additional evidence obtained.
- 4.11 HR will report to the Chief Executive Officer, and he/she will take any necessary action, including reporting the matter to any appropriate government department or regulatory agency. If disciplinary action is required, HR will start the disciplinary procedure.
- 4.12 Where the disclosure involves a member of HR or the Executive Team, the matter should be raised with the Director of Governance, who will refer it on to the Chair of the Corporation.
- 4.13 On conclusion of any investigation, the employee will be told, in writing, the outcome of the investigation and what the College has done, or proposes to do. If no action is to be taken, the reason for this will be explained.
- 4.14 If the discloser is unhappy about the outcome of an investigation, he/she should make a further report to HR, and if there is good reason to do so, the concern will be investigated again.
- 4.15 If the discloser is still unhappy about the final outcome of an investigation, legislation sets out a number of bodies to which qualifying disclosures may be made. These include:
- HM Revenue & Customs;
  - the Financial Services Authority;
  - the Office of Fair Trading;
  - the Health and Safety Executive;
  - the Environment Agency

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4.16 Any deliberate false or malicious allegations will be taken very seriously and appropriate disciplinary action will be taken. Where an employee acts in a malicious way (for example by leaking information to the press), the protection outlined above will not apply and the employee will be subject to disciplinary action, which could result in summary dismissal for gross misconduct.

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