

Policy under the Employment Rights Act 1996 as amended by Public Interest Disclosure Act 1998 and Enterprise and Regulatory Reform Act 2013

## Whistleblowing Policy and Procedure

### POLICY STATEMENT

Whistleblowing is the term used when an employee, former employee, trainee, or agency worker (all referred to hereafter as “employee” passes on information concerning wrong doing which is typically, but not necessarily, something they have witnessed at work.

Halesowen College is committed to the highest standards of quality, honesty, openness and accountability. The existence and promotion of a whistleblowing policy to all staff demonstrates Halesowen College’s commitment to listen to, and act on as necessary, the concerns of employees. All employees have an important role in achieving this goal of an open, transparent and safe working environment.

It is not unusual from time to time for employees in any organisation to have concerns about what is happening at work and in most instances these concerns are easily resolved through the line manager and usual ways of working . However, there may be an instance whereby it can be difficult for an individual to know what to do. Employees will usually be the first to know when someone in the organisation may be doing something illegal or improper but often feel worried about voicing their concerns.

Halesowen College does not believe that it is in anyone’s interests for employees with knowledge of wrongdoing to remain silent. Halesowen College takes all malpractice very seriously, whether it is committed by managers, staff, suppliers or contractors. This policy and associated procedure sets out how whistleblowing concerns can be reported and how they are dealt with/resolved. It also explains the protection for whistleblowers and concerns that count as whistleblowing.

The value of open whistleblowing is recognised and allows the College to:

- be aware early of potential problems
- deter wrongdoing
- demonstrate accountability
- reduce the risk of anonymous and malicious leaks
- maintain and enhance its good reputation
- take any action necessary to sustain the safety and wellbeing of staff and students

The policy covers the reporting of any genuine concerns an employee may have suspected misconduct within the College.

The policy is intended to conform to the guidance in the Public Interest Disclosure Act 1998 (PIDA) and the Enterprise and Regulatory Reform Act 2013. PIDA encourages employees to raise concerns internally in the first instance. The Act seeks to avoid corporate malpractice by encouraging employees with relevant information to come forward responsibly by offering a right to redress in the event of victimisation if workers raise concerns in the ways specified in the legislation. Hence it protects whistleblowers from unfair treatment. Anyone suspected to be victimising a bonafide whistleblower may be subject to disciplinary action in accordance with the College’s approved policy. Moreover, anyone deliberately making false or malicious allegations may also be subject to disciplinary action in accordance with this same policy.

The Whistleblowing Policy incorporates the recommendations of the Nolan Committee which included establishing and securing a climate of openness in which staff can raise legitimate and serious concerns without fear of reprisal. This policy reflects the guidance in the document “Whistleblowing; Guidance for Employers and Code of Practice” issued by the former Department for Business Innovation and Skills and the Post 16 Audit Code of Practice . Whistleblowing has become a key component in the College’s approach to Corporate Governance and a crucial element in risk management.

This policy does not form part of any employee’s contract of employment and it may be amended at any time.

## Policy

### Purpose

The purpose of this document is:

- To provide systems and processes to respond quickly and effectively to concerns which cannot be investigated/resolved through the usual line management structure
- To outline how the legislation impacts on Halesowen College
- To be clear about roles and responsibilities
- To provide instruction how and to whom concerns should be reported both internally and externally.
- Clarify protection available to whistleblowers

This policy supports the anti-fraud suite of policies including:

- anti fraud
- gifts and hospitality
- anti-bribery
- anti-money laundering
- risk management

and contributes to establishing a transparent culture.

This document provides an explanation of the College’s framework of internal controls and to provide direction and help to staff who find themselves having to deal with whistleblowing.

### What is Whistleblowing?

Whistleblowing is the disclosure of information about past, present or likely future wrongdoing in the public interest ie it affects others. These should be typically (although not necessarily) legitimate concerns about specified matters called ‘qualifying disclosures’ that relate to suspected wrongdoing or dangers at work. A qualifying disclosure is one made in the public interest by another who has reasonable belief about any of the following:

- any criminal offence (including financial impropriety such as fraud)
  - improper conduct or unethical behaviour
  - endangering someone’s health and safety
  - failure to comply with legal obligations or statutes
  - miscarriage of justice
  - concealment / covering up wrongdoing
  - risk or actual damage to the environment
- by the employer, colleagues, contractors et al

Exclusions include personal grievances (eg bullying, harassment, discrimination or unfair dismissal) unless the case is in the public interest. Should an individual make a personal grievance or allegations of bullying, harassment, discrimination or unfair dismissal this will be dealt with in accordance with the appropriate College policy

## Who the Policy covers

This policy covers any person employed by, or working for the College. It includes permanent staff, sessional and casual staff, volunteers<sup>1</sup>, and employees on fixed term contracts. It also includes members of the Corporation and former employees. If there is a genuine concern, this policy is available to any person working for the College. A disclosure made after an individual's employment has terminated will also be protected for an unlimited period<sup>2</sup>. People covered in this policy may also be covered by law. A confidentiality clause in a settlement agreement is not valid for bona fide whistleblowers making a protected disclosure.

## When is Whistleblowing to be used

A whistleblower is a person who raises a genuine concern relating to any of the above in the public interest. To be covered by whistleblowing law the employee must reasonably believe that their disclosure tends to show past, present or likely future wrong-doing in the categories above and that they are acting in the public interest. If any persons specified above have any genuine concerns relating to suspected wrongdoing or danger affecting any of College activities that cannot be dealt with under the usual frameworks, it should be reported under this policy.

It may not always be clear that a particular action falls within one of the categories above and judgement must be exercised. However, Halesowen College would prefer staff to report rather than remain silent. Staff making a false report, maliciously or for personal gain may be subject to disciplinary action.

Whistleblowing is not a form of grievance procedure and should not therefore be used to raise any concerns relating to employment nor to question business decisions taken by the College. The Grievance Procedure can be accessed from My Halesowen. The grievance procedure may appropriately be used by staff who feel aggrieved due to:

- terms and conditions of employment and statutory employment rights
- disagreements with colleagues
- discrimination

In such circumstances use of the Whistleblowing Policy is highly likely to be inappropriate. Personal grievances and complaints are not generally regarded as protected disclosure and as such not covered by whistleblowing law. Employees can contact (ACAS) Advisory Conciliation and Arbitration Service and useful information can be found at [www.acas.org.uk/grievances](http://www.acas.org.uk/grievances).

Moreover, the Whistleblowing Policy provides an avenue to raise any concerns regarding malpractice that the person reporting believes cannot be resolved through the usual procedures.

In accordance with the Guidance for Safer Working Practice for Adults who Work with Children and Young People May 2019 and Safer Working Practice Guidance for those working with children and young people in education settings addendum April 2020 issued by Dudley MBC, staff must acknowledge their individual responsibilities to bring matters of concern to the attention of senior management and/or relevant external agencies. Any whistleblowing concerning a safeguarding matter will be reported to the College's designated safeguarding officer and investigated/reported in accordance with relevant legislation and College policies.

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<sup>1</sup> Note that whilst this policy covers volunteers they are not afforded protection under the Public Interest Disclosure Act 1998. This legislation provides the right for a worker to take a case to an employment tribunal if they have been victimised at work or lost their job because they have blown the whistle.

<sup>2</sup> Onyango v Berkeley solicitors (2013)

The College is committed to supporting the Prevent agenda and any reported concern regarding the threat of radicalisation and/or terrorism will be reported to the College's designated safeguarding officer and investigated/reported in accordance with relevant legislation, statutory requirements and College policies.

### **College responsibilities**

The College has a responsibility to ensure that concerns and disclosure made in the public interest are well managed. All managers notified of a concern have a responsibility to ensure that concerns raised are taken seriously. The whistleblower must be kept informed of action taken by the College although the terms of the General Data Protection Regulations (GDPR) and associated College policies must be followed at all times. For example it would not be appropriate to disclose to a whistleblower the details of any disciplinary penalty issued following investigation. To this end Halesowen College endorses and aims to adhere to the data principles as enumerated in the Act; information about an individual cannot be disclosed to a third party unless that individual has given consent.

The College has a responsibility to ensure that all necessary actions are taken to resolve a genuine concern. This may include changes to procedures and methods of working.

The College has a responsibility to ensure that staff are aware of and understand the policy and associated procedures.

### **Review**

This policy will be reviewed annually with any significant changes considered and approved by the College Leadership Team and the Audit Committee.

Policy under the Public Interest Disclosure Act 1998

## Whistleblowing Policy and Procedure (01-0060)

### PROCEDURE

#### What should I do if I have a concern about wrong-doing?

You should report it. Employees have a responsibility to raise concerns which they believe to be genuine and in the public interest.

You may be worried, feel that it is none of your business or that raising the matter may be disloyal to colleagues or managers. Also you may decide to say something to find that you have spoken to the wrong person or raised the issue in the wrong way and are not certain what to do next.

It is recognised that a decision to report a concern may be difficult, not least because you may fear reprisal from those about whose behaviour you are expressing concern. Harassment or victimisation of any kind and, thus also, of a person “whistleblowing” will not be tolerated. Every effort will be made to protect you when you raise a genuine concern in the public interest. Halesowen College does not expect you to have absolute proof of any misconduct or malpractice that you report. However, you will need to be able to show the reasons for your concern. This procedure also clearly states who you may speak to and how to raise/escalate your concern.

You are protected by law if you are disclosing a genuine concern in the public interest.

#### Checklist of dos and don'ts

The College openly encourages all employees to come forward with any genuine concerns. As such:

##### Do

- report your concern promptly
- note any documentary evidence
- follow the procedure

##### Don't

- do nothing
- be afraid to raise concerns
- approach or accuse individuals directly
- try to investigate yourself
- use whistleblowing to pursue a grievance
- make false/vexatious allegations

#### Your Wellbeing

The College is committed to the Whistleblowing Policy and gives assurance that anyone raising a genuine concern under this policy will not be penalised or disadvantaged in any way for doing so, it does not matter if you are mistaken. However, the College does not extend this assurance to someone who maliciously raises a concern that they know is untrue. Indeed staff raising false or vexatious allegations may be subject to disciplinary action. All members of College staff assigned

responsibility for conducting an investigation under this policy have access to appropriate advice and guidance from the senior team and independent auditors and solicitors as necessary.

## **Confidentiality**

The College will not tolerate the harassment and victimisation of anyone raising a genuine concern. You will be encouraged to give your name when you whistleblow. Anonymous information may be acted upon but when disclosure is made anonymously it is difficult to pursue. No follow up questions can be posed if the whistleblower cannot be contacted. Employees should note that by making an anonymous disclosure it is more difficult to qualify for protection as a whistleblower. The College will take reasonable steps to investigate any anonymous allegations and to ascertain if they are vexatious or genuine.

A tip-off may also be considered provided that it can be corroborated by independent evidence.

If you ask the College to protect your identity this will not usually be disclosed without your consent. However, you must appreciate that the investigation process may have to reveal the source of the information and a statement by you may be required as part of the evidence gathered.

If the situation arises where the College is not able to resolve the concern without revealing your identity; for example because evidence is needed in Court, we will discuss with you how to proceed.

Managers dealing with whistleblowing concerns will be briefed by a senior manager to ensure they understand how to handle the disclosure and protect personal information.

## **Stages of Procedure**

### **Stage 1**

Initially, in accordance with normal working practice, you should raise any concern you have with your immediate manager or their manager; stating that this matter is officially raised under the Whistleblowing Policy. This can be verbal or in writing/e-mail. However, this depends on the seriousness and/or sensitivity of the matters causing you concern and who you think might be involved in any wrong-doing. If you believe that it is inappropriate to involve either your line manager or their manager, such a concern should be reported to a Senior Postholder (Principal; Deputy Principal; Vice Principal / Chief Operating Officer).

The whistleblower may wish to take advice from a trade union or similar before making an allegation although this should not delay the reporting of a concern.

Managers must listen carefully to the allegations and avoid making a judgement at this stage. The manager should record the details of the meeting where the concern is raised. All concerns raised with them under this policy must be reported immediately to the Vice Principal/ Chief Operating Officer who at this stage will be ultimately responsible for the investigation (although this may be delegated), consideration of the allegations and determination of the appropriate course of action.

The first issue to be determined is whether the concerns should be treated under the Whistleblowing Policy or whether another route would be more appropriate. For the concern to be considered under the whistleblowing policy, the whistleblower must have reasonable belief that it is disclosed in the public interest.

The Vice Principal/ Chief Operating Officer will adhere to the conditions of the College Anti-Fraud Policy and Response Plan. She shall inform any third parties eg audit, as appropriate, and also inform the Principal and Chair of the Audit Committee of the allegation. Where there is allegation of a criminal offence the police will be contacted. The Vice Principal/ Chief Operating Officer will nominate an officer to conduct the investigation ensuring that any investigation does not prejudice police involvement. Wherever the issue is a whistleblowing concern the number of people involved should be kept to a minimum. The Corporation shall be informed through the Audit Committee via

a regular reporting procedure, backed by a complete record of instances. The Principal and/or Chair of Audit should also inform the Chair of the Corporation directly if appropriate.

## **Stage 2**

Should adhering to stage one prove unsuccessful or you believe, for good reason, that it is inappropriate to raise a concern in this manner, you may approach one of the following designated officers directly:

The Clerk to the Corporation	Jennifer Sunter (0121 602 7604)
The Chair of the Audit Committee	Helene Jones
Chair of the Corporation	Jo Chilton

The concern will then be referred on to the Corporation via the Audit Committee or Audit Committee Chair who will be responsible for the investigation (although this may be delegated), consideration of the allegations and determination of the appropriate course of action. Third parties will be informed as appropriate by a representative of the Corporation.

The Chair and Chair of Audit may be contacted via the Clerk or through the Executive Office ([executiveoffice@halesowen.ac.uk](mailto:executiveoffice@halesowen.ac.uk)).

You may invite your trade union representative, professional association representative or a work colleague to accompany you when you raise a concern at any stage in the process.

## **Reporting a Concern Externally**

There may be circumstances where employees feel unable to raise a concern internally. It is possible to report externally when you have a justifiable concern that the issue would not be dealt with properly by the College and/or the College would be constrained in its stakeholder relationships or statutory powers to address the concern adequately. Disclosures must be in the belief that the information shows malpractice and made to a prescribed person or body. Should you choose this pathway then you must ensure that you have chosen the correct person or body for your issue such as an appropriate regulator with responsibility for the matter raised. For example;

- Health and Safety Executive
- Environment Agency

Information for whistleblowing employees can be found at [www.gov.uk/whistleblowing](http://www.gov.uk/whistleblowing)

Staff may also blow the whistle by seeking advice from a legal advisor or reporting to a Member of Parliament. Prescribed persons will have individual policies and procedures for handling concerns and complaints. These are usually accessible on their website.

Further information can be obtained from Protect (formerly Public Concern at Work) the Whistleblowing Charity who offer an advice line. You can contact their advice line on 020 3117 2520 or visit their website [www.protect-advice.org.uk](http://www.protect-advice.org.uk) where there is a digital form to report concerns.

Anyone who is considering making an external disclosure should take advice to ensure that it falls within the provisions of the legislation and that all internal procedures have been exhausted or are not appropriate.

It is not recommended to approach the media with any concerns as in most cases you would lose your whistleblowing legal rights.

## **Independent confidential advice**

BHSF provide a confidential helpline for employees on a range of issues. This service is available 24 hours a day 365 days a year and can be contacted on 0800 107 6145. BHSF may be able to offer some independent and confidential advice.

## What will happen?

After a concern has been raised internally, initial enquiries will be made to decide whether an investigation is appropriate and, if so, to determine the form it should take. An investigating officer will be appointed as appropriate. All qualifying disclosures made by employees will be subject to the whistleblowing procedure.

Any action will depend upon the nature of the concern you have raised and the stage of the process. It may:

- be investigated internally
- be investigated by the College's Internal Auditors, TIAA
- be referred to the Police
- be referred to the Financial Statements and Regularity Auditors (Bishop Fleming)
- form the subject of an independent enquiry
- be a combination of the above

The investigating officer will contact you within two working days to:

- acknowledge the receipt of your concern
- indicate *broadly* how the matter will be dealt with
- assure you in writing that a complete account of procedures followed will accompany the final response

The investigator(s) have a responsibility to:

- take concerns seriously and investigate fully and objectively
- recognise that raising the concern can be a difficult experience
- seek advice as appropriate
- establish whether there is any evidence
- recommend/take action promptly

Any correspondence will be sent to your home address or given to you in person and not distributed via the College's internal post. It may be emailed to you with your permission.

The matter will be resolved as quickly as possible. Unless legal constraint prevents it you will be informed about the outcome of any investigation, however, the College must operate within the constraints of the General Data Protection Regulations.

When dealing with disclosures, the investigating officers must:

- treat all disclosures made seriously and consistently
- make arrangements for an officer, independent to the investigation, to provide support to the employee during what can be a difficult or anxious time with access to mentoring, advice and counselling
- reassure the whistleblower that their disclosure will not affect their position at work (unless the allegation is vexatious)
- document whether the whistleblower has requested confidentiality
- manage the expectations of the whistleblower in terms of what action and/or feedback they can expect as well clear timescales for providing updates
- produce a summary of the meeting for record keeping purposes and provide a copy to the whistleblower
- allow the worker to be accompanied by a trade union representative or colleague at any meeting about the disclosure, if they wish to do so
- provide support services after a disclosure has been made such as mediation and dispute resolution, to help rebuild trust and relationships in the workplace
- stop the investigation if evidence gained suggests that this is a matter for the police or other statutory agency for example HMRC. The case must be referred to the appropriate authority at this point

## What do I do if I am not happy with the way my concerns are being handled?

If you consider for good reason that the manager to whom you have reported a concern at stage one of the procedure has not handled your concern effectively then you may escalate the issue to stage two.

Should you at stage two have good reason to believe that your concern is still not being dealt with satisfactorily then you may wish to consider raising your concern externally.

## What protection do I have if I raise a concern under this procedure?

If you make an allegation, but it is not confirmed by the investigation, no action will be taken against you unless it was vexatious. If you believe that you do suffer detriment as a result of whistleblowing you have the right to submit a grievance or complaint as appropriate. However, if you knowingly make false or vexatious allegations, disciplinary action against you may be taken. If you feel that you have been unfairly treated as a result of whistleblowing you may ultimately take your case to an employment tribunal. Information can be found at [www.acas.org.uk](http://www.acas.org.uk) or telephone 0300 123 1100.

## Reviewing and Monitoring

Summary details of any disclosure made under this policy will be reported to the Audit Committee. The Audit Committee has an important role in the management of risk and a culture of transparency with effective whistleblowing procedures are key to the risk framework.

## Related Policies

- Anti-Bribery Policy
- Disciplinary Policy
- Anti-Fraud Policy
- Financial Regulations

*Note: These procedures are not intended to impede normal informal and formal communication between staff, management and governors.*

## Review

Reviewed/Approved	By	Date
Updated by	Jacquie Carman	03.02.2023
Approved by	CLT	14.07.2023
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