



west lothian
college

Whistleblowing Policy and Procedure

Public Interest Disclosure

October 2020

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1 Introduction

- 1.1 All individuals at one time or another have concerns about what is happening at work. Usually these concerns are easily resolved. However, when they are about serious malpractice, like fraud or financial irregularities, corruption, bribery, dishonesty, acting contrary to staff codes of conduct, criminal activities, or creating or ignoring a serious risk to health, safety or the environment, it can be difficult to know what to do.
- 1.2 Staff may be worried about raising such issues or may want to keep concerns to themselves, feeling it is none of their business, or that it is only suspicion, or that raising the matter would be disloyal to colleagues, managers or the organisation. The College has therefore introduced this policy and procedure to deal with legitimate concerns received from and about workers, Board members, contractors, agency workers and all those associated with the College.
- 1.3 West Lothian College is committed to high standards of openness, probity and accountability, and to conducting its affairs in a responsible manner. This policy and procedure is applied to cases covered by a number of pieces of legislation including Public Interest Disclosure Act 1998 (PIDA), the Bribery Act 2010 and the Enterprise and Regulatory Reform Act 2013.
- 1.4 The policy offers protection to any individual who discloses concerns, provided the disclosure is made in a reasonable belief by the individual making the disclosure that it intends to show malpractice. The protection does not extend to those who choose not to raise their concerns under this policy.
- 1.5 The policy extends protection of any disclosure of information which, in the reasonable belief of the worker making the disclosure, shows –
 - that it is in the public interest;
 - discrimination;
 - fraud;
 - financial irregularities;
 - corruption;
 - bribery;
 - criminal offences;
 - failure or likely failure to comply with a legal obligation;
 - the occurrence or likely occurrence or a miscarriage of justice;
 - damage or likely damage to the environment; or
 - the event that information intended to show any of the above is being or is likely to be deliberately concealed.

The College operates a zero tolerance approach to bribery of any form.

- 1.6 This policy is not meant to be another mechanism for employees to blow the whistle about breaches of their employment contract. Such matters should be dealt with under the College's grievance procedure.
- 1.7 The human resources department is available to provide, in confidence, information on the policy and procedure to any individual who has a matter of concern and will, if required, offer advice and support.

2 How to proceed

Initial Steps

- 2.1 Individuals are encouraged to put their name to any disclosures they make. Concerns expressed anonymously are normally less powerful, but they will be investigated by the College or by one of the external bodies, and recorded. It will not be possible, however, to keep a person who has submitted a concern anonymously informed of the progress and outcome of any investigation.
- 2.2 In deciding the scope of the investigation, the following will be taken into account:
- the seriousness of the issues raised;
 - the credibility of the concerns; and
 - the likelihood of confirming the allegation from attributable sources.
- 2.3 An individual should make a public interest disclosure to the designated person, in an envelope marked 'Private and Confidential'. The "designated person" is the Clerk to the Board of Governors –
- The Clerk to the Board of Governors
West Lothian College
Almondvale Crescent
Livingston
West Lothian
EH54 7EP
- 2.4 If the disclosure is about the Clerk to the Board, then the disclosure should be made, in an envelope marked 'Private and Confidential', to the Principal and Chief Executive –
- The Principal and Chief Executive
West Lothian College
(address as in paragraph 2.3).
- 2.5 If the individual does not wish to raise the matter with either the designated person or the Principal and Chief Executive, then he or she may send the disclosure, in an envelope marked 'Private and

Confidential', to the Chair of the Audit Committee, if the issue falls within the purview of that committee, or to the Chair of the Board of Governors, as follows –

Chair, Audit Committee
West Lothian College
(address as in paragraph 2.3).

Chair, Board of Governors
West Lothian College
(address as in paragraph 2.3).

- 2.6 In cases involving financial malpractice, the designated person should normally act throughout in close consultation with the Principal and Chief Executive as the Accounting Officer for the College.

Process

- 2.7 The designated person will consider the information available to him/her and decide the form the investigation should take, ie
- to investigate internally; or
 - to refer the matter to the police; or
 - to call for an independent or external investigation.
- 2.8 If the decision is that the investigation should be conducted by more than one of these means, the designated person will satisfy him/herself that such a course of action is warranted, notwithstanding the possibility of double jeopardy. Any investigation of a criminal complaint by the police or procurator fiscal, however, will be given precedence.
- 2.9 Where the matter is to be the subject of an internal inquiry, the designated person will then consider how to conclude whether there is a prima face case to answer. This consideration will include determining whether the matter raised is sufficiently material, well-founded, credible and substantial to justify investigation. A ruling of “no case to answer” should not be taken lightly because, at first sight but without investigation, the matter raised appears to be trivial or of personal rather than wider public concern.
- 2.10 Recourse to an official external body will only be used when internal procedures have been exhausted or would be inappropriate. For example, an external investigation might well be necessary if the complaint is one made against the Principal and Chief Executive and/or the Chair of the Board of Governors.
- 2.11 If the person about whom the disclosure is made is alleged to have committed an act of gross misconduct (as detailed in the College’s disciplinary procedures), it may be necessary to suspend the member of

staff during the period of the investigation. The designated person will consult the Principal and/or the HR and People Development Manager on the relevancy and implementation of the disciplinary procedures for this purpose.

Investigation

- 2.12 Any investigation will be conducted as sensitively and speedily as possible, taking account of the interests of the wider public interest, the interests of the discloser, the person(s) alleged to have committed wrongdoing or malpractice and the College.
- 2.13 The investigation will not be carried out by the person who will reach a decision on the matter. The designated person will appoint an officer of the College to carry out an investigation and report his/her findings to the designated person, unless it is immediately obvious that the matter should be referred to an external authority for investigation, such as the College's internal or external auditors, the SFC (Scottish Funding Council), Audit Scotland or the Police.
- 2.14 The designated person will advise the Chair of the Board of Governors and the Chair of the Audit Committee that an investigation is taking place, by whom the investigation is being carried out, and when it is expected to report any findings or recommendations.
- 2.15 The College will treat disclosures in a confidential and sensitive manner. The identity of the individual making the disclosure will be kept confidential as long as it does not hinder or frustrate the investigation. However, the investigation process may need to reveal the source of the information and the individual making the disclosure may need to provide a statement as part of the evidence required. The individual will be consulted prior to this being implemented.
- 2.16 The person about whom a disclosure is made will be informed of the nature of the disclosure and of the supporting evidence and will be allowed to comment, as part of the investigation.
- 2.17 The designated person will consider the findings of the investigation in consultation with the Chair of the Board of Governors and the Chair of the Audit Committee and together they will come to a decision.

Feedback

- 2.18 The designated manager has a duty to ensure that the disclosure is investigated as sensitively and expeditiously as possible. Timescales will vary, however, and will depend upon the nature of the allegation and whether an external organisation is to be involved in the investigation.

- 2.19 Upon receipt of a disclosure, the designated manager will send confirmation of receipt, in writing, within 5 working days, to the person making the disclosure. He/she will inform the discloser as soon as is practically possible, and ensuring confidentiality, of what action, if any, is to be taken and will keep the discloser informed regularly thereafter of progress, at least every 28 days.
- 2.20 After an initial investigation, other internal procedures may be invoked by the designated person, such as –
- disciplinary procedures;
 - grievance or complaints procedures;
 - harassment procedures; or
 - a further more detailed “special” investigation.
- 2.21 If action is taken and the disclosure is upheld, a review of the nature of the disclosure will be undertaken to minimise the chances of a reoccurrence of the disclosed behaviour.
- 2.22 If no action is to be taken, then the individual concerned should be informed of the reason for this and allowed the opportunity to remake the disclosure to another appropriate person. This second person will consider all the information presented and the procedures which were followed. The outcome of this would be either to confirm that no further action is required or that further investigation is required.

3 Malicious Allegations

- 3.1 When raising a concern, an individual must declare any personal interest in the matter. Any false and malicious accusations will be dealt with under the College’s Disciplinary Procedures. Disciplinary action will be considered only if there is clear evidence that an individual has used the policy to raise false concerns in bad faith.

4 Protection

- 4.1 Whistleblowers will be protected from suffering any detriment, bullying or harassment from another employee.

5 Reporting of Outcomes

- 5.1 A report of all disclosures and any subsequent actions will be made by the designated person who will retain such reports for 5 years. In all cases, a report of the outcomes of any investigation will be made to the Audit Committee, in detail where the issue falls within its purview, and in other cases in summary, as a means of allowing the Audit Committee and the Board of Governors to monitor the effectiveness of the procedure.