



Whistle-blowing Policy and Procedure

This document will be made available in other languages and formats upon request from Reaseheath College employees and students (or their parents/carers)

Date of Issue:	September 2014
Review Date:	October 2016
Lead Director:	Director of HR & OD
Persons Responsible for Update:	HR Business Partner
Approved on:	30 September 2014/20 November 2014
Approved By:	<i>Senior Management Team/Audit Committee</i>
Published:	Staff Intranet, Student Intranet and Website
Date of Equality Analysis:	September 2014

1 Introduction

- 1.1 Reaseheath College is committed to promoting a culture of honesty, integrity and openness to achieve the highest possible ethical standards in public life.
- 1.2 The Board and the College Directorate fully support the need to operate in a climate of openness so that there are ways that staff can raise legitimate and serious concerns within the College, without fear of reprisal of bullying, harassment, or victimisation or any other form of unacceptable behaviour.
- 1.3 The policy will apply to all workers within the College.
- 1.4 To compliment the Policy the Reaseheath College Board has adopted the following public documents:
 - Framework on access to governing body business
 - Code of Conduct
 - Register of Members interests
- 1.5 The policy should also be read in conjunction with the following College policies / documents: -
 - Disciplinary Policy and Procedure
 - Grievance Policy and Procedure
 - Managing Attendance Policy
 - Dignity and Respect at Work Policy
 - Health and Safety Policy
 - College Financial Regulations
 - College Code of Conduct

2 Definition of Whistle-blowing

- 2.1 Whistle-blowing is the disclosure by a worker of information which relates to some danger, fraud or other illegal or unethical conduct connected with the workplace.
- 2.2 The aim of the College 'Whistle-blowing' procedure is to enable Workers to raise internally in a confidential manner matters as described in paragraph 4.1 below.

It is a safe and accessible procedure, whereby concerns can be raised in a confidential manner, knowing that management will investigate those concerns.

The policy encourages and expects employees to raise concerns internally in the first instance.

Whistle-blowing does NOT include personal grievances about managers, colleagues or individual contracts of employment.

Such matters should be addressed in line with the College Grievance Policy and Procedure.

3 **Who is covered by the whistle-blowing procedure?**

3.1 The Public Interest Disclosure Act 1998 protects workers at the College who disclose information in the correct manner from dismissal or penalization. "Workers" are individuals who are;

- Employees employed under a contract of employment;
- Employed under any other contract, under which they perform personally any work or services;
- Agency workers
- Individuals undertaking work experience as part of a training course.

3.2 Where students have information about malpractice, they should raise their concerns through the 'students' complaints procedure.

3.3 Where members of the public have information about malpractice, they should raise their concerns through the College formal complaints procedure. If the malpractice is about an issue relating to the College Board, they should raise their concerns with the Clerk to the Board (who is independent of the College). If the malpractice relates to the Clerk, the issue can be addressed to the Chair of the Audit Committee.

4 **How does the Public Interest Disclosure Act define a 'qualifying disclosure?'**

4.1 A qualifying disclosure is any disclosure of information which, in the reasonable belief of the worker making the disclosure, tends to show one or more of the following:

- Information that, in the reasonable belief of the worker, is made in the public interest
- That a criminal offence has been committed, is being committed, or is likely to be committed;
- That a person has failed, is failing, or is likely to fail to comply with any legal obligation to which she/he is subject;
- That a miscarriage of justice has occurred, is occurring, or is likely to occur;
- That the health & safety of any individual has been, is being, or is likely to be endangered;
- That information tending to show any matter falling within any one of these points has been, is being, or is likely to be concealed;
- That the environment has been, is being or is likely to be damaged.

5 **How does the Public Interest Disclosure Act define a 'reasonable belief?'**

5.1 There must be more than unsubstantiated rumours. The complainant(s) must have and supply evidence, and exercise judgement consistent with their evidence.

5.2 It could be a 'qualifying disclosure' if the complainant(s) reasonably, but mistakenly believed a serious malpractice was occurring or may occur.

5.3 If some malpractice was occurring which did not fall into the points identified in paragraph 4.1 but the complainant reasonably believed that it did, then this would be a 'qualifying disclosure.'

5.4 **Whistle-blowing does not include the following:**

Workers raising grievances about their personal employment situation. Where a complainant(s) raises matters that are considered outside the scope of the whistle-blowing procedure, the investigating officer (after consultation with the Clerk to the Board) will explain the reasons to the complainant and advise on the use of alternative procedures for furthering a complaint.

6 How am I protected?

6.1 Under the Public Interest Disclosure Act, to qualify for protection for disclosure the worker must have reasonable grounds for believing that the information disclosed indicates the existence of one of the problems itemized in paragraphs 4.1 and 4.2 above.

6.2 The College Board and management will ensure that, wherever possible, employees who raise concerns using this procedure are protected from reprisals or victimisation or any other forms of unacceptable behavior by any individual and other employees (including informal pressure.) Any employee who takes such retaliatory action may be subject to disciplinary or other appropriate proceedings.

6.3 Human Resources will oversee any investigative process and will ensure confidentiality as far as possible.

6.4 The College will not disclose a complainant(s) identity to anybody outside of those involved in the investigation process unless required to do so in law. If the situation arises where the College is unable to resolve the concern without revealing the complainant(s) identity (for instance, through a witness statement in a disciplinary hearing or the employee's evidence is needed in court), following discussion with the Director of Human Resources and Organisational Development the College will if deemed appropriate discuss with the individual how the matter should proceed.

7 Who do I talk to?

7.1 If the complaint is about the Principal or Vice Principal, then the matter should be raised with the Clerk to the Board. Otherwise, a complainant(s) may raise their concerns, orally or in writing, directly with:

- The Vice Principal
- The Director of Human Resources and Organisational Development
- Director of Finance
- The Clerk to the Board
- Director of Quality, Learning and Support

7.2 One of these four post-holders will be the investigating officer as set out in paragraph 8.1 below. In cases involving concerns about the Clerk to the Board, these should be raised directly with the Chair of the Audit Committee.

7.3 This is Stage 1 of the procedure, the full details of which are set out in paragraph 8.3.1.

8 **Is it confidential?**

8.1 The Reaseheath College Board encourages workers to raise legitimate concerns without fear. The College will protect and support both the whistle-blower and the accused from retribution, harassment, victimisation and any other form of unacceptable behavior prior to, during and after the period of investigation.

8.2 The College requests the complainant(s) to identify themselves when raising a concern as anonymous concerns cannot be properly investigated and the complainant(s) will not be able to receive any feedback under this policy that the issue has been dealt with.

9. **How is the Investigation carried out?**

9.1 The method of investigation which will be carried out as speedily as possible, taking into account the confidentiality considerations will be determined by the Director of Human Resources and Organisational Development, Principal, Director of Finance, Vice Principal, or following discussion with the Clerk to the Board.

- In cases where the complaint is about the Principal, or the Vice Principal, the method of investigation will be discussed by the Clerk to the Board and the Chair of the Audit Committee
- In cases where the complaint is about the Clerk to the Board, the complaint will be raised directly with the Chair of the Audit Committee and the investigation will be undertaken by the College's internal audit service.
- In cases where the complaint is raised with the Clerk to the Board, the method of investigation will be discussed by the Clerk to the Board and the Chair of the Audit Committee.

9.2 At any point in the process of the investigation, the matter may be referred to the police if there is any evidence of criminal activity. Any investigation using this procedure will not hinder a formal police investigation.

9.3 The investigation will have three stages:

- **Stage 1:** - the initial allegation
- **Stage 2:** - the confidential inquiry by the investigating officer into the allegation and the investigation officer's report
- **Stage 3:** - action (where appropriate) by the Principal, or by the Reaseheath College Board

9.3.1 Stage 1 – initial allegation

If required, the complainant(s) may be accompanied by their trade union/staff representative, or work colleague to the initial meeting with the investigating officer. This stage will only involve the complainant (s) (accompanied if they wish) and the investigating officer to whom the disclosure has been made.

- The allegation by the complainant(s) may be presented either orally or in writing to the investigating officer and will be treated as confidential unless the complainant(s) explicitly decides otherwise.
- If the allegation is oral, the investigating officer will make a full note of the detail about the grounds for the belief of malpractice without identifying the complainant(s).
- The complainant(s) and the investigating officer will discuss the allegation to ensure that other established procedures may not be more appropriate to deal with the concerns.
- The complainant(s) and the investigating officer will discuss any possible consequences of the complaint and how these may affect any subsequent investigation
- Concerns expressed anonymously are much less powerful but will be considered by the investigating officer in discussions with the Clerk to the Board, taking into account the seriousness of the issues raised, the credibility of the concern and the likelihood of confirming the allegation from attributable sources.
- When an issue raised under this policy concerns a potential issue of gross misconduct against a College member of staff, the Principal or Vice Principal may require to suspend member(s) of staff under the College's Disciplinary Policy on full pay pending the outcome of the initial investigation. Safeguarding issues are paramount in all cases and will be expedited if safeguarding issues require it. Depending on the nature of the allegation or concern and whether or not it has been proven, the matter will be reported to such appropriate statutory bodies as: the Institute of Learning (IfL).

9.3.2 Stage 2 – the investigating officer's inquiry and report

- The investigating officer to whom the disclosure has been made, will discuss the complaint (without identifying the name(s) of the complainant(s) with the Clerk to the Board (unless the complaint is about the Clerk) and jointly determine the method of investigation. When the Clerk to the Board is the investigating officer, she/he will discuss these matters with the Chair of the Audit Committee.
- The Clerk will notify the Principal or Chair of the Board of the allegation and that an investigation is being carried out.

- The investigating officer, will take confidential statements and gather evidence from those involved in the allegations. They may be accompanied by a representative from the HR Department.
- Internal or external auditors or another appropriate organization may be appointed by the College to assist with the investigation.
- The investigating officer will produce a detailed report detailing their findings and conclusions.
- The investigating officer will inform the Clerk to the Board on the progress of the investigation and the preparation of the report.
- The report, conclusions and recommendations will be passed to the Principal or Chair of the Board in confidence.
- Where the complaint involves the Clerk, the Chair of the Audit Committee will arrange for the investigation to be carried out by the College internal auditor service.

9.3 **Stage 3**

- 9.3.1 The Principal or Chair of the Board will consider the report of the investigating officer and take action (where appropriate) using the procedures already in place within the College or refer the matter to the police.

10 **How will I know what is happening?**

- 10.1 The investigating officer to whom the disclosure is made, must immediately send a written acknowledgement of the allegation to the complainant(s) using their home address(es). The investigating officer will thereafter keep the complainant(s) informed in writing on the progress of the investigation, at fortnightly intervals. Any correspondence will be sent to the complainant(s) using their home address and not via the College internal mail.
- 10.2 The investigation will be pursued as a priority but it is not possible to stipulate specific timescales due to the nature of investigations of this type.
- 10.3 If the complainant(s) is concerned about the time taken to complete the investigation, or feels the investigating officer is not dealing with the matter properly the complainant(s) must contact the Clerk to the Board to discuss their concern. Where the original complaint is about the Clerk, the complainant must contact the internal authors.
- 10.4 The investigating officer will report back in writing to the complainant(s) the outcome of the investigation, the conclusions and recommendations for proposed action (where appropriate). This will not include details of any disciplinary action against another member(s) of staff, which will remain confidential to the individuals concerned

11 What are the grounds when no further action is taken?

- The Investigating Officer is satisfied that the complaint is not in the public interest.
- The Investigating Officer is satisfied that, on the balance of probabilities, there is no evidence that malpractice has occurred, is occurring or is likely to occur;
- The matter is already appropriately (or has been) the subject of proceedings under one of the College's other procedures or policies;
- The matter concerned is already the subject of legal proceedings, or has already been referred to the police, an external auditor, the Skills Funding Agency, or other relevant public authority.

12. What do I do if I am unhappy with either the investigation or the outcome?

12.1 If the complainant(s) is not satisfied with the conclusions of the investigating officer or the management action arising from the investigation, they may in confidence within ten working days of receiving their letter of notification raise the matter, to the Chair of the Audit Committee detailing the grounds for requesting a review of the decision. Thereafter, there will be a report to the Board on the allegation, investigation and outcome, including the complainant(s) concerns.

12.2 If the Board finds the allegations unsubstantiated, this procedure ends when the complaint is rejected by the Board. However, the College recognises the lawful right that the complainant(s) does have with regard to the option of approaching an appropriate body either:

- the College's internal/external auditor service, or
- the Skills Funding Agency, or
- the Department of Education
- when the complaint is regarding health and safety the Health & Safety Executive, or
- their Trade Union/Staff Representative
- Public Concern at Work (an independent charity who will offer confidential advice – telephone number: 0207 404 6609, e-mail: www.pcaw.co.uk) if he/she feels that the matter is sufficiently serious.

12.3 Before raising matters externally, the complainant(s) should advise the Clerk to the Board as such a step would have serious implications for the College and should only be taken after very careful consideration.

13 How will the Reaseheath Board be informed about complaints under the Whistle-blowing policy?

13.1 Where there are unresolved complaints, as set out in paragraphs 9.1 – 9.3 above, the Chair of the Audit Committee and the Clerk to the Board will report the matter to the next available meeting of the full Board for determination.

- 13.2 There will be an annual report to the Board prepared by the Clerk of any formal complaints received under this procedure and their outcome. The confidentiality of the complainant(s) identities will be maintained.
- 13.3 Confidential monitoring of all complaints received will be undertaken by HR who annually in accordance with the requirements of the Equality Act 2010 will produce a anonymous report of complaints received according to the 'protected characteristics.'

14 How can the College protect itself against malicious accusations?

- 14.1 This Policy requires that any complainant(s) who raises a complaint about alleged malpractice must do so internally in the first instance. This enables the College Management to investigate and take appropriate action before any disclosure goes to any organization external to the College or becomes known to the general public.
- 14.2 It is in the interest of both the College and all complainant(s) that those who speak out and follow the procedure receive adequate protection.
- 14.3 Deliberately false and/or malicious accusations or where complainants are acting for personal gain or out of personal motives may be considered in line with the College Disciplinary Policy and Procedure or other appropriate proceedings.

15 Implementation

- 15.1 The policy will be implemented within the College through dissemination to managers at briefing sessions as appropriate. The aim of the information will be to ensure that all line managers are equipped with the appropriate knowledge and skills about how the Policy applies to their conduct and that of their staff/colleagues.
- 15.2 To ensure appropriateness the 'cascade of information in respect of whistle-blowing will be appraised as required to make certain that the policy reflects new statutory guidance and best practice standards.
- 15.3 Communication to advise where this policy and all College policies can be accessed will be via the Staff Induction programme.

16 Monitoring and Review

- 16.1 This policy has an equality analysis and will also be audited via discussions with the Board of Governors, Directorate, College Trade Union representatives, Staff Partnership Forum and the CMT.

17 Support and Counselling Services

Staff support and counselling will be available as appropriate to a complainant(s) via the College's Employee Assistance Scheme.



Equality Analysis Form

1. Author: Andrew Turner Date analysis commenced: September 2014

2. Brief Description of Strategy, Proposal, Policy, Procedure or Practice

Revision of the College Whistle-blowing Policy

- To ensure the College continues to demonstrate its commitment to promoting an environment which promotes a culture of honesty, integrity and openness, without fear of reprisal of bullying, harassment, victimisation or any other form of unacceptable behaviour.
- To ensure compliance with the latest advice issued by LSIS and the Association of Colleges.

3. Relationship where appropriate with other policies/procedures or practice

The policy should be read in conjunction with the following College policies / documents: -

- Disciplinary Policy and Procedure
- Grievance Policy and Procedure
- Managing Attendance Policy
- Dignity and Respect at Work Policy
- Health & Safety at Work Policy
- College Financial Regulations
- College Code of Conduct

4. Does the Strategy, Proposal, Policy, Procedure or Practice impact on the College, learners, employees or others? If yes, the document is 'equality relevant.' If not please record the reasons for this decision.

Yes, the policy is 'equality relevant'

5 i Who are the Key Stakeholders involved with this analysis:

College Governors, Directors and CMT, HR, Staff Partnership Forum, Association of Colleges.

5ii Identify source of stakeholder views:

College Governors, Directors and CMT, HR, Staff Partnership Forum
Association of Colleges, LSIS

6. Summarise the key comments and evidence from stakeholders which reflects upon how the proposed document assists in meeting the three aims of the Public Sector Equality Duty:*

The Whistle-blowing Policy is compliant with the Public Disclosure Act 1998 and the latest guidance received from LSIS and the Association of Colleges. Furthermore it harmonises with the College Policies and Procedures identified in Section 3 of this Equality Analysis.

The Policy advances the three aims of the Public Sector Duty.

What evidence has been collated to inform this analysis. If there is no evidence available, detail should be provided for this decision.

Characteristic	Comments
Age	There is no evidence that this Policy has a negative effect.
Disability	A disabled person may not be able to access the policy in its current format. IT will as appropriate identify what reasonable adjustments are available to ensure access to this policy other than electronically or in paper form.
Gender	There is no evidence that this Policy has a negative effect.
Transgender	There is no evidence that this Policy has a negative effect.
Race or ethnicity	An employee whose first language was not English may have difficulty in understanding the Policy. However translation services could be provided as appropriate.
Religion or belief	There is no evidence that this Policy has a negative effect.
Sexual orientation	There is no evidence that this Policy has a negative effect.
Pregnancy / maternity	To avoid staff on maternity leave/paternity leave or adoption leave not being aware of new policies and other College changes their manager will keep them informed termly.
Marriage or Civil partnership (only in respect of eliminating unlawful discrimination)	There is no evidence that this Policy has a negative effect.

No major change needed: No

Adjustment required:NO

SMART actions required to address any Equality & Diversity issues raised through consultation:

Proposed Date of Equality Analysis review: October 2016

When this form is completed, please send it with the relevant Strategy, Proposal, Policy, Procedure or Practice for validation by the Senior Management Team.

Authorised by the Senior Management Team:

Date: 30 September 2014

Copy to the Clerk to the Board (Policies only)

Date: 10 October 2014

Copied received by the PA to the Clerk to the Board

Date: 10 October 2014