

## **Trust Policy – Confidential Reporting for Members of the Trust**

Date approved by Trust:  
Non-substantive updates:

June 2023  
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Officer responsible:

Chair of the Trust

### **1 Preamble**

- 1.1 Members of the Trust may realise that there could be something seriously wrong within the Trust or the College, but be reluctant to express their concerns because they feel that speaking up would be disloyal to their fellow members or to the College. In these circumstances it may be easier to ignore the concern rather than report what might be no more than a suspicion of malpractice.
- 1.2 The Trust is committed to the highest possible standards of openness, probity and accountability. In line with that commitment, members of the Trust who have serious concerns about any aspect of the College's or Trust's work are expected to come forward and voice those concerns. It is recognised that some cases will have to proceed on a confidential basis.
- 1.3 This policy document makes it clear that you can do so without fear of subsequent discrimination or disadvantage. *This confidential reporting policy is intended to encourage and enable members of the Trust to raise serious concerns **within** the Trust rather than overlooking a problem or 'blowing the whistle' outside.*
- 1.4 The policy applies to all members of the Trust, who are herein reminded that they exercise their powers and fulfil their duties on a corporate (i.e. joint) basis.

### **2 Aims and Scope of this Policy**

- 2.1 This policy aims to:
  - encourage members of the Trust to feel confident in raising serious concerns and to question and act upon concerns about practice;
  - provide avenues for members of the Trust to raise those concerns and receive feedback on any action taken;

- ensure that members of the Trust receive a response to their concerns and that they are aware of how to pursue them if they are not satisfied; *and*
- re-assure members of the Trust (including the Principal – if a member of the Trust, as well as staff, parent and student members) that they will be protected from discrimination or disadvantage if they have a **reasonable belief** that they have made a disclosure in good faith.

2.2 The Confidential Reporting Policy is intended to cover the following major concerns:

- conduct which is an offence or a breach of law;
- disclosures related to miscarriage of justice;
- health and safety risks, including risks to the public as well as to staff and students;
- environmental damage;
- the unauthorised use of public funds;
- possible fraud and corruption;
- abuse of students; *or*
- other unethical conduct.

2.3 Thus, any serious concerns that members of the Trust may have about any aspect of service provision or the conduct of College staff or Trust members or others acting on behalf of the College, can be reported under the Confidential Reporting Policy. This may be about something that:

- makes members of the Trust feel uncomfortable in terms of known standards, their experience or the standards they **reasonably believe** the College or Trust subscribe to;
- is against the Trust's Instrument and Articles, bye laws and/or policies;
- falls below established standards of practice; *or*
- amounts to improper conduct.

### **3 Safeguards**

3.1 *Discrimination or Disadvantage*

3.1.1 The Trust is committed to good practice and high standards.

3.1.2 The Trust recognises that if what a member of the Trust is reporting is **true**, or is **reasonably believed** to be true by the member reporting it s/he has nothing to fear because s/he will be fulfilling her/his duty to the Trust as a whole.

3.1.3 The Trust will not tolerate any oppressive conduct (including informal pressures) and will take appropriate action to protect members of the Trust when they raise a concern in good faith.

3.1.4 Any investigation into allegations of potential malpractice will not influence or be influenced by, any decision relating to a member of the Trust's continuation in

office, present or future membership of any committee (or equivalent body), or the right to be considered fairly for reappointment on the same basis as other members at the termination of her/his period of office.

- 3.1.5 In particular (and with reference to 3.1.4 above), members of the Trust who are also members of the College staff shall also be afforded the **same protection** as that accorded to them under the Confidential Reporting Policy for College Staff. Members of the Trust who are also members of the student body (whether full-time or part-time) shall **not** be harassed, victimised or otherwise placed at a disadvantage. Members of the Trust who are also parents, guardians, or carers of students shall **not** be exposed to harassment or victimisation of their children, wards or carees (whether in the present or at any time in the future), or the placing of any of their children at a disadvantage.

### 3.2 *Confidentiality*

All concerns will be treated **in confidence** and every effort will be made not to reveal the identity of the member of the Trust if s/he so wishes. At the appropriate time, however, s/he may need to come forward as a witness.

### 3.3 *Anonymous Allegations*

- 3.3.1 This policy encourages members of the Trust to put their names to allegations whenever possible.

- 3.3.2 Concerns expressed anonymously may be more difficult to investigate, but will be considered at the discretion of the Trust.

- 3.3.3 In exercising this discretion, the factors to be taken into account would include:

- the seriousness of the issues raised;
- the credibility of the concern; *and*
- the likelihood of confirming the allegation from attributable sources.

### 3.4 *Untrue Allegations*

If a member of the Trust makes an allegation in good faith, but it is not confirmed by the investigation, no action will be taken against her/him. If, however, s/he makes an allegation frivolously, maliciously or for personal gain, s/he may render her/himself unfit to hold public office and hence liable to be removed from membership of the Trust.

## 4 **How to Raise a Concern**

- 4.1 As a first step, members of the Trust should normally raise concerns with the **Chair of the Trust**. If the Chair of the Trust is not **reasonably believed** to be appropriate, concerns should be raised with the **Vice-Chair of the Trust**. If neither the Chair nor Vice-Chair of the Trust, nor the Governance Professional to

the Trust are reasonably believed to be appropriate, concerns should be raised with the **Independent Chair of the Audit, Finance and Risk Committee**.

4.2 Concerns may be raised verbally or in writing. Members of the Trust who wish to make a written report are invited to use the following format:

- the background and history of the concern (giving relevant dates); *and*
- the reason why they are particularly concerned about the situation.

4.3 The sooner members of the Trust express their concern the easier it is to take action.

4.4 Although members of the Trust are not expected to prove beyond doubt the truth of an allegation, they will need to demonstrate to the person contacted that there are **reasonable grounds** for their concern. If reasonable grounds cannot be demonstrated, or if a member of the Trust declines to furnish them, the Trust will be under no obligation to investigate the matter further.

4.5 Advice and guidance on how matters of concern may be pursued can be obtained from the Governance Professional to the Trust.

## **5 How the Trust will Respond**

5.1 The Trust will respond to the concerns raised by members of the Trust. Please remember that testing concerns which have been raised is not the same as either accepting or rejecting them.

5.2 Where appropriate, the matters may:

- be investigated by the Chair of the Trust, the Vice-Chair of the Trust, the Governance Professional to the Trust or College management (on behalf of any of the above);
- be referred to the police;
- be referred to the internal or financial statements auditor; *or*
- form the subject of an independent enquiry.

5.3 In order to afford reasonable protection to individuals and those accused of misdeeds or possible malpractice, initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it should take. **The overriding principle which the Trust will have in mind is the public interest.**

5.4 Some concerns may be resolved by agreed action without the need for an investigation. If urgent action is required this will be taken into account before any investigation is conducted.

5.5 Within **ten** working days of a concern being raised, the Chair of the Trust, the Vice-Chair of the Trust, the Governance Professional to the Trust or the Independent Chair of the Audit Committee (as appropriate in the light of paragraph 4.1 above) will write to the member of the Trust:

- acknowledging that the concern has been received;
- indicating how it is proposed to deal with the matter;
- giving an estimate of how long it will take to provide a final response;
- stating whether any initial enquiries have been made; *and*
- stating whether further investigations will take place and if not, why not.

5.6 The Trust will take steps to minimise any difficulties which a member of the Trust may experience as a result of raising a concern. For instance, if s/he is required to give evidence in criminal, disciplinary or public proceedings the Trust will arrange for her/him to receive advice about the procedure.

5.7 The Trust accepts that the member of the Trust needs to be assured that the matter has been properly addressed. Thus, subject to legal constraints, s/he will be informed about the outcome of any investigation.

## 6 The Responsible Person

The Chair of the Trust has overall responsibility for the maintenance and operation of this policy. S/he maintains a record of concerns raised and the outcomes (but in a form which does not endanger confidentiality) and will report as necessary, and to the extent permitted, to the whole Trust.

## 7 How the Matter can be Taken Further

This policy is intended to provide a member of the Trust with an avenue ***within*** the Trust to raise concerns. The College hopes s/he will be satisfied with any action taken.

If s/he is not, the matter may be raised, in confidence, with the **Governance Professional to the Trust** (unless the Governance Professional to the Trust is the person with whom the matter was originally raised, or is the subject of the concern) who will, within one month, give her/him a written response to the concern, or a statement in writing as to why a written response cannot yet be made and stating a date by which it will be made.

If, for the above reasons, the matter cannot be raised with the Governance Professional to the Trust, it should be raised with the **Independent Chair of the Audit Committee**.

## 8 Consulting External Bodies for Legal Advice

A member of the Trust may wish to obtain legal advice from a properly qualified third party, which s/he is free to do provided that the advice is sought on a *confidential* basis, and that the confidential nature of any consultation s/he may have is communicated to, recognised and accepted by the third party in advance of the consultation.

The Trust will not meet any costs thereby incurred unless the consent of the **Governance Professional to the Trust** to take independent legal advice has been sought and obtained. The Governance Professional to the Trust in these circumstances shall be entitled to make such reasonable enquiries, on a strictly confidential basis, as s/he may see fit in order to decide whether or not independent legal advice should be obtained, but her/his consent **shall not be unreasonably withheld**.

In the event that consultation with the Governance Professional to the Trust is **reasonably believed** to be inappropriate (e.g. because the concern relates to the Governance Professional), the Chair of the Trust shall be consulted, or the Vice-Chair of the Trust (if the Chair of the Trust would otherwise be **reasonably perceived** to have a conflict of interests), or the Independent Chair of the Audit Committee (if both Chair and Vice-Chair of the Trust would otherwise be **reasonably perceived** to have a conflict of interests).

## **9 Disclosure Made outside the College**

There are limited occasions when it is permissible to disclose information to a third party outside the Trust other than for the purpose of obtaining independent legal advice.

Possible persons or organisations to which disclosures may be made include:

*The Secretary of State;*

*the Education and Skills Funding Agency (or any successor body);*

*the financial statements auditor;*

*any other relevant regulatory organisation (e.g. the Health and Safety Executive); or*

*the police*

The concern **must** relate to at least one of the circumstances set out under paragraph 2.2 above, and at least one of the following conditions **must also** be satisfied:

- the complainant **reasonably believes** that s/he will be placed at a disadvantage as a member of the Trust if the disclosure is made to an otherwise appropriate person within the Trust;
- the complainant **reasonably believes** that the information disclosed, whether to an otherwise appropriate person within the Trust and/or to the Governance Professional to the Trust, will be disregarded, destroyed or concealed;

- the complainant has already disclosed the information to an appropriate person in the Trust and/or to the Governance Professional to the Trust, and **reasonably believes** that the matter disclosed in the evidence has not been properly investigated or that, in the light of the evidence which s/he has disclosed, a wrong decision concerning it has been reached.

**10.** Nothing in this document shall infringe the responsibility of the Governance Professional to the Trust to disclose any matter to the Secretary of State or the Education and Skills Funding Agency (or any successor body) where such disclosure is appropriate.