

# RUNSHAW COLLEGE

**POLICY TITLE:** Whistleblowing Procedure

**APPROVED BY:**

*R&OD Committee / Corporation Board*

**AUTHOR:**

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**POLICY OWNER:**

Governors

**POSITION:**

Clerk to Corporation

**VERSION:**

7

**LAST UP-DATED:** March 2019

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## 1. INTRODUCTION

- 1.1 Runshaw College is committed to promoting a culture of openness, honesty, legal compliance and integrity within which all individuals are encouraged to act responsibly and where malpractice is not tolerated.
- 1.2 To this end, College policies and procedures set out good practice and guidance for College staff. As part of this culture, both staff and learners are able to raise, in a responsible way, genuine concerns about known, suspected or apparent malpractice by College staff or governors without fear of recrimination or victimisation and, in so doing, uphold public confidence in the reputation of the College. The College expects all employees to have a moral obligation to speak up when faced with, or having a suspicion of, wrongdoing.
- 1.3 The College will not tolerate harassment or victimisation of anyone raising a concern, whether or not it is proven. It is recognised that individuals may not always be sure whether or not malpractice is taking place. It is preferable for concerns to be raised which may prove to be unfounded, providing this is done honestly, rather than for concerns to be ignored which turn out to be serious.
- 1.4 This procedure enables employees to raise genuine concerns through internal College procedures. The law allows employees to raise such concerns externally, and Section 12 of the procedure informs employees how they can do so. However, a failure to raise a concern under this procedure may result in a disclosure losing its protected status under the law.

## 2. PURPOSE AND SCOPE

- 2.1 The purpose of this procedure is to enable and encourage staff and learners to raise, in confidence, concerns about malpractice without fear and in the knowledge that they will be taken seriously and investigated fully.
- 2.2 This policy applies to all employees / workers of the College, including volunteers, and learners.

2.3 Should a member of the public have a genuine concern then this should be raised directly with the Clerk to the Corporation in the first instance.

2.4 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 Grievance procedure. Learners should similarly use the college Complaints Procedure unless malpractice is involved.

### 3. DEFINITIONS

#### **Discloser:**

The individual / employee raising concerns under the Procedure.

#### **Assessor:**

The Clerk to the Corporation or, in his/her absence, the Deputy Clerk / HR Director who will be responsible for implementing the Procedure.

#### **Line Manager:**

Will normally be the line manager with responsibility for the person(s) against whom malpractice is suspected. This may be at any level up to Senior Manager. If you are unsure of the identity of the appropriate line manager, you may contact the Clerk to the Corporation or Deputy Clerk/HR Director for clarification.

### 4. PROTECTED DISCLOSURES

4.1 The law protects employees who, out of a sense of public duty, want to reveal suspected wrongdoing or malpractice.

4.2 The law allows employees to raise what it defines as a 'protected disclosure'. In order to be a protected disclosure, a disclosure must relate to a specific subject matter (See Section 5 below) and the disclosure must also be made in an appropriate way (See Section 6). A 'protected disclosure' must, in the reasonable belief of the employee making it, also be made in the public interest. A protected disclosure must consist of information and not merely be allegations of suspected malpractice.

### 5. SPECIFIC SUBJECT MATTER

If, in the course of employment, an employee becomes aware of information which they reasonably believe tends to show one or more of the following, they must use this policy and procedure:

- that a **criminal offence** has been committed, is being committed or is likely to be committed;
- That an individual has failed, is failing or is likely **to fail to comply with any legal obligation** to which they are subject;
- that a **miscarriage of justice** has occurred, is occurring, or is likely to occur.
- that the **health or safety** of any individual has been, is being, or is likely to be, endangered.
- that the **environment**, has been, is being, or is likely to be, damaged.
- That information tending to show any of the above, is being, or is likely to be, **deliberately concealed**
- Other malpractice which may include bribery and tax evasion

### 6. PROCEDURE FOR MAKING A DISCLOSURE

6.1 All disclosures under this procedure should be made internally before any external bodies are involved.

- 6.2 Disclosures may be made through line management at any level or, where the Discloser does not feel this to be appropriate, through the Clerk to the Corporation. Referral to line management does not preclude the use of this procedure at any stage.
- 6.3 Line managers will as soon as practicable, inform the Clerk to the Corporation of any disclosures made to them. The Clerk to the Corporation will record all relevant matters so raised.
- 6.4 All disclosures, other than those raised with line management under 6.2 above, should be made to the Clerk to the Corporation, who is the designated 'Assessor' for the purpose of this procedure. The Clerk to the Corporation is independent of College management and responsible directly to the Corporation (Governing Body). In the Clerk's absence, the Deputy Clerk / HR Director will be the designated Assessor.
- 6.5 Disclosures should preferably be in writing, accompanied by any evidence. However, the Discloser may elect to do so orally and may obtain support in doing should this be required from the Clerk to the Corporation or Deputy Clerk / HR Director.
- 6.6 If the disclosure relates to the Principal and Chief Executive, an employee can raise the issue with the Clerk to the Corporation. In the event that the disclosure relates to the Clerk to the Corporation or Deputy Clerk/HR Director, an employee can raise the issue with the Chair of the Governing Body.
- 6.7 The College hopes that individuals will feel able to identify themselves when making a disclosure. If an anonymous disclosure is made, the College will not be in a position to notify the individual making the disclosure of the outcome of action taken by the College. Anonymity also means that the College will have difficulty in investigating such a concern. The College reserves the right to determine whether to apply this procedure in respect of an anonymised disclosure in light of the following considerations:
- The seriousness of the issues raised in the disclosure;
  - The credibility of the concern; and/or
  - How likely it is that the concern can be confirmed from attributable sources

## **7. CONFIDENTIALITY**

- 7.1 Any disclosure will be treated in confidence and every effort made to maintain the anonymity of the Discloser, if that is his/her wish. It must be noted, however, that anonymity may not always be possible depending on the nature of the disclosure.
- 7.2 The identity of the Discloser will not normally be revealed without his/her prior consent unless:
- the Assessor is under a legal obligation to do so;
  - the Assessor needs to seek external professional advice (e.g. legal or audit service);
  - the Disciplinary Procedure is invoked;
  - the Assessor believes that the discloser has acted maliciously. The Assessor will advise the Discloser should this occur.
- 7.3 In the interests of natural justice, all parties involved in a disclosure are expected to maintain strict confidentiality regarding the circumstances and the identity of the implicated individual(s).

## **8. PROCEDURE FOR INVESTIGATING A DISCLOSURE**

- 8.1 The Assessor will acknowledge receipt of the disclosure and arrange a confidential interview with the Discloser at an early opportunity (usually within ten working days of initial contact).
- 8.2 The purpose of the interview is to enable the Assessor to obtain, clarify and confirm all available

information concerning the alleged malpractice. The Assessor may be accompanied by a second person to assist with notetaking.

- 8.3 The Discloser who is a member of staff may be accompanied by a colleague or trade union representative in the capacity of 'friend'. If a learner, the Discloser may be accompanied by a 'friend' of his/her choice, who must not be a solicitor or barrister acting in that capacity. The role of the 'friend' is to support, not represent, the Discloser.
- 8.4 The Assessor will, unless impractical to do so; agree his/her note of the interview with the Discloser before proceeding further.
- 8.5 The Assessor will determine whether there are grounds to proceed on the basis of the available information and, if so, whether the alleged malpractice, in whole or in part, falls to be considered under another College policy or procedure (i.e. the Fraud and Corruption Policy or Grievance Procedure). The Assessor will advise the Discloser accordingly.
- 8.6 Considerations to be taken into account when making this determination may include the following:
- If the Assessor is satisfied that an employee does not have a reasonable belief that suspected malpractice has / is occurring; or
  - If the matter is already the subject of legal proceedings or appropriate action by an external body; or
  - If the matter is already subject to another, appropriate College procedure.
- 8.7 When an employee makes a disclosure which has sufficient substance or merit warranting further action, the College will take action it deems appropriate (including action under any other applicable College policy or procedure). Possible actions could include internal investigation; referral to the College's auditors; or referral to relevant external bodies such as the police, OFSTED, Health and Safety Executive or the Information Commissioner's Office.
- 8.8 The Assessor will inform the Chair of Audit (unless the alleged malpractice involves him/her directly) and the Principal of the nature of the disclosure and the investigative process to be followed. Where appropriate, the Chair of the Corporation and the Internal Auditor will also be informed.
- 8.9 The Assessor will either investigate the allegation personally or commission another independent person or agency to do so. In the latter case, the investigator will report back to the Assessor. Where appropriate, the Chair of Audit or Chair of the Governing Body may assist the Assessor with the investigation and make recommendations.
- 8.10 The Chair of Audit and Principal will be kept informed on the progress of each investigation. College management will also be kept informed of progress where appropriate.
- 8.11 Where there is evidence of criminal activity, the Police will be informed. In these circumstances, the procedure will still be followed to the extent that it does not hinder formal Police investigations.
- 8.12 Investigations under 8.9 above will normally be completed within 30 working days from the initial interview, with recommendations being made by the Assessor to the Principal and/or Corporation as appropriate.

## **9. NOTIFICATION OF OUTCOME**

- 9.1 As far as possible, and subject to third party rights, the Assessor will notify the Discloser in writing of the outcome of the investigation within five working days of the recommendations being made by the Assessor under 8.12 above.
- 9.2 Should new or additional concerns and evidence be disclosed once a whistleblowing investigation

has been concluded, the Assessor will determine whether further action is warranted. A key consideration in making the decision is whether the matter is already subject to another appropriate College process.

- 9.3 If the new concerns raised are not significantly different from the original, the Assessor can decline to take any further action.
- 9.4 However, if there is information revealed which adds substantially to what has already been disclosed, then a new investigation may be undertaken, and the Assessor may refer to the original investigation if appropriate.

## **10. TIMESCALES**

- 10.1 Every effort will be made to adhere to the timescales set out in the procedure. However, it is recognised that such timescales should be flexible and agreed on an individual basis bearing in mind the variation in the length of time it may take to investigate different types of concerns.
- 10.2 In the event that the investigation is a prolonged one, the Assessor will keep the Discloser informed, in writing, as to the progress of the investigation, and as to when it is likely to be concluded.

## **11. ACCESS TO THE GOVERNING BODY**

- 11.1 A Discloser who is not satisfied that his/her concern has been properly dealt with by the Assessor has the right to raise it in confidence with the Chair of the Governing Body (or the Vice-Chair should the alleged malpractice relate to the Chair), who will make a final decision on action to be taken and notify the employee making the disclosure. This should be normally be in writing.

## **12. DISCLOSURE TO EXTERNAL BODIES**

- 12.1 A disclosure has the right to make a disclosure outside of the College where there are reasonable grounds to do so and in accordance with the law. Employees may make a disclosure to an appropriate external body prescribed by the law. This list of 'prescribed' organisations and bodies can be found in information on the GOV.UK website. A Discloser may also seek legal advice should he/she feel this to be appropriate.
- 12.2 If an employee seeks advice outside of the College, they must be careful not to breach any confidentiality obligations or damage the College's reputation in so doing.

## **13. SAFEGUARDS FOR EMPLOYEES**

- 13.1 Every effort will be made to ensure that the Disclosure is protected from bullying, harassment, or victimisation and the College will take disciplinary action where appropriate.
- 13.2 No disciplinary action will be taken against an employee on the grounds of making a disclosure made under this policy or procedure. This does not prevent the College from bringing disciplinary action against an employee where the College has grounds to believe that a disclosure was made maliciously or is vexatious, or where a disclosure is made outside the College without reasonable grounds.
- 13.3 If the discloser is already the subject of disciplinary or other procedures relating to their employment, those procedures will not be halted as a result of their disclosure.

## **14. ACCOUNTABILITY**

14.1 The College will keep a record of all concerns raised under this policy (including cases where the College deems that there is no case to answer and therefore that no action should be taken) and will report to the Audit Committee on an annual basis or more often if appropriate.

## **15. FURTHER ASSISTANCE**

15.1 An employee making a disclosure may want to confidentially request counselling or other support from the College's Employee Assistance Programme which is available 7 days a week (lines open 24 hours) by calling the following number; 0808 168 2143 or online at [www.runshawrewards.co.uk](http://www.runshawrewards.co.uk)

15.2 Employees can also contact the charity Protect for confidential advice on whistleblowing issues. Contact details are as follows:

CAN Mezzanine

7 - 14 Great Dover Street

London SE1 4YR

Whistleblowing Advice Line: 020 3117 2520

<http://www.pcaw.org.uk>

## **16. REVIEW OF PROCEDURE**

16.1 This procedure will be reviewed in accordance with legislative developments and good practice guidance and, in any event, at least every three years by the Clerk to the Corporation.

16.2 Particular care will be taken in the monitoring and review process to ensure that this procedure is fairly applied and there is no discrimination on the grounds of race or ethnic origin, disability, sex or gender identity, caring responsibilities, sexual orientation, religion or belief, age or any other requirement that cannot be objectively justified.

**Note: Assessor contact details are as follows:**

**Clerk to the Corporation: 01772 642047 Ext. 2047**

**Deputy Clerk/ HR Director 01772 622677 Ext. 2048**