

CONFIDENTIAL REPORTING ("WHISTLEBLOWING") POLICY

This policy adheres to and should be applied with due consideration to the College's commitment to the Framework for Ethical Leadership in Education

This policy has been reviewed in line with the Sustainable Development Goals.

Mission Statement:

Our mission inspired by the Christian tradition is to be a community based on faith, hope and love; developing each individual intellectually, emotionally and spiritually to achieve their full potential.

To achieve this we will:

- Provide a welcoming, supportive community where everyone is valued.
- Provide a high quality, meaningful education which encourages the development of the whole person, inspired by the Notre Dame tradition.
- Promote a caring environment, rooted in the virtues of service, kindness, gratitude and respect.
- Work together for the benefit of each person as well as the wider community.
- Recognise, celebrate and treasure, without exception, the unique gifts and dignity of each person, ensuring equality and fairness for all, as found in the teaching and example of Our Lord Jesus Christ.

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1. INTRODUCTION

If workers bring information about a wrongdoing to the attention of their employers or a relevant organisation, they are protected in certain circumstances under the Public Interest Disclosure Act 1998. This is commonly referred to as 'blowing the whistle'. The law that protects whistle-blowers is for the public interest - so people can speak out if they find malpractice in an organisation. Blowing the whistle is more formally known as 'making a disclosure in the public interest'. (ACAS)

"Whistleblowing occurs when an employee or worker (or a group of employees or workers) raises a concern about malpractice or wrongdoing or provides certain types of information, usually about illegal or dishonest practices within an organisation. The information, which has come to the individual's attention through their work, is provided to the employer or a regulator." (CIPD, 2019)

'Qualifying disclosures are disclosures of information where the worker reasonably believes (and it is in the public interest) that one or more of the following matters is either happening, has taken place, or is likely to happen in the future.

- A criminal offence (such as insurance fraud or illegal tax evasion)
- The breach of a legal obligation (such as negligence in their duty of care towards children)
- A miscarriage of justice (such as a member of staff being fired for something which turned out to be a computer error)
- A danger to the health and safety of any individual (for example if an employer has forced staff to serve food they know to be contaminated)
- Damage to the environment (such as an employer regularly polluting local rivers)
- Deliberate attempt to conceal any of the above.

If a worker is going to make a disclosure it should be made to the employer first, or if they feel unable to use the organisations procedure the disclosure should be made to a prescribed person, so that employment rights are protected.

Workers who 'blow the whistle' on wrongdoing in the workplace can claim unfair dismissal if they are dismissed or victimised for doing so. An employee's dismissal (or selection for redundancy) is automatically considered 'unfair' if it is wholly or mainly for making a protected disclosure.' ACAS

Personal complaints (e.g. grievance, discrimination, etc.) are not usually treated as whistleblowing and should be handled through the appropriate College policy.

- 1.1 Any disclosure will be dealt with appropriately, consistently, fairly and professionally. This includes the interests of the College, its employees, any persons who are the subject of such disclosures, as well as the person making the disclosure.
- 1.2 Notre Dame is committed to the highest possible standards of openness, probity and accountability. In line with that commitment we expect employees, and others that we deal with, who have serious concerns about any aspect of the College's work to come forward and voice those concerns. It is recognised that most cases will proceed on a confidential basis.

- 1.3 Employees are often the first to realise that there may be something seriously wrong within the workplace. However, they may not express their concerns because they feel that speaking up would be disloyal to their colleagues or to the employer. They may also fear harassment or victimisation. Access to support is available should it be required (e.g. counselling through the College's external confidential Employee Assistance Providers Health Assured).
- 1.4 This policy document makes it clear that a disclosure can be made without fear of victimisation, subsequent discrimination or disadvantage. **This Confidential Reporting Policy is intended to encourage and enable employees to raise serious concerns within the College rather than overlooking a problem or 'blowing the whistle' outside. This also includes protection for women who report sexual harassment at work.**
- 1.5 The policy applies to all employees and those contractors working for the College on College premises, for example, agency staff, or building contractors. It also covers suppliers and those providing services under a contract with the College in their own premises.

2. PURPOSE AND SCOPE OF THE POLICY

- 2.1 Confidential reporting is the disclosure or communication of information about possible malpractice by individuals or organisations, either internally or externally, to an outside authority. The term malpractice has equal validity in relation to breaches of civil and criminal law. The concept of confidential reporting is also associated with principles of accountability.
- 2.2 This document has considered practical guidance on drawing up a confidential reporting policy. and is largely based on ACAS.
- 2.3 This policy takes into account the requirements of Public Interest Disclosure Act 1998.
- 2.4 The Public Interest Disclosure Act provides a worker with potential protection from victimisation and dismissal for making a 'qualifying disclosure', also known as a 'protected disclosure'. However, the Act encourages workers to raise matters internally with employers initially and disclosures will only be protected if they meet strict legal requirements. These requirements differ depending on the person the disclosure is made to but, generally, the worker must be acting in good faith and reasonably believe that the information disclosed falls into a defined category (see section 1).
- 2.5 A confidential reporting policy is designed to allow employees¹ to disclose allegations of malpractice internally, which is more likely to uphold the reputation of the College and maintain public confidence than either public disclosures or allowing malpractice to fester.
- 2.6 An employee's concerns about malpractice may in this context include a reasonable belief, for example, that one or more of the following has occurred or is likely to occur:
 - conduct which is a criminal offence or a breach of law

¹ Though the term 'employees' is used all the way through the Policy this should not be seen as incompatible with the term 'workers' under the Public Interest Disclosure Act. The definition is broadly based on section 230(3) of the Employment Rights Act 1996. The following are described as 'workers': employees, quasi-employees (those who are not genuinely self-employed), certain kinds of agency workers and trainees on vocational or work experience schemes.

- disclosures related to miscarriages of justice
- dangerous procedures risking health and safety, including risks to the public as well as other employees
- damage to the environment
- the unauthorised use of public funds
- fraud and corruption
- breaches of legislation (e.g. GDPR)
- abuse of students, or
- other unethical conduct

2.7 The overriding concern for employer and employee should be that it would be in the **public interest** for the malpractice to be corrected and, if appropriate, sanctions applied.

3. PROCEDURES

3.1 Where an employee has concerns about a possible malpractice, as defined in paragraph 2.6 above and it is not appropriate to raise them through other procedures such as grievance procedures, these should be raised with either:

- a) the employee's line manager, or
- b) where (a) is inappropriate, with a Senior Leader of the College, or
- c) designated college point of contact: PA to Principal
- c) where both (a) and (b) are inappropriate, with the Chair of the College Corporation.

3.2 When it is apparent from investigation that the person making the disclosure has acted frivolously, maliciously or for personal gain, the College may decide to take disciplinary and / or other action.

4. SAFEGUARDS

4.1 Harassment and Victimisation

- 4.1.1 The College is committed to good practice and high standards and is supportive of employees.
- 4.1.2 The College recognises that the decision to report a concern can be a difficult one to make. If what an employee is saying is true, the employee should have nothing to fear because an employee will be doing their duty to their employer and to the College as a whole.
- 4.1.3 The College will not tolerate any harassment or victimisation (including informal pressures) and will take appropriate action to protect employees when a concern is raised in good faith.
- 4.1.4 Any investigation into allegations of potential malpractice will not influence or be influenced by any disciplinary or redundancy procedures that might already affect an employee.

4.2 Confidentiality

All concerns will be treated in confidence and every effort will be made to protect employee identity, unless required by law to reveal it. At the appropriate time, however, an employee may need to come forward as a witness. If an employee reports their concern to the media, in most cases they will lose their whistleblowing law rights.

4.3 Anonymous Allegations

4.3.1 This policy encourages employees to put their name to their allegation whenever possible.

4.3.2 Concerns expressed anonymously are much less powerful but may be considered at the discretion of the College.

4.3.3 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

4.4 Untrue Allegations

If an employee makes an allegation in good faith, but it is not confirmed by the investigation, no action will be taken. If, however, an employee is found to have made an allegation frivolously, maliciously or for personal gain, disciplinary action may be taken against the employee.

5. HOW TO RAISE A CONCERN

5.1 As a first step, an employee should normally raise concerns with their immediate line manager. This depends, however, on the seriousness and sensitivity of the issues involved and who is suspected of the malpractice. If the line manager is not appropriate for any reason, an employee should raise their concerns as in 3.1 above.

5.2 Concerns may be raised verbally or in writing. Employees who wish to make a written report are invited to use the following format:

- the background and history of the concern (giving relevant dates);
- the reason why the employee is particularly concerned about the situation, see **2.6** above.

5.3 The earlier an employee expresses their concern the easier it is to take action.

5.4 Although employees are not expected to prove beyond doubt the truth of an allegation, they will need to demonstrate to the person contacted that there are substantial and reasonable grounds for their concern.

5.5 Advice and guidance on how matters of concern may be pursued may be obtained from the Clerk to the Corporation or the HR Manager.

5.6 Employees may wish to consider discussing their concern with a colleague first and may find it easier to raise the matter if there are two (or more) employees who have had the same experience or concerns.

5.7 Employees may invite their trade union representative or a work-colleague to be present during any meetings or interviews in connection with the concerns they have raised.

6. HOW THE COLLEGE WILL RESPOND

6.1 The College will respond to an employee's concerns. It should not be forgotten that testing out an employee's concerns is not the same as either accepting or rejecting them.

6.2 Where appropriate, the matters raised may:

- be investigated by management, or through the disciplinary process
- be referred to the police
- be referred to the external auditor
- form the subject of an independent enquiry

6.3 In order to protect 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 College will have in mind, is the public interest.

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

6.5 The College will write to the employee who has raised the disclosure, usually within **ten** working days of a concern being raised with the following:

- acknowledging that the concern has been received
- indicating how the College proposes to deal with the matter
- giving an estimate of how long it will take to provide a final response
- telling the employee whether any initial enquiries have been made
- supplying the employee with information on staff support mechanisms, and
- telling the employee whether further investigations will take place and if not, why not

6.6 The amount of contact between the Senior Leader or Manager considering the issues and the employee will depend on the nature of the matters raised, the potential difficulties involved and the clarity of the information provided. If necessary, the College will seek further information from the employee.

6.7 Where any meeting is arranged, off-site if you so wish, an employee can be accompanied by a union representative or a work colleague.

6.8 The College will take steps to minimise any difficulties which an employee may experience as a result of raising a concern. For instance, if an employee is required to give evidence in criminal or disciplinary proceedings the College will arrange for the employee to receive advice about the procedure.

6.9 The College accepts that an employee needs to be assured that the matter has been properly addressed. The College will keep the employee informed about any action they have taken but may not be able to give detail if the College has to keep the confidence of other people.

7. HOW THE MATTER CAN BE TAKEN FURTHER

7.1 This policy is intended to provide employees with an avenue within the College to raise concerns. The College hopes employees will be satisfied with any action taken. If an employee is not satisfied they may raise it, in confidence, if not already done so, with the Chair of the Corporation explaining in full their concerns and reasons for being dissatisfied with the final findings. (If the concern was initially raised with the Chair, under 3.1 (c) above, an employee may raise it with the full Corporation Board).

7.2 If an employee still feels unsatisfied they may feel it is right to take the matter outside the College. **If an employee does take the matter outside the College, they should ensure they do not disclose confidential information.**