

CONFIDENTIAL REPORTING ("WHISTLEBLOWING") - POLICY STATEMENT

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1. INTRODUCTION

- 1.1 It is in the interest of all concerned that disclosures of wrongdoing or irregularity are dealt with properly, quickly and discreetly. 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 have to 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. In these circumstances it may be easier to ignore the concern rather than report what may just be a suspicion of malpractice.
- 1.4 This policy document makes it clear that you can do so 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.***
- 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 reporting¹ 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 a Code produced for local councils by the National Employers' Organisation for Local Government. The relevant Trades Unions were consulted in drawing up the local government code.
- 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 below:

¹ The term 'confidential reporting' is used in the Code instead of 'whistleblowing'.

- A **protected disclosure** is a disclosure of a certain kind of information (a “qualifying disclosure”) that is disclosed by a worker in a certain way
- A **qualifying disclosure** is any disclosure of information which, in the reasonable belief of the worker making the disclosure, is made in the public interest.

The discloser must reasonably believe that the information tends to show one of the above disclosures.

- 2.5 A confidential reporting policy is designed to allow employees² 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 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
 - 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
 - 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 manager of the College, or
 - (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 wants to be supportive of employees.

²Though 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.

4.1.2 The College recognises that the decision to report a concern can be a difficult one to make. If what you are saying is true, you should have nothing to fear because you will be doing your duty to your 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 you when you raise a concern 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 you.

4.2 **Confidentiality**

All concerns will be treated in confidence and every effort will be made not to reveal your identity if you so wish. At the appropriate time, however, you may need to come forward as a witness.

4.3 **Anonymous Allegations**

4.3.1 This policy encourages you to put your name to your 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 you make an allegation in good faith, but it is not confirmed by the investigation, no action will be taken against you. If, however, you make an allegation frivolously, maliciously or for personal gain, disciplinary action may be taken against you.

5. **HOW TO RAISE A CONCERN**

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

5.2 Concerns may be raised verbally or in writing. Staff 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 you are particularly concerned about the situation, see **2.6** above.

5.3 The earlier you express the concern the easier it is to take action.

5.4 Although you are not expected to prove beyond doubt the truth of an allegation, you will need to demonstrate to the person contacted that there are substantial and reasonable grounds for your 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 Vice Principal (Human Resources).

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

5.7 You may invite your trade union representative or a colleague to be present during any meetings or interviews in connection with the concerns you have raised.

6. HOW THE COLLEGE WILL RESPOND

6.1 The College will respond to your concerns. Do not forget that testing out your 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 Within **ten** working days of a concern being raised, the College will write to you:

- 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 you whether any initial enquiries have been made
- supplying you with information on staff support mechanisms, and
- telling you whether further investigations will take place and if not, why not

6.6 The amount of contact between the staff considering the issues and you 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 you.

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

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

6.9 The College accepts that you need to be assured that the matter has been properly addressed. Thus, subject to legal constraints, we will inform you of the outcome of any investigation.

7. HOW THE MATTER CAN BE TAKEN FURTHER

- 7.1 This policy is intended to provide you with an avenue within the College to raise concerns. The College hopes you will be satisfied with any action taken. If you are not, you may raise it, in confidence, if not already done so, with the Chair of the Corporation explaining in full your concerns and reasons for being dissatisfied with the final findings. (If you initially raised the concern with the Chair, under 3.1 (c) above, you may raise it with the full Corporation Board).
- 7.2 If you are still not satisfied you may feel it is right to take the matter outside the College. **If you do take the matter outside the College, you should ensure that you do not disclose confidential information.**

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(Principal)