



# SPEAK UP POLICY

## TELFORD COLLEGE'S WHISTLEBLOWING POLICY

<b>Ref No</b>	HR017	<b>Version</b>	V5
<b>Dept</b>	College-wide	<b>Last Updated</b>	December 2020
<b>Responsible Manager</b>	Clerk to the Corporation	<b>Next Review</b>	December 2022
<b>Date Approved</b>	13/12/21	<b>Category</b>	Public/Private
<b>Where Approved</b>	Corporation	<b>Covers</b>	All

UPDATED 19/01/22 to reflect interim appointments to the Chair of the Corporation and Vice Chair of the Corporation positions

## Introduction

*Our ethics and values underpin our strategies, policies, objectives and procedures by providing a basis and reference point for everything that we do. These values and beliefs will guide our conduct and that of our students.*

The Corporation and College management are therefore committed to the highest standards of openness, probity and accountability; seek to conduct affairs in a responsible and ethical manner; and will take any claims of malpractice seriously.

This Speak Up Policy applies to employees of the College, governors, trainees, work experience persons, agency staff, contractors, suppliers, other third parties and external bodies, regardless of whether the subject(s) of the allegation are internal or external to the College. This policy does not apply to students as they are covered by the students' complaints procedures.

This policy should be read in conjunction with other College policies including

- Anti-Bribery Policy
- Anti-Fraud Policy
- Corporate Hospitality Policy
- Counter-Fraud Strategy
- Financial Regulations
- Receipt of Gifts Policy

It does not form part of contracts of employment and may be amended at any time.

Speaking up about a concern at work is really important and it is understandable if staff members are cautious about doing so. This Speak Up Policy explains the process and hopefully encourages staff members to speak up about any conduct that is contrary to our ethics and values.

The College recognises having a Speak Up Policy in place is of little value if members of the college community do not know about it or where to find it – the policy will continue to be published on the Telford College website and general awareness of the policy will be raised across the college community.

## Policy

### **1. What is Speaking Up (also known as whistleblowing)?**

The Public Interest Disclosure Act, commonly referred to as the 'Whistleblowing Act' enables staff to speak up about concerns they may have about serious malpractice so those concerns can be investigated without fear of reprisals, so long as the concerns are genuine and well founded and are raised in the public interest.

The Bribery Act 2010, which came into effect in July 2011, emphasises the need for robust practices to ensure against the possibility of acts of bribery and corruption which may be the subject of "whistleblowing" (speaking up).

It is an implied term of every contract of employment that an employee will faithfully serve his/her employer. Contracts of employment contain a clause specifically relating to the non-disclosure of confidential information about the College's affairs.

The Speak Up Policy is not intended to:

- Cover staff concerns relating to their personal employment situation (this should normally be dealt with under the College's Grievance Procedure)
- Provide a means of review or appeal against individual management decisions unless in each case they involve some form of serious malpractice
- Generally question financial or business decisions taken by the Corporation unless these decisions fall within the definition of serious malpractice
- Cover any matters that should be addressed under existing College procedures or used to reconsider any matters that have already been addressed under these procedures

The College has policies and procedures in place to address all the circumstances set out overleaf but the Speak Up Policy may be adopted in cases where an employee considers serious malpractice may have or is taking place.

Serious malpractice may be defined as (although this list is not exhaustive):

- Fraud
- Financial irregularities
- Corruption and bribery
- Dishonesty
- Miscarriage of justice
- Criminal activity or failing to comply with a legal obligation
- Creating or ignoring a serious risk to health and safety
- Breach of Health & Safety regulations
- Harm to the environment
- Unethical practices
- Negligence
- Abuse of position/authority
- Maladministration
- Concealment of any of the above

## **2. What is the purpose of this policy?**

This Speak Up Policy aims to:

- Encourage members of the college community to speak up and report suspected serious misconduct at the earliest opportunity by setting out how their concern will be taken seriously, investigated and kept confidential
- Explain how concerns covered by this policy should be raised
- Provide reassurance that genuine concerns raised in good faith can be made without fear of reprisal, even if they are found to be mistaken

Provide the framework for how the college will fulfil its obligations under the Public Interest Disclosure Act (see Section 1)

## **3. When should the Speak Up Policy be used?**

This policy should only be used to raise genuine and legitimate concerns about serious malpractice or impropriety within the College.

If unsure about whether serious malpractice has been discovered, individuals are encouraged to speak with their line manager (if appropriate), the Clerk to the Corporation or seek the confidential advice of the independent charity Protect (Tel: 0203 117 2520 or [www.protect-advice.org.uk](http://www.protect-advice.org.uk)).

#### **4. What should individuals do if malpractice is discovered?**

There are a number of options available when needing to report a concern:

Where appropriate, the Corporation and College management require the matter to be raised internally in the first instance. This is so every chance is given to investigate and take appropriate action before the disclosure is in the public domain and all parties given the opportunity to act professionally and with propriety. The concern should therefore initially be raised with the line manager, who is often able to resolve a concern quickly or, if appropriate, refer the concern to senior management for investigation. Employees should not approach or accuse people directly or attempt to investigate the matter themselves.

Where a matter is more serious or the individual feels their concern has not been addressed by the line manager, or the individual feels it would not be appropriate to discuss this with their line manager, there are two options for reporting the concern:

- To a member of the Executive Leadership Team (Principal and Deputy Principal); or
- To the Clerk to the Corporation

Contact details can be found in Section 12 (page 6) of this policy.

A written note of the complaint will be made at this time.

If the complaint is about the above post holders, disclosure should be made to the Chair or Vice Chair of the Corporation - details of whom are also set out in Section 12 of this policy.

An individual making a disclosure may invite their trade union representative to raise the matter on their behalf.

Allegations should be dealt with quickly and efficiently. Some concerns may be resolved by agreed action without the need for further investigation.

#### **5. Investigation**

The investigation should commence as soon as is practicably possible.

The post holder receiving the concern will normally instigate the investigation. Dependent on the nature of the complaint the investigation may involve an external agency for advice and guidance e.g. in the case of financial malpractice/fraud the Chair of the Audit Committee and College's Internal Audit service will be contacted, where concerns relating to serious breaches of Health and Safety have been raised then the Health and Safety Executive will be approached.

On receipt of the disclosure, the person (or persons) appointed to investigate the complaint will interview the individual reporting the concern in confidence, as soon as practicable and before undertaking any other investigatory interviews. The complainant will be entitled to be accompanied by their union representative or a colleague and they will be notified in advance of the meeting if it is necessary for an independent senior officer to be present purely in an observation capacity only.

The purpose of the interview will be to obtain as much information as possible about the grounds for belief that a malpractice has taken place, to determine the credibility evidence, and to consult about further steps which could be taken. This may result in other persons being interviewed and statements taken as part of the investigation.

If the complaint is not in writing the Investigating Officer will meet with the individual and take detailed written notes of the complaint and seek to agree and sign the notes as a correct record. As soon as practicable after the initial enquiries / interview, the Investigating Officer will recommend what further steps should be taken. Such recommendations may (without limitation) include one or more of the following:

- The matter should be reported to the Police a full and formal investigation
- The matter should be reported to some other relevant authority or agency for investigation
- The matter should be investigated either internally, by another senior manager of the College, by the External/Internal Auditors, or Investigators, appointed by the College
- The member of staff should be given the opportunity to seek redress through the College's grievance or other internal procedures relating to staff

If, for good reason, the investigation takes longer than three weeks to complete, the Investigating Officer will provide a written progress update.

Prior to considering informing a subject of the nature of any disclosure(s) made against them, an appropriate risk assessment should be conducted by the Investigating Officer as to whether it is appropriate and/or necessary to advise them of the allegation and, if so, at what stage. For example, if an allegation relates to a potential criminal matter, such as fraud, then advising the subject concerned without due consideration could have the potential to adversely affect any subsequent criminal investigation or result in the destruction of evidence. It is solely at the College's discretion as to if or when a subject is informed provided the College can evidence the rationale behind the decision taken.

At the end of the process the Investigating Officer will write to the individual reporting the concern with the outcome of the investigation and on the course of action proposed. They will be asked to confirm in writing they accept the findings. If they do not agree with the findings they should refer to the process set out in Section 9.

If they feel they have been victimised or deterred from raising the concern(s) this matter must be made known to the person investigating the complaint. The College will not tolerate retaliatory or threatening behaviour towards concerned individuals. If this is proven, the matter will be treated seriously and will be regarded as a serious disciplinary offence.

As a result of the investigation other internal procedures may be invoked such as disciplinary or grievance.

## **6. Confidentiality**

The College will treat all such disclosures in a confidential and sensitive manner. The person or persons against whom an allegation was made will normally be told of it, the evidence provided to support it and will be allowed to comment before further investigation is made or the action concluded.

Individuals reporting a concern have the right to have the matter treated confidentially and not to have their name disclosed during the course of the investigation without prior approval. However, the investigation process may reveal the source of the information and a statement may be required as part of the evidence.

Under no circumstances should the media be informed of the case at any point throughout the process, as such a step could jeopardise potential disciplinary or legal action taken by the College.

## **7. Anonymous allegations**

The procedure encourages individuals to put their name to any disclosures they make. Concerns expressed anonymously whilst much less powerful and difficult to investigate, will be considered at the discretion of the College.

In exercising this discretion, the factors to be taken into account will include:

- The seriousness of the issue(s) raised
- The credibility of the concern
- The likelihood of confirming the allegation from attributable sources

## **8. Reporting on progress**

The College will endeavour to resolve the matter as quickly as possible.

Individuals reporting concerns will be kept informed of the progress of the investigation, and the outcome of the investigation and any proposed action.

They will be told as far as possible and, subject to third party rights, the outcome of any action taken.

## **9. The College's decision**

If the individual reporting the concern does not agree in good faith with the conclusions, the investigation or any decision not to proceed with an investigation they may raise their concerns with the Chair of the Audit Committee. The Chair will consider the complaint and the investigation and advise them of his/her decision. The Audit Committee Chair's decision, together with details of the investigation, will be provided to the Audit Committee for discussion at the next scheduled

meeting of the Committee in the presence of the College's internal and external auditors. This will be treated as a confidential item.

They have the right to contact the College's Internal or External Auditors but this recourse should only be used when all internal procedures have been exhausted

#### **10. Protection if a concern is raised under this procedure**

The disclosure of confidential information in the public interest is a lawful act. The Public Interest Disclosure Act (1998) gives legal protection to employees against being dismissed or penalised by their employers as a result of publicly disclosing certain serious concerns. They cannot be disciplined for using this procedure, provided:

- (a) They have followed the advice contained in the procedure
- (b) They have acted in in the public interest and not for personal gain or out of personal motives

In cases of referral to external bodies they may be protected under law after all internal procedures have been exhausted or it is such an extreme circumstance that they feel unable to raise the issue internally in the belief that evidence would be concealed or destroyed.

#### **11. Malicious accusations**

If an allegation is made in the public interest that is not confirmed by the subsequent investigation, no action will be taken.

If it is proven this procedure has been used to make false or malicious accusations without proof or evidence to support the allegation(s), this a disciplinary offence as wilful misuse of this procedure will constitute an act of gross misconduct and may lead to dismissal.

## 12. Contact Details

The following list contains the contact details for the individuals and organisations named within this policy – the Executive Leadership Team, the Corporation, Internal Audit, External Audit and Protect.

<b>Executive Leadership Team</b>	
Principal & Chief Executive Graham Guest Telford College (Room E215) Haybridge Road Wellington Telford TF1 2NP 01952 642240 <a href="mailto:graham.guest@telfordcollege.ac.uk">graham.guest@telfordcollege.ac.uk</a>	Deputy Principal – Curriculum & Strategic Growth Janet Stephens Telford College (Room E232) Haybridge Road Wellington Telford TF1 2NP 01952 642223/2240 <a href="mailto:janet.stephens@telfordcollege.ac.uk">janet.stephens@telfordcollege.ac.uk</a>
<b>The Telford College Corporation</b>	
Clerk to the Corporation Stephanie Morley (Room E207) Telford College Haybridge Road Wellington Telford TF1 2NP 01952 642294 <a href="mailto:stephanie.morley@telfordcollege.ac.uk">stephanie.morley@telfordcollege.ac.uk</a>	Interim Chair of the Corporation Gail Bleasby c/o Telford College Haybridge Road Wellington Telford TF1 2NP 01952 642294 <a href="mailto:gail.bleasby@telfordcollege.ac.uk">gail.bleasby@telfordcollege.ac.uk</a>
Chair of the Audit Committee – CURRENTLY VACANT	Interim Vice Chair of the Corporation Louise Biffin c/o Telford College Haybridge Road Wellington Telford TF1 2NP <a href="mailto:Louise.biffin@telfordcollege.ac.uk">Louise.biffin@telfordcollege.ac.uk</a>
<b>Audit</b>	
<b>Internal Audit</b> Haines Watts 01827 61835	<b>External Audit</b> Bishop Fleming 01752 234324
<b>Independent advice</b>	
Protect 0203 117 2520 <a href="http://www.protect-advice.org.uk">www.protect-advice.org.uk</a>	