



**Longley Park Sixth Form College**

# Public Interest Disclosure Policy and Procedure

# PUBLIC INTEREST DISCLOSURE POLICY

## 1 MISSION

The Mission of Longley Park Sixth Form College is to provide outstanding educational opportunities for the young people of North East Sheffield, working in active partnership with others to offer high quality teaching and learning for 16-19 year olds, which will raise participation and achievement. This will be delivered in a caring and supportive environment, which celebrates diversity. The College itself will be an innovative, creative and open community and will strive to play a full role in Lifelong Learning.

## 2 SCOPE

This policy applies to all Members of the Board of the Corporation, employees of the College and those persons assigned work in the College through a third party.

This policy is intended to cover major concerns of serious malpractice, for example:

- conduct which is an offence or breach of the law (e.g. theft);
- 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 unauthorized use of public funds;
- fraud or other financial irregularity (e.g. misappropriation of money);
- corruption (e.g. bribery, blackmail or serious breach of academic standards);
- abuse of students;
- deliberate concealment of information about malpractice;
- extreme bullying or harassment.

This policy is not designed to:

- replace the Grievance Procedure, which should be used where an employee is aggrieved about an issue relation to his/her employment;
- tackle, in the first instance, cases of bullying or harassment. These are dealt with in the Harassment Policy and Procedures.
- deal with routine Health and Safety issues, guidelines on which are provided in the College Health and Safety policy;
- cover complaints against the college arising from dissatisfaction about its services, for which a separate Complaints Policy and Procedure exists.

## 3 POLICY STATEMENT

It is the policy of Longley Park Sixth Form College that:

- (i) a culture of openness and shared integrity should exist within the College so that all staff

and students share responsibility for upholding the reputation of the College and maintaining public confidence;

- (ii) an individual should feel able to raise serious concerns without fear of harassment, victimization, subsequent discrimination or disadvantage;
- (iii) all effort will be taken to keep the concern and the Discloser's identity confidential;
- (iv) all concerns raised in good faith will be dealt with swiftly and constructively;
- (v) the burden of proof should not be on the Discloser;
- (vi) the College should deal with all concerns initially and that concerns should not be taken to the press, media or other inappropriate party;
- (vii) any individual who makes a disclosure maliciously, or who breaches the procedure without reasonable grounds, is at risk of disciplinary action.

#### **4 POLICY AIMS AND OBJECTIVES**

This policy aims to provide a clear framework so that any person who suspects serious malpractice within the College:

- knows when it is appropriate to use the policy and procedures;
- has a clear set of procedures to follow when raising concerns;
- is reassured that their concerns will be dealt with fairly, and that their welfare will be safeguarded.

Members of staff are often the first to realise that there may be something seriously wrong within a college that should be known in the public interest. However, they may not express their concerns because they feel that speaking up would be disloyal to their colleagues or to their 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.

The College encourages members of staff to raise genuine concerns about malpractice at the earliest practicable stage rather than wait for proof. Malpractice within the College is taken very seriously.

The attached procedure is, accordingly, intended to provide safeguards to enable members of staff to raise concerns about malpractice in connection with the College. The aim is to provide a rapid mechanism under which genuine concerns can be raised internally, and, if necessary, externally without fear of adverse repercussions to the individual. It is also intended to promote throughout the College a culture of openness and a shared sense of integrity by inviting all employees to act responsibly in order to uphold the reputation of the College and maintain public confidence.

The procedure also seeks to balance the need to provide safeguards for members of staff who raise genuine concerns about malpractice against the need to protect other members of staff, members of the Corporation, students and the College against uninformed or vexatious allegations which can cause serious difficulty to innocent individuals.

#### **5 LEGAL FRAMEWORK**

The Public Interest Disclosure Act 1998 (or "Whistleblowers" Act) came into force on 2 July 1999. The Act gives protection for workers against detriment or dismissal for raising concerns about matters in the public

interest. The Act seeks to ensure that any person suspecting malpractice knows how to raise concerns and what procedures are in place to deal with the concern.

## **6 WHO MIGHT USE THIS POLICY?**

This policy expands the provision of the Act and applies to any person who, in dealing with the college, has serious concerns about any aspect of the way the College is run. These may include:

- staff of the college;
- students at the college;
- contractors working on college premises, e.g agency staff, builders;
- suppliers and those providing services under a contract with the college in their own premises;
- members of the college Corporation;
- parents of students at the college;
- representatives of organizations in partnership with the College.

## **7 RESPONSIBILITIES, REVIEW AND EVALUATION**

### **Responsibilities of staff**

It is the responsibility of all staff to raise concerns about serious malpractice and to do so in accordance with this policy and procedure.

Staff who raise a concern need to be clear about what the issue is and which procedure applies. If in doubt, staff should ask for procedural advice from:

- his or her line manager;
- a Designated Assessor (as defined in paragraph 8.2)
- a Trade Union or staff association representative
- "Public Concern at Work", a registered charity which advises on serious malpractice within the workplace. Tel 0207 404 6609; [www.pcaaw.co.uk](http://www.pcaaw.co.uk)

A member of staff who raises a concern must declare any personal interest he or she has in the matter.

Where a member of staff ("the Discloser") seeks assistance from a local Trade Union representative or work colleague, the Discloser is under an obligation to ensure that the other party keeps the matter strictly confidential except as required by law. The Discloser should inform the other party that disciplinary action may be brought against them in the event of a breach of confidence.

### **Designated Assessors**

The role of Designated Assessor is to:

- advise the Discloser of the appropriate route to lodge the complaint if it does not fall under the College Public Interest Disclosure (PID) Procedure;
- initiate investigations into complaints which do fall within the scope of the PID procedure;

- make recommendations to management for appropriate remedial action if required, and monitor management action to implement these recommendations;
- make an annual report to the Corporation, via the Reporting Assessor, on the number of times that this procedure has been formally invoked, and the outcome.

The Principal of the College will ensure that at least three members of staff are designated as Assessors.

The Designated Assessors are:

The Clerk to the Governing Body (the Reporting Assessor who reports to the Audit Committee)
Two members of staff, one male, one female, of appropriate experience and standing, nominated by the Principal
The Human Resources Manager
The Guidance Manager (but only in cases where the concerns are about malpractice under the child protection legislation)

The Human Resources Manager will co-ordinate the training of the Designated Assessors in the use of this procedure.

### Governing Body

The Corporation will be responsible for ensuring that the policy and procedures are implemented and for reviewing and monitoring action taken under these procedures.

### Review and Evaluation

The Clerk to the Corporation is responsible for reviewing the Policy and the Procedure annually and for submitting any revisions required to the Board of the Corporation for approval. In carrying out this responsibility the Clerk shall liaise with the HR Manager.

## 8 CORRESPONDING POLICIES AND PROCEDURES

- Grievance Procedure.
- Disciplinary Procedures relating to Staff.
- Third party procedures for grievance and discipline where appropriate.
- Public Interest Disclosure Procedure (attached).
- The LSC’s publication *“complaints about providers”* policy

Sharon Langridge  
Clerk to the Corporation

## PUBLIC INTEREST DISCLOSURE PROCEDURE

### 1 Procedure for Implementing the Public Interest Disclosure Policy

1.1 As a first step staff should raise concerns with their line manager and students with their Guidance Tutor. Other parties should contact a Designated Assessor straight away. This may be done orally or in writing.

1.2 If an employee or student feels unable to follow this route, depending on the seriousness and sensitivity of the issues involved and who is suspected of the malpractice, the concern should be raised with one of the Designated Assessors.

1.3 The Discloser may choose from the list of Designated Assessors. A Designated Assessor may, however, decline to be involved on reasonable grounds, including possible previous involvement or interest in the matter concerned, incapacity or unavailability. Another Designated Assessor might be considered more appropriately qualified to deal with the matter.

1.4 Any disclosures made to a Designated Assessors should ideally be in writing. If an individual feels unable to put his or her concerns in writing, he or she should telephone or meet the Designated Assessor. The Discloser should provide as much supporting evidence as possible about the disclosure and the grounds for belief of malpractice. A proforma is provided to assist with this (Appendix I).

1.5 In the event that an allegation is made against one of the Designated Assessors, the concern should be raised with one of the other Designated Assessors

1.6 On receipt of the disclosure, the Designated Assessor will offer to interview the Discloser, in confidence, within seven working days, or immediately if there is any danger of loss of life or serious injury (standard letter provided in Appendix II). The purpose of the interview will be for the Designated Assessor to obtain as much information as possible from the Discloser about the grounds for the belief of malpractice (see Appendix III for interview guidelines).

1.7 The Discloser may be accompanied by a Trade Union representative, work colleague or friend at the interview. If the accompanying person is a legal advisor, this should be made known to the designated assessor in advance. The Designated Assessor may be accompanied by an administrative assistant to take notes. The confidentiality of the interview will not be affected.

1.8 The Designated Assessor will recommend what further steps should be taken within ten working days of the interview (or after the initial disclosure if no interview takes place), or immediately if there is any danger of loss of life or serious injury. Recommendations may include one or more of the following:

- that the matter should be investigated internally using appropriate College Managers, the Audit Committee or other investigators appointed by the College, in accordance with the guidelines for investigations in Appendix III;
- that a member of staff should be given the opportunity to seek redress through the College Grievance Procedure, or a student through the Complaints Procedure;

- that the matter should be reported to the Learning and Skills Council; Department for Education and Skills or other relevant public authority;
- that the matter should be reported to the police.

1.9 The grounds on which the Designated Assessor may recommend that no further action by the College should be taken are as follows:

- That the Designated Assessor is satisfied that, on the balance of probabilities, there is no evidence of malpractice;
- That the Designated Assessor believes that the Discloser is not acting in good faith;
- That the matter is already (or has been) the subject of proceedings under one of the College's other procedures;
- That the matter concerned is already the subject of legal proceedings, or has already been referred to the Learning and Skills Council; Department for Education and Employment, other relevant public authority or the Police.

1.10 If the Designated Assessor considers an investigation to be the appropriate step to take, he or she will initiate this investigation, aiming to convey an initial conclusion to the Discloser within 28 days. If, however, there is any danger of loss of life or serious injury, the investigation will be completed within 14 days. The investigations will be made without revealing the identity of the Discloser except as provided in paragraph 3.1.

1.11 The Designated Assessor should make recommendations under this procedure to the Principal unless it is alleged that the Principal is involved in the alleged malpractice or unless there are other reasonable grounds for not doing so, in which case the recommendations should be made to the Chair of the Audit Committee. The recipient of the recommendations will take all steps within his or her powers to ensure that they are implemented. If the Principal's view is that full implementation is inappropriate, that recommendation will be notified in writing by the Reporting Assessor to the Chair of the Governing Body and the Chair of the Audit Committee, together with the reason for it. The two Chairs will make a final decision.

1.12 All responses to the Discloser will be made in writing and sent to the Discloser's home address rather than through the College mail system. If no further steps by the College are proposed, the Designated Assessor will give the reasons for this.

## **2 Appeal and External Disclosure**

2.1 If the Discloser has not had a response within the above stated time limits or if, having followed this procedure, the Discloser is not satisfied with the further steps (if any) decided upon or the outcome of any such steps, the Discloser may take the following action:

- the Discloser may appeal within 21 days to the Chair of the Governing Body;
- or the Discloser may raise the matter in confidence directly with the Learning and Skills Council, the Department for Education and Skills, other relevant public authority or the Policy. Before taking any such action, the Discloser will inform the Designated Assessor.

2.2 The Discloser may also raise the matter in accordance with paragraph 2.1 if the Discloser has reasonable grounds for believing that all Designated Assessors are or were involved in the alleged malpractice or that the Discloser will be subject to a detriment as a result of making the disclosure.

2.3 The Discloser may at any time disclose the matter on a confidential basis to a professionally qualified lawyer for the purpose of taking legal advice.

### **3 Assurances and safeguards**

3.1 Any report or recommendations by the Designated Assessor in relation to the matter will not identify the Discloser, unless:

- the Discloser otherwise consents in writing; or
- there are grounds to believe that the Discloser has acted maliciously; or
- the Designated Assessor is under a legal obligation to reveal the identity of the Discloser; or
- where the information is already in the public domain; or
- on a strictly confidential basis to the Designated Assessor's administrative assistant for the time being; or
- On a strictly confidential basis to a professionally qualified lawyer for the purpose of obtaining legal advice.

3.2 Any documentation (including computer files and discs) kept by the Designated Assessor relating to the matter will be kept secure, so that as far as practicable only the Designated Assessor and his or her administrative assistant have access to it. Documentation prepared by the Designated Assessor will not reveal the identity of the Discloser.

3.3 The Discloser will normally be expected to participate in any enquiry or investigation into the matter established by the College. The Discloser will not, however, be required to participate without his or her consent, unless there are grounds to believe that the Discloser may have been involved in misconduct or malpractice.

3.4 Where a Discloser participates in any such enquiry or investigation, that participation will usually be required to be on an open rather than a confidential basis. The obligations of the Designated Assessor will remain in relation to the identity of the individual as the original Discloser of information.

3.5 Subject to paragraph 3.6 the College will not (and will use all reasonable endeavours to ensure that its employees do not) subject the Discloser to any detriment, on the grounds of the individual's disclosure of information under this procedure. The Discloser should notify any complaints of such treatment to the Designated Assessor. If the Discloser wishes the Designated Assessor to take action in relation to such complaints, the Discloser may be asked to consent in writing to the Designated Assessor revealing the Discloser's identity.

3.6 No disciplinary action will be taken against a Discloser on the grounds of a disclosure made by the Discloser in accordance with this procedure. This will not prevent the College from bringing disciplinary action in cases where:

- there are grounds to believe that a disclosure has been made maliciously or for personal gain;
- where an external disclosure is made in breach of this procedure without reasonable grounds or other than to an appropriate authority. The College will consider such actions to be gross misconduct.

#### **4 Review**

This procedure will be reviewed every two years.

LONGLEY PARK SIXTH FORM COLLEGE  
PUBLIC INTEREST DISCLOSURE PROCEDURE

Confidential Memorandum

To: .....  
(Please name the Designated Assessor you would like to address)

From: .....

Date: .....

CONCERN ABOUT MALPRACTICE UNDER THE COLLEGE PUBLIC INTEREST DISCLOSURE POLICY

I would like to notify you, as one of the College Designated Assessors, of concerns under the College Public Interest Disclosure Policy of malpractice

- 1      **Details of malpractice**
  
  
  
  
  
  
  
  
  
  
- 2      **Date or period of time when malpractice occurred**
  
  
  
  
  
  
  
  
  
  
- 3      **The allegation is made against**

**4 Evidence** (Supporting evidence listed below is attached)

Please contact me as soon as possible to arrange a date for a meeting (The PID Policy and Procedure requires the Designated Assessor to offer an interview within seven working days)

**Name:** .....

**Contact details:** .....  
.....  
.....  
.....

**Signed:** .....

**Date:** .....

LONGLEY PARK SIXTH FORM COLLEGE  
PUBLIC INTEREST DISCLOSURE PROCEDURE

Confidential Memorandum

To: .....

From: .....  
(Designated Assessor)

CONCERN ABOUT MALPRACTICE UNDER THE COLLEGE PUBLIC INTEREST DISCLOSURE POLICY  
AND PROCEDURE

With reference to your memorandum dated: .....

Thank you for raising your concern about malpractice.

I would like to invite you to discuss the matter further at a meeting on .....  
This will be undertaken within the College unless you would prefer an alternative venue. Please indicate whether you will be accompanied by a trade union representative or a work colleague.

The purpose of this meeting is for me to obtain as much information about your concern as possible and to discuss any further steps that might be taken. If you have any additional evidence which supports your concern, please bring this with you to the meeting.

LONGLEY PARK SIXTH FORM COLLEGE  
PUBLIC INTEREST DISCLOSURE PROCEDURE

**GUIDELINES FOR INVESTIGATING ALLEGED MALPRACTICE**

This appendix outlines the procedures to be followed in formal investigations, internal and external, of alleged malpractice. Prompt action is important.

An investigator should be someone who has had no connection with the case. On occasion it may be necessary to appoint an external person to conduct an investigation,

An investigation needs to be focused and comprehensive. Its aims are:

- to take a considered view of the likely facts and whether there is a case to answer;
- to find out as much as possible about what happened.

Investigations, both internal and external, should comply as far as possible with the Rules of Natural Justice. This means informing the individuals concerned of the nature of the alleged misconduct, of their right to be accompanied at the investigation by a friend, College Trade Union representative or work colleague, and giving him/her a chance to state their case before any decision is made.

**Preparation for an Investigatory Interview**

Having received their brief an investigator should:

- identify the key issues to be investigated;
- identify the people who need to be seen ;
- obtain a copy of the policies and procedures at issue; check whether the student/s or employee/s involved have been given them and, if so, when;
- decide whether, to relieve the stress and pressure on one or both parties and to ensure the smooth progress of the investigation, a person under investigation should be redeployed elsewhere in the College or removed from the College during the investigation. If the person suspended is an employee, the suspension should be on full pay;
- consider the following factors relating to any employee:
  - age, start date and length of service
  - current position and time in that position
  - any previous counselling sessions or disciplinary warnings
  - medical or domestic circumstances;
- If a search of an individual's desk, cupboard etc is needed, obtain their consent to do this and ensure that the search is done in their presence and that of a witness;
- Decide the order of people to be interviewed. Normally this will be:

- the person who raised the issue (if evidence gained by the Designated Assessor is insufficient)
- the person alleged to have acted incorrectly
- anybody named by the student/employee/any other person as relevant to the issue
- Arrange suitable accommodation so that the meeting can be held in private, inform those to be interviewed of time and place, and arrange for an administrator to take concise notes of the meeting/s (n.b. witness statements may be used where they are felt to be useful);
- Ensure that the meeting is expressly described as an “investigatory interview”;
- Ensure interviewees know they have the right to be accompanied by a friend, work colleague or Trade Union Representative;
- Take into account and plan to accommodate any difficulties in understanding or answering questions which may arise for an interviewee with a disability

## Conduct of Investigatory Interviews

Investigators should:

- Introduce the meeting as an “investigatory interview”
- Introduce all people present
- Defer an interview if it is apparent that the interviewee is sick and/or under the influence of alcohol or drugs and make a note of the reason for deferment
- clarify that anyone accompanying an interviewee may not answer questions on the latter’s behalf, though they may offer advice on whether a question should be answered and on whether the questioning is fair
- Clarify that the interviewee has a right to remain silent or to decline or to end an interview
- Describe the format of the meeting as follows:  
 “I am going to explain the relevant issues, ask you some questions, note your replies, and then ask you to review the notes to see if they accurately record what was said.”
- Ask clear and focused questions relevant to the investigation – preferably start with open questions. Questions should never be leading, accusatory or intimidatory. All questions should be asked one at a time and only after the interviewee has finished replying to the previous one. No question should be repeated more than once.
- Only ask interviewees to comment on facts as they appear rather than speculate or theorise
- Make an effort to understand every reply and seek clarification if necessary
- In cases of suspected breach of procedure, ask the employee concerned:
  - to explain the procedure
  - to explain its purpose and seriousness
  - when s/he first knew of the procedure
  - whether s/he know of anyone who has broken that procedure in the past
  - whether s/he has always complied with it and, if not, when and why
- After all questions and replies have been given, ask the interviewee to read the notes of the meeting, amend them if necessary, and to agree and sign that they are accurate. If there is a difference of opinion as to what was said, the notes should record this and be signed by both parties

## After the investigatory interview

Investigators should:

- Decide whether, after all interviewees have been seen, the investigation is complete and if not, arrange for further interviews or research into facts to be undertaken
- Decide, if the investigation is complete, whether there is a case to answer
- Prepare a short focused report (probably no more than two sides of A4) for the relevant person responsible for taking action on any recommendations made (and give a copy to the Human Resources team if such action involves an employee) stating:
  - the dates of the investigation
  - the names of everyone interviewed
  - the key issues investigated
  - how the investigation was conducted
  - the evidence and information obtained and his/her evaluation as to likely facts
  - his/her view as to whether there is a case to answer and what action, disciplinary or otherwise is recommended
- If evidence indicates that a criminal offence may have been committed, give urgent consideration to the need to refer the matter to the Police.
- Be prepared to explain and account for his/her investigation at any subsequent disciplinary hearing.