

# Norton College (Worcester) Limited and Norton College Tewkesbury) Limited (the College)

## Whistle Blowing Policy

### Statement of intent

This policy applies to all employees. Other individuals performing functions in relation to the College such as agency worker and contractors, should have access to it.

It is important to the College that any fraud, misconduct or wrongdoing by employees or directors of the College is reported and properly dealt with. The Board of Directors will, therefore, respond to all individuals who raise any genuine concerns that they may have about the conduct of others in the College. This policy sets out the way in which individuals may raise any concerns that they have and how those concerns will be dealt with.

Date policy last reviewed: 06/11/21  
Date for next review: 06/11/22

Signed by:

R Kenny	Executive Headteacher	Date: 06.11.21
<u>J Powell</u>	Board of Directors	Date: <u>06.11.21</u>

## **1 Introduction**

**1.1** Norton College Worcester Limited (NCW) expects the highest standards of conduct from all employees and Directors and will treat seriously any concern raised about illegal or improper conduct.

**1.2** Any individual will be expected, through agreed procedures and without fear of recrimination, to bring to the attention of the Executive Headteacher (or the Chair of Directors if the concerns relate to the Headteacher) any serious impropriety or breach of procedure.

**1.3** Employees who do not follow the steps identified in this procedure or other agreed internal procedures, and take their concerns to other outside sources (e.g. the press), may be subject to a formal disciplinary investigation.

## **2 Background**

The law provides protection for employees who raise legitimate concerns about specified matters, these may include -

- A criminal offence
- A miscarriage of justice
- An act creating risk to health and safety
- An act causing damage to the environment
- Corruptly receiving any gift or advantage.
- Allowing private interests to override the interests of the College
- A breach of any legal obligation; or
- concealment of any of the above

It is not necessary for the employee to have proof that such an act is being, has been, or is likely to be committed, - a reasonable belief is sufficient. The employee has no responsibility for investigating the matter; it is the College's responsibility to ensure that an investigation takes place.

**2.1** Where the concerns are about **safeguarding children or young people**, the College's Designated Director for Safeguarding should be notified.

**2.3** Concern about a colleague's professional capability should **not** be dealt with using this procedure, this is a matter that needs to be discussed with the Acting Head of school or Executive Headteacher.

## **3 When should it be used?**

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 their own contract has been, or is likely to be, broken they should use the College's Grievance procedures.

**Where a disclosure is merely an expression of opinion** that fails to show that a legal obligation has been or is likely to be breached, it **cannot** amount to a protected or qualifying disclosure for the purposes of the whistle blowing legislation.

**3.1** This procedure is not designed to replace or be used as an alternative to the grievance procedure, which should be used where an employee is only aggrieved about their own situation.

Nor should this policy apply where the employee simply disagrees with the way the College is run.

**3.2** Employees must have reasonable grounds for believing the information they have is accurate and not just idle gossip or rumour.

**3.3** An employee who makes such a protected disclosure has the right not to be dismissed, subject to any other detriment, or victimised, because they have made a disclosure, provided it has not been made maliciously. Any employee who uses this procedure will not be penalised for doing so. The employer will not tolerate harassment and/or victimisation of any employee raising concerns.

**3.4** An employee who is not sure whether the conduct they are concerned about does constitute illegal or improper conduct or is unsure about how to proceed may contact the Executive Headteacher or Board of Directors - or their professional association or trade union.

Financial regulations require that any suspicion of fraud, corruption or other financial irregularity is reported to the Board of Directors for possible investigation.

#### **4 Principles**

**4.1** Any matter raised under this procedure will be investigated thoroughly, promptly and confidentially, and the outcome of the investigation reported back to the employee who raised the issue.

**4.2** No employee will be victimised for raising a matter under this procedure. This means that the continued employment and opportunities for future promotion or training of the employee will not be prejudiced because they have raised a legitimate concern.

**4.3** Victimisation of an employee for raising a qualified disclosure will be a disciplinary offence.

**4.4** If misconduct is discovered as a result of any investigation under this procedure the matter will be considered under the disciplinary procedure, in addition to any appropriate external measures.

**4.5** Maliciously making a false allegation is a disciplinary offence.

**4.6** An instruction to cover up wrongdoing is in itself a disciplinary offence. If told not to raise or pursue any concern, even by a person in authority, employees should not agree to remain silent.

## **5 Procedure**

**5.1** In the first instance, unless the employee reasonably believes their Acting Head of school to be involved in the wrongdoing, any concerns should be raised with the employee's Acting Head of School. If they believe the Acting Head of school to be involved, then the employee should proceed straight to stage 3 (see below 5.3).

**5.2** The Acting Head of School/Chair of Directors will arrange an investigation into the matter (either by investigating the matter themselves or immediately passing the issue to someone in a senior position). The investigation may involve the employee and others involved giving written statements. Any investigation will be carried out in accordance with the principles set out above. The employee's statement will be taken into account and they will be asked to comment on any additional evidence obtained.

Employees who want to use the procedure but feel uneasy about it may wish to consult their professional association or trade union initially and bring a colleague or professional association or trade union representative along to any discussions, so long as the third party is not involved in the issue.

Where anonymity is requested efforts will be made to meet the request where appropriate but that might not always be possible. The earlier and more open the expression of concern the easier it will be to take appropriate action.

**5.3** The Acting Head of school (or the person who carried out the investigation) will then report to the Chair of Directors/Board of Directors who will take the necessary action, including reporting the matter to any appropriate department or regulatory agency. If disciplinary action is required, this will be taken forward by the Headteacher/Chair of Directors/Board of Directors in consultation with the College's HR advisor. On conclusion of any investigation the employee will be told the outcome of the investigation and what the next steps will be. If no action is to be taken the reason for this will be explained.

If the employee is concerned that their Acting Head of school is involved in the wrongdoing, has failed to make a proper investigation or has failed to report the outcome of the investigation, they should inform the Board of Directors. Employees who feel unable to follow this route, for whatever reason, have the option of contacting one of the following:

- HM Revenue and Customs
- The Financial Services Authority
- The Office of Fair Trading
- The Health and Safety Executive
- The Environment Agency
- The Director of Public Prosecutions
- The Serious Fraud Office

- The Education Funding Agency
- The Department for Education
- The National College for Teaching and Leadership

## **6 What should be done if an issue is raised with a member of staff?**

**6.1** If a member of staff, other than the Acting Head of school, is approached by a colleague on a matter of concern as defined in this document, they are advised to take the matter to the Acting Head of school (but see section 5).

## **7 Safeguarding Children and Young People**

**7.1** All employees have a duty to report concerns about the safety and welfare of students.

**7.2** Concerns about any of the following should be reported to the Designated Safeguarding lead for Child Protection (DSL):

- physical abuse of a student
- sexual abuse of a student
- emotional abuse of a student
- neglect of a student
- an intimate or improper relationship between an adult and a student

The College's DSL is the Acting Head of school

**7.3** The reason for the concern may be the actions of a colleague (including a more senior colleague), a Director, another student or someone outside the College. Whatever the reason, concerns must be reported. Failure to report a Child Protection related allegation will be in itself, a disciplinary matter.

## **Law Relating to This Document**

Employment Rights Act 1996

Public Interest Disclosures Act 1998

The legislation protecting individuals who makes a protected disclosure applies not only to employees, but also to any person who undertakes to do or perform personally (or otherwise) any work or service for the employer, regardless of the nature of the contractual relationship between them.

A Whistleblowing Policy should establish the procedure for an employee to follow if they have a genuine concern about a colleague's conduct or the organisation's practices. The Whistleblowing Policy should make clear what sort of allegations will count as a protected disclosure and should allow for the employee to raise these concerns with a nominated person and set out the steps that the employer will take in response.

A qualifying disclosure means any disclosure of information that in the reasonable belief of the employee is made in the public interest. The requirement that a whistle-blower make a qualifying disclosure 'in good faith' has been removed. Therefore, while the employer can seek a declaration

from the whistle-blower that he or she is not knowingly making a false allegation, disciplinary action is likely to be appropriate only where there is clear evidence that the employee has misused the whistle blowing procedure. A consequence of the requirement that a disclosure be made in the public interest is that an employee will generally be precluded from being able to 'blow the whistle' about breaches of his or her employment contract.

Section 43J of the Employment Rights Act 1996 provides that a Settlement Agreement made between an employee and employer cannot prevent future protected disclosures.

Any confidentiality obligations in contracts of employment that would prevent an employee making a protected disclosure will be void.