



East Durham College

Policy Document

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Document Control

This document is issued and controlled by Quality & Standards and may only be modified by the designated group after proposed modifications have been accepted by the College Management Group

The latest version of the procedure will be maintained on the College Extranet

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Public Interest Disclosure Policy



Scope

The College has chosen to exceed the requirements of the Public Interest Disclosure Act 1998 (the Act), believing that any individual, be that a member of the Governing Body, employee or student that believes that they have evidence of serious malpractice or impropriety, should be encouraged to bring such evidence to the attention of the College Leadership Group in the knowledge that the College will not take any action against them, nor seek in any way to penalise them for doing so, provided such a disclosure was in the public interest and made in good faith.

Purpose

The purpose of this policy is to provide guidance to all those who work with or within the College who may from time to time feel that they need to raise matters of concern (disclosures), that are in the public interest and relate to the College, with someone in confidence.

This policy is designed to:

- Support the College's values.
- Ensure that staff can raise concerns without fear of suffering any detriment.
- Provide a transparent and confidential process for dealing with disclosures.

Policy statement

The College is committed to the highest standards of openness, probity and accountability and seeks to conduct its affairs at all times in a responsible manner, having regard to the requirements of the appropriate funding bodies.

All concerns raised by an individual will be treated fairly and properly and no individual will suffer any detriment for raising concerns under this Policy in good faith.

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1. General Principles

When applying this policy the following principles will be used:

- This policy shall not be used for complaints relating to a member of staff's own personal circumstances. These should be raised under the Grievance Procedure.
- All concerns raised will be treated fairly and consistently.
- Any concern raised under this procedure will be investigated thoroughly, promptly and confidentially and the outcome of the investigation will be reported back to the person who raised the issue.
- The College will not tolerate any form of harassment or victimisation of anyone making a disclosure in good faith.

The College will ensure that no one will be at risk of suffering any form of detriment as a result of raising a concern, even if they are mistaken.

The College, however, does not extend this assurance to someone who has made false allegations maliciously, in bad faith or with a view of personal gain. Such conduct will be viewed as a disciplinary matter.

2. The Public Interest Disclosure Act

The Act gives legal protection to employees against being dismissed or victimised by their employer in consequence of publicly disclosing matters of public interest.

It is fundamental term of every contract of employment that an employee will faithfully serve their employer and not disclose confidential information about the employer's affairs. However, the Act gives employees the right to disclose certain matters of public interest which are known as "qualifying disclosures".

A qualifying disclosure is one made in good faith by an employee who has reasonable belief that one of the following acts is being, has been, or is likely to be committed:

- A criminal offence, including fraud, bribery and corruption (see the College's Anti Bribery Policy for details);
- The breach of legal obligation;
- A miscarriage of justice;
- A danger to the health and safety of any individual;
- Damage to the environment; or
- A deliberate attempt to conceal 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 – reasonable belief is sufficient. The employee must also reasonably believe that making the disclosure is in the public interest.

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3. Confidentiality

All disclosures under this policy will be dealt with in a confidential and sensitive manner, and the confidentiality of any complainant will be respected as far as possible. However, during the course of the investigation, the employee making the disclosure may be required to provide a statement as part of the necessary evidence, which could lead to the identity of the individual making the disclosure being revealed.

4. Anonymous Allegations

The College encourages individuals to put their names to any disclosure they raise. Allegations or concerns expressed anonymously are much more difficult to investigate, however, the College will address them if they appear to be serious, credible and capable of being confirmed by other credible sources.

5. Procedure for Making a Disclosure

An individual wishing to make a disclosure should do so in writing to the Clerk of the Corporation or the Chair of the Board of the Corporation. In their absence, disclosures should be made to the Principal or the Vice Principals of the College.

Although an individual making a disclosure will not be expected to prove the truth of any allegation, sufficient information should be contained in the disclosure to demonstrate that reasonable grounds for the allegation to exist.

It is expected that any employee who is aware of, or suspects, any kind of malpractice will report it. Where an employee fails to report their suspicions, they become implicated in the matter. The College will treat any failure to report such matters very seriously.

An individual wishing to make a disclosure has the right to seek the assistance from their trade union, and has the right to be accompanied by a recognised trade union representative or work colleague of their choice who is not involved in the area of College activity to which the disclosure relates during any subsequent investigation of the disclosure.

Once the disclosure has been made to the Clerk of the Corporation or the Chair of the Board of the Corporation, they will acknowledge receipt of the disclosure and will consider the information contained within the disclosure along with a member of the HR team to determine if there is a prima facie case to answer.

It will then be decided whether an investigation should be conducted and what form of investigation is to be undertaken. This will depend on the nature of the matter raised, and may include an internal investigation, an independent enquiry, or a referral to the police. In some cases a disclosure might be dealt with by agreed action without the need for further investigation.

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6. Investigation

If a disclosure is to be referred to the police, the College will fully co-operate with the police and will take no action pending completion of police enquiries and possible action.

If a disclosure is to be referred for independent enquiry, internal investigation will usually be suspended pending completion of such independent enquiry.

If the disclosure is to be the subject of internal investigation, the Clerk of the Corporation or the Chair of the Board of the Corporation will determine who should undertake the investigation. The investigations will usually be carried out by a member of Senior Management independent of the area in which malpractice or wrongdoing is alleged to have occurred.

The assigned Investigating Officer will establish all the relevant facts and information from all parties involved in the alleged allegation, taking into account statements from witnesses as appropriate.

Upon completion of the investigation, the Investigating Officer will compile a report summarising their findings for the Clerk of the Corporation or the Chair of the Board of the Corporation, who will then determine what action, if any, should be taken. This might include the invoking of the College's internal procedures, or referring the matter to an external authority for further investigation.

Once the outcome of the investigation has been determined, the Clerk of the Corporation or the Chair of the Board of the Corporation will inform the person making the disclosure of the reason in writing, but the investigation report may not be shared with them.

If the person raising the disclosure remains dissatisfied with the outcome, they can raise the matter in writing to the Chair of the Audit Committee. The Chair of the Audit Committee will review the investigation and the reason for the original decision and advise the employee in writing whether no further action is required or that a further investigation is needed.

Please feedback to Quality & Standards any constructive suggestions on how any aspect of the procedure may be clarified or improved