

LINCOLN COLLEGE

PUBLIC INTEREST DISCLOSURE POLICY AND ASSOCIATED PROCEDURES

POLICY CO/PO/20

SPONSOR

Director of HR & Student Support Services

EQUALITY AND DIVERSITY STATEMENT

Lincoln College strives to treat all its members and visitors fairly and aims to eliminate unjustifiable discrimination on the grounds of gender, race, nationality, ethnic or national origin, political beliefs or practices, disability, marital status, family circumstances, sexual orientation, spent criminal convictions, age or any other inappropriate grounds.

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LINCOLN COLLEGE

PUBLIC INTEREST DISCLOSURE POLICY AND PROCEDURE

1 PURPOSE

- 1.1 The policy applies to all Members of the Board of the Corporation, employees of the college and those persons engaged via an agency who are currently working within the college. It describes the college's policy on public interest disclosures and how a disclosure is made.

2 AIMS

- 2.1 The policy is 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.
- 2.2 The policy 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.

3 INTRODUCTION

- 3.1 Members of staff are often the first to realise that there may be something seriously wrong within a college. 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.
- 3.2 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.

4 RESPONSIBILITY AND REVIEW

- 4.1 The Director of HR & Student Support Services is responsible for reviewing the Policy annually.

5 MALPRACTICE

5.1 The types of matters regarded as “malpractice” for the purposes of this procedure are as follows:

- 5.1.1 Corruption, bribery or blackmail
- 5.1.2 Fraud or financial irregularity
- 5.1.3 Criminal offences
- 5.1.4 Failure to comply with a legal or regulatory obligation
- 5.1.5 Miscarriage of justice
- 5.1.6 Endangering the health or safety of any individual
- 5.1.7 Endangering the environment

6 DESIGNATED ASSESSORS

6.1 The Principal and Chief Executive of the college will ensure that at least three but not more than seven members of staff of appropriate experience and standing within the college are designated at any time for the purposes of this procedure as designated assessors (“Designated Assessors”) and that one of the members shall be designated as lead designated assessor (“The Lead Assessor”). At the date of the adoption of this procedure the Designated Assessors will be:

- 6.1.1 First Designated Assessor (the Lead Assessor)
Jacqui Varlow (Director of HR & Student Support Services)
- 6.1.2 Second Designated Assessor
Kevin Williams (Director of Performance and Planning)
- 6.1.3 Third Designated Assessor
Graham Harrison (Director of IT, Information Management & Projects)

6.2 The appointment of Designated Assessors will be reviewed each year when the procedure is reviewed.

6.3 The Lead Assessor will co-ordinate the training of the Designated Assessors in the use of this procedure and will produce an Annual Report to the Corporation if necessary on the number of occasions when this procedure has been formally invoked and their outcome. The Annual Report will not identify individuals.

7 DISCLOSURE

7.1 This procedure applies to disclosure by an individual (“the Discloser”) who is an employee or an agency contract worker engaged by the college and who has grounds to believe that malpractice has occurred, is occurring or is likely to occur in connection with the college (whether on the part of another employee, a member of the corporation, or any other person or persons) and that the disclosure is in the public interest.

- 7.2 The Discloser should as soon as practicable disclose in confidence the grounds for the belief of malpractice to one of the Designated Assessors. The choice of Designated Assessor will be for the Discloser, but a Designated Assessor may decline to become involved on reasonable grounds, including possible previous involvement or interest in the matter concerned, incapacity or unavailability or if a Designated Assessor is satisfied, after consulting the Lead Assessor, that some other Designated Assessor would be more appropriate to consider the matter in accordance with this procedure.
- 7.3 Any disclosure to a Designated Assessor under this procedure shall, wherever possible, be in writing, but, if this is not practicable, any such disclosure may be verbal, at the choice of the Discloser. The Discloser should provide as much supporting written evidence as possible about the disclosure and the grounds for the belief of malpractice.
- 7.4 On receipt of the disclosure, the Designated Assessor will offer to interview the Discloser in confidence, such interview to take place as soon as practicable after the initial disclosure. The purpose of the interview will be for the Designated Assessor to obtain as much information as possible from the Discloser about the grounds of the belief of malpractice and to consult with the Discloser about further steps that could be taken. The Discloser may be accompanied by a local trade union representative or work colleague at the interview.

The Designated Assessor may be accompanied by an Administrative Assistant to take notes, which will not identify the Discloser. For safeguards in relation to confidentiality, see paragraph 8 below.

- 7.5 The Discloser is also able to disclose any alleged malpractice or other wrongdoing to a “prescribed person” rather than their employers subject to the following conditions:
- 1) It constitutes a qualifying disclosure;
 - 2) They reasonably believe they are making the disclosure to a relevant prescribed person;
 - 3) They reasonably believe the information disclosed, and the allegation it contains, are substantially true.
- 7.6 The government publishes a prescribed persons list in its guidance entitled ‘Whistleblowing: list of prescribed people and bodies’ (last updated 26 September 2022).

8 FURTHER STEPS

- 8.1 As soon as practicable and in any event not more than 5 working days after the interview (or after the initial disclosure if no interview takes place) the Designated Assessor will recommend what further steps should be taken. Such recommendations may (without limitation) include one or more of the following:
- 8.1.1 that the matter should be reported to the police;

- 8.1.2 that the matter should be reported to the Department for Education, Department for Business, Innovation and Skills, the Education and Skills Funding Agency, the National Audit Office or other appropriate public authority;
 - 8.1.3 that the matter should be investigated either internally by the college as part of the Staff Grievance Procedure or by the Audit Committee of the Corporation and/or by external or internal auditors or investigators appointed by the college;
 - 8.1.4 that no further action is taken.
- 8.2 The grounds on which the Designated Assessor may recommend that no further action by the college should be taken are as follows:
- 8.2.1 that the Designated Assessor is satisfied that the Discloser does not have a reasonable belief that malpractice within the meaning of this procedure has occurred, is occurring or is likely to occur; or
 - 8.2.2 that the matter concerned is already the subject of legal proceedings, or has already been referred to the police, the Department for Education, the Department for Business, Innovation and Skills, the Education and Skills Funding Agency or other public authority; or
 - 8.2.3 that the matter is already (or has already been) the subject of proceedings under one of the college's other procedures relating to staff or students.
- 8.3 Any recommendations made under this procedure will be made by the Designated Assessor to the Principal and Chief Executive unless it is alleged that the Principal and Chief Executive is involved in the alleged malpractice or unless there are other reasonable grounds for not doing so, in which case the recommendations will be made to the Chair or the Vice Chair of the Corporation. In any case the recommendations will be made without revealing the identity of the Discloser save as provided in paragraph 11.1 below. The recipient of the recommendations will take all steps within his or her power to ensure that they are implemented except to the extent that, in the view of the recipient, there are good reasons for not doing so. If the Principal and Chief Executive decides not to implement fully any such recommendations that decision will be notified in writing to the Chair of the Corporation as soon as practicable, together with reasons for it.
- 8.4 Once the Principal and Chief Executive (or other recipient) has decided what further steps (if any) should be taken, the Designated Assessor will inform the Discloser of the decision. If no further steps by the college are proposed, the Designated Assessor will give the reasons for this.

9 APPEAL

- 9.1 If the Discloser is dissatisfied with the decision of the Principal and Chief Executive as to what further steps (if any) should be taken, the Discloser may, within 5 working days of receiving the decision from the Designated Assessor, appeal against the decision.

If this happens, then the Designated Assessor will present the appeal via email to the Chair of the Audit Committee of the Corporation. The Audit Committee will consider the decision of the Principal and Chief Executive and may confirm, modify or overturn that decision. The Designated Assessor will inform the Discloser of the decision of the Audit Committee.

10 SAFEGUARDS

- 10.1 Any report of recommendations by the Designated Assessor in relation to the matter will not identify the Discloser, unless the Discloser otherwise consents in writing or unless there are grounds to believe that the Discloser has acted maliciously. In the absence of such consent or grounds, the Designated Assessor will not reveal the identity of the individual as the Discloser of information under this procedure except:
- 10.1.1 where the Designated Assessor is under legal obligation to do so; or
 - 10.1.2 if the information is already in the public domain; or
 - 10.1.3 on a strictly confidential basis to the Designated Assessor's Administrative Assistant for the time being; or
 - 10.1.4 on a strictly confidential basis to a professionally qualified lawyer for the purpose of obtaining legal advice.
- 10.2 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 shall have access to it. As far as practicable, any documentation prepared by the Designated Assessor will not reveal the identity of the individual as the Discloser of information under this procedure.
- 10.3 Where the Discloser involves a local trade union representative or work colleague in this procedure, the Discloser will be under an obligation to use all reasonable endeavours to ensure that they and their representative or work colleague keeps this matter strictly confidential save, as permitted under this procedure, as required by law or until such time as it comes into the public domain. Failure to comply with this obligation may lead to disciplinary action.
- 10.4 The Discloser will not be required by the college, without his or her consent, to participate in any enquiry or investigation into the matter established by the college, unless there are grounds to believe that the Discloser may have been involved in misconduct or malpractice.

- 10.5 Where the Discloser participates in any such enquiry or investigation, that participation will usually be required to be on an open rather than a confidential basis, although the obligations of the Designated Assessor under paragraph 8.1 of this procedure will remain in relation to the identity of the individual as the original Discloser of information under this procedure.
- 10.6 Subject to paragraph 11 below, the college will not (and it will use all reasonable endeavours to ensure that its employees do not) subject the Discloser to any detriment on the grounds of the Discloser's disclosure of information under this procedure. The Discloser should report any complaints of such treatment to a 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 for the purposes of any such action.

11 PROTECTION AGAINST DISCIPLINARY ACTION

11.1 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:

11.1.1 maliciously or vexatiously; or

11.1.2 where there has been a breach of confidentiality under paragraph 8.3; or

11.1.3 whether an external disclosure is made in breach of this procedure without reasonable grounds; or

11.1.4 otherwise than to an appropriate public authority.