



## North Somerset Enterprise and Technology College

### Whistleblowing Policy

Next Review: August 2019

Signed:   
Principal

Dated: 14/03/2017

Signed:   
Chair of Governors

Dated: 14/03/2017

## **1. Rationale**

### **1.1**

Whilst members of staff may be amongst the first to identify serious malpractice occurring within the NSETC, they may be reluctant to express their concerns because they feel that speaking up would be disloyal or because they fear harassment or victimisation. The NSETC is, however, keen that staff and others raise any such concerns or suspicions confidentially and do so at an early stage.

### **1.2**

This procedure is intended to provide a rapid mechanism under which genuine concerns can be raised internally and, if necessary, externally without fear of repercussions to the individual. It is also intended to promote throughout the NSETC a culture of openness and a shared sense of integrity by inviting all employees to act responsibly in upholding the reputation of the NSETC and maintaining public confidence.

### **1.3**

Legislation: The Public Interest Disclosure Act 1998 is designed to protect 'whistle blowers' from detriment and unfair dismissal. Those protected under the Act include employees, workers, third party contactor staff, agency workers and work experience providers.

The Policy is intended to supplement, and to be read in conjunction with and not replace, the existing Policies and Procedures on Grievance, Discipline, Equality & Diversity, Health and Safety, Complaints, Code of Conduct and any other relevant policy and procedure.

The Policy should also be read in conjunction with the Public Interest Disclosure Act 1998.

## **2. Aims and Purpose of the code**

### **2.1**

This code aims to:

- Encourage an employee to feel confident in raising serious concerns and to question and act upon concerns about practice;
- Provide avenues for an employee to raise concerns and receive feedback on any action taken
- Ensure that an employee receives a response to their concern and is aware of how to pursue the matter if they are not wholly satisfied
- Reassure an employee that they will be protected from victimisation and/or any reprisal if they believe they have made any disclosure in good faith.

### **2.2**

There are existing procedures in place (e.g. The Grievance policy) which make provisions for an employee to raise a concern relating to their own employment. This policy is intended to cover

any major concerns that fall outside the scope of other procedures. These concerns could be currently occurring, previously occurred or likely to occur and can include any of the following:

- Possible fraud and corruption
- A criminal offence
- Unauthorised use of public funds
- Health and safety risks, including actions likely to cause physical danger to any person or to give rise to a risk of significant damage to property
- A miscarriage of justice
- Damage to the environment
- Abuse of power or the use of school powers and authority for any unauthorised or ulterior purpose
- Harassment or victimisation of students or staff
- Any actions or concerns regarding practice that could result in a financial loss to the academy or would otherwise seriously prejudice the school
- Abuse and welfare of students or staff
- The deliberate concealment of information relating to any of the above matters
- Any other unethical conduct.

*\*Please note that this list is not exhaustive and intended only for illustrative purposes*

### **2.3**

A qualifying disclosure is made in accordance with this section if:

- The employee makes the disclosure in good faith.
- The employee reasonably believes that the information disclosed, and any allegation contained in it are substantially true
- The disclosure is not made for purposes of any personal gain and should be believed to be in the public interest
- In all circumstances of the case it is appropriate for the employee to make the disclosure.

### **2.4**

The policy is:

- intended to apply to disclosure by an individual (the Discloser) who is an employee, ex-employee, an agency or contract worker or a self-employed worker engaged by NSETC, who has grounds to believe that serious malpractice has occurred, is occurring, or is likely to occur in connection with the NSETC.
- designed to provide safeguards to protect staff who raise genuine concerns about malpractice in connection with NSETC.
- one which requires management to act swiftly and constructively to address breaches of key standards,
- one which may lead to use of other procedures e.g. the Disciplinary Procedure, and to more formal investigations e.g. by Internal Audit, but will not replace them,
- one which may lead to Police action; and

- designed to require an impartial assessor to be involved.

It is NOT:

- intended that the employee or other complainant should be asked to 'prove' that his/her suspicions are well founded,
- designed to replace the Grievance Procedure, which should be used where an employee is aggrieved about an issue relating to his/her employment; or
- designed to deal with routine Health and Safety issues.

### **3. Assurances**

#### **3.1**

The NSETC will make every effort to keep the Discloser's identity confidential 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, identity of the Discloser will not be revealed except:

- where there is a legal obligation to do so,
- where the information and identity of Discloser is already in the public domain,
- on a strictly confidential basis to a professionally qualified lawyer for the purpose of obtaining legal advice,
- where it is essential that the Discloser provides evidence at a Disciplinary Hearing,
- where the Discloser is exercising his/her official responsibilities e.g. disclosing a practice or associated detail discovered in the normal course of his/her duties.

#### **3.2**

To encourage employees to raise legitimate concerns in complete confidence the matter may, initially, be raised orally rather than in writing.

#### **3.3**

The NSETC will not tolerate harassment or victimisation of anyone raising a concern in good faith, whether or not it proves well-founded.

### **4. What the NSETC requires of Members of Staff**

#### **4.1**

It is the responsibility of all staff and others connected with the NSETC 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 as to what the issue is and which procedure applies e.g. whether it is a matter that would be better dealt with through this procedure or through the Grievance Procedure. If in doubt, staff should ask for procedural advice from

their Line Manager, Trade Union representative, or Public Concern at Work, (a registered charity which advises on serious malpractice within the workplace) – Tel: 020 7404 6609 or e-mail [helpline@pcaw.co.uk](mailto:helpline@pcaw.co.uk).

## 4.2

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

If a disclosure is made maliciously or vexatiously (or where an external disclosure is made in breach of the Procedure without reasonable grounds or otherwise than to one of the appropriate bodies) the member of staff who raised the concern is at risk of disciplinary action.

Where the Discloser involves a local Trade Union representative or friend to assist him/her, the Discloser will be under an obligation to ensure that the representative or friend keeps the matter strictly confidential except as required by law.

## 5. Procedure; Making a disclosure

### 5.1

As soon as an employee becomes suitably concerned about a matter they should raise concerns with their line manager. However this is dependent upon the seriousness of the issues involved and the person suspected of malpractice. If the 'whistle blower' feels that by making the disclosure known to management, it may result in the disclosure being covered up, unfair treatment or if the disclosure has been raised and remains unresolved; then they should approach one of the following:

- The Principal
- The Chair of Governors

If an employee continues to have concerns regarding the matter raised or has reason to believe that those listed above are implicated in some way, then they should contact the following respectively:

- The EFA
- The appropriate 'Prescribed person', detailed on 'The Department of Business Innovation and Skills' list of Prescribed People and bodies'.

The sooner an employee raises his/her concerns the easier it is to take appropriate action.

### 5.2

All managers or SLT have a duty to take sufficient action with regard to the concern/s raised, failure to do so in accordance with the policy and procedure may result in disciplinary action.

Concerns must be raised in writing and should detail the nature of the alleged malpractice (including relevant dates, names etc) and the reason for the concern.

### 5.3

The receiving manager will inform any employee of any allegations made against them in writing within ten working days of the initial concern being raised, however, should it be deemed that this may jeopardise the investigation it will be suitably delayed. The matter should be raised immediately if there is any danger of loss of life or serious injury.

## 6. How the NSETC will respond

### 6.1

The investigating manager will be responsible for deciding whether there are grounds for proceeding further with the case, and in some cases concerns may be resolved by agreed action without any need for additional investigation.

Where necessary the matters raised may:

- Be investigated internally
- Be referred to the police
- Be referred to an external auditor
- Form the subject of an independent inquiry

Concerns or allegations which fall within the scope of specific procedures i.e. financial irregularities, discrimination etc will normally be referred for consideration under those procedures.

***\*Any urgent action that may be required will be taken before an investigation is conducted***

### 6.2

Within four weeks of a disclosure being made, the investigating officer will write to both parties indicating:

- How the Academy proposes to deal with the issue, and if an internal investigation is to take place, with an estimate of how long it will take to provide a full response.
- Whether any further investigation will take place and the subsequent reasoning if it does/does not.

Precise details may not be given where there are legal constraints, where it would infringe a duty of confidence between the Academy and employee/other or where there are business reasons for not doing so.

As part of the investigation, the investigation officer will decide:

- Whether any disciplinary action is to be taken against any employee
- Whether any other action should be recommended
- Whether changes should be made to any existing Academy policy under which the disclosure falls.

The investigating officer will be expected to adhere to the timescale indicated; however the nature of some serious concerns may require additional time, in this instance all parties will be kept informed of the progress of the investigation.

All records will be treated as confidential and kept for no longer than is necessary in compliance with the Data Protection Act 1998. In accordance with the Act individuals will have the right to request and have access to certain personal data. Meeting records may be disclosed to employees although some information may be withheld to protect a third party.

### **6.3**

Once the channels laid out in this procedure have been exhausted, the Discloser has a right and duty to publish his/her concerns publicly provided that he/she:

- (i) is acting in good faith,
- (ii) believes on reasonable grounds that the information is accurate,
- (iii) has not made the disclosure principally to obtain payment or personal gain; and
- (iv) has exhausted the stages of this procedure.

## **7. In conclusion**

### **7.1**

Staff should be made aware of the procedure. The remedial action may be simple and the solution straightforward and if staff express genuine concern to the right people at an early stage, the benefits to the NSETC can be enormous.

### **7.2**

Staff who deliberately make false and malicious accusations, internally or externally, will be subject to the NSETC Discipline Policy and Procedure.

### **7.3**

Staff and other complainants must not take concerns outside of the school, especially to the press or media except in accordance with clause 6.3

Date

This Policy and Procedure will be reviewed every three years.