



# Whistleblowing Policy and Procedure for The College Merthyr Tydfil

## OVERVIEW

Whistleblowing is about raising concerns where there are risks to others or where there is legitimate public interest. It is different to our other procedures for raising concerns or complaints because it is not intended for personal grievances relating to terms and conditions of work or study, harassment, bullying or discrimination. The College has policies for supporting those who raise personal concerns that sit outside of this policy.

### **Protection and Support**

This policy and procedure is designed to offer protection and support to Whistleblowers who disclose information which they reasonably believe is true and is made in the public interest. We encourage openness and will support those who raise genuine concerns. Whistleblowers will not suffer any detrimental treatment connected with raising a concern. Additional details on protection and support can be found in the policy.

### **Raise informal concern of public interest to:**

Manager  
Head of Division/Functional  
Head

- Employees should raise with their manager
- Students should raise with their Course Tutor
- Suppliers should raise with their Relationship Manager
- Members of the public should raise with Vice Principal/Chief Operating Officer

*(If your concern is related to the responsible person above you should raise with the next most senior manager or Principal/Chief Executive Officer )*

### **Raise formal concern of public interest to:**

Vice Principal/Chief Operating  
Officer

- All protected disclosures under the Public Interest disclosure Act should be raised with the Vice Principal/Chief Operating Officer together with any other concerns that are raised formally where an individual wants the concern documented.

*If the concern relates to the Vice Principal/Chief Operating Officer please raise your concern with the next most senior Whistleblowing Officer*

The next most senior  
Whistleblowing Officer

- Principal/Chief Executive Officer
- Chair of the Board of Directors
- Chair of the Audit Committee

The concern will be acknowledged, recorded, reviewed and investigated (where appropriate)

You will be:

- Notified if there is a decision of no action or investigation
- If no action is taken you may continue to raise to the next Whistleblowing Officer
- If there is an investigation you may be informed of progress and its likely timescale depending on the confidential nature of the concern

## Chair of the Audit Committee

If you are not satisfied with how the University has conducted the investigation you may take your concern to the Chair of the Audit Committee.

## 1. INTRODUCTION

- 1.1 'Whistleblowing' means the reporting of suspected serious misconduct, illegal acts or failure to act within the College. The aim of this policy and procedure is to encourage colleagues and others who have serious concerns about any aspect of wrongdoing in the College's work to come forward in the public interest and voice those concerns.
- 1.2 The College is committed to the highest standards of openness, probity and accountability. It seeks to conduct its affairs in a responsible manner taking into account the requirements of the funding bodies, the standards in public life set out in the reports of the Nolan Committee, and the principles of academic freedom embodied in the Articles of Government.
- 1.3 All organisations, however, face the risk of things going wrong or of unknowingly harbouring malpractice. We take malpractice very seriously and are committed to conducting our business with honesty and integrity and we expect all colleagues and our partners and suppliers to maintain high standards too. We encourage open communication from all those who work for us and those students receiving our services and we want everyone to feel secure about raising concerns.
- 1.4 This policy and procedure is designed to give whistleblowers specified below that opportunity and protection against victimisation. It does not matter if an individual who raises a concern is mistaken about it — whistleblowers do not have to prove anything about the allegation they are making but they must reasonably believe that the disclosure is substantially true, made in the public interest (e.g. it is not a personal grievance but a concern raised for the wider public benefit) and that the information they have tends to show some malpractice.
- 1.5 We encourage all whistleblowers to raise concerns with the College so that we can address them and improve. The purpose of this procedure is to promote greater openness between the College and its colleagues and wider community, and in particular to provide a process to assist individuals who believe they have discovered malpractice or impropriety, including disclosures covered by the Public Interest Disclosure Act. It is not designed to raise personal grievances or question financial or business decisions taken by the College.
- 1.6 This procedure may also be used to report any known or perceived breaches of the Criminal Finances Act 2015, or the *Bribery Act 2010* and the College's Anti Bribery Policy which can be accessed at [www.merthyr.ac.uk](http://www.merthyr.ac.uk).
- 1.7 Employees may find helpful guidance on the Public Concern web site <https://protect-advice.org.uk/>.

## 2. SCOPE

- 2.1. This procedure covers all members of the College community, including workers and colleagues (who have protection under whistleblowing laws), officers, consultants, suppliers, contractors, casual workers and agency workers engaged by the College and students registered with the College and any member of the public who has concerns may also raise concerns under this procedure (collectively "**Whistleblowers**").
- 2.2. If you are an employee, this policy and procedure does not form part of your contract of employment.

2.3. Concerns raised under this procedure should relate to the following serious concerns that are made in the public interest namely:

- criminal activity, including those in relation to bribery and corruption and tax evasion facilitation
- failure to comply with a legal obligation
- miscarriage of justice
- an act creating risk to health and safety
- an act causing damage to the environment
- attempts to conceal any of the above

The College also reserves the right to use the procedure to investigate other concerns that may be raised to it subject to them being in the public interest, although it is not obliged to do so. Such concerns might include:

- financial malpractice or impropriety or fraud
- academic or professional malpractice
- attempts to conceal any of the above.

2.4. This policy and procedure should not be used for complaints relating to a persons own personal circumstances, such as the way a colleague or student has been treated at work/study. In those cases the appropriate procedures should be used; for example:

- i. Grievance Procedure and Dignity and Work Policy for colleagues who wish to raise a personal grievance;
- ii. Students Complaints Procedures for student concerns other than those set out above. Complaints relating to any aspect of their student experience at the College, including concerns about the provision of academic courses and related services and concerns about discrimination. Students should use the Complaints Policy and Procedure
- iii. JCQ Regulations and Guidance for academic concerns.

In addition, this policy and procedure should not be used to challenge decisions previously taken under other procedures of the College; or as a way of dealing with malpractice/wrongdoing of students for matters that have already been investigated by the College through another process. Concerns which have been addressed under other internal procedures, where decisions have been made and appeals processes exhausted should not be brought further under this policy and procedure.

2.5. If you are uncertain whether something is within the scope of this policy, you should seek advice from the Vice Principal Resources/Chief Operating Officer (contact details are at the end of this policy and procedure).

### **3. PRINCIPLES**

#### **3.1. *Protection***

This policy and procedure is designed to offer protection to Whistleblowers of the College who disclose information in accordance with this procedure:

- 3.1.1. which in their reasonable belief is true; and
- 3.1.2. which is made in the public interest.

### 3.2. **Confidentiality**

3.2.1. We hope that individuals will feel able to voice whistleblowing concerns openly under the policy and we encourage you to do so. There is a significant difference between keeping concerns confidential and raising a concern anonymously. If you want to raise your concern confidentially, we will make every effort to keep your identity hidden other than to those involved in investigating your concerns. The College will treat all such disclosures in a confidential and sensitive manner.

3.2.2. Concerns expressed anonymously will only be considered if the College decides to do so because of:

- the seriousness of the issues raised;
- the credibility of the concern; and
- the likelihood of confirming the allegation from attributable sources

All anonymous allegations will be passed to the Vice Principal Resources/Chief Operating Officer for consideration, in consultation with others as appropriate. The College may not be able to properly establish whether your allegations are credible without being able to ask you for more details or for clarification, and this makes it hard to reach an informed decision. This is why you are asked to consider not reporting matters anonymously.

3.2.3. Where you request the disclosure is made in confidence, the identity of the individual making the allegation may be kept confidential so long as it does not hinder or frustrate any investigation. If it is necessary for people involved in the investigation to know your identity, we will discuss this with you. For example, the investigation process may reveal the source of the information and the individual making the disclosure may need to provide a statement as part of the evidence required.

3.2.4. Whistleblowers who are concerned about possible reprisals if their identity is revealed should raise their concerns with the Vice Principal Resources/Chief Operating Officer (or Principal/Chief Executive Officer, Chair of the Board of Directors or Chair of Audit as appropriate) and appropriate measures can then be taken to preserve confidentiality where permissible. If you are in any doubt about confidentiality, advice can be sought from the Trade Unions, Chaplaincy and anyone can seek advice from the UK's whistleblowing charity 'Protect' - the independent whistleblowing charity, which offers a confidential helpline (contact details are at the end of this procedure).

### 3.3. **Trade Unions**

This procedure is not intended to preclude matters of concern being raised by the recognised Trade Unions through the agreed joint consultation procedures.

## 4. **PROCEDURE**

### 4.1. **Initiating the Procedure**

4.1.1. If you are concerned about any form of malpractice covered by this policy and procedure, colleagues should normally raise the issue with your line manager, students should raise the issue with their course tutor or Head of Division, suppliers with their relationship manager and members of the public can contact the Executive Office. If

you feel you cannot tell the immediate responsible person, for whatever reason, you should raise the issue with the next most senior manager or the Vice Principal Resources/Chief Operating Officer. You may tell them in person or put the matter in writing if you prefer. They may be able to agree a way of resolving your concern quickly and effectively. In some cases they may refer the matter to the formal Whistleblowing Procedure set out below.

4.1.2. Where the matter is more serious, or you feel that appropriate responsible person has not addressed your concern, or you prefer not to raise it with them for any reason, you can make a protected disclosure. A Whistleblower should submit their formal disclosure in writing to Vice Principal Resources/Chief Operating Officer. All concerns will be:

- Acknowledged;
- Recorded; and
- Reviewed and where appropriate investigated.

4.1.3. Where the disclosure relates to the Vice Principal Resources/Chief Operating Officer or an Executive member, it should be raised directly with the Principal/Chief Executive Officer. If the disclosure relates to the Principal/Chief Operating Officer or to a Director, it should be raised directly with the Chair of the Board of Directors. If the disclosure involves the Chair personally, it should be referred to the Chair of the Audit Committee. Each of these recipients will be referred to as the Whistleblowing Officer.

4.1.4. You should clearly state that you are raising your concerns under this Whistleblowing Policy and Procedure and then explain what they are. Include all the key facts, dates, and the names of the people involved. The Whistleblowing Officer will consider the information made available and, in consultation with others as appropriate, decide if there is a concern requiring a formal investigation and if so, what form it should take. This will depend on the nature of the matter raised and may involve:

- an internal investigation
- the appointment of an external independent party to conduct an investigation
- referral to the Police or another external body

4.1.5. The Whistleblowing Officer shall be entitled to ask the Whistleblower to provide documentary evidence to support the substance of the disclosure. They may arrange one or more meetings with you to discuss your concern. You may bring a colleague or union representative to any meetings under this policy. Your companion must respect the confidentiality of your disclosure and any subsequent investigation.

4.1.6. We will take down a written summary of your concern and provide you with a copy after the meeting. We will also aim to give you an indication of how we propose to deal with the matter giving reasons for this decision.

## 4.2. **No Action**

4.2.1. If the decision of the Whistleblowing Officer is that no action is to be taken, then the Whistleblower may request a review to another senior Whistleblowing Officer identified in 4.1.3 within 20 working days of receiving the letter referred to in paragraph 4.1.6 above.

4.2.2. The reviewing Whistleblowing Officer shall review the decision and may wish to ask the Whistleblower for additional information and or documentation to assist with the review. The reviewing Whistleblowing Officer will inform the Whistleblower in writing of the outcome of the review.

4.2.3. If the earlier decision to take no action is upheld that will be the end of the matter.

#### 4.3. ***Investigation***

4.3.1. Where the decision is to undertake an investigation, the Whistleblowing Officer will be responsible for appointing the investigator and for setting the terms of reference of the investigation, although these are subject to discussion and agreement with the investigator. As a result of this investigation, or in place of the investigation, other internal procedures may be invoked by the Whistleblowing Officer if an investigation would be more appropriate under an alternative procedure.

4.3.2. When considering the appointment of the investigator the Whistleblowing Officer should consider:

- The nature of the matter raised
- Any particular expertise needed
- The level of seniority of the investigator
- The ability of the investigator to approach the matter without actual or potential bias

4.3.3. The investigation will be conducted as sensitively and speedily as possible. The investigator will conduct relevant interviews with possible witnesses as appropriate. This will include the Whistleblower that made the original disclosure. Due to the concerns you have raised, other individuals are likely to be interviewed as part of your Whistleblowing complaint, including but not limited to the individual who the concern have been raised against. Any individual interviewed under this procedure will be afforded equal support and are entitled to be accompanied at any meetings by a colleague or trade union representative and to reach out to any appropriately trained individual under this policy.

4.3.4. Written notes of all interviews will be prepared and the interviewee shall be given an opportunity to review the notes for accuracy before they are finalised.

4.3.5. Any evidence that becomes available as a result of investigations under this Policy may be referred for action as detailed below:

- i. disclosures involving an allegation of misconduct, discrimination or harassment by a member of staff (*Complaint Policy and Procedure or Staff Disciplinary Procedures*);
- ii. disclosures involving an allegation of harassment, bullying, unfair treatment, victimisation or identity-based discrimination by a student (*Dignity at Work Policy, Dignity at Study Policy, Complaints Policy and Procedure, Student Code of Conduct* );
- iii. disclosures involving an allegation of misconduct by a student (*Student Code of Conduct*).

4.3.6. The investigator and/or the Whistleblowing Officer will aim to keep the Whistleblower informed of the progress of the investigation and its likely timescale. However, sometimes the need for confidentiality may prevent them giving the Whistleblower specific details of the investigation or any action taken as a result as the College needs to protect confidentiality and comply with legal obligations. It is understood that this may be frustrating and give you concerns about whether any action has been taken, and if this happens an appropriate individual will explain why the College is acting in this way. The Whistleblower will be informed whether they should treat any information about the investigation as confidential.

4.3.7. The investigator will prepare a report outlining:

- the terms of reference of the investigation
- the methodology adopted and the reasons why
- confirming any findings of fact made, including the evidence considered, the investigators view of its cogency and the standard of proof applied
- any recommendations for action as may be appropriate – this may include initiating another procedure such as the disciplinary procedure

## **5. REPORTING**

- 5.1. The investigator will consider whether the report can be shared with the Whistleblower that made the original disclosure and any person or persons accused of wrongdoing in the disclosure information. This will depend on the contents of the report which may contain confidential information and personal data. If possible, a redacted report or summary will be provided to the Whistleblower that made the original disclosure.
- 5.2. The report may require referral to other College policies or procedures for further action to be taken, including disciplinary action.
- 5.3. Reports on the outcome of investigations made under these procedures including any recommendations for action will be made to the relevant senior leaders, College/University Committees and/or the Board of Directors/Governors]. In some instances it might be necessary to refer the matter to an external authority for further investigation, e.g. Welsh Government, the Charity Commission, or the [bodies listed](#) in Public Interest Disclosure Act.

## **6. IF YOU ARE NOT SATISFIED**

- 6.1. While we cannot always guarantee the outcome you are seeking, we will try to deal with your concern fairly and in an appropriate way. By using this procedure you can help us to achieve this.
- 6.2. If you are not satisfied with how the College has conducted the investigations you can take the matter to the Chair of the Audit Committee for further consideration. If your original concerns were dealt with by the Chair of the Audit Committee you also have the right to refer concerns to one of the relevant bodies referred to in point 5.3.

## **7. EXTERNAL DISCUSSIONS**

- 7.1. The aim of this policy and procedure is to provide an internal mechanism for reporting, investigating and remedying any wrongdoing in the workplace and College community. In most



cases you should not find it necessary to alert anyone externally.

- 7.2. The law recognises and protects you from repercussions where in some circumstances it may be appropriate for you to report your concerns to an external body such as a regulator. It will very rarely if ever be appropriate to alert the media. We strongly encourage you to seek advice before reporting a concern to anyone external. The independent whistleblowing charity, Protect, operates a confidential helpline. They also have a list of prescribed regulators for reporting certain types of concern. Their contact details are at the end of this policy. In respect of external regulators this will depend on the nature of the concern. However, these may include but are not limited to:

- The Charity Commission
- Welsh Government
- The Home Office
- The relevant Police Regulatory Authority
- External funding bodies

- 7.3. Whistleblowing concerns usually relate to the conduct of our colleagues, but they may sometimes relate to the actions of a third party, such as a customer, supplier, student, partner or service provider. In some circumstances the law will protect you if you raise the matter with the third party directly. However, we encourage you to report such concerns within the College first.

## **8. PROTECTION AND SUPPORT FOR WHISTLEBLOWERS**

- 8.1. It is understandable that Whistleblowers are sometimes worried about possible repercussions. We aim to encourage openness and will support people who raise genuine concerns under this policy, even if they turn out to be mistaken.

- 8.2. Whistleblowers must not suffer any detrimental treatment as a result of raising a concern. Detrimental treatment includes victimisation, dismissal, disciplinary action, threats or other unfavourable treatment connected with raising a concern.

- Individuals at the College must not threaten or retaliate against Whistleblowers in any way as a result of raising a concern.
- Victimisation or other detrimental treatment of an employee, student or other member of the College, as a result of that person raising concerns under this policy, may be considered a serious disciplinary offence under the College's disciplinary procedure.
- If you believe that you have suffered any such treatment, you should inform a Whistleblowing Officer immediately. If the matter is not remedied you should raise it formally using the relevant College Grievance Procedure or with the Vice Principal Resources/Chief Operating Officer if you are not a colleague.
- Individuals causing detrimental treatment may also face legal action from the whistleblower in these circumstances.

### ***Untrue Allegations***

- 8.3. If an individual makes an allegation to which they reasonably believe is substantially true, which is not confirmed by subsequent investigation, no action will be taken against that individual. If, however, an individual makes malicious, slanderous or vexatious allegations or disclosures in bad faith, action may be taken against the individual concerned which could include disciplinary action for colleagues or students and the College may consider its legal rights in the case of slander or defamation.

## Contacts

<b>Vice Principal/Chief Operating Officer</b> <b>Principal/Chief Executive Officer</b> <b>Chair of the Board of Directors</b> <b>Chair of the Audit Committee</b>	E-Mail to: s.fowler@merthyr.ac.uk  Post to: Mrs Lisa M Thomas, The College Merthyr Tydfil, College Boulevard, Merthyr Tydfil, CF48 1AR. (Marked Private and Confidential)
<b>Protect</b>  (Independent whistleblowing charity)	Helpline: 0203 117 2520  E-mail: whistle@pcaw.co.uk  Website: <a href="https://protect-advice.org.uk/">https://protect-advice.org.uk/</a>