



## Disclosure Policy

Date approved: 8 September 2015  
Approved by: Corporation  
Review date: September 2016  
Group Lead: Clerk to the Corporation  
Accessible to Customers/Learners: Yes

### 1. Consultation

Consultation undertaken with:-

- Kidderminster College Yes/~~No~~
- Newcastle College: Yes/~~No~~
- Newcastle Sixth Form College: Yes/~~No~~
- West Lancashire College: Yes/~~No~~
- Intraining: Yes/~~No~~
- Rathbone Training: Yes/~~No~~
- Group Services: Yes/~~No~~

### 2. Applicability of Policy to Organisation

This policy applies to:-

- Kidderminster College Yes/~~No~~
- Newcastle College: Yes/~~No~~
- Newcastle Sixth Form College: Yes/~~No~~
- West Lancashire College: Yes/~~No~~
- Intraining Yes/~~No~~
- Rathbone Training Yes/~~No~~
- Group Services: Yes/~~No~~

This includes all subsidiary companies.

### 3. Scope and Purpose of Policy

This policy applies to all staff employed by NCG under a Contract of Employment, all agency staff and all independent contractors and consultants working within NCG, including subcontractors.

The purpose of this Policy and the associated Procedure is to enable any fraud, misconduct or wrongdoing by staff and officers of NCG and subcontractors to be reported and properly dealt with.

The aim of this Policy is to provide safeguards to protect staff delivering or working for NCG who raise genuine concerns about malpractice in connection with the organisation. This protection is available to staff who have reasonable belief that disclosure is in the public interest: the Policy is not intended to cover private matters, for example in relation to an individual's contract of employment.

#### **4. Policy Statement**

NCG will maintain a Disclosure Procedure in line with relevant legislation and good practice. Any changes to the Procedure will be subject to consultation with representatives of recognised trade unions or the appropriate staff forum.

NCG will not tolerate harassment or victimisation of anyone raising a concern under the Procedure, whether or not it proves well-founded, and will take disciplinary action against such behaviour. In addition to action under NCGs Policy on Respect and Consideration for Others, staff who victimise a colleague who has made a disclosure may face a personal legal liability.

NCG will make every effort to keep staff's identity confidential if they wish this to be the case. However, in certain circumstances such as requests from the police it may be necessary for NCG to make a disclosure.

NCG will encourage staff to make appropriate use of the Procedure but will take disciplinary action in response to maliciously unfounded disclosures or disclosures that do not follow the Procedure.

#### **5. Linked Policies**

Respect and Consideration for Others Policy

NCG has separate arrangements for considering routine Health and Safety issues, concerns relating to employment matters, harassment in the workplace or concerns relating to child protection and the protection of vulnerable adults.

#### **6. Linked Procedures**

Disclosure Procedure  
Internal Notifications Process

#### **7. Equal Opportunities Statement**

The Equality Impact Assessment for the Policy and Procedure was updated on 30 August 2013.

## **8. Location and Access to the Policy**

The Disclosure Policy is located as follows:

- Group website
- Group intranet
- Subcontractor portal

## **9. Person Responsible for the Policy**

Clerk to the Corporation

## **10. Variations to the Policy**

There are no variations to this policy.



## Disclosure Procedure

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### 1. Context

- 1.1 The Public Interest Disclosure Act is designed to protect workers who raise legitimate concerns about specified matters called 'qualifying disclosures'. A qualifying disclosure is one made in the public interest by an employee who has a reasonable belief that:
- a criminal offence;
  - a miscarriage of justice;
  - an act endangering health and safety;
  - an act causing damage to the environment;
  - a breach of any other legal or regulatory obligation; or
  - concealment of any of the above; is being, has been, or is likely to be, committed.
- 1.2 NCG's Disclosure Policy provides safeguards to protect staff who raise genuine concerns about malpractice in connection with the organisation. Examples of malpractice are:
- Fraud or other financial irregularity (e.g. misappropriation of money)
  - Corruption (e.g. bribery, blackmail, or serious breach of academic standards such as deliberate award of unjustifiable marks for student work)
  - Breach of a legal or regulatory requirement (e.g. theft)
  - Causing danger to the environment or individuals
  - Non-routine Health & Safety issues
- 1.3 It is not necessary for the employee to have proof or provide evidence that such an act is being, has been, or is likely to be committed – a reasonable belief is sufficient. That person has no responsibility for investigating the matter – it is the organisation's responsibility to ensure that an investigation takes place.
- 1.4 This Procedure is **not** designed to deal with:
- Issues relating to Child Protection or the Protection of Vulnerable Adults including radicalisation of learners and customers: concerns about such matters should be raised via the Divisional procedure for Child Protection or Safeguarding Vulnerable Adults. However,

any concerns about radicalisation of staff should be raised under this Disclosure Procedure.

- Routine Health and Safety issues, which should be referred to Health and Safety officers
- Concerns relating to a breach or likely breach of your contract of employment: Grievance Procedures should be used
- Concerns relating to bullying or harassment. The Respect and Consideration for Others Policy should be used.

1.5 This Procedure does **not** form part of staff's terms and conditions of employment, nor the terms and conditions of any contract between NCG organisations and members of staff.

## **2. Principles and Guidelines**

2.1 Preventing and eliminating wrongdoing at work is important and contributes to the stability of the business. All staff and officers of NCG are encouraged to be vigilant for illegal or unethical conduct and to report anything of that nature.

2.2 Staff are encouraged to raise concerns if they reasonably believe that an act of malpractice is being committed or is likely to be committed. Prevention is as important as reporting past or ongoing acts.

2.3 This Procedure provides a clear route to raise genuine concerns without fear of reprimand or reprisal. Raising a legitimate concern will not prejudice your job or opportunities for promotion or training. It is a disciplinary offense to victimise anyone raising a qualifying disclosure.

2.4 It is the responsibility of the organisation to carry out a thorough, prompt and confidential investigation and the outcome will be reported back to the person who raised the issue.

2.5 NCG will make every effort (but cannot guarantee) to keep a Discloser's identity confidential if they wish this to be the case. If this is not possible, for example if staff are asked to give evidence, they will be consulted. Concerns forwarded anonymously in writing to the Clerk to the Corporation will be considered at the discretion of the Clerk .

2.6 NCG's disciplinary procedures will be used, in addition to any appropriate external measures, if misconduct is discovered as a result of any investigation under this Procedure.

2.7 It is not intended that staff should be asked to 'prove' that their suspicions are well founded. However, any disclosure that does not follow this Procedure or is maliciously unfounded will be subject to action in accordance with NCG's disciplinary procedures. This is not meant to deter anyone from raising legitimate issues.

- 2.8 An instruction to cover up wrongdoing is itself a disciplinary offence. If told not to raise or pursue any concern, even by a person in authority such as a manager, you should not agree to remain silent if you feel that the issue is serious enough to raise.
- 2.9 A Discloser may be accompanied by a workplace colleague such as a staff forum representative or trade union representative to any interviews arranged under the Procedure, providing the person is not at all associated with concerns being raised. The representative's role is to support and advise the Discloser.
- 2.10 If you are not sure whether to raise a concern, discuss the issue with your immediate manager or alternatively the Clerk. You may also seek further advice from trade unions or by phoning Public Concern at Work (a registered charity) on 020 7404 6609.
- 2.11 Staff may, at any time, disclose matters on a confidential basis to their own legal advisors for the purpose of taking legal advice.

### **3. The Procedure**

#### **General**

- 3.1 When raising concerns you must declare any personal interest you have in the matter.
- 3.2 When raising concerns you must clarify:
- which of the six qualifying disclosures identified in section 1.1 and/or malpractice identified in section 1.2. (there might be more than one) you believe are being infringed by either an individual, a group of individuals or the organisation; and
  - why there is reasonable belief of wrongdoing.

Reasonable belief means more than just a possibility or risk. You should set out the facts which give rise to these grounds and provide as much supporting evidence as possible.

#### **Stage 1 - Manager**

- 3.3 Initially, concerns should normally be raised with your immediate manager. However, if your concerns relate to your immediate manager then raise the concerns with a more senior manager. If you are unsure who to contact then ask the Clerk to the Corporation for advice. Contact details are attached at the end of the procedure.

Concerns may be raised orally or in writing.

- If orally, you should arrange a meeting with the manager to discuss your concerns. This meeting should be documented by the manager and a copy of the concerns that you have raised be forwarded to you to confirm that the facts have been represented as

you raised them and that there is a true and complete understanding of your concerns.

- If in writing, you should document your concerns ensuring the date you raised the issue is noted and you keep a copy for yourself. This does not need to be a formal letter (an e-mail will suffice). You must declare any personal interest and clarify your concerns as explained in section 3.2.

3.4 The manager should immediately inform both their Director and the Divisional Head. The Divisional Head will notify an appropriate Executive who will determine what further action needs to be taken and inform the Group Chief Executive. The Internal Notification Process provides guidance for Executives on routing, managing and reporting concerns. In any cases of significant fraud, suspected fraud or irregularity the Group Chief Executive will inform the chair of the audit committee and, where appropriate under the Joint Audit Code of Practice, the Chief Executive of Skills Funding as soon as practically possible and agree the most appropriate course of action; the Department of Business Innovation and Skills will also be notified in such cases as Principal Regulator. There may also be a requirement to notify another regulatory, funding or awarding body, depending on the circumstances of the case. The audit committee has authority to commission a special investigation subject to agreement of the course of action with the Chief Executive of Skills Funding.

3.5 Within 7 days, the manager will acknowledge receipt of your concern. The relevant Executive will arrange for you to be advised of the action to be taken when this has been determined. Except in cases where an alternative approach is agreed with the chair of the audit committee and the Chief Executive of Skills Funding, the approach will be as follows.

- An investigation will be arranged, conducted either by the manager to whom the issue was reported or another manager. The investigation will be carried out in accordance with the Principles and Guidelines set out in Section 2 and may involve you and others giving written statements and/or attending meetings.
- The manager will report the outcome to the relevant Executive who will arrange for any necessary action to be taken, including reporting the matter to the police, any appropriate government department or regulatory agency and, as appropriate, referring the matter to start the disciplinary procedure.
- On conclusion of the investigation, you will be informed of the outcome. If no action is to be taken, the reason will be explained (no action will be taken if malpractice is considered not to have occurred or the matter is already subject to legal proceedings).
- Details of any disciplinary action taken against individuals are confidential to those individuals and the organisation. A person making a disclosure leading to such action may not receive details.

## Stage 2 – Clerk to the Corporation

- 3.6 If you are unhappy with the outcome at stage 1 or are concerned that a proper investigation was not completed or reported, the concerns should be expressed in writing to the Clerk to the Corporation.
- You should document your concerns ensuring the date you raise the issue is noted and keep a copy for yourself. This does not need to be a formal letter (an e-mail will suffice). You must declare any personal interest and to clarify your concerns as explained in section 3.2.
  - Any such approach will be treated with the strictest confidence and your identity will not be disclosed without prior consent (except where this is required to fulfil a legal obligation or necessary to obtain legal advice).
- 3.7 If the complaint is against the Clerk, the concern should be lodged with the Chief Executive of NCG.
- 3.8 The role of the Clerk is to:
- Assess whether the complaint falls within this Procedure;
  - Advise the Discloser of the appropriate route to lodge the complaint if it does not fall under the procedure;
  - Initiate investigations which do fall under the procedure;
  - Make recommendations to management for remedial action, and monitor management action to implement the recommendations;
  - Make regular reports to the Corporation's Audit Committee.
- 3.9 The Clerk will contact the Discloser within five working days of receiving the concern to:
- Acknowledge that the concern has been received
  - confirm there is a true and complete understanding of the matter
- 3.10 The action taken will depend on the concern, but may include:
- Internal investigation
  - Referral to the Police
  - Referral to Internal Auditors
  - Independent inquiry

To protect a Discloser, initial enquiries will be made by the Clerk to decide whether investigation is appropriate and, if so, in what form. Enquiries may be made with senior management or the governors. Concerns might be resolved by agreed action without investigation.

- 3.11 Within ten working days of receiving the concern, the Clerk to the Corporation will write to the Discloser to:
- Indicate how it is proposed to deal with the matter
  - Give an estimate of how long it will take to provide a response
  - Explain whether any initial enquiries have been made

- Explain whether further investigations are to take place and if not, why not.

3.12 You will be informed of the outcome of the investigation.

3.13 All written responses from the Clerk to the Discloser will be sent to the employee's home address rather than through the internal mail.

### **Stage 3 – External**

3.14 Once the channels laid out in this procedure have been exhausted, the Discloser may report the matter to the proper public authority if they:

- Believe on reasonable grounds that the information is accurate and that disclosure is in the public interest
- Have not made the disclosure principally for any personal gain
- Have fully utilised and exhausted all stages of this procedure.

Legislation sets out a number of bodies to which qualifying disclosures may be made. These may include amongst others

- |                          |                                    |
|--------------------------|------------------------------------|
| • the Inland Revenue     | • the Financial Services Authority |
| • Customs and Excise     | • the Office of Fair Trading       |
| • the Environment Agency | • the Health and Safety Executive  |

## **4. Linked Policies**

Disclosure Policy

## **5. Linked Procedures**

Internal Notifications Process

## **6. Location and Access to the Procedure**

The Disclosure Procedure is located as follows:

- Group website
- Group intranet
- Subcontractor portal

## **7. Person Responsible for the Procedure**

Clerk to the Corporation

## **Contact Information**

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