

Humber Learning Consortium

Whistleblowing Policy



The purpose of this policy is to provide a means for members of staff to raise legitimate concerns, without fear of reprisal, and to promote the highest standards of probity within HLC.

The policy outlines the benefits and implications of whistleblowing and sets out a clear procedure for disclosure and investigation, including the responsibilities of the individuals disclosing and investigating a concern.

**Prepared by
Humber Learning Consortium**

(This document is designed to be printed double sided)

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PART 1: Introduction

1.1 Purpose and Scope

The purpose of this policy is to provide a means for members of staff to raise legitimate concerns regarding illegal or improper conduct, without fear of reprisal, and to promote the highest standards of probity within HLC.

"Whistleblowing is the disclosure by an employee (or professional) of confidential information which relates to some change, fraud or other illegal or unethical conduct connected with the workplace, be it of the employer or his fellow employees"

Lord Barrie QC Business Ethics and Accountability

The Public Interest Disclosure Act 1998 received Royal Assent on 2 July 1998 and became law in January 1999. It is designed to protect Whistleblowers from detriment and unfair dismissal.

HLC Board and Senior Management Team (SMT) fully support this whistleblowing policy, which will allow legitimate concerns about conduct, financial irregularity and possible unlawful action to be raised confidentially.

This procedure aims to ensure staff confidence in the integrity of the system that will avoid the necessity of external publication of concerns before they have been raised and investigated internally. The Whistleblowing Procedure is intended to protect and support both whistleblower and the accused from victimisation prior to, during and after the period of investigation. The procedure applies to, but is not limited to, allegations of the following;

- Conduct which is an offence or breach of the law
- Alleged miscarriage of justice
- Serious Health, safeguarding & Safety risks
- Unauthorised use of public funds
- Possible fraud, corruption and theft
- Abuse of authority
- Other unethical conduct

Whistleblowing is not to be used to raise grievances or harassment concerns concerning personal employment circumstances as these are dealt with through the respective grievance and harassment policies.

HLC has an established system designed to quickly resolve and redress employee grievances, i.e. relating to a specific individual's employment, in a manner which is fair and professional.

1.2 Statement

The term 'whistleblowing' has been accepted to include both the raising of a matter internally as well as a wider disclosure. The Nolan Committee has used the term to mean the confidential raising of problems within an organisation or within an independent review structure associated with that organisation, not in the sense of leaking information to the media.

The advantages of a procedure for whistleblowing are as follows:

- to provide a channel and process for individual employees to raise genuine and legitimate concerns
- to deter serious malpractice
- to avoid crisis management and public criticism
- to promote accountability throughout HLC

This procedure is intended to give everyone the opportunity to act professionally and with propriety if there are genuine concerns of malpractice.

1.3 Definitions

Note the link below to the Government website on the definition of a Whistleblower which is also below.

<https://www.gov.uk/whistleblowing/what-is-a-whistleblower>

What is a whistleblower

You're a whistleblower if you're a worker and you report certain types of wrongdoing. This will usually be something you've seen at work - though not always.

The wrongdoing you disclose must be in the public interest. This means it must affect others, e.g. the general public.

As a whistleblower you're protected by law - you shouldn't be [treated unfairly or lose your job](#) because you 'blow the whistle'.

You can raise your concern at any time about an incident that happened in the past, is happening now, or you believe will happen in the near future.

Complaints that count as whistleblowing

You're protected by law if you report any of the following:

- a criminal offence, e.g. fraud

- someone's health and safety is in danger
- risk or actual damage to the environment
- a miscarriage of justice
- the company is breaking the law, e.g. doesn't have the right insurance
- you believe someone is covering up wrongdoing

Complaints that don't count as whistleblowing

- Personal grievances (e.g. bullying, harassment, discrimination) aren't covered by whistleblowing law, unless your particular case is in the public interest.

PART 2: Criteria

2.1 Serious Disciplinary Offences

HLC confirms that it will consider as a serious disciplinary offence:

- Any management or staff action attempting to prevent or deter an individual from raising a genuine concern relating to fraud, corruption or malpractice, or to harass the individual showing those concerns.
- Any abuse of the whistleblowing system through maliciously raising unfounded allegations.
- Making public any allegation of fraud, corruption, or malpractice without raising it internally and allowing full investigation through the established procedures thereby bringing HLC into disrepute.

2.2 Learners

Learners are afforded the opportunity to raise their concerns via the HLC Complaints and Compliments Policy procedure.

2.3 Protection

The Public Interest Disclosure Act will protect workers who disclose information in the correct manner from dismissal or penalisation by their employer. The definition of 'worker' is broader than 'employee' and applies to individuals who:

- are employed under a contract of employment
- are employed under any other contract under which they perform personally, any work or services for another party
- work or worked for a person in circumstances which:
 - He/she is or was introduced or supplied to do that work by a third person, i.e. agency workers
 - Is or was provided with work experience provided pursuant to a training course or programme

- Is training for employment other than under a contract of employment or by an educational establishment on a course run by that establishment, i.e. learners

To qualify for protection for disclosure you must:

- be acting in good faith
- have reasonable grounds for believing that the information disclosed indicates the existence of one of the following problems
 - that a criminal offence has been committed, is being committed or is likely to be committed
 - that a person has failed, is failing or is likely to fail to comply with any legal obligation to which he/she is subject
 - that a miscarriage of justice has occurred, is occurring or is likely to occur
 - That the health and safety of any individual has been or is likely to be damaged. It must indicate greater danger than is associated with the normal use of the process/product, or a danger that is not usually associated with it
 - That deliberate concealment of any of the above has occurred, is occurring, or is likely to occur.

This procedure is intended to encourage staff to inform senior management if they are concerned about serious malpractice, fraud or corruption, etc. in order that senior management can investigate. It is not meant to be another mechanism for you to raise private grievances.

PART 3: Disclosure Procedure

3.1 Discretion

Any matter raised under this procedure will be treated in the strictest confidence and every effort will be made not to reveal a whistleblower's identity, unless the whistleblower otherwise requests. HLC will not, without the whistleblower's consent, disclose the identity of a whistleblower to anyone other than a person involved in the investigation/allegation. Furthermore, any investigation will be carried out discretely and the nature of the allegations and the name of those implicated will not be made public. If the allegation results in court proceedings, then the whistleblower may have to give evidence in court.

3.2 Anonymous Allegations

This procedure encourages whistleblowers to put their name to an allegation wherever possible as anonymous allegations may often be difficult to substantiate or prove. Anonymous allegations will be considered at the discretion of the SMT / Board, taking the following factors into account;

- seriousness of the issue raised
- credibility of the allegation

- whether the allegation can realistically be investigated from factors or sources other than the complainant

3.3 Unsubstantiated / Untrue Allegations

No disciplinary or other action will be taken against a whistleblower who makes an allegation in the reasonable belief that it is in the public interest to do so even if the allegation is not substantiated by an investigation. However, disciplinary action may be taken against a whistleblower who makes an allegation without reasonable belief that it is in the public interest to do so (e.g. making an allegation frivolously, maliciously or for personal gain where there is no element of public interest).

3.4 Who to Inform

If you have reasonable grounds for believing that malpractice of the type included in 1.3 and 2.3 above is happening in HLC the matter should be raised with your Manager or a member of the Senior Management Team, to allow action to be taken if necessary.

If you suspect that a member of the Senior Management Team is involved in the malpractice, you should contact the CEO. Similarly, if you suspect that both the CEO and persons from the Senior Management Team are involved you should contact the Chair of the Board of Trustees.

If the concern is about SMT and a member or all of the Board of Trustees then you should contact Protect on 020 3117 2520. <http://www.pcaw.org.uk>

3.5 How to Inform

You may raise the matter either in writing or orally. The following is an indication of the key information required on disclosure;

- The name of the person making the allegation and a contact point.
- The background and history of the allegation (giving relevant dates, names and positions of those who may be in a position to have contributed to the allegation);
- The specific reason for the allegation, including any evidence to help establish that there are reasonable grounds for the allegation.

A full note of the above (not identifying the complainant) will be made by the person hearing the concern.

Any concerns about malpractice should always be raised internally in the first instance.

Someone making an allegation may be accompanied by another person of their choosing during any meetings or interviews in connection with the allegation.

3.6 What will happen?

An appropriate investigation will be arranged, which may be with internal or external auditors.

3.7 Responsibilities of the Investigator

The person responsible for the investigation will acknowledge receipt of your concern and also note, record of allegation, acknowledgement of the allegation, and documents supplied by the whistleblower, in writing within five days. An interview may be arranged to establish facts in which case the person conducting the interview should be accompanied by a member of the Senior Management Team, and a record of the interview will be made.

The investigator will ask the whistleblower for his/her preferred method of communication and contact details.

An initial assessment will be undertaken within 10 working days of the receipt of the allegation, and this could include;

- An indication of how HLC propose to deal with the matter.
- An estimate of how long it will take to provide a final response.
- An indication of enquiries that have been made including any legal / external advice sought.
- Information on whistleblower support mechanisms
- Indication as to whether further investigations will take place and if not, why not

If the allegation relates to fraud or other financial irregularity, or allegation of a criminal offence, the Chair of HLC's board will be notified immediately on the receipt of the allegation (unless the HLC's Chair is involved in the malpractice). If there is evidence of criminal activity then the police will be informed, and HLC will ensure that any investigation does not hinder a formal police investigation. If the allegation relates to the safeguarding of children and/or vulnerable adults the appropriate authorities will be informed immediately.

The person responsible for the investigation will, with a member of the Senior Management Team, consider what action should result.

The possible outcomes include the following:

- External investigation
- Report to outside body (for example the ESFA, National Lottery, DWP)
- Report to the Police
- No Further Action

The person raising the concern may be advised in writing of the outcome of the investigation. Where the allegation has been made internally and anonymously, HLC will be unable to communicate with the whistleblower what action has been taken.

A report will be made to the Board of Trustees (Unless one of them is involved in the original allegation in which case those not involved will be consulted) on the steps that have been taken and the outcome of the investigation.

3.8 Support for Whistleblowers and Investigators

HLC will take steps to minimise any difficulties which may be experienced by whistleblowers and investigators as a result of any allegations / investigations, which includes access to HLC mental health first aiders and signposting to appropriate support agencies. If a whistleblower / investigator is required to give evidence in criminal or disciplinary proceedings, HLC will provide advice about the procedure and discuss / advise on support mechanisms available within both HLC and external partners.

PART 4: Further Steps

4.1 Dissatisfaction with the outcome

If the person raising the concern is still not satisfied that their concern has been adequately addressed, the CEO and Senior Management Team should be informed. One further meeting with a new investigating officer can be arranged, or alternatively HLC may raise it with an independent body or an external regulator.

4.2 Dissatisfaction with the investigator

If you feel that the person responsible for the investigation is not dealing with the matter properly, you should raise it in confidence with the Board of Trustees (Unless one of them is involved in the original allegation in which case those not involved will be consulted) who will act as an audit committee.

The SMT / Board of Trustees are responsible for considering the allegations in the light of evidence from the investigation and for determining the appropriate course of action. If you disagree with the decision taken you should discuss the matter with the Chief Executive / Chair.

4.3 Dissatisfaction with the audit committee

If, after following this procedure, you are still not satisfied it may be appropriate for you to contact an external agency such as ACAS, Charity Commission, Protect; the Health and Safety Executive, Funding Agencies, National Audit Office, a legal adviser, or the local MP. Such a step would have serious implications for HLC and should only be taken after very careful consideration. It is advisable to take advice before taking action, from a union representative, for example.

Under no circumstances should you talk to the press, radio, TV, or anyone else without the Board of Trustees expressed permission.

PART 5: Safeguards

5.1 It is a Lawful Act

It is clearly established in law that the disclosure of confidential information in the public interest is a lawful act. You cannot therefore be disciplined for using this procedure, provided:

- (a) You have followed the stages set down within it
- (b) You have acted in good faith and not for personal gain or out of personal motives.

Whistleblowing Policy

Appendix A

Speaking up at HLC

Why Speak Up?

Have you ever had concerns about what is happening in your place of work?

Maybe you suspect criminal activity or financial irregularity?

Perhaps you are concerned about some dangerous working practice or conditions?

This leaflet has been produced to help you follow the right route to have your concerns heard and dealt with quickly. It is supported by a more detailed Public Interest Disclosure Policy (often referred to as whistleblowing) which explains:

- What situations might be covered by the policy
- What form an investigation might take
- The various options available to take the matter further
- Your rights under the Public Interest Disclosure Act.

The Whistleblowing Policy is available from the HLC Administration Team.

What's the First Step?

- In the first instance, speak or write to your line manager
- If this is not possible you can raise your concern either verbally or in writing with the Senior Management Team or CEO. If you raise your concerns with a manager they will, on your behalf inform the Senior Management Team or CEO.
- If you would like external independent advice you can contact the charity Protect who will be happy to discuss the most appropriate way for you to take your concerns forward.

Whistleblowing Telephone (general enquiries and helpline) 020 3117 2520

UK advice line: whistle@pcaw.org.uk

UK services: services@pcaw.org.uk

Email: UK enquiries whistle@pcaw.co.uk

UK helpline helpline@pcaw.co.uk

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Appendix B

How HLC will treat your concern

What we will do

We will treat your concerns seriously and sensitively. A prompt and confidential meeting will be arranged with you to explain how the investigation will proceed. You may, of course, be accompanied at all meetings by a colleague or trade union representative to support you in making a disclosure.

In order to be fair to both you and the person(s) you are naming we will look into your concerns very thoroughly and interview all relevant individuals.

The person investigation your concern has the authority to involve the CEO and the Senior Management Team (provided they are not implicated in any disclosure). It is also possible that outside agencies or authorities could be involved if appropriate.

We promise that

- Any concerns will be treated seriously
- A request for confidentiality will be respected as far as possible and any difficulties this may cause will be discussed with you
- Where possible a remedy will be sourced quickly. However, sometimes the investigation may, out of necessity, be protracted
- No harassment or victimisation of any individual speaking up will be tolerated

It is preferred that:

You do not raise your concerns outside of HLC and you only use this procedure for serious malpractice.

You do not use this procedure for anonymous complaints, although if you feel unable to raise your concerns in any other way, and if there appears to be sufficient grounds, HLC will try to investigate. This depends on the available evidence and the seriousness of the allegation.

It should be noted that issues to do with personal harassment or matters relating to your personal employment situation should be raised via the Harassment Policy or the Grievance Procedure.

If it is found that there has been abuse of this procedure either by disclosure outside HLC or by making malicious allegations this may lead to serious disciplinary measures being taken.

This leaflet is designed to help staff to quickly access relevant policies and procedures so that issues are dealt with promptly and effectively. It does not form part of your terms and conditions of employment and does not affect your rights at law.