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1. Introduction

- 1.1. The College Corporation Board and Executive take seriously the need to operate in a climate of openness. This needs to be a climate in which Corporation members and staff can raise legitimate grievances without fear of reprisal and the College is administered honestly and ethically.
- 1.2. Members of staff are often the first to realise that there may be something seriously wrong within an organisation. They may, however, not express their concerns because they fear that speaking up would be disloyal to their colleagues or to the organisation.
- 1.3. This document makes it clear that staff may do so without fear of victimisation, subsequent discrimination, or disadvantage.
- 1.4. This confidential reporting procedure is intended to encourage and enable employees to raise serious concerns within the College, rather than ignoring a problem or "blowing the whistle" outside (see paragraphs 4 and 5). However, nothing in this procedure should be seen to encourage the deliberate lodging of false, vexatious or malicious complaints.
- 1.5. **The Public Interest Disclosure Act 1998** is intended to encourage employees to raise their concerns in a responsible way if they believe there is a practice within an organisation which threatens the public interest.
- 1.6. This procedure acts in conjunction with other College policies and procedures. Whistleblowing is generally taken to mean the public disclosure by an employee of wrong doing within an organisation. Whistleblowing does NOT include personal grievances about managers and should only be used as a last resort when all other channels have been exhausted. e.g. The Grievance Procedure, Safeguarding Policy, Fraud plan and Financial Regulations and Malpractice.

2. Scope

- 2.1. This procedure would apply to all Corporation Members and all employees of Darlington College. This will include agency staff, volunteers and suppliers. It is non-contractual and may be varied from time to time by the Corporation in consultation with recognised staff representatives. In general, this procedure does not apply to student concerns and students are encouraged to raise any issues via the College's Quality team at customercomments@darlington.ac.uk.
- 2.2. The intention of the procedure is that employees will raise their concerns internally initially. The Public Interest Disclosure Act strictly regulates the situations in which employees may raise the matter externally. Employees will only be protected if they make a qualifying disclosure which is an allegation of one of the relevant failures summarised below:
 - That a criminal offence has been or is likely to be committed;
 - That a person has failed, is failing, or is likely to fail to comply with a legal obligation to which she/he is subject;

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- That a miscarriage of justice has occurred, is occurring, or is likely to occur;
- That the health and safety of any individual has been, is being, or is likely to be jeopardised;
- That the environment has been, is being, or is likely to be damaged;
- That information intending to show any matter falling within the above categories has been, is being, or is likely to be deliberately concealed.
- Other serious unethical conduct

2.3. If employees do raise such concerns, they will be protected from subsequent victimisation, as long as their case falls within the detailed criteria in the legislation.

3. Aims of the Whistleblowing Procedure

- 3.1. To encourage staff to feel confident in raising concerns and to question and act upon concerns about practice;
- 3.2. To provide avenues for staff to raise those concerns and receive feedback on any action taken;
- 3.3. To reassure staff that they will be protected from possible reprisals or victimisation if they have a reasonable belief that they have made a disclosure in good faith.
- 3.4. There are existing internal procedures in place to enable staff to lodge a grievance relating to their own employment or where they feel that they have been unfairly treated and this must be followed using the internal procedures.

4. Initial Steps for Members of Staff making a disclosure

- 4.1. If a member of staff believes that all internal informal and formal avenues have been exhausted, or that no appropriate avenue exists to address the concern in question, there are a number of avenues to make a disclosure.
- 4.2. Disclosures may be made verbally or in writing or in person. Employees will need to provide information about the nature of the concern. This should include why it is believed to be true and any background and history to the concern. Employees will be encouraged to submit a written statement and to put their name to it. This is because concerns expressed verbally and/or anonymously are less powerful. Concerns expressed anonymously may still be considered depending on the seriousness and credibility of the issue raised.
- 4.3. Although an employee making a disclosure will not be expected to prove the truth of any allegation, there should be enough information in the disclosure to show that reasonable grounds for the allegation exist.

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4.4. An employee wishing to make a disclosure has the right to seek the assistance of their trade union. They also have the right to be accompanied by a trade union representative or colleague who is not involved in the area of concern to which the disclosure relates.

5. Process for Specific Matters

5.1. *Personal employment matters*

This procedure is not designed for concerns about the way employees have been treated personally, or about matters relating to their own employment. There is a Grievance Procedure in place and that procedure should be used in those circumstances.

5.2. *Misuse of college funds or property / public money*

If the concern relates to the misuse of College funds/public money, financial malpractice or impropriety, this should be raised in the first instance with the Director of Finance and Corporate Resources. If the concern relates to the conduct of the Director of Finance and Corporate Resources, then the matter should be raised with the Principal / Chief Executive. If the employee considers that the Principal / Chief Executive may be involved in the potential misuse of public money, the matter can be referred to the Clerk to the Corporation. The Clerk will consider referring the matter to the Chair of the Corporation or Chair of the Audit Committee.

5.3. *Failure to safeguard a child or vulnerable adult student*

If the concern relates to a safeguarding issue that has not been dealt with, or not dealt with in an appropriate and timely manner, this should be raised in the first instance with the College's Designated Safeguarding Lead (DSL) who is the Deputy Principal. If the concern relates to the conduct of the DSL, the matter should be raised with the Principal / Chief Executive.

5.4. *Other, including malpractice*

If the concern is around malpractice, this should be raised in the first instance with the employee's curriculum or business support manager. They may need to take advice from a Senior Post Holder if they believe the concern falls within the scope of the Whistleblowing procedure. If the concern relates to malpractice at manager level, then it should be raised with a member of the Executive team. If the employee considers that the concern relates to the Principal / Chief Executive, the matter can be raised with the Clerk of the Corporation. The Clerk will consider referring the matter to the Chair of the Corporation.

5.5. *Misconduct of staff*

In cases involving potential staff misconduct, the HR Manager should be advised confidentially by the relevant Senior Post Holder or the Clerk to the Corporation. This can be done without revealing the identity of the employee making the disclosure. Senior Post Holders are: Principal / Chief Executive; Deputy Principal; and Director of Finance and Corporate Resources.

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6. Dealing with a reported public interest concern

- 6.1. All concerns will initially be treated confidentially and every effort will be made not to reveal the identity of the discloser ie: the employee making the disclosure.
- 6.2. The discloser may be asked to give more information or participate in an enquiry or investigation. However, they would not be asked to do this without their written consent. The success of internal investigations, disciplinary proceedings and criminal prosecutions may be dependent on the willingness of disclosers to participate. If a discloser is needed as a witness, the College will provide appropriate support and guidance to enable them to have confidence in giving evidence.
- 6.3. In general, the Clerk to the Corporation will not reveal the identity of the discloser without their permission unless:
- The Clerk is under a legal obligation to do so;
 - The information is already in the public domain;
 - The Clerk needs the information to prepare a report (treated confidentially);
 - The Clerk needs to obtain advice from a professional qualified lawyer (treated confidentially);
 - It is clear that the disclosure is deliberately untrue, vexatious and/or malicious.
- 6.4. The Senior Post Holder or Clerk to the Corporation will acknowledge receipt of the disclosure. They will then consider the information contained and determine whether the disclosure falls within the terms of this procedure, or whether the matter should be dealt with through another existing approved procedure. Initial enquiries will be made to decide if an investigation is appropriate, and if so, what form it should take. This is in order to protect individuals and those accused of misdeeds or possible malpractice. Concerns or allegations which fall within the scope of specific procedures (for example, those relating to Safeguarding) will normally be referred for consideration under the relevant procedures.
- 6.5. If the Senior Post Holder or Clerk to the Corporation believes that the matter disclosed falls within the scope of the Whistleblowing procedure, they will decide how best to proceed. This may be through:
- An internal management investigation;
 - An internal audit investigation;
 - A disciplinary procedure investigation;
 - A referral to the police, external auditors or local authority;
 - A call for an independent enquiry.
- 6.6. In some cases, it may be possible to deal with a disclosure by agreed action without the need for further investigation.
- 6.7. In determining what route to take, the Senior Post Holder or Clerk to the Corporation may need to take advice or consult with senior colleagues as necessary.

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6.8. If a disclosure is to be the subject of internal investigation, the Senior Post Holder or Clerk to the Corporation will determine who should undertake the investigation and its terms of reference.

7. Initial Action and Feedback

7.1. The Senior Post Holder, or Clerk to the Corporation will let the employee who has made the disclosure know what action, if any, is to be taken.

7.2. If no action is to be taken, the Senior Post Holder or Clerk to the Corporation (or whoever has assumed that role in accordance with the procedure) will write to the person who has made the disclosure to explain the reason why no action is to be taken.

7.3. If the disclosure was made by a Senior Post Holder, they may request the Clerk to the Corporation to review the disclosure and the reasons given for not taking further action. If the subject of the disclosure is financial malpractice or impropriety, it may be the Chair of the Corporation or Chair of the Audit Committee who undertakes the review. In this instance, the Clerk, Chair of the Corporation or Chair of the Audit Committee, will either confirm the decision that no further action be taken, or determine what further action is to be taken. Their decision will be final,

7.4. Where a decision is made to conduct an internal investigation, the person against whom the allegation is made will be provided with a copy of the disclosure and any evidence supporting it. This will be provided by the Senior Post Holder Manager or Clerk to the Corporation. The person who is the subject of the allegation will have the opportunity to make a full response to the disclosure during the course of the investigation.

7.5. Normal rights of representation will apply to all parties during the course of such internal enquiries. In cases where the person who is the subject of the allegation is at potential risk of criminal prosecution, the right to professional legal representation will apply.

7.6. In the event of a decision to call for an independent enquiry, the person against whom the allegation is made will be provided with a copy of the disclosure and any evidence supporting it. This will be provided by the Senior Post Holder or Clerk to the Corporation.

7.7. If it is necessary to refer the matter directly to the Police, the provision of a copy of the disclosure and any evidence to the person against whom the allegation is made, will be at the absolute discretion of the Police.

8. Subsequent Action

8.1. When an internal investigation has been completed, a written report will be submitted by the Senior Post Holder to the Principal / Chief Executive. The Principal / Chief Executive will then determine what action, if any, should be taken in the circumstances. This might include

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invoking other approved College procedures such as Disciplinary, Grievance or Complaint and Harassment procedures, or referral to an appropriate external authority.

- 8.2. In any circumstance where the Principal / Chief Executive is identified as a party directly involved in the concern expressed by the discloser, a written report will be submitted by the Clerk to the Corporation to the Chair of the Corporation. Where the Principal / Chief Executive and the Chair of the Corporation are both involved, the report will be submitted to the Chair of the Audit Committee.
- 8.3. If it is found that a rule or regulation has been breached which forms part of an agreement or contract between Darlington College and an external body (eg examinations board or awarding body) the appropriate Senior Post Holder must notify the external body in writing of the breach and supply any additional information requested by that body. The Senior Post Holder must also notify the Clerk to the Corporation who will keep a record of any action and report this to the Corporation accordingly.

9. Reporting of Outcomes

- 9.1. A report of all disclosures, preserving confidentiality where appropriate, and any subsequent action will be made to the Audit Committee. This may be by the Principal / Chief Executive, or Clerk to the Corporation, or Chair of the Corporation, as appropriate. The Audit Committee will have the responsibility for the maintenance of oversight of this policy and procedure. A record of all disclosures will be kept by the Principal / Chief Executive or the Clerk to the Corporation in line with retention procedures.

10. Protection of Involved Parties

- 10.1. Darlington College recognises that the decision to make a disclosure can be a difficult one. However, if this is done in good faith and is based on genuine belief of malpractice, staff have nothing to fear. They will be acting in a manner which is consistent with their duty to Darlington College and the public. In such circumstances Darlington College will neither initiate nor tolerate harassment or victimisation of disclosers and will invoke disciplinary procedures against those who might react in this way.
- 10.2. Conversely Darlington College has an obligation to protect its staff and other parties from deliberately untrue, vexatious and/or malicious disclosures. Where there are reasonable grounds to believe that this is the case disciplinary procedures may be initiated. Disciplinary procedures may also be initiated if disclosure is made to an external body which is not an appropriate regulatory body.

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11. What do I do if I am unhappy with the College’s decision?

11.1. The Corporation is responsible for considering the allegations in the light of the evidence from the investigation and for determining the appropriate course of action. If an employee disagrees with the decision taken, they should discuss the matter with the Chair of the Corporation.

11.2. If the employee is still not satisfied, concerns may be reported to:

- College Internal Auditors at,
Head of Operations (Workforce)
AuditOne,
Kirkstone Villa,
Earls House Hospital,
Lanchester Road,
Durham DH1 5RD
0191 441 5916
- or Protect Advice line: whistle@protect-advice.org.uk
The Green House,
244-254 Cambridge Heath Road,
London E2 9DA
This is a registered charity who run a free, confidential whistleblowing advice line on
020 3117 2520

11.3. This action may have serious implications for the College and should only be taken after very careful consideration. Under no circumstances should employees talk to the press, radio, TV or anyone else without the Principal / Chief Executive’s express permission. Reporting to the media is rarely, if ever, protected under the Whistleblowing legislation and an employee would not be protected if they receive a payment from the press for a story.

End of Procedure.

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