

Whistleblowing Procedure
(Previously known as the Whistleblowing Policy)

Purpose of Policy/ Document

The Procedure explains the procedure for raising a concern (whistleblowing) under the Public Interest Disclosure Act 1998 and the types of wrongdoing that might be disclosed in this way.

Application of Policy (Range and Scope)

The Procedure applies to “workers” – defined as employees, officers, consultants, contractors, volunteers, interns, casual workers and agency workers.

Particular Legal Requirements/Issues Outside of Equality, Diversity and Disability (E.D.D)
Public Interest Disclosure Act 1998

Other related College Policies: Fraud Policy, Anti-Bribery Policy, Complaints Policy, Grievance Procedure, Safeguarding Policy, Prevent Strategy, Managing Allegations Policy, Bullying and Harassment Policy

Equality, Diversity and Disability (Disability, Equality, Duty Impact Assessment)

Has a Preliminary Equality Analysis been completed?

***Yes**

Date Completed: 26 February 2015

Is a full Impact Assessment required?

No

If ‘yes’, has a copy been sent to the Equality Manager?

N/A

For Completion by the Executive:

POLICY REFERENCE	GOV02
CATEGORY	Governance
VERSION	04
AUTHOR / ORIGINATOR	Clerk to the Corporation
ISSUE DATE	12 September 2023
REVIEW DATE	September 2026
POSTHOLDER RESPONSIBLE FOR REVIEW	Clerk to the Corporation
RATIFIED /AUTHORISED BY	Corporation

WHISTLEBLOWING PROCEDURE

1. Introduction

The College Corporation, Principal and Senior Leadership Team are committed to ensuring that there is a climate of openness in the College in which staff can raise legitimate concerns without fear of reprisal. They also want to ensure that the College is administered honestly and ethically, and that the business of the Corporation and the College is conducted openly and with accountability.

The College is committed to the highest possible standards of openness, probity and accountability, and expects workers who have serious concerns about any aspect of the College's work to come forward and voice these concerns, using the Whistleblowing Procedure (which relates to Public Interest Disclosure) if appropriate.

Workers are protected from dismissal or other unfavourable treatment if they make disclosures in accordance with the Public Interest Disclosure Act 1998 ("PIDA"). Such disclosures have become known as "Whistleblowing" and the second report of the Nolan Committee on Standards in Public Life recommended that organisations adopt codes of practice to enable concerns to be raised confidentially inside, and if necessary, outside, the organisation about fraud, corruption, malpractice, health and safety or unethical conduct.

Heart of Worcestershire College takes malpractice seriously. The Whistleblowing Procedure is designed to allow all involved to act professionally and with propriety, to preserve the confidentiality of the person raising the concern as far as possible and to ensure that concerns raised in the public interest can be properly investigated and resolved within the College.

The aim of this Procedure is to provide an internal mechanism for reporting, investigating and remedying any wrongdoing in the workplace. In most cases a worker should not find it necessary to alert anyone externally.

The law recognises that in some circumstances it may be appropriate for a worker to report his/her concerns to an external body such as a regulator. It will very rarely if ever be appropriate to alert the media. Workers are strongly encouraged 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 in Section 12 of this policy.

The Whistleblowing Procedure does not form part of any College employee's Contract for Employment and may be amended from time to time.

2. What Is Whistleblowing?

Although not legally defined, Whistleblowing is generally taken to mean the (usually public) disclosure by a worker of wrongdoing within an organisation.

To qualify for protection under the PIDA, the worker making the disclosure (a “Whistleblower”) must reasonably believe that the disclosure is made ‘in the public interest’ and that one of the following qualifying grounds applies:

- that a criminal offence (examples include suspected fraud, financial irregularities, corruption, bribery, dishonesty) 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 or regulatory 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, is being, or is likely to be endangered;
- that the environment has been, is being, or is likely to be damaged;
- that information tending to show any matter falling within any one of the preceding paragraphs has been, is being, or is likely to be deliberately concealed.

A Whistleblower is a person who raises a genuine concern relating to any of the above. If a worker has any genuine concerns related to suspected wrongdoing or danger affecting any of the College’s activities (a whistleblowing concern) he/she should report it under this policy.

As a Whistleblower, a worker is encouraged to follow this procedure and must act in the public interest and have reasonable grounds to believe that the information put forward is accurate.

In the public interest must be distinguished from matters considered to be of the public interest i.e., matters which are simply interesting to the public.

If a worker uses the Whistleblowing Procedure knowingly to make false, vexatious or malicious accusations, to support a personal vendetta, or to avoid disciplinary proceedings, he/she may be committing a disciplinary offence. Wilful misuse of this Procedure could constitute an act of gross misconduct and may lead to disciplinary action up to and including dismissal.

3. Interaction With Other Policies

The Whistleblowing Procedure should be used for serious malpractice where it is in the public interest. This policy should not be used for complaints relating to a worker’s own personal circumstances, such as the way a worker has been treated at work. In those cases, a worker should use the Grievance Procedure or Prevention of Harassment and Bullying Policy.

This policy is overseen by the Audit Committee who ensure that the external auditor (and internal auditor if applicable) is informed of investigation outcomes and other matters of fraud, irregularity and impropriety, and that appropriate follow-up action has been planned/actioned.

Workers should first consider whether another College Policy may be more appropriate for their needs. For example:

- The College has a Fraud Policy and Fraud Response Plan and an Anti-Bribery Policy and Procedures which are operated by management. It may be more appropriate for workers to refer their concerns through their line managers under the Fraud or Anti- Bribery Policies, although they should use the Whistleblowing Procedure when appropriate if their line managers are suspected of fraudulent activity.
- The College has a Safeguarding Policy, a Managing Allegations Policy and a Prevent Strategy. Staff should be aware that any disclosures relating to the Safeguarding of Children or Vulnerable Adults

or Prevent issues need to be made immediately to one of the team of staff identified within the College for such a purpose, or, where appropriate made directly to the Police or Social Services, under the College's Safeguarding/Prevent procedures. The person at the College with overall responsibility for this area is the Designated Safeguarding Lead.

- The College has Complaints Procedures for Further Education and Higher Education which allow staff and students to raise concerns on a range of issues.

Workers who are unsure whether it is appropriate to raise their concerns under the Whistleblowing Procedure or whether another policy is more appropriate are encouraged to contact the Clerk to the Corporation, or other person specified in Section 4, in confidence for advice. (Contact details are at the end of this policy.)

4. What Should A Worker Do If They Have Concerns?

Workers are encouraged to raise concerns with their line manager in the first instance. This will not be appropriate if the line manager is implicated in any suspected wrongdoing.

If a worker has reasonable grounds for believing that malpractice of the type listed in Section 2 is happening in the College then the worker should contact the Clerk to the Corporation immediately and explain the situation to him/her. Contact may be in writing or orally. The Clerk to the Corporation's position as a Senior Post Holder directly appointed by the Corporation is one of considerable relative independence, well-placed to afford objective, independent treatment of matters brought to his/her attention through this procedure.

In cases where it is suspected that the Clerk to the Corporation is involved the worker should contact the Principal. Similarly, if both the Clerk to the Corporation and the Principal are suspected of involvement the worker should contact the Chair of the Audit Committee. In such circumstances the appropriate post title should be substituted for the references to the Clerk to the Corporation in this and later Sections.

On being informed of the concern, the Clerk to the Corporation will normally, and promptly, seek to arrange a meeting with the worker. A worker may invite a representative of a trade union or work colleague of his/her choice, subject to a reasonable request being made, to accompany him/her to the meeting with the Clerk to the Corporation (but not a solicitor, barrister or other person in a professional representative capacity). The representative of a trade union or work colleague must agree to maintain confidentiality. It will not be a requirement that the concern has been raised in writing prior to the meeting. The Clerk to the Corporation will listen carefully to the concern, taking full notes as appropriate to record an oral concern, or to amplify any specific points of a written one. The worker should provide as much supporting evidence as possible about the disclosure and the grounds for his/her belief in the malpractice.

The Clerk to the Corporation will produce notes from this initial meeting which the worker will be asked to verify as an accurate record of the concerns and the discussion.

5. What should a worker do if they have concerns about malpractice regarding examinations or assessments?

If an employee, a student, or a member of the public has a concern or reason to believe that malpractice has or will occur in an examination or assessment, concerns should normally be raised initially with the Principal. However, there may be times when it may be more appropriate to refer the issue direct to the Clerk to the Corporation, for example when the allegation is against the Principal, and to follow the general whistleblowing procedure set out in the other Sections of the Whistleblowing Procedure.

Examples of malpractice

- Failure to comply with exam regulations as set out by JCQ
- A security breach of the examination paper
- Conduct of centre staff that undermines the integrity of the examination
- Unfair treatment of candidates by either giving an advantage to a candidate or disadvantaging candidates by not providing access to the appropriate conditions
- Possible fraud and corruption
- Abuse of authority
- Other conduct that may be interpreted as malpractice/maladministration

If the individual has concerns with raising the issue/reporting malpractice within the College, or they have done so and are concerned that no action has been taken, that individual could consider making their disclosure to a malpractice expert at the awarding body for the qualification where malpractice in the examination or assessment is suspected.

In order to investigate concerns effectively, the awarding body should be provided with as much information as possible/is relevant, which may include:

- The qualifications and subjects involved
- The part of the College involved
- The names of staff/candidates involved
- The regulations breached/specific nature of suspected malpractice
- When and where the suspected malpractice occurred
- Whether multiple examination series are affected
- If the issue has been reported to the College and what the outcome was
- How the issue became apparent

Members of the public are not protected by PIDA, but the awarding body will make every effort to protect their identity, unless the awarding body is legally obliged to release it.

In some circumstances, the whistleblower might find it difficult to raise concerns with the Principal. If a concern is raised anonymously, the issue may not be able to be taken further if insufficient information has been provided. In such instances, and if appropriate, the allegation may be disclosed to a union representative, who could then be required to report the concern without disclosing its source. Alternatively, Whistleblowers or others with concerns about potential malpractice can report the matter direct to Ofqual, which is identified as a 'prescribed body'.

A Whistleblower can give his/her name but may also request confidentiality; the person receiving the information should make every effort to protect the identity of the Whistleblower.

6. How Will The Concern Be Resolved?

The Clerk to the Corporation will advise the worker in writing of what follow up action will be taken, if any, within five working days of the initial interview.

The Clerk to the Corporation will first determine whether or not he/she believes that the disclosure is wholly without substance or merit. If the Clerk to the Corporation considers that the disclosure does not have sufficient merit to warrant further action, the worker will be notified in writing of the reasons for that decision and advised that no further action will be taken under this procedure. Considerations to be considered when making this determination may include (but are not limited to) the following:

- If the Clerk to the Corporation is satisfied that the worker does not have a reasonable belief that suspected malpractice is occurring;
- If the matter is already the subject of legal proceedings or appropriate action by an external body;
- If the matter is already subject to another appropriate procedure.

If the Clerk to the Corporation decides that there is some substance or merit, he/she will decide either that the concern should be investigated or that it should be rejected on the basis that it does not fall within the terms of the Whistleblowing Procedure (for example, where it relates to a worker's personal situation or where it is more appropriate to use other College Policies or Procedures). The Clerk to the Corporation's options include advising the worker:

- that no further action will be taken, giving the reasons for this;
- to pursue the matter through a more appropriate College procedure e.g., the Grievance Procedure;
- that further investigations will be carried out within the College. These further investigations should normally take no longer than fifteen working days to complete.

If the Clerk to the Corporation concludes that it is not appropriate to pursue the concern further under the Whistleblowing Procedure, there will be a right of appeal against this decision to the Vice Chair of the Corporation. In the event of an appeal, the Clerk to the Corporation will provide the Vice Chair with a written record of the process up to that stage, including all documentation considered by him/her. The Vice Chair may, at his/her sole discretion, decide the appeal based on the documents or may in addition invite the worker to a meeting before reaching a decision. The Vice Chair may determine that the concern should be investigated. The worker must wait until the outcome of any such appeal before using other College Policies or Procedures.

7. Who Will Be Responsible For Investigating The Concern?

The Clerk to the Corporation may investigate the concern. In appropriate circumstances, he/she will appoint someone else to investigate the matter. Depending on the nature of the concern, in some circumstances internal or external auditors may be the appropriate body to conduct an investigation and the Clerk to the Corporation is authorised to contract such services and to obtain legal advice where appropriate.

If it is thought appropriate, consideration will be given to involving the Police or relevant authorities. In particular, the Clerk to the Corporation will exercise caution to ensure that any investigation does not hinder a formal external investigation.

The worker may be required to meet the Clerk to the Corporation or appointed investigator again in order to clarify points or provide further information.

8. How Will The Concern Be Resolved?

The Clerk to the Corporation will advise the worker in writing of the outcome of the investigation normally within five working days of the conclusion of the investigation. The Clerk to the Corporation's options include advising the worker:

That the investigation supports the worker's concern and action has been taken in response, which may include:

- notification of internal action to be taken as a result of the concern;
- notification to an appropriate outside authority e.g., the Education and Skills Funding Agency, the Department for Education, the Health & Safety Executive, the College Audit Service, the National Audit Office, an appropriate Examining Body, the Police, Local Councillor or MP, or other public authority. The Clerk to the Corporation will advise the Principal, the Chair of the Audit Committee, and the Corporation Chair before taking this step;
- that there are grounds for believing that the case has been brought maliciously and that the case has been referred to management to consider what action is appropriate within College policies and procedures.

9. Will The Matter Be Treated Confidentially?

The Corporation hopes that workers will feel able to voice whistleblowing concerns openly under this policy. However, if a worker wants to raise concerns confidentially, every effort will be made to keep his/her identity secret. If it is necessary for anyone investigating the concern to know the worker's identity, that will be discussed with the worker.

10. Anonymous Allegations

Workers are not encouraged to make disclosures anonymously. Proper investigation may be more difficult or impossible if further information cannot be obtained from the worker. It is also more difficult to establish whether any allegations are credible. Whistleblowers who are concerned about possible reprisals if their identity is revealed should come forward to the Clerk to the Corporation, and appropriate measures can then be taken to preserve confidentiality. If a worker is in any doubt, he/she can seek advice from Protect, the independent whistleblowing charity, who offer a confidential helpline. Their contact details are in Section 13.

11. How Will A Worker Know What Is Happening?

The Clerk to the Corporation will acknowledge receipt of a concern, in writing, within five working days, and will keep the worker informed at regular intervals of the progress of the investigation and the eventual outcome, as far as possible. Any correspondence will be sent to a home address and not via the College internal mail.

All reasonable efforts will be made to try and resolve the matter as quickly as possible.

12. Access To The Corporation To Appeal The Outcome Of The Investigation

If a worker raises concerns and is not satisfied with the outcome of the investigation, he/she has the right to appeal in confidence to the Chair of the Corporation. The appeal must be in writing; the Clerk to the Corporation will provide the Chair with a written record of the process up to that stage, including all documentation considered and all correspondence to and from the worker in relation to

the concern. The worker will receive an initial written response within ten working days, followed by a full response (if appropriate) within a reasonable time.

13. What If The Worker Is Unhappy With The College's Decision?

The Chair of the Corporation is ultimately responsible for considering the allegations in the light of the evidence from the investigation and for determining the appropriate course of action. If a worker does not agree with the decision taken, he/she may request a meeting to discuss the outcome with the Chair, who may agree or decline.

If a worker remains dissatisfied and considers that the matter is sufficiently serious, he/she may wish to report it to an outside body such as the Education and Skills Funding Agency or the College's Internal or External Auditors. The Chair may, if requested, indicate which external body is appropriate in relation to the individual circumstances of the case.

The worker may wish to contact Protect (formerly known as "Public Concern at Work"), an independent charity, which provides free confidential advice on whistleblowing, (which can be contacted on 02031172520 or <https://protect-advice.org.uk/> or <https://pcaaw.co.uk/>) for advice.

If a worker feels unable to raise an issue with his/her employer or feels that his/her genuine concerns are not being addressed, other whistleblowing channels may be open to him/her:

General guidance can be found at- <https://www.gov.uk/whistleblowing>

The NSPCC whistleblowing helpline is available for staff who do not feel able to raise concerns regarding child protection failures internally. Staff can call 0800 028 0285 – line is available from 8:00 AM to 8:00 PM, Monday to Friday and email: help@nspcc.org.uk

14. What Protection Does A Worker Have If They Raise A Concern Under This Procedure?

It is understandable that workers who whistleblow are sometimes worried about possible repercussions. The College Corporation, Principal and Senior Leadership Team aims to encourage openness and will support staff who raise genuine concerns under this procedure, even if they turn out to be mistaken.

Workers who whistleblow must not suffer any detrimental treatment as a result of raising a concern. Detrimental treatment includes dismissal, disciplinary action, threats or other unfavourable treatment connected with raising a concern. If a worker believes that he/she has suffered any such treatment, the worker should inform the Clerk to the Corporation immediately. If the matter is not remedied a worker should raise it formally using the Grievance Procedure.

Workers must not threaten or retaliate against workers who whistleblow in any way. If workers are involved in such conduct, they may be subject to disciplinary action. In some cases, the Whistleblower could have a right to sue a worker personally for compensation in an employment tribunal.

14. Reporting

The Clerk to the Corporation will report regularly to the Principal and the Chair of the Audit Committee (provided that they are not implicated in the disclosure) advising them of the existence of any disclosure under this procedure including, where it will not prejudice any investigation, details of the concern (keeping the name of the worker confidential unless the worker has agreed otherwise) and

of the progress of the case and the outcome, including any notification of malpractice to an outside body. The Clerk to the Corporation will inform the Chair of the Corporation (provided that they are not implicated in the disclosure) that a concern exists and will report regularly which stage the process is at.

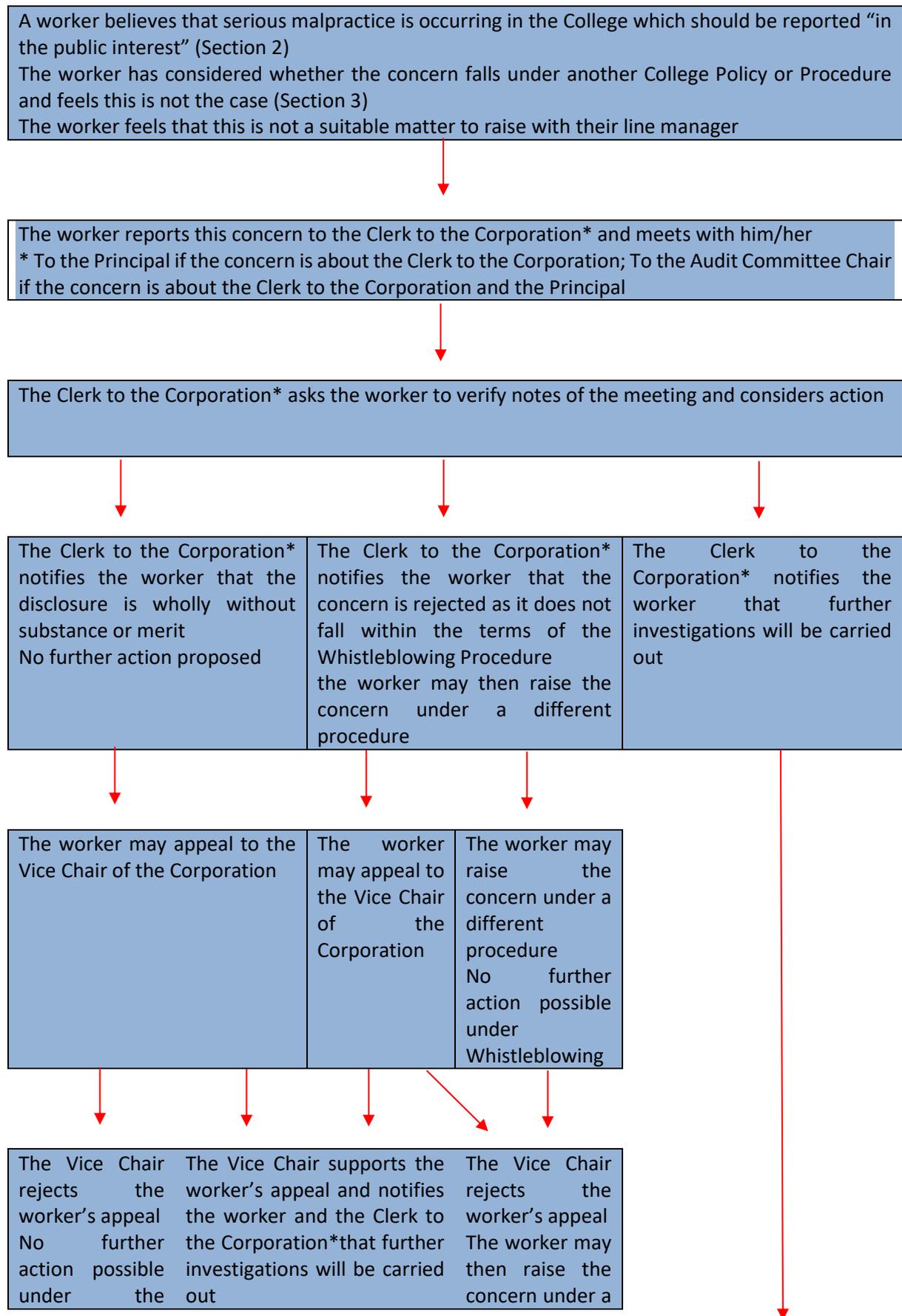
Where disclosures have taken place, these will be reported annually to the Audit Committee in the Spring Term. The Audit Committee will receive a triennial report on the use of the Whistleblowing Procedure.

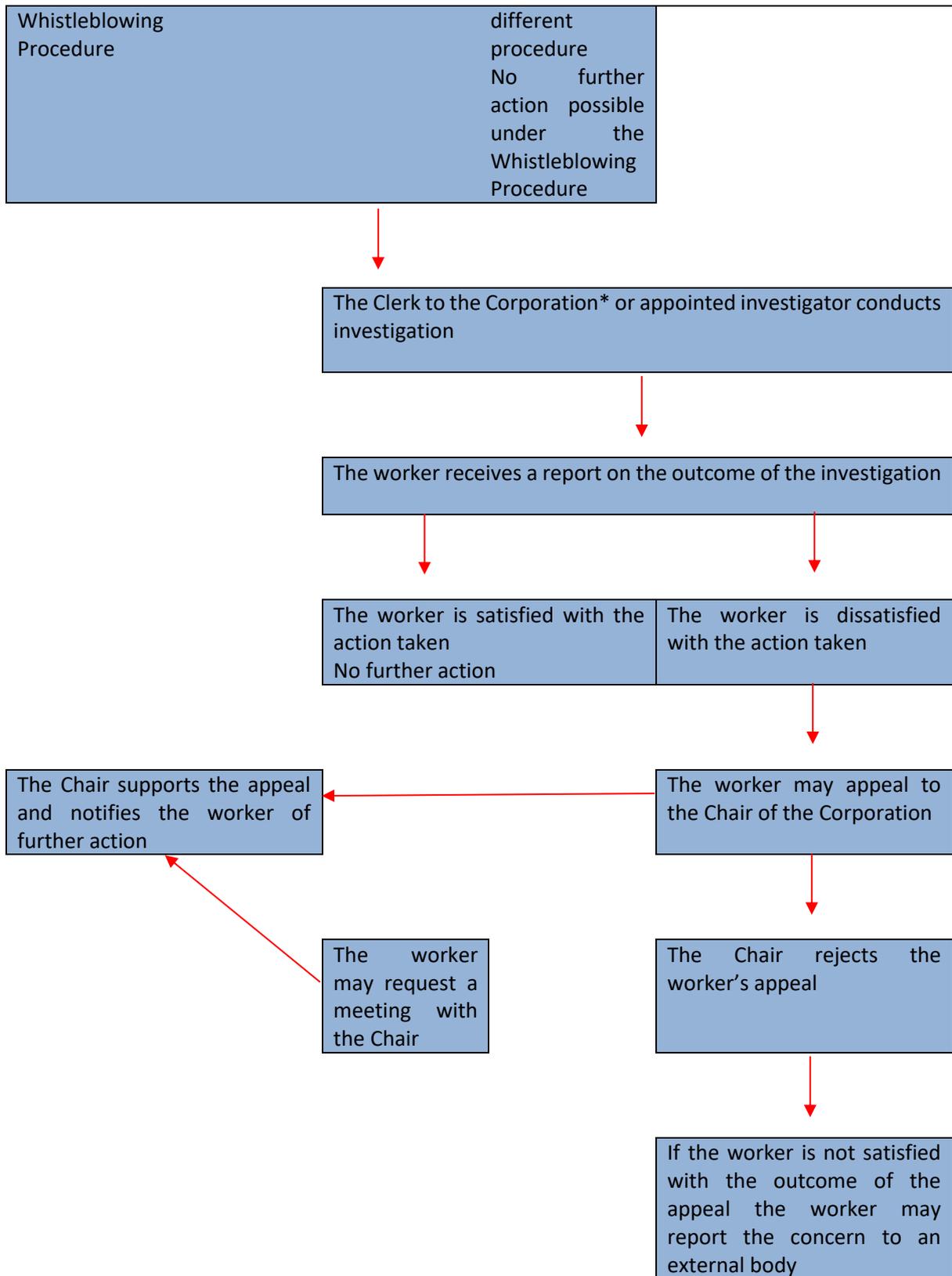
16. Changes To This Procedure

This procedure has been implemented following consultation with the Staff Forum.

This procedure will be reviewed by the Clerk triennially and any proposed changes will be the subject of consultation with the Staff Forum before approval is sought from the Corporation.

Whistleblowing Procedure Flowchart





Contact Details:

Clerk to the Corporation

Heart of Worcestershire College
Slideshow Drive
Bromsgrove
B60 1PQ

Tel: 01905 743420

Email: kkavanagh@howcollege.ac.uk

(If in writing marked: 'Confidential: Only to be opened by the Clerk to the Corporation')

Principal/ Corporation Vice Chair/ Corporation Chair/ Chair of the Audit Committee (as appropriate):

Heart of Worcestershire College
Slideslow Drive
Bromsgrove
B60 1PQ

(In writing marked: 'Confidential: Only to be opened by the Principal/ Corporation Vice Chair/ Corporation Chair/ Chair of the Audit Committee' (as appropriate))

**Approved by the Corporation on:
Review Frequency:**

**12 September 2023
Triennial**