



Public Interest Disclosure Procedure ("Whistleblowing")

New College Durham is committed to safeguarding & promoting the welfare of children and young people, as well as vulnerable adults, and expects all staff and volunteers to share this commitment.

New College Durham
Public Interest Disclosure Procedure
("Whistleblowing")
(Equality and Diversity Assessment)

We will consider any request for this procedure to be made available in an alternative format.

We review our policies regularly to update them and to ensure that they are accessible and fair to all. All policies are subject to equality impact assessments. Equality Impact Assessments are carried out to see whether the Policy has, or is likely to have, a different impact on grounds of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, sexual orientation or human rights.

We are always keen to hear from anyone who wants to contribute to these impact assessments and we welcome suggestions for improving the accessibility or fairness of the procedure.

To make suggestions or to seek further information please contact:

The Human Resources Department at human.resources@newdur.ac.uk
or telephone: 0191 375 4023/4025

If any employee has difficulty understanding this procedure or needs assistance completing any documentation associated with the procedure, please contact either your trade union representative or the College's Human Resource Department.

Equality Impact Assessment: February 2019

Procedure Title	Public Interest Disclosure Procedure (“Whistleblowing”)
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Document Owner	Director of HR and Corporate Services
Owning Directorate	Corporate Services
Owning Department	Human Resources

Directorates and Departments affected by this Procedure	All staff
Procedure Effective From	February 2019
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Contents	Page
1. Introduction	3
2. What is Public Interest Disclosure	4
3. Who does the procedure cover?	4
4. When should the procedure be used?	4
5. Confidentiality	5
6. What should I do if I discover malpractice?	5
7. Designated Officers	6
8. Process	6
9. Appeals Procedure	9
10. External Disclosure	10
11. Procedure Review	10
Annex A: Disclosure Form	12
Annex B: Suspension under Public Interest Disclosure Procedure	15
Annex C: Public Interest Disclosure Process Flowchart	17
Annex D: Glossary of Terms	18

New College Durham

Public Interest Disclosure Procedure ("Whistleblowing")

1. Introduction

In line with best practice laid down by the Committee on Standards in Public Life – (formerly known as the Nolan Committee), the College has established a procedure on Public Interest Disclosure (Whistleblowing) in consultation with the College's recognised Trade Unions and student representatives.

The Corporation wishes to:

- promote a climate of openness;
- ensure that staff and students can raise legitimate concerns without fear of reprisal;
- ensure that the College is administered fairly, honestly and ethically.

There are occasions when high standards are not maintained. Normally such issues are dealt with by reporting the matter to the manager responsible for that area who will investigate and rectify the issue. However when employees, volunteers, students or contractors have concerns about serious malpractice which is in the public interest to raise, then this procedure should be utilised.

Any attempt by anyone to victimise, or deter, or attempt to deter employees who raise malpractice under this procedure, will be regarded as a serious disciplinary offence and will be addressed in line with the College's Disciplinary Procedure.

If such a disclosure does not satisfy the public interest test, then employees should look to utilise the most appropriate HR procedure to raise their concerns. Students, volunteers or contractors should seek to utilise the College Complaints procedure.

2. What is Public Interest Disclosure?

- 2.1 Public Interest Disclosure is often referred to as “Whistleblowing”.
- 2.2 Prevailing legislation protects individuals who make such a disclosure “in the public interest” as long as the individual follows the internal procedure for dealing with such matters. The College will extend such protection to students of the College, to allow them to make disclosures concerning events in their studies, and provide an internal procedure to follow.

3. Who does the procedure cover?

- 3.1 This procedure will cover any person employed by the College, either directly or through another contract agency, or any student.
- 3.2 Employees and students of the College who make a protected disclosure will not suffer any detriment after leaving College employment or after completing their studies, for example refusal to provide a reference.

4. When should the procedure be used?

- 4.1 An individual should only use this procedure if they discover or have reasonable grounds to suspect that malpractice has been undertaken by any College employee, example of such malpractice may include:
 - *Criminal activity or offences;*
 - *Breach of a legal obligation;*
 - *Miscarriage of justice;*
 - *Endangering the health and safety of any individual;*
 - *Damage to the environment;*
 - *Deliberate attempt to conceal any of the above*

(Source: Advisory, Conciliation and Arbitration Service (ACAS) – Whistleblowing Guidance)

Additionally, this procedure may be utilised if there are concerns regarding the conduct of Corporation member(s) in relation to any malpractice.

- 4.2 Students should only use this procedure if they suspect serious malpractice of a College employee.

- 4.3 This procedure must not be used as an alternative to existing College Procedures (eg Grievance Procedure), or as alternative to existing processes eg College Complaints Process. Please note that complaints relating to a suspected breach of your own Contract of Employment cannot be dealt with under this policy. Complaints of this nature must be raised using the Grievance Procedure.

5. Confidentiality

- 1.1 The identity of the individual who has raised the allegation, will not normally be disclosed to the person against whom the allegation has been made unless:
- there are grounds to believe that the individual raising the concern has acted maliciously or in self-interest, or;
 - it is essential to any investigation of the issues in these circumstances and in this case the individual will be notified in advance.
- 1.2 The confidentiality of the proceedings should be observed by all parties involved.

6. What should I do if I discover malpractice?

- 6.1 If an individual has reasonable grounds for believing that malpractice of the type indicated in Paragraph 4.1 has taken or is taking place within the College then:
- The individual should raise the matter immediately with a Designated Officer (see section 7) providing as much evidence as possible.
- 6.2 If an individual is unclear as to whether their concerns constitute malpractice as defined by this procedure and prevailing legislation, they may approach one of the designated officers for guidance on this definition. Please note that such an approach does not instigate the investigation process detailed in Section 8.

7. Designated Officers

7.1 The following posts have been designated as officers to whom suspected malpractice should be reported:

- **Corporation Secretary** (Chief Designated Officer);
- **Director of Human Resources and Corporate Services.**

If the suspected malpractice relates to the Designated Officers, the individual raising the concern should raise the matter with the Chair of Corporation or the Principal and Chief Executive, and a further Designated Officer will be appointed.

8. Process

8.1 In order to address any disclosure, the following process will be adopted:

a. Making a Protected Disclosure

The individual should complete the form at **Annex A** of this procedure, providing as much supporting evidence as possible about the concerns and reasons for suspecting malpractice. The individual should detail their rationale for why this disclosure is in the public interest. The individual should detail their preferred method of contact for the duration of this process (e.g. home/work email, letter etc.). In the absence of any preference, the College's default method of communication will be via Recorded Delivery and First Class Post.

The completed form should be sent to one of the Designated Officers.

b. Receipt of Form by Designated Officer

On receipt of the Form, the Designated Officer will acknowledge in writing receipt of the disclosure within five calendar days and advise the person making the disclosure if this procedure is the most appropriate for addressing the particular concern. (If it is not the most appropriate procedure, the person making the disclosure will be advised as to the correct procedure to use to address their concern).

c. Investigating the Suspected Malpractice

If the Whistleblowing Procedure is the most appropriate process to adopt, the Designated Officer will normally confirm to the person whom the allegation(s) are raised against the nature of the allegations which have been received and that they are to be investigated under the Whistleblowing Procedure. Where the allegations relate to serious criminal acts the Designated Officer reserves the right to pass any concerns directly to the Police. The individual whom the allegations are against should notify the Designated Officer of their preferred method of contact for the duration of this process (e.g. home/work email, letter etc.). In the absence of any preference, the College's default method of communication will be via Recorded Delivery and First Class Post.

The Designated Officer will be tasked with investigating the allegation(s) to establish if there is a prima facie case and determine if the allegation(s) warrant further consideration. In certain cases, it may be considered appropriate to temporarily remove the employee from the College (i.e. Suspension). The Designated Officer will advise the Principal and Chief Executive to action the suspension, (if the matter relates to the Principal and Chief Executive it will be the Chair of Corporation who will be advised of this course of action). The Suspension will be made in accordance with **Annex B** of this procedure.

All parties will have the right to be accompanied by a Trade Union (or Student Union) representative or New College Durham work colleague.

On conclusion of his/her investigation the Designated Officer will make a recommendation to the Principal and Chief Executive as to what steps should be taken. If it is alleged that the Principal and Chief Executive is involved in the suspected malpractice then the recommendation will be made to the Chair of the Corporation, should the Chair of the Corporation be involved in the suspected malpractice, then the recommendation will be made to the College's internal auditors.

d. Courses of actions to be considered following investigation

The Designated Officer will then advise that one of the following steps is the appropriate action to be taken:-

- Commence formal investigations which will be led by the College's Auditors.
- Reporting the matter to the police/professional bodies.
- Commence formal investigation by the College using prevailing HR procedures.

(This procedure does not preclude taking one or more of the above courses of action, but where the matter is reported to the Police any internal investigation will be cognisant of the request from the Police in ensuring that the College internal investigation does not compromise their investigation).

- The Designated Officer may also conclude that no further action needs to be taken by the College as there is no case to answer.

When the person to whom the recommendations are made, has made a decision as to the appropriate action to be taken, i.e. the Principal or Chair of the Corporation, the Designated Officer who made the initial assessment will be informed of the decision. The Designated Officer will inform the person who raised the concerns of this decision at the earliest opportunity.

8.2 Where the person involved in the alleged malpractice is a member of the Corporation but neither the Chair nor the Principal and Chief Executive

Where the person against whom concerns have been raised under this procedure is a member of the Corporation, but not the Chair of the Corporation or the Principal, then the Designated Officer will make his/her recommendations for action to the Chair of the Corporation.

In addition to the steps outlined in 8.1 of this Procedure, the Chair may remit investigation of the alleged malpractice to an Investigatory Committee.

Prior to initiating an investigation by the Investigatory Committee, the Chair may suspend from involvement in all governing body matters, the member of the Corporation against whom allegations of malpractice have been made.

a. Corporation Investigatory Committee

This Committee shall comprise of three Corporation members, who shall not be either staff or student members, or the Chair, nor any member directly or indirectly involved in the allegations. The Chair on the advice of the Corporation Secretary shall appoint the Committee.

The investigation will take the form of a hearing by the Investigatory Committee. The statements of the allegation of malpractice and all evidence to support it, will be presented by the Designated Officer. Statements will be heard from, or on behalf of, the person against whom the allegation of malpractice has been raised. Either party to the hearing may call witnesses.

The Investigatory Committee shall report its' findings and recommendations for action to the Chair of the Corporation immediately, and to the full Corporation at the earliest opportunity.

b. Outcome of Investigatory Committee

The Investigatory Committee may recommend those actions detailed at 8.1 (d) of the Procedure. In addition the Committee may consider specific recommendations for action, which draws on the conduct required of a member by the Governors Code of Conduct.

9. Appeal Procedure

Where either party to the disclosure wishes to appeal against the Designated Officer's or Investigatory Committees determination for action they should write within 14 calendar days to the Director of Human Resources & Corporate Services or Corporation Secretary (i.e. an individual who has not acted as Designated Officer) .

The Appellant should state, in their written communication:

- a. The grounds for the appeal, (these grounds will normally be an error in procedure or error in fact or error in law.)
- b. Supply sufficient detail to sustain the grounds of appeal.
- c. The outcome that they are seeking from the Appeals process.

The Corporation Secretary will establish a Corporation Appeal Committee in accordance with the College's Standing Orders. If the appeal is against a decision of the Chair of the Corporation, the individual grounds of appeal will be passed to the College's internal auditors.

10. External Disclosure

Prior to seeking external re-dress staff and students must take reasonable steps to report their concerns by utilising this procedure.

The prevailing legislation protects employees from disciplinary action, providing they have followed the internal "Whistleblowing" Procedure. However, if the person raising the concerns feels that the internal procedure has not led to a thorough investigation and wishes to take the matter further, it would be advisable that they seek advice as to whether the circumstances that have been described will give the individual protection under the Public Interest Disclosure Act 1998 or Enterprise and Regulatory Reform Act 2013.

Any attempt by anyone to victimise, or deter, or attempt to deter employees who raise genuine concerns will be treated as a serious disciplinary offence and will be addressed in line with the College's Disciplinary Procedure.

No disciplinary action will be taken against any person for raising suspected allegations using this procedure unless there are reasonable grounds to believe that the motives were deliberately malicious, vexatious or false.

11. Procedure Review

- 11.1 The effectiveness of this procedure will be monitored annually and reviewed every five years in light of experience and best practice. This mechanism recognises that changes to employment legislation may prompt a review of the procedure before the five years stipulated.
- 11.2 In considering the effectiveness of this procedure consultation will be undertaken with Trade Unions, staff and managers to assist in the review and monitoring of this procedure.

Implementation Date:	14 February 2000
First Review Date (undertaken):	1 May 2004
Second Review Date (undertaken):	1 November 2008
Third Review Date:	June 2013
Fourth Review Date	February 2014
Fifth Review Date	February 2019
Next Review Due:	February 2024

Disclosure Form

a) Personal Details

Name	
Position Held	
School/Department	
Contact Address	
Contact Telephone	
Contact Email	
Preferred method of contact (e.g. home/work email, letter etc.)	

b) Representative*

(*Trade Union or New College Durham Workplace Colleague)

Name		
Relationship <i>(Trade Union or Workplace Colleague)</i>		
Contact Details	Telephone	
	Email	

c) Disclosure

Please state fully the nature of your disclosure, including dates of when the event/events occurred. *(Continue on a separate sheet if required)*

d) Resolving the Issue

Please state the outcomes you are seeking from the disclosure

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e) Declaration

I confirm I have reasonable grounds for believing that malpractice of the type indicated within the College's Public Interest Disclosure Procedure has occurred and furthermore I believe that my disclosure is in the public interest to disclosure

Signed:		Date:	
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Please forward the fully completed form, in an envelope marked "Strictly Private and Confidential" to one of the Designated Officers outlined at Paragraph 7.1 of the Procedure.

Suspension Provision under the Public Interest Disclosure Procedure ("Whistleblowing")

In certain cases, it may be considered appropriate to temporarily remove the employee from the College (ie Suspension). **Suspension is not regarded as disciplinary action or indication of any determination under this procedure.** Any employee suspended from their duties will continue to receive full pay for the duration of the suspension.

The decision to suspend will be considered in cases serious malpractice and may involve consideration of:

- An allegation(s) or likelihood, of a risk to students, staff or members of the public.
- An allegation(s) or likelihood of damage or loss of property belonging to students, members of staff, public or the College.
- An allegation(s) of an offence which might amount to gross misconduct.
- A perception that evidence regarding the allegation(s) may be destroyed.

The Designated Officer will recommend to the Principal and Chief Executive suspension of the employee from duty on receipt of the allegation(s) of serious malpractice pending a full investigation. If the allegations relate to serious malpractice committed by the Principal and Chief Executive the recommendation for suspension made by the Designated Officer will be consider by the Chair of Corporation.

The employee will have confirmed in writing:

- The nature of the allegation(s) (giving appropriate details but ensuring that the confidentiality of the complainant is respected) and inviting that employee to a meeting to discuss the reasons for the suspension;
- That the matter is being investigated confidentially;
- That suspension is on full pay;
- That he/she will be required to be available to attend investigatory interview(s) during normal office hours;
- Of the right to be accompanied to any subsequent meeting/hearing by either a trade union representative or work colleague;
- The right of appeal against suspension

The Designated Officer will meet with the individual being suspended and will pass the letter to the individual, and detail those contents of the suspension letter. Where the individual who is being suspended is not at work, the College will write to provide the above details and offer an opportunity to meet a representative of the HR Department to discuss the contents of the letter.

The employee should not return to the College or contact employees of the College (with the exception of the Designated Officer; Trade Union representative or a nominated work colleague which must be made known to the Designated Officer, and who must not have the potential to be involved in the case i.e. as a witness) whilst suspended. The individual should remain contactable and available to engage in the investigation during normal working hours.

The suspension will be kept under review, and will seek to conclude as soon as practicable.

Appeals - Against Suspension

An employee who has been suspended from duty may writing to the Principal and Chief Executive (if it is the Principal and Chief Executive is the individual suspended his/her will write to the Chair of Corporation) to appeal against the suspension. The grounds for appeal against suspension are either:

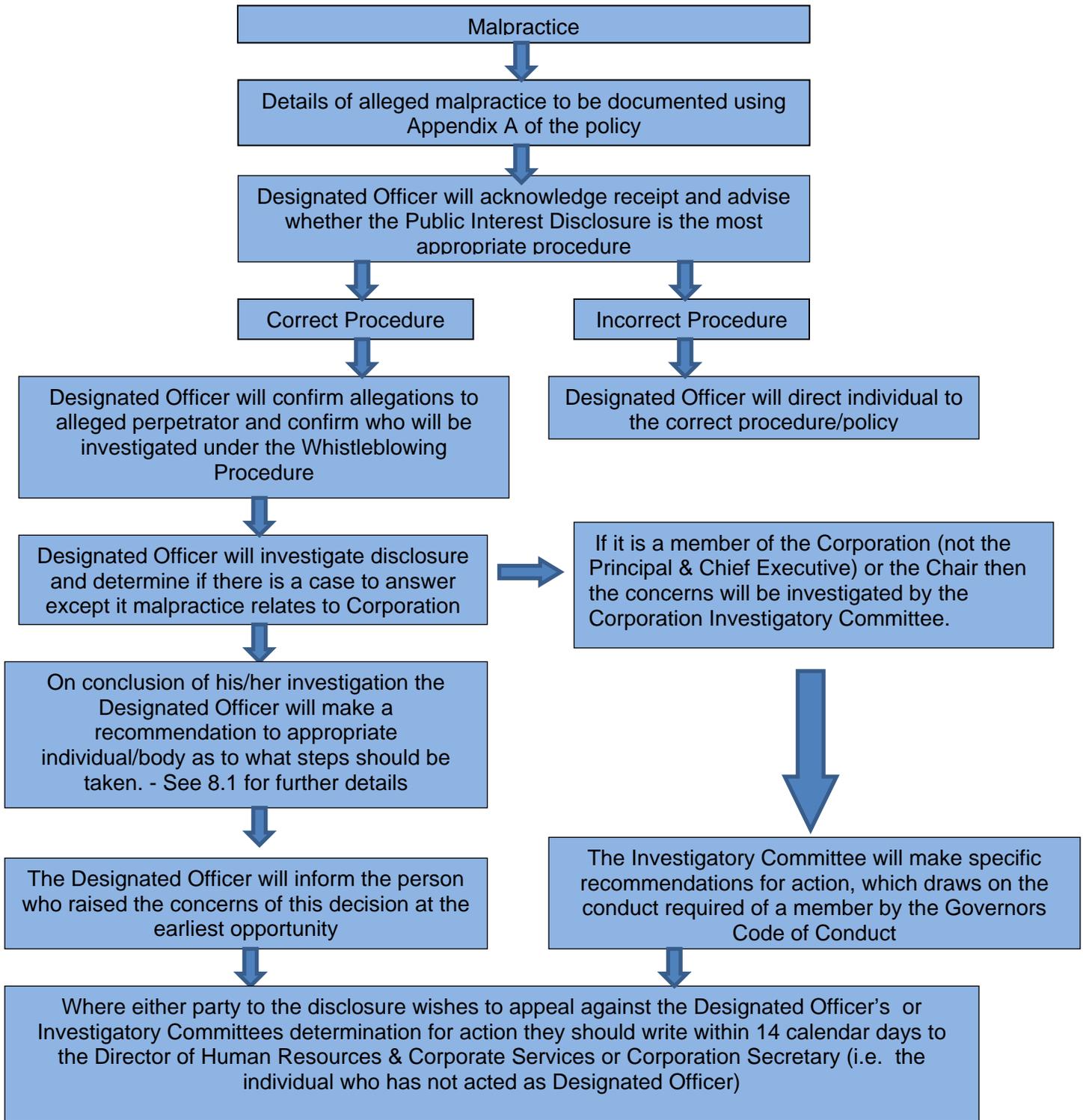
- Procedural error(s) which has **fundamentally** undermined the application of suspension
- Unreasonable duration of the Investigation by the Designated Officer;
- Nature of allegation(s) does not warrant suspension.

Any appeal shall be heard as soon as practicable by the Principal and Chief Executive/Chair of Corporation. The suspension shall continue to operate pending the determination of the Principal and Chief Executive/ Chair of Corporation.

Where an appeal against suspension is made, the employee shall be given at least five calendar days' notice of the date, time and place fixed for the hearing, unless an earlier date has been mutually agreed.

Following the hearing of an appeal against suspension, Principal and Chief Executive/Chair of Corporation may either confirm the suspension or lift the suspension. This decision shall be confirmed in writing to the employee within five calendar days of the hearing of the appeal.

Public Interest Disclosure (Whistleblowing) Flowchart



Glossary of Terms – Public Interest Disclosure Procedure (“Whistleblowing”)

ACAS - Advisory, Conciliation and Arbitration Service.

Appellant - The individual/party who applies against a decision that has been made.

Calendar days - Monday to Sunday including banking holidays.

Committee on Standards in Public Life – This is an advisory non-departmental public body of the United Kingdom Government.

Designated Officer – A College employee to whom suspected malpractice should be reported. The College has two such officers, either Corporation Secretary (Chief Designated Officer) or Director of Human Resources and Corporate Services.

External Disclosure – When information is disclosed to a person or body outside of the College.

Malpractice - Immoral, illegal, or unethical professional conduct or neglect of professional duty – specific guidance detailed at 4.1 of Procedure.

Recognised Trade Union representative: An officer appointed by a trade union recognised by New College Durham.

Victimisation: Less favourable treatment of an employee because he/she made a complaint in good faith about harassment or bullying (whether or not the complaint is upheld) or where a person gives evidence in such a case, for which the College has a separate procedure to address any concerns of Victimisation.

Whistleblowing - Whistleblowing occurs when an employee or worker provides certain types of information, usually to the employer or a regulator, which has come to their attention through work. The disclosure may be about the alleged wrongful conduct of the employer, or about the conduct of a fellow employee, client, or any third party. Whistleblowing is therefore ‘making a disclosure in the public interest’ and occurs when a worker raises a concern about danger or illegality that affects others, for example members of the public.

Whistleblower - A whistleblower (whistle-blower or whistle blower) is a person who tells the public or someone in authority about alleged dishonest or illegal activities (misconduct) occurring in a government department or private company or organisation

Workplace Colleague: An individual employed by New College Durham on a Contract of Employment.