Northern School of Contemporary Dance

Whistleblowing Policy & Procedure

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Lead contact:	Director of Governance
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Further information: For queries relating to this policy please contact info@nscd.ac.uk	

Northern School of Contemporary Dance

WHISTLEBLOWING (PUBLIC INTEREST DISCLOSURE) POLICY AND PROCEDURE

1. Purpose of this Policy

1.1. We are committed to high standards of openness, probity and accountability. NSCD has put a **Whistleblowing Policy and Procedure** in place to promote that culture by providing a mechanism for colleagues to make a public interest disclosure without fear of being penalised.

1.2. Whistleblowing facilitates concerns to be confidentially raised where there is suspected wrongdoing, risk or malpractice at work, whether this has happened, is happening or is likely to happen in the future.

1.3. The School is committed to maintaining an open culture with the highest standards of honesty and accountability and therefore encourages anyone to report any legitimate concerns in confidence. Your concerns will be treated seriously and will be investigated thoroughly, promptly and confidentially.

1.4. You may be the first to realise that there could be wrong- doing taking place at the School. You may also be reluctant to tell anyone about it for fear of recrimination or victimisation. The Public Interest Disclosure Act 1998 provides you with protection if you responsibly raise a concern about wrongdoing, this is often known as 'Whistleblowing'.

1.5. This policy provides guidance on what qualifies as a disclosure of wrongdoing under the Public Interest Disclosure Act, the protection that is provided by the Act and the procedure for making such a disclosure. The law provides additional protection for those raising whistleblowing disclosures under the Public Interest Disclosure Act 1998 (amending the Employment Rights Act 1996). Such protections, and the efforts to maintain confidentiality, apply only to disclosures within the scope of the Policy, and do not apply to any other matters that may be under discussion or going through other internal or external processes.

2. Who can raise a disclosure?

2.1. This policy provides an internal mechanism for individuals to raise serious concerns relating to any of the matters set out in Section 4, independently of line management and without fear of reprisal.

2.2. Any employee or former employee (as well as certain workers, contractors, consultants, trainees and agency staff) of NSCD can raise a disclosure under this Policy with the legal protections set out above under 1.4.

2.3. Students, members of the Board of Governors, and others can use this Policy but do so without the protections afforded to them under law, as set out in paragraph 1.4. Whilst the Policy does not apply to disclosures made by members of the public, including suppliers or other third parties, any such person who has information about matters that fall within the scope of this Policy is encouraged to provide that information to the Designated Officer.

2.4. This policy does not form part of any employee's contract of employment, and we may amend it at any time.

3. Personnel Responsible for The Policy

3.1. The School's Board of Governors has overall responsibility for this policy but delegates the Audit Committee as the independent body to oversee the proper conduct of investigations of whistleblowing disclosures and to ensure that the provisions of concerns raised under this policy are properly applied.

3.2. All staff are responsible for the success of the policy and should ensure that they use it to disclose any suspected danger or wrongdoing. Staff are invited to comment on this policy and suggest ways in which it might be improved. Comments, suggestions and queries should be addressed to the Clerk to the Governors.

3.3. Why does it matter? To safeguard and promote reputation and operating with integrity it is essential for NSCD to foster a culture of ethical behaviour supported by effective whistleblowing procedures. The Office for Students (OfS) is the sector regulator. The University is required to comply with conditions of registration which includes a requirement to notify the OfS of reportable events. Matters considered under this Policy may be referred to the School's Senior Leadership Team for consideration as a reportable event.

4. What is Whistleblowing?

4.1. "Whistleblowing" is the disclosure of information which relates to suspected wrongdoing or dangers at work. This may include:

4.1.1. criminal activity.
4.1.2. failure to comply with any legal or professional obligation or regulatory requirements.
4.1.3. miscarriages of justice.
4.1.4. danger to health and safety.
4.1.5. damage to the environment.
4.1.6. academic malpractice.
4.1.7. bribery under our Anti- Bribery Policy.
4.1.8. safeguarding processes and compliance with policy
4.1.9. Nondisclosed staff / student relationships

4.1.10. financial fraud or mismanagement.
4.1.11. negligence.
4.1.12. conduct likely to damage our reputation.
4.1.13. unauthorised disclosure of confidential information.
4.1.14. the deliberate concealment of any of the above matters.

4.2. The Policy is only intended to be used for raising concerns under these matters. The Policy is not intended to be used for:

4.3. (a) Raising complaints relating to an individual's own personal circumstances.

4.4. (b) Broader matters that fall within the scope of any other University policy or procedure. For example (but not limited to) the Student Complaints Procedure, Academic Appeals (for students), Grievance Procedure (for employees), Anti-Bribery and Corruption Policy, and Counter Fraud Policy.

4.5. (c) To re-hear matters already concluded under this or such other policies or procedures.

4.6. A "whistleblower" is a person who raises a genuine concern relating to any of the above. If you have any genuine concerns related to suspected wrongdoing or danger affecting any of our activities, you should report it under this policy.

4.7. The public interest requirement is the defining feature of whistleblowing law. Public interest separates out concerns about someone's 'private' employment rights from 'public' concerns that have wider impact and are more likely to be covered by whistleblowing protection. As a rule, if you act as a *witness* to wrongdoing, it is more likely that you will satisfy the public interest test. This means that the concerns impact others rather than just yourself.

4.8. The Clerk to Governors is the arbiter of whether a matter is in scope of this Policy, though they may consult relevant senior colleagues in reaching a conclusion If you are uncertain whether something is within the scope of this policy you should seek advice from the Clerk to the Governors.

5. Why should I blow the whistle?

5.1. Sometimes it is only through whistle-blowing that this information comes to light and can be addressed appropriately.

6. What is the difference between making a complaint and blowing the whistle?

6.1. When someone blows the whistle, they are raising a concern about danger or illegality that affects others (e.g. customers, members of the public, or their employer). The person blowing the whistle may not be directly or personally affected by the danger or illegality. The whistle-blower may not have a personal interest in the outcome of any investigation into the concern they report.

6.2. This is very different from a complaint. When someone complains, they are saying that they have personally been poorly treated. This poor treatment could involve a breach of their individual employment rights or bullying and the complainant is seeking redress or justice for themselves.

6.3. This policy should not be used for complaints relating to your own personal circumstances, such as the way you have been treated at work. In those cases, you should use the Grievance Procedure or Anti-harassment and Bullying Policy as appropriate.

7. Who is protected by the Public Interest Disclosure Act?

7.1 The Policy sets out protections from being victimised, discriminated against or disadvantaged for those making allegations in the reasonable belief that a complaint has been made in the public interest.

7.2 Anyone raising disclosures under this Policy will be treated fairly and no detrimental or negative treatment of any kind will be taken against a whistleblower on the grounds that they have raised a disclosure under this Policy. The University will take reasonable steps to prevent detriment to those making disclosures as all acts of victimisation against whistleblowers are a breach of employment rights.

7.3 Any detrimental action by any member of the University against a person for making a protected disclosure will not be tolerated and the individual/s responsible may be subject to disciplinary action.

7.4 Any individual who believes that they have been subjected to unfair treatment as a result of making a disclosure should inform the Designated Officer immediately and we will take action to protect those who raise a concern.

7.5 The law[1] provides additional protection for those raising whistleblowing disclosures under the Public Interest Disclosure Act 1998 (amending the Employment Rights Act 1996). Such protections, and the efforts to maintain confidentiality, apply only to disclosures within the scope of the Policy, and do not apply to any other matters that may be under discussion or going through other internal or external processes.

8. What constitutes a disclosure

8.1. For a disclosure to be protected by the Act's provisions it must be a 'qualifying' disclosure.

8.2. To qualify you must have a **reasonable belief** that a failure has been, is being or is

[1] Public Interest Disclosure Act 1998 - grants protection to employees, as well as certain workers, contractors, trainees and agency staff who raise concerns about wrongdoing, risk or malpractice which it is in the public interest to disclose. Further information can be sought from the Clerk to the Board.

likely to be committed.

8.3. Your disclosure of it must be **in the public interest** and not be a personal grievance which relates just to you.

8.4. The disclosure must relate to a **relevant failure** as defined in 4.1:

8.5. A disclosure of information is not a qualifying disclosure if the person making the disclosure commits an offence by making it.

9. How to disclose

9.1. For you to be protected you must make your disclosure in a particular way. You can make your disclosure to:

9.1.1. The **School** as your employer – follow the procedure at Appendix 1.

9.1.2. To a **prescribed person** – if you believe that the School will cover up your disclosure, treat you unfairly or hasn't addressed a disclosure you have previously made you may decide to blow the whistle to a prescribed person. You must make sure that you have chosen the correct person or body for your issue, a list is available from the Department of Education Or you can seek advice from ACAS or the Office for Students. If you decide to make your disclosure in this way, as well as meeting the qualifying criteria in Section 7, you must also reasonably believe that your disclosure is substantially true.

9.1.3. An **external body** - for example the media or the police, however in this case you must also show that the disclosure is not made for personal gain and that you have already made a disclosure to the School as your employer or believe that if you do disclose it to the School it will not be acted upon.

9.1.4. In cases of a failure which is of an exceptionally serious nature protection will be provided if you disclose to an external body, even if you haven't previously made a disclosure to the School as your employer.

10. What safeguards are provided by the Public Interest Disclosure Act 1998?

10.1. It is understandable that whistleblowers are sometimes worried about possible repercussions. We aim to encourage openness and will support staff who raise genuine concerns under this policy, even if they turn out to be mistaken.

10.2. Whistleblowers 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 you believe that you have suffered any such treatment, you should inform the Clerk to the Governors immediately. If the matter is not remedied, you should raise it formally using our Grievance Procedure.

10.3. You must not threaten or retaliate against whistleblowers in any way. If you are involved in such conduct, you may be subject to disciplinary action.

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11. Can I make a disclosure anonymously?

11.1. We hope that staff will feel able to voice whistleblowing concerns openly under this policy. However, if you want to raise your concern confidentially, we will make every effort to keep your identity confidential. If it is necessary for anyone investigating your concern to know your identity, we will discuss this with you.

11.2. We do not encourage staff to make disclosures anonymously. Proper investigation may be more difficult or impossible if we cannot obtain further information from you. 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 Governors and appropriate measures can then be taken to preserve confidentiality.

12. Malicious Allegations

12.1. Deliberately false or malicious allegations will be taken very seriously, and appropriate disciplinary action will be taken.

13. Sources of Advice

13.1 Colleagues are entitled and encouraged to seek independent advice. Independent guidance can be accessed as follows (but is not limited to):

(a) Protect (formerly Public Concern at Work) are leading experts in whistleblowing and provide confidential advice for individuals who witness wrongdoing in the workplace but are unsure how to raise their concerns, as well as providing help to individuals who are facing victimisations at work for whistleblowing. Protect advisers also provide advice and information on whistleblowing law. www.protect-advice.org.uk or you can contact them via their **Advice Line** on **020 3117 2520** .

(b) Citizens' Advice provide independent advice regarding legal protections.

(c) Advisory, Conciliation and Arbitration Service (ACAS) for help and advice for workers and employers on rights and obligations at work.

13.2 Internally advice may be sought from the Clerk to the Governors.

APPENDIX 1

Procedure for Making a Public Interest Disclosure to the School

14. Stage One - Raising your concerns informally

14.1. In the first instance consider if there is a colleague, supervisor/line manager or senior manager you can approach with your concerns, they may be able to resolve the situation without the need to use the formal procedure.

14.2 Most cases can be satisfactorily resolved through informal discussions without the need for a formal concern being raised. NSCD while not ignoring any potential concern emphasises the importance of seeking an early resolution where possible and appropriate.

15. Stage Two - Raising your concerns formally

15.1 If you do need to make a formal disclosure you should raise your concerns in writing to the Clerk to the Governors, who is the designated person. (A form is available at Appendix A).

15.2 If the disclosure involves the Clerk to the Governors, you should raise your concerns with the Principal, who will assume the role outlined for the Clerk in this procedure.

15.3 When making a disclosure you should include as much information as possible about:

15.3.1 The nature of the wrong doing.
15.3.2 The background (with dates if possible).
15.3.3 Who is involved.
15.3.4 The reasons why you are concerned.

16. What will happen next?

a. You will receive a written acknowledgement of receipt of your concerns, usually within 5 working days.

b. The Clerk to the Governors will consider the information made available to them and, in consultation with the Chair of the Board of Governors and a member of the Senior Management Team where appropriate, will determine whether the matter falls under the Public Interest Disclosure

Act 1998.

c. If they consider that the concerns don't fall under the Act and can be dealt with under other normal School procedures, they will let you know.

d. If the matter does fall under the Act the Clerk to the Governors, in consultation with the Chair of the Board of Governors and a member of the Senior Management Team where appropriate, will decide on the form of investigation to be undertaken and appoint an individual (who could be external to NSCD – see 15.7) with appropriate expertise and seniority to investigate.

e. The Chair of the Audit Committee will be informed of all disclosures unless the disclosure relates to them personally.

f. During the investigation the investigator will investigate your concern carefully and thoroughly. They will be fair to you and to anyone else involved. During the investigation they will respect any concerns you have expressed about your safety or your career.

g. The investigation may identify the need to involve third parties to provide further information, advice or assistance, for example involvement of other members of School staff, the School's auditors, legal or personnel advisors, the police or The Office for Students.

h. On occasion, disclosures may require immediate referral to an external body for consideration and investigation (for example the police, Health & Safety Executive, National Audit Office, or relevant funding body), and in such cases the external body's processes shall take precedence. In other cases, such referral may be necessary or appropriate following the conclusion of the School's investigation. A decision to refer will be made by the Clerk to the Board, in consultation with the Chair of the Audit Committee.

i. Records will be kept of work and actions undertaken throughout the investigation and maintained according to GDPR Policy and Process.

j. Following their investigation the investigator will report to the Chair of the Board of Governors, and a member of the Senior Management Team where appropriate, making any appropriate recommendations for action. The decision will be relayed to the Clerk to Governors to issue correspondence and maintain records.

17. Representation and Support

17.1 Whilst there is no formal legal right to be accompanied to a meeting with your employer to discuss your concerns NSCD will always look to apply discretion for a Trade Union representative or work colleague to accompany you at any stage of your disclosure and any subsequent investigation, as long as they are not from the area of work the concern relates to or already involved with the process e.g. Clerk to the Board or Principal. Where a representative or work colleague is involved, you are under an obligation to ensure that the representative keeps the allegation strictly confidential and is not allowed to become involved in proceedings.

18. What timescales will be followed?

18.1 After the initial acknowledgement of your disclosure which will be issued within 24hrs of receipt of any alleged whistleblowing situations / incidents it is not possible to stipulate specific timescales due to the differing nature of investigations. However, the Clerk to the Governors will ensure that the investigation proceeds with all possible speed and that you are kept informed in writing of progress at appropriate intervals.

19. What will happen at the conclusion of the investigation?

19.1 A record will be made of the nature and outcome of your disclosure. These records logs will be maintained by the Clerk to the Governors and reported (only relevant detail) at NSCD Audit Committee meetings. The purpose of this record is to ensure that a central record is kept, which can be cross referenced with other disclosures, to monitor any patterns of concern across the School and to assist in monitoring the procedure.

19.2 At the conclusion of the investigation, we will normally let you know, in writing, the results of our assessment/investigation and about any action that is proposed. This is subject to third party rights. Where action is not taken, you will be given an explanation.

20 Can I appeal?

20.1 A whistleblower does not have a legal right to feedback, however NSCD recognises the value in communicating actions taken to consider concerns and any steps taken to address these. Where appropriate and circumstances allow the Designated Officer will provide feedback to the whistleblower on the findings of an investigation.

20.2 Where the above stages have been exhausted, the matter will be concluded in so far as NSCD's own procedures are concerned.

20.3 You are however entitled to pursue your disclosure with a prescribed person or external body as outlined in Section 7 of the policy, providing your disclosure meets the appropriate criteria.

21 Confidentiality

21.1 The School will make every effort to keep your identity confidential, if you wish this to be the case. Where this may cause difficulties, for example if you are asked to give evidence, you will be told, and we will discuss the options with you first.