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Version: 1.9	Author: C. Hughes	

Change Log				
Date:	Change Description:	Proposed:	Actioned:	Approved:
19/06/18	Policy created.	K. Smith 01/06/18	C. Hughes 19/06/18	<i>K.Smith</i>
28/11/18	Additional info, definitions and tools	K.Smith 28/11/18	C.Hughes 28/11/18	<i>K.Smith</i>
20/12/19	Policy updated to provide greater clarity regarding raising and capturing concerns, and to remove references to employees/staff members	H.Lees/ C.Hughes 19/12/19	H.Lees 20/12/19	<i>K.Smith</i>
28/07/20	Updated to: <ul style="list-style-type: none"> <li>make explicit reference to Modern Slavery</li> <li>remove ref to employees</li> <li>add in cross-reference to the Assessment Policy which covers Malpractice &amp; Maladministration</li> </ul>	H.Lees 01/07/20 and Q1 2020 audit	H.Lees 02/07/20	<i>K.Smith</i>
06/08/2020	Inserted references to Appendix 2 of the Safeguarding Policy (Allegations against Associates) following update of Safeguarding Policy to reflect KCSIE 2020	H.Lees 06/08/20	H.Lees 06/08/2020	<i>K.Smith</i>
01/09/2020	Updated to reflect new ESFA requirements	K.Smith 26/08/2020	H.Lees 01/09/2020	<i>K.Smith</i>
23/02/2021	Updated to capture Advisory Board feedback following their review on 22/01/21	Advisory Board 22/01/2021	H. Lees 26/01/2021	<i>K.Smith</i>
17/12/2021	Updated to capture Advisory Board feedback following review on 15/12/21 Document Classification updated to Public	Advisory Board	H. Lees 17/12/2021	<i>K.Smith</i>
29/09/2022	Updated Appendix 5 to include cross-references to the Ethical & Anti-Bribery Policy Updated Appendices to provide greater clarity regarding process for raising a concern	H.Lees 18/06/22  H Lees 16/08/22	H.Lees 18/06/22  H.Lees 16/08/22	<i>K.Smith</i>
28/02/2023	Reissued with no changes following completion of annual compliance assurance review	H.Lees 27/02/23	H.Lees 28/02/23	Advisory Board Approval received via email on 27-28/2/23

### Purpose

The purpose of this policy is to set out the intentions and key tools that Capella will use to ensure that all Capella Associates are able to raise, in confidence, genuine concerns regarding suspected malpractice without fear of victimisation, subsequent discrimination or disadvantage.

The Public Interest Disclosure Act (PIDA) 1998, and subsequently the Enterprise and Regularity Reform Act 2013, protects a member of staff against detriment or dismissal for raising concerns about matters in the public interest. The Act seeks to ensure that any person suspecting malpractice knows how to raise concerns and what procedures are in place to deal with the concern. This policy seeks to ensure that Capella complies with the intent of the Act.

Malpractice may include:

- Fraud
- Theft
- Forgery
- Fake or false accounting and/or record keeping
- Suppression or omission of the effects of transactions from records or documents
- Deception
- Bribery
- Corruption
- Manipulation
- Collusion including collusion with third parties
- Breaches of the law
- Wilful wrongdoing

Malpractice can be defined as: all intentional irregularities or illegal acts carried out for private gain. It can be perpetrated by persons outside as well as inside an organisation.

This Whistleblowing Policy covers all instances of malpractice with the exception of:

- malpractice relating to Assessment of Vocational Qualifications, which is covered under Capella's Assessment Policy.
- malpractice relating to Safeguarding matters, which is covered under Capella's Safeguarding Policy.

### Owners

All Capella Associates must be aware of and work within this policy. The Managing Director will take lead responsibility for deployment of this policy.

### Intent

We will:

1. Provide all Capella Associates with a means for raising, in confidence, genuine concerns of suspected bribery, fraud, breaches of the law and other serious wrongdoings without fear of victimisation, subsequent discrimination or disadvantage.
2. Encourage Associates to raise genuine concerns about suspected wrongdoing, including any concerns relating to Modern Slavery and/or Safeguarding, at the earliest practicable stage. This policy and procedure is intended to provide safeguards to enable Associates to raise concerns about malpractice in connection with Capella.
3. Encourage Associates to raise genuine concerns through internal procedures without fear of adverse repercussions being taken against them. The law allows Associates to raise such concerns externally and this policy informs them how they can do so. However, a failure to raise a concern under this procedure may result in a disclosure losing its protected status under the law.
4. Seek to balance the need to allow a culture of openness with the need to protect other Associates against vexatious or malicious allegations, or allegations which are not well-founded.
5. Reflect the principles of openness and accountability which underpin legislation protecting whistleblowers within this policy and procedure.

### Tools

Key tools we will use include:

1. Encourage Associates to maintain confidentiality (other than reporting as above) if they have any suspicions.
2. Ensure that all Associates are made aware of this Policy as part of their Induction Training, and that as part of this training the Associates are made aware of how to raise any concerns.
3. Ensure that this policy and approach is updated and communicated to all Associates and Advisory Board Members at least annually, confirming that the Policy applies to all Associates.
4. Ensure that this Policy is submitted to the Capella Advisory Board for their review and approval whenever it is proposed that a change is made to the Policy, or where no changes are proposed, at least annually.
5. Ensure that the Whistleblowing Policy is published on the Capella website.
6. Maintain a record of all concerns raised under this policy and procedure (including cases where Capella deems that there is no case to answer and therefore that no action should be taken) and ensure that this record is regularly reviewed by the Capella Advisory Board.

7. The Capella Advisory Board will undertake a “Lessons learned review” following all concerns to identify and implement improvements such that the likelihood of recurrence is removed/reduced.

### Review and Updates

This policy will be reviewed at least annually.

Each time that a change is proposed to be made to this policy it will be issued to the Capella Advisory Board for their review and approval.

The Whistleblowing Policy will be presented to the Capella Advisory Board for their review and approval annually, even if no change is proposed to the policy.

### Related Policies

- Assessment Policy
- Modern Slavery Policy
- Safeguarding & Prevent Policy
- Health & Safety Policy
- Equality, Diversity and Dignity at Work Policy
- Ethical and Anti-Bribery Policy
- Capella’s Code of Conduct

## **Appendix 1 – What is Whistleblowing, and how does it apply?**

Whistleblowing is when a report is made about a suspected wrongdoing which is in the public interest. This is referred to as making a disclosure in the public interest. A whistleblower is someone who raises serious concern about wrongdoing or malpractice so that problems can be identified and resolved quickly.

Associates are encouraged to report malpractice. However, the person making the disclosure must have a reasonable belief that it is in the “public interest” for protection to apply.

Associates might be unsure whether it is appropriate to raise their concern under this policy and procedure or whether it is a personal grievance, which is more appropriate to raise under the grievance procedure. Any Associate in this situation is encouraged to refer to Sections 1.1 and 1.2 below, and if still unsure to contact either the Capella Operations Director or the Capella Quality & Commercial Director in confidence for advice. If the concern relates to a Director, the Associate should contact an independent member of the Advisory Board in the first instance, via emailing [advisoryboard@capellaassociates.com](mailto:advisoryboard@capellaassociates.com).

If the suspected malpractice relates to the Assessment of Vocational Qualifications the Associate should refer to the Assessment Policy.

If the concern relates to a Safeguarding allegation against an Associate, an Advisory Board Member or a Training Delivery contractor/sub-contractor used by Capella, the Associate should refer to the Safeguarding & Prevent Policy.

### **1.1 Protected Disclosures**

Under the Public Interest Disclosure Act 1998 and the Enterprise and Regulatory Reform Act 2013 the disclosure of confidential information in the public interest is a lawful act and an Associate cannot be dismissed, disciplined or unfavourably treated provided:

- the procedure has been followed;
- the Associate has acted in the public interest and not for personal gain or out of personal motives;

Under no circumstances should Associates talk to the media or to any other person or body, including posting information relating to the disclosure on social media, without first exhausting the proper procedure.

## 1.2 Specific Subject Matter

If an Associate becomes aware of information which they reasonably believe tends to show one or more of the following, they must use this Whistleblowing policy and procedure:

- That a criminal offence has been committed, is being committed or is likely to be committed;
- That an individual has failed, is failing or is likely to fail to comply with any legal obligation to which they are subject;
- That a miscarriage of justice has occurred, is occurring, or is likely to occur.
- That the health or 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 of the above, is being, or is likely to be, deliberately concealed.

## Appendix 2 - Procedure for making a disclosure

Information which an Associate reasonably believes to show one or more of the situations given in Section 1.2 above should be disclosed promptly to either the Operations Director or the Quality & Commercial Director so that any appropriate action can be taken. If the concern relates to a Director, the disclosure should be made to an independent member of the Capella Advisory Board member via emailing [advisoryboard@capellaassociates.com](mailto:advisoryboard@capellaassociates.com).

Associates are encouraged to identify themselves when making a disclosure. If an anonymous disclosure is made, Capella will not be in a position to notify the individual making the disclosure of the outcome of action taken. Anonymity also means that Capella will have difficulty in undertaking an investigation. Capella reserves the right to determine whether to apply this procedure in respect of an anonymised disclosure in light of the following considerations:

- The seriousness of the issues raised in the disclosure;
- The credibility of the concern; and
- How likely it is that the concern can be confirmed from attributable sources.

No formal disciplinary action will be taken against an Associate on the grounds of making a disclosure under this policy unless Capella has grounds to believe that the Disclosure was made maliciously or, where such a disclosure is made outside Capella without reasonable grounds. In such circumstances Capella reserves the right to bring disciplinary action against the Associate who made such claims.

For further guidance in relation to this policy and procedure, or concerning the use of the disclosure procedure generally, Associates should speak in confidence to either the Operations Director or the Quality & Commercial Director, or where concerns relate to a Director to an independent member of the Advisory Board, who can be contacted via emailing [advisoryboard@capellaassociates.com](mailto:advisoryboard@capellaassociates.com).

If the concern relates to the Assessment of Vocational Qualifications the Associate should refer to the Assessment Policy.

If the concern relates to a Safeguarding allegation regarding an Associate, an Advisory Board Member or a Training Delivery Contractor/Sub-Contractor used by Capella, the Associate should refer to the Safeguarding Policy.

### **Appendix 3 – Procedure for investigation of a disclosure**

When an Associate makes a disclosure, the recipient (either the Operations Director, the Quality & Commercial Director or an independent member of Capella's Advisory Board, as applicable) will acknowledge its receipt, in writing, normally within 5 Working Days.

The recipient will then determine whether or not they believe that the disclosure is wholly without substance or merit. If the recipient considers that the disclosure does not have sufficient merit to warrant further action, the Associate will be notified in writing of the reasons for that decision and advised that no further action will be taken under this policy and procedure. Considerations to be taken into account when making this determination may include (but are not limited to) the following:

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

When an Associate makes a disclosure which has sufficient substance or merit, warranting further action, the recipient will take any action it deems appropriate (including action under any other applicable Capella policy or procedure eg the Assessment Policy or the Safeguarding Policy). Possible actions could include internal investigation; referral to auditors; referral to relevant external bodies such as the police, Health and Safety Executive or the Information Commissioner's Office.

If appropriate, any internal investigation would be conducted by a Capella Director or an independent member of Capella's Advisory Board (as

applicable) without any direct association with the individual to whom the disclosure relates, or by an external investigator appointed by Capella as appropriate.

Any recommendations for further action made as a result of the investigation will be addressed to the Managing Director as appropriate in the circumstances, unless the Managing Director is the subject of the disclosure in which case the recommendations for further action should be addressed to the Independent Members of Capella's Advisory Board (Email: [advisoryboard@capellaassociates.com](mailto:advisoryboard@capellaassociates.com)).

The Managing Director, or the Independent Members of Capella's Advisory Board (as applicable) will take all steps within their power to ensure the recommendations are implemented unless there are good reasons for not doing so.

The Associate making the disclosure will be notified of the outcome of any action taken by Capella under this policy and procedure within a reasonable period. If the Associate is not satisfied that their concern has been appropriately addressed, they can appeal against the outcome by raising the issue with the Managing Director or the Independent Members of Capella's Advisory Board (as applicable) within 7 Working Days. The Managing Director, or the Independent Members of Capella's Advisory Board (as applicable) will make a final decision on action to be taken and notify the Associate making the disclosure.

The procedure should encourage the expeditious investigation of disclosures and can specify timelines for different stages of the procedure. However, timescales should be flexible, considering that different types of concerns will require varying time for investigation. All communications with the Associate making the disclosure should be in writing and sent to the postal address recorded for the Associate in Capella's Single Central Record (SCR). If investigations into the concern are prolonged, Capella should keep the Associate updated as to the progress of the investigation and an estimated timeframe for its conclusion.



#### **Appendix 4 – Safeguards for Associates making a disclosure**

An Associate making a disclosure under this procedure can expect their matter to be treated confidentially by Capella and, where applicable, their name will not be disclosed to anyone implicated in the suspected wrongdoing, without their prior approval.

Capella will take all reasonable steps to ensure that any report of recommendations, or other relevant documentation, produced does not identify the Associate making the disclosure without their written consent, or unless Capella is legally obliged to do so, or for the purposes of seeking legal advice.

No formal disciplinary action will be taken against an Associate on the grounds of making a disclosure under this policy or procedure. This does not prevent Capella from bringing disciplinary action against an Associate where Capella has grounds to believe that a disclosure was made maliciously, or where a disclosure is made outside Capella without reasonable grounds.

An Associate will not suffer any detrimental action or omission of any type (including termination of contract, informal pressure or any form of victimisation) by Capella for making a disclosure in accordance with this policy and procedure. Equally, should an Associate be threatened, bullied, pressurised or victimised by a colleague for making a disclosure, disciplinary action will be taken by Capella against the colleague in question. Please see the Capella Code of Conduct and the Capella Equality, Diversity and Dignity at Work policy for further details.

Capella will not tolerate any harassment or victimisation of Associates who make disclosures. If, at any stage of this procedure an Associate feels that they are being subject to informal pressures, bullying or harassment due to making a disclosure, they should raise this matter, in writing, to a Director (please see the Capella Equality, Diversity and Dignity at Work policy for further details).

Associates can also contact Public Concern at Work for confidential advice on whistleblowing issues. Contact details are as follows:

3rd Floor, Bank Chambers  
6 - 10 Borough High Street London SE1 9QQ  
Whistleblowing Advice Line: 020 7404 6609  
[www.pcaaw.org.uk](http://www.pcaaw.org.uk)

## **Appendix 5 – Disclosure to external bodies**

This policy and procedure has been implemented to allow Associates to raise disclosures internally within Capella.

An Associate has the right to make a disclosure outside Capella where there are reasonable grounds to do so and in accordance with the law.

Associates may make a disclosure to an appropriate external body prescribed by the law. This list of 'prescribed' organisations and bodies can be found in information on the GOV.UK website. Information regarding appropriate external bodies for disclosure of information relating to fraud, or suspected fraud, can be found within Capella's Ethical and Anti-Bribery Policy.

Associates can also make disclosures on a confidential basis to a practising solicitor or barrister.

If an Associate seeks advice outside Capella, they must be careful not to breach any confidentiality obligations or damage Capella's reputation in so doing.