

Whistleblowing (Public Interest Disclosure) Policy and Procedure

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1. Introduction

- 1.1 The college is committed to operating in an ethical and principled way. The aim of this policy and procedure is to provide employees and workers (all of whom are referred to as 'workers' in this policy) with a means for raising genuine concerns of suspected bribery, breaches of the law and other serious wrongdoings.
- 1.2 The College encourages a free and open culture in dealings between its managers, employees and all people with whom it engages in business and legal relations. In particular, the College recognises that effective and honest communication is essential if concerns about breaches or failures are to be effectively dealt with and the College is able to provide outstanding learning provision for students and the community as a whole..
- 1.3 The college encourages workers to raise genuine concerns about suspected wrongdoing at the earliest practicable stage. This policy and procedure is intended to provide safeguards to enable members of staff to raise concerns about malpractice in connection with the college.
- 1.4 Workers who in the public interest raise genuine concerns under this policy will not under any circumstances be subjected to any form of detriment or disadvantage as a result of having raised their concerns.
- 1.5 This policy and procedure also aims to encourage workers to raise genuine concerns through internal college procedures without fear of adverse repercussions being taken against them. The law allows workers to raise such concerns externally and this policy informs workers 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.
- 1.6 This policy and procedure also seeks to balance the need to allow a culture of openness against the need to protect other workers against vexatious allegations or allegations which are not well-founded.
- 1.7 The principles of openness and accountability which underpin legislation protecting whistleblowers are reflected in this policy and procedure. The college is also committed to ensuring compliance with the Bribery Act 2010.
- 1.8 This policy and procedure is designed for the use of workers of the college. Learners at the college are also encouraged to raise genuine concerns about suspected wrongdoing by making a complaint to student services which is covered separately under the Student Complaints Policy.
- 1.9 The Policy takes into account guidance from ACAS, statutory requirements including the Bribery Act 2010 and DfE Guidance specific to Further Education including 'Keeping Children Safe in Education'.

2. Applicability of this policy and procedure

- 2.1 This policy applies to all types of 'workers' which is defined in legislation as:
- all employees of the college, including apprentices; and
 - Workers, which includes any casual workers, home-based casual workers and employees of subcontractors; and
 - Agency workers engaged by the college.
- 2.4 Workers 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 college's grievance procedure. Any worker in this situation is encouraged to approach their line manager, departmental manager, the HR Director or a member of the senior management team in confidence for advice.

3. Protected disclosures

- 3.1 The law protects workers who, out of a sense of public duty, want to reveal suspected wrongdoing or malpractice.
- 3.2 The law allows workers to raise what it defines as a 'protected disclosure'. In order to be a protected disclosure, a disclosure must relate to a specific subject matter (see Section 4 below) and the disclosure must also be made in an appropriate way (see Section 5). A 'protected disclosure' must, in the reasonable belief of the worker making it, also be made in the public interest. A protected disclosure must consist of information and not merely be allegations of suspected malpractice.

4. Specific subject matter

- 4.1 If, in the course of employment, a worker becomes aware of information which they reasonably believe tends to show one or more of the following, they must use this 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
 - Advice can be sought from the Director of Human Resources or the Clerk to the Corporation if there is uncertainty about what qualifies as a disclosure. Advice and guidance can also be sourced externally via www.gov.uk/whistleblowing and www.acas.org.uk.

5. Procedure for making a disclosure

- 5.1 Information which a worker reasonably believes tends to show one or more of the situations given in Section 4 should promptly be disclosed to their line manager so that appropriate action can be taken.
- 5.2 If it is inappropriate to make such a disclosure to their line manager, a worker can raise the issue with their Head of Department, the Director of HR, the Clerk to the Corporation or a member of the senior management team.
- 5.3 If the disclosure relates to the Principal, a worker can raise the issue with the Clerk of the Corporation. In the event that the disclosure relates to the Clerk of the Corporation, a worker can raise the issue with the Chair of the Board of Governors. In these circumstances the procedure in section 6 will be led by a member of the Board of Governors.
- 5.4 Workers are encouraged to identify themselves when making a disclosure. If an anonymous disclosure is made, the college will not be in a position to notify the individual making the disclosure of the outcome of action taken by the college. Anonymity also means that the college will have difficulty in investigating such a concern. The college 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
 - How likely it is that the concern can be confirmed from attributable sources.
- 5.5 For further guidance in relation to this policy and procedure, or concerning the use of the disclosure procedure generally, employees should speak in confidence to the Director of HR or the Clerk to the Corporation.

6. Procedure for investigation of a disclosure

- 6.1 When a worker makes a disclosure, the college will acknowledge its receipt, in writing, within a reasonable time.
- 6.2 The college will then determine whether or not it believes that the disclosure is wholly without substance or merit. If the college considers that the disclosure does not have sufficient merit to warrant further action, the worker will be notified in writing of the reasons for the college's decision and advised that no further action will be taken by the college under this policy and procedure. Considerations to be taken into account when making this determination may include the following:
 - If the college is satisfied that a worker 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 college procedure.

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

6.4 If appropriate, any internal investigation would be conducted by a manager of the college without any direct association with the individual to whom the disclosure relates, or by an external investigator appointed by the college as appropriate.

[Guidance note: Depending on the seriousness of the concern raised and the seniority of the worker making the disclosure, it would be appropriate for a senior manager or a designated officer, such as the Clerk of the Corporation, or a member of the Board of Governors to investigate the concern].

6.5 Any recommendations for further action made by the college will be addressed to the Principal or Chair of the College's Board of Governors as appropriate in the circumstances. The recipient will take all steps within their power to ensure the recommendations are implemented unless there are good reasons for not doing so.

6.6 The worker making the disclosure will be notified of the outcome of any action taken by the college under this policy and procedure within a reasonable period of time. If the worker is not satisfied that their concern has been appropriately addressed, they can appeal against the outcome by writing to the Principal or another designated appeal officer within 5 working days. The appeal officer will make a final decision on action to be taken and notify the worker making the disclosure.

[Guidance note: The procedure should encourage the expeditious investigation of disclosures and can specify timelines for different stages of the procedure. However, timescales should be flexible, taking into account that different types of concerns will require varying time for investigation.

All communications with the worker making the disclosure should be in writing and sent to the worker's home address rather than through the college's internal mail. If investigations into the concern are prolonged, the college should keep the worker concerned updated as to the progress of the investigation and an estimated timeframe for its conclusion.]

7. Safeguards for workers making a disclosure

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

[Guidance note: For confidentiality purposes, if the worker requests to raise their concern verbally, it would be appropriate for the college to allow the worker to do so.]

- 7.2 The college will take all reasonable steps to ensure that any report of recommendations, or other relevant documentation, produced by the college does not identify the worker making the disclosure without their written consent, or unless the college is legally obliged to do so, or for the purposes of seeking legal advice.
- 7.3 Workers should be aware that the policy will apply where they reasonably believe that the information disclosed and any allegation contained in it are substantially true. If any disclosure concerns information which employees do not substantially believe is true, or indeed if the disclosure is made for personal gain, then such a disclosure will constitute a disciplinary offence for the purposes of the organisation's disciplinary policy and procedures and may constitute gross misconduct for which summary dismissal is the sanction.
- 7.4 A worker will not suffer dismissal or any detrimental action or omission of any type (including informal pressure or any form of victimisation) by the college for making a disclosure in accordance with this policy and procedure. Equally, where a worker is threatened, bullied, pressurised or victimised by a colleague for making a disclosure, disciplinary action will be taken by the college against the colleague in question.
- 7.5 There is no need for a worker to prove that the breach or failure that they are alleging has occurred or is likely to occur; a reasonable suspicion will suffice, i.e. where the worker reasonably believes that the information disclosed is substantially true. Workers should, however, note that they are not entitled to make a disclosure if in so doing they commit a criminal offence.

8. Disclosure to external bodies

- 8.1 This policy and procedure has been implemented to allow workers to raise disclosures internally within the college. A worker has the right to make a disclosure outside of the college where there are reasonable grounds to do so and in accordance with the law.
- 8.2 Workers may make a disclosure to an appropriate external body prescribed by the law. This list of 'prescribed' organisations and bodies can be found on the government's website www.gov.uk/whistleblowing
- 8.3 Workers can also make disclosures on a confidential basis to a practising solicitor or barrister.
- 8.4 If a worker seeks advice outside of the college, they must be mindful not to breach any confidentiality obligations or to damage the college's reputation in so doing. However, the use of a non-disclosure agreement between the College as an employer and an employee cannot be used to prevent the disclosure of information which would constitute a subject matter for whistleblowing (as described in section 4). Help and advice on making an external disclosure can be sought from the charity Public Concern at work which is detailed in Section 11.

9. Accountability

- 9.1 The college will keep a record of all concerns raised under this policy and procedure (including cases where the college deems that there is no case to answer and therefore that no action should be taken) and a formal report will be provided to the Principal and Audit Committee on an annual basis.

10. Concerns relating to safeguarding practices

- 10.1 All workers and volunteers should feel able to raise concerns about poor or unsafe practice and potential failures in the College's safeguarding procedures and know that such concerns will be taken seriously by the senior leadership team and Governors.
- 10.2 Where a worker feels unable to raise an issue through this policy or feels that their genuine concerns are not being addressed, other whistleblowing channels may be open to them including from ACAS (www.acas.org.uk) and the Whistleblowing Advice Line described in section 11.3. In addition, the government has advice and information available on how to raise your concerns at www.gov.uk/whistleblowing
- 10.3 In addition, where a worker has specific concerns regarding possible child protection failures within the College, the NSPCC whistleblowing helpline is available for workers who do not feel able to raise those concerns internally. Workers can call 0800 028 0285 and the line is available from 8:00 AM to 8:00 PM, Monday to Friday or via email: help@nspcc.org.uk. Further information can be found at www.nspcc.org.uk.

11. Further assistance for employees

- 11.1 The college will not tolerate any harassment or victimisation of workers who make disclosures. If, at any stage of this procedure a worker 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 the Principal.
- 11.2 A worker making a disclosure may want to confidentially request counselling or other support from the college. Any such requests for support services should be addressed in confidence to the Director of HR or a member of the senior management team.
- 11.3 Workers can also contact, in confidence, the charity 'Protect' via their confidential Whistleblowing Advice Line on 020 3117 2520, or further information and contact details are available on their website at www.protect-advice.org.uk.

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