

PUBLIC INTEREST DISCLOSURE POLICY & PROCEDURE

(also known as Whistleblowing)

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1. Scope and Purpose

1.1 The College is committed to operating in an ethical and principled way. The aim of this policy and procedure is to provide individuals with a means for raising genuine and legitimate concerns of suspected malpractice within the College confidentially without fear of adverse repercussions being taken against them.

1.2 The policy is made in accordance with the Public Interest Disclosure Act (PIDA) 1998 and subsequently the Enterprise and Regularity Reform Act 2013, which provide legal protection against detriment and/or unfair dismissal for individuals who make a genuine and legitimate disclosure.

1.3 This policy and procedure applies to all College governors and employees, including contractors working for the College, e.g. agency staff, builders and consultants. These individuals are protected within the Policy.

1.4 This policy and procedure seeks to balance the need to allow a culture of openness against the need to protect other individuals against vexatious allegations or allegations which are not well-founded.

1.5 Students of the College are encouraged to raise any genuine concern/s about

suspected wrongdoing by making a complaint using the Complaints Procedure.

2. Policy Principles:

- 2.1 Individuals are encouraged to raise any genuine and legitimate concerns through internal College procedures at the earliest practicable stage. Any disclosure made elsewhere without following the procedure outlined in this document first may result in a loss of protected status under the law. It may also lead to disciplinary action arising from gross misconduct.
- 2.2 The College will maintain disclosure in line with best practice and current legislation and will not tolerate harassment or victimisation of anyone raising a concern under this procedure, whether or not it proves well founded and will take disciplinary action against any such behaviour.
- 2.3 Individuals can make a disclosure without fear of victimisation, subsequent discrimination or disadvantage.
- 2.4 It is extremely important that the discloser must have reasonable grounds for believing that the information being disclosed indicates a case of malpractice within the College as disciplinary action may be taken in response to maliciously unfounded disclosures.
- 2.5 If the discloser is already the subject of disciplinary or other procedures relating to their employment, those procedures will not be halted as a result of their disclosure.
- 2.6 The College has a range of policies and procedures which deal with standards of behaviour at work, covering Discipline, Grievance, Bullying and Harassment, Health and Safety, Recruitment and Selection and Safeguarding. Employees are encouraged to use the provisions of these procedures when appropriate.
- 2.7 For further guidance in relation to this policy and procedure, or concerning the use of the disclosure procedure generally, individuals should speak in confidence to the Director of Human Resources or to the Clerk to the Corporation.
- 2.8 In addition to the College's Financial Regulations, the Public Interest Disclosure Policy and Procedure is complementary to the College's procedure for dealing with Fraud and Irregularity and Guidelines for Gifts, Hospitality and Travel Claims. This policy also fulfills the College's obligations under the Bribery Act 2010.
- 2.9 If more than one Policy of the College is considered appropriate to deal with the concern raised, a decision on which of the policies is most appropriate to deal with the matter will be made by the Whistleblowing Officer or the Principal. Only one Policy and Procedure will deal with one individual matter.
- 2.10 Although disclosers are not expected to prove beyond doubt the truth of an allegation, it is required they demonstrate reasonable grounds for concern.

3. Accountability

- 3.1 The Director of Human Resources is:
responsible for the maintenance and operation of this policy and procedure;

the first point of contact for persons seeking advice about the Policy;
to be collectively referred to in this document as the 'Whistleblowing Officer';

required to maintain a record of all disclosures raised under this Policy and Procedure and report to the Board of Governors annually (autumn term) detailing (maintaining confidentiality of the discloser) all substantiated disclosures and any subsequent actions taken; and any unsubstantiated disclosures (where the Whistleblowing Officer/College deemed no action should be taken).

3.2 All employees and governors:

are responsible for adhering to the requirements set out in this document; and, have a legal and moral responsibility to report improper acts and omissions as outlined in the procedure.

In some circumstances, failure to raise such concerns may amount to breach of contract or breaking the law.

4. Protected disclosures

4.1 Under the Public Interest Disclosure Act 1998 and the Enterprise and Regulatory Reform Act 2013 the law protects an employee who, out of a sense of public duty, wants to reveal a suspected wrongdoing or malpractice.

4.2 The law allows employees 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 5 below) and must be made in an appropriate way (see section 6 below), meeting the following criteria:

- The procedure in this policy has been followed;
- The individual has acted in the public interest and not for personal gain or out of personal motives; and
- It must consist of information and not merely be allegations of suspected malpractice.

5. Specific Subject Matter

5.1 If an individual 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 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 of the above, is being, or is likely to be, deliberately concealed.

This list not intended to be exhaustive, and the policy does **not** apply to issues that relate to mismanagement.

6. Procedure for making a disclosure

- 6.1 Initially, disclosures should normally be raised with the Whistleblowing Officer. This may be done orally (and then confirmed in writing) or in writing.
- 6.2 If the discloser feels they cannot go to the Whistleblowing Officer with their disclosure or they feel the outcome was unsatisfactory, they should direct their disclosure or reasons for dissatisfaction in writing to the Clerk to the Board of Governors.
- 6.3 In the event of the disclosure being against the Clerk, the discloser should direct their disclosure in writing to the Chair of the Board of Governors.
- 6.4 In the event of the concern being against the Principal, the discloser should direct their disclosure in writing to the Clerk to the Board of Governors who will act in conjunction with the Chair of the Audit Committee.

7. Anonymous Allegations

- 7.1 This procedure encourages disclosers to put their name to an allegation whenever possible. Concerns expressed anonymously are much harder to investigate and difficult to resolve.
- 7.2 In responding to an anonymous disclosure, the Whistleblowing Officer will pay due regard to paragraph 4.2 above, fairness to any individual named, the seriousness of the issues raised, the credibility of the concern and the prospects of an effective investigation and discovery of evidence.
- 7.3 The College reserves the right to determine whether to apply this procedure in respect of an anonymous disclosure. This decision will be based on whether the matter is considered to be in the public interest.

8 How the College will respond

- 8.1 The Whistleblowing Officer will assess whether the disclosure falls within the scope of the College's disclosure procedure and advise the discloser of the appropriate route to follow if it does not (fall within the scope of this procedure).
- 8.2 If the disclosure is judged to be wholly without substance or merit, the Whistleblowing Officer will advise the discloser that it will be dismissed and advise of the reason/s for this decision. Considerations to be taken into account when making the determination may include the following:
 - If the College is satisfied that the discloser 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.

- 8.3 The Whistleblowing Officer will send a confidential letter to the discloser's home address (this address must be checked with the individual and be the address held on College records) and not through the internal mail or College email, unless the discloser agrees in advance.

This letter should be sent within ten-working days (wherever reasonably possible) of receipt of the disclosure to:

confirm receipt;
indicate how the College proposes to deal with the matter;
offer to hold an initial exploratory meeting (to be held within 14 working days of the date of the letter);
give an estimate of how long it will take to provide a final response, where applicable;
confirm whether initial enquiries have been made;
supply information on staff support mechanisms, where applicable; and:
confirm mutual expectations surrounding confidentiality and communication channels to be used throughout the investigation.

- 8.4 If the discloser is dissatisfied with the decision of the Whistleblowing Officer to dismiss their disclosure, they may explain their reasons for dissatisfaction in writing to the Clerk to the Board of Governors normally within 10 working days of the date of the letter notifying them of the dismissal.

- 8.5 When a disclosure 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, OFSTED, Health and Safety Executive or the Information Commissioner's Office.

- 8.6 In order to protect individuals and those accused of misdeeds or possible malpractice, the Whistleblowing Officer will make initial enquiries to decide whether an investigation is appropriate and, if so, what form it should take.

The overriding principle which the College will have in mind is the public interest.

Concerns or allegations which fall within the scope of specific procedures (for example, safeguarding or discrimination issues) will normally be referred to the appropriate manager for consideration under those procedures.

- 8.7 Some concerns may be resolved by agreed action without the need for investigation. If urgent action is required this will be taken before any investigation is conducted.

- 8.8 The investigation may need to be carried out under the terms of strict confidentiality, i.e., by not informing the subject of the disclosure if (or until) it becomes necessary to do so. This may be appropriate in cases of suspected fraud. In certain cases, however, suspension from work may have to be considered immediately.

- 8.9 Should an investigation be decided upon, an Investigating Officer (usually a member of the Extended Senior Leadership Team) will be appointed by the Whistleblowing

Officer. The Investigating Officer will have had no direct association with the discloser or with the individual(s) about whom the concern is being raised.

- 8.10 The Investigating Officer will proceed to investigate the concern by taking the following steps:

Step 1: Any meetings can be held off-site at a mutually convenient location and time. This meeting should be arranged to take place within a reasonable period of time in order to find out more by considering any relevant documentation or supporting evidence in order to decide on the next steps and should offer the entitlement for the discloser to be accompanied by a trade union representative or work colleague. The Investigating Officer should also be accompanied by a note-taker at this meeting. The Investigating Officer should prepare for the meeting in advance and, in consideration of any relevant documentation received, should explore the need of any clarification of the disclosure, request any additional supporting evidence and identify other potential witnesses.

Step 2: After the meeting, the Investigating Officer will review the notes taken from the meeting together with any other documentation or correspondence relating to the investigation in order to establish whether or not the claim is supported. Further meetings should be arranged if necessary.

Step 3: The Investigating Officer will report back to the Whistleblowing Officer with the findings without any unnecessary delay.

If the claim is supported, the Whistleblowing Officer will *either*:
sanction action externally, e.g.
report to the police;

The Skills Funding Agency /Education Funding Agency;
OFSTED;
the National Audit Office or External Audit organisations;
Health and Safety Executive;
Environmental Agency Serious
Fraud Office
Inland Revenue
Local authority
Information Commissioner's office;
or:

Take action internally, e.g. disciplinary proceedings, internal audit, review of internal policies and procedures.

- 8.11 In all instances in which a concern leads to formal disciplinary proceedings, there shall be full disclosure of the name of the discloser, the nature of the allegation and the available evidence to the person against whom the concern has been raised to enable him or her to have the opportunity to respond.
- 8.12 Where there is no case to answer, but the discloser held a genuine concern and was not acting maliciously; the Whistleblowing Officer should ensure that the discloser suffers no reprisals.

9. Concluding the process

9.1 The Whistleblowing Officer will confirm, in writing, the conclusion of the investigation to the person/s against whom the disclosure was made (unless the person/s remain unaware of the investigation), confidentially to a confirmed home address.

9.2 In order to assure the discloser that the concern has been properly addressed, subject to legal constraints, and following the investigation, the Whistleblowing Officer will write to confirm the outcome, again confidentially to the discloser's home address.

This confirmation will *not* include details of any disciplinary action against others, which will remain confidential to the individual/s concerned.

9.3 If the discloser feels the outcome of the investigation is unsatisfactory, they should explain their reasons for dissatisfaction in writing to the Clerk to the Board of Governors normally within 10 working days of the date of the letter notifying them of the outcome.

10 Support for disclosers

10.1 The College recognises that raising a disclosure can be a stressful experience and seeks to be supportive and remove the fear from the process.

10.2 The College also recognises employees may wish to seek advice and be represented by their trade union officers when using the provisions of this policy, and acknowledges and endorses the role trade union officers play in this area.

10.3 If, at any stage, the discloser is concerned about what progress is being made, require support or reassurance, or feel they may be being victimised or harassed as a result of making the disclosure, they should raise this in writing to the Whistleblowing Officer.

10.4 Employees and governors can also contact these charities for confidential advice on whistleblowing issues:

Public Concern at Work.

3rd Floor, Bank Chambers
6-10 Borough High Street
LONDON SE1 9QQ

Advice line: 020 7404 6609

<http://www.pcaw.org.uk>

NSPCC

<http://nspcc.org.uk>

[Whistleblowing Advice Line](http://nspcc.org.uk) 0800 028 0285

Provides support to employees wishing to raise concerns over how child protection issues are being handled in their own or other organisations.

11 Confidentiality

- 11.1 The College will treat all disclosures as confidential and sensitive and will exercise particular care to keep confidential the identity of any person raising a concern under this procedure.
- 11.2 If it is decided to launch a formal investigation thereafter, the identity of the discloser may be kept confidential, if requested, unless this is incompatible with a fair investigation or unless there is an overriding reason for disclosure. In any such instance, the discloser will be consulted before any action is taken.
- 11.3 If there is an unauthorised disclosure of identity, disciplinary action may be taken against that individual.

12 Disclosure to external bodies

This procedure is in place to provide an avenue to raise concerns within the College and disclosers are encouraged to make use of it. No discloser should take the matter outside the College until the College procedure has been completed. With respect to any communication externally after conclusion of the procedure to any media, external person or body, the discloser should refer the matter to the Whistleblowing Officer, or in the case of Governors to the Chair or Clerk of the Board of Governors and obtain approval before any communication of the matter externally.

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