

# Whistleblowing Policy and Procedure

Appendix to Financial Regulations (Appendix 2)

<b>Policy review area</b>	Finance
<b>Lead Manager</b>	Chief Operating Officer
<b>Approval Level</b>	Board
<b>Start Date</b>	April 2022
<b>Review Cycle</b>	1
<b>Next Review</b>	April 2023

## **1. Introduction**

- 1.1 The College is committed to operating in an ethical and principled way. The aim of this policy, and associated procedure, is to provide employees and workers (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 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.
- 1.3 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.
- 1.4 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.
- 1.5 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.
- 1.6 Students and apprentices at the College are also encouraged to raise genuine concerns about suspected wrongdoing by making a complaint via the College's Complaints Procedure. This policy and procedure is designed for the use of workers of the College.

## **2. Applicability of this Policy and Procedure**

- 2.1 This policy applies to all employees of the College, including apprentices, workers, which includes any casual workers and home-based casual workers, employees of subcontractors, Governors, volunteers and Agency workers engaged by the College.
- 2.2 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 the HR Department, 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**

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.

## **5. Procedure for making a disclosure**

The College has set out specific procedure for making a disclosure. This is set out in Appendix 1.

## **6. Procedure for dealing with a disclosure**

The College has set out specific procedure for dealing with a disclosure. This is set out in Appendix 3.

## **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. For confidentiality purposes, if the worker requests to initially raise their concern verbally, the College will 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 No formal disciplinary action will be taken against a worker on the grounds of making a disclosure made under this policy or procedure. This does not prevent the College from bringing disciplinary action against a worker where the College has grounds to believe that a disclosure was made maliciously or vexatiously, or where a disclosure is made outside the College without reasonable grounds.
- 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.

## **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 in information on the GOV.UK website: <https://www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies--2/whistleblowing-list-of-prescribed-people-and-bodies>.
- 8.3 Workers can also make disclosures on a confidential basis to a practising solicitor or barrister.

They can also make disclosures to their MP.

- 8.4 If a worker seeks advice outside of the College, they must be careful not to breach any confidentiality obligations or damage the College's reputation in so doing.

## **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 will report to the [the College's Board of Governors] on an annual basis as appropriate.

## **10. Further assistance for workers**

- 10.1 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 Chief Executive Officer.
- 10.2 A worker making a disclosure may want to confidentially request counselling or other support from the College's occupational health service. Any such request for counselling or support services should be addressed to the Head of HR. Such a request would be made in confidence.
- 10.3 Workers can also contact the charity 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  
<http://www.pcaw.org.uk>

## **11. Governance and reporting**

- 11.1 The Board's Audit and Risk Committee has a statutory responsibility, under the Funding Agency's Post-16 Audit Code of Practice, to oversee the corporation's policies on and processes around fraud, irregularity, impropriety and whistleblowing, and ensure:
- the proper, proportionate and independent investigation of all allegations and instances of fraud and irregularity
  - that investigation outcomes are reported to the audit and risk committee
  - that the external auditor (and internal auditor if applicable) are informed of investigation outcomes and other matters of fraud, irregularity and impropriety, and that appropriate follow-up action has been planned/actioned
  - that all significant cases of fraud or suspected fraud, theft, bribery, corruption, irregularity, major weakness or breakdown in the accounting or other control framework are reported to ESFA as soon as possible
- 11.2 A report on each investigation conducted under the policy will be submitted to the Audit and Risk Committee, which will determine whether changes to College policies, procedures or controls are required.

## **12. Review**

This policy and associated procedure will be reviewed by the Board annually as part of their review of the College's Financial Regulations.

## Appendix 1 - Procedure for making a disclosure

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 Department Head/Manager so that any appropriate action can be taken.
2. If it is inappropriate to make such a disclosure to their line manager, a worker can raise the issue with their Assistant Principal/SLT member.
3. If the worker does not believe it appropriate to make the disclosure to their Department Head/Manager, or SLT member, the disclosure should be made to the Clerk to the Corporation, who is the 'designated person'.
4. If the disclosure relates to the CEO, a worker should raise the issue with the Clerk to the Corporation. In the event that the disclosure relates to the Clerk to the Corporation, a worker can raise the issue with the Chair of the Board of Governors.
5. A proforma for making a disclosure is included as Appendix 2. Use of this form is encouraged but not mandatory.
6. 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; and
  - How likely it is that the concern can be confirmed from attributable sources.
7. For further guidance in relation to this procedure, workers should speak in confidence to the Clerk to the Corporation or the Head of HR.

**Appendix 2 - Whistleblowing Disclosure Form**

I have read the College's Whistleblowing Policy and Procedure and I wish to bring the following concern to the attention of [please specify].

I have/have not\* (please delete as applicable) initially raised this concern with my Line Manager/Department Head/Manager/Human Resources.

Full details of my concern are (if necessary please use an additional sheet and staple to this form):

Name: .....

Signed: ..... Date: .....

**You do not have to sign this form if you wish to withhold your identity.**

If you have given your name, please indicate whether or not you wish to meet with the designated person and/or a member of Human Resources to discuss your concerns. YES / NO\* (please delete as applicable)

The completed form is to be sent to the designated person in an envelope clearly marked "Private and Confidential – Staff/Student Concern – To be opened by designated person only".

### Appendix 3 - Procedure for investigation of a disclosure

1. When a worker makes a disclosure, the College will acknowledge its receipt, in writing, within a reasonable time (generally a maximum of 5 working days).
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.
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, OFSTED, Education and Skills Funding Agency, Health and Safety Executive or the Information Commissioner's Office.
4. Any internal investigation will 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.
5. Any recommendations for further action made by the College will be addressed to the CEO 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. 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 raising the issue with the CEO within 5 working days. The CEO will make a final decision on action to be taken and notify the worker making the disclosure.
7. The College will endeavour to be expeditious in the investigation of disclosures. However, timescales may be required to be flexible and to take into account that different types of concerns will require varying time for investigation.
8. All communications with the worker making the disclosure will be in writing (this includes e-mail) and sent to the worker's home contact address rather than through the College's internal mail. If investigations into the concern are prolonged, the College will keep the worker concerned updated as to the progress of the investigation and an estimated timeframe for its conclusion.
9. The Audit and Risk Committee must be informed immediately, via the Clerk to the Corporation, of any allegations concerning fraud, irregularity, theft, corruption, major weakness or breakdown in the accounting or other control framework, along with the proposed steps that will be taken to investigate the allegations and the outcomes of that investigation. It is the responsibility of the Audit and Risk Committee to ensure that such proposed investigations are proper, proportionate and independent