

Whistleblowing Policy

Head of Human Resources & Organisational Development
Issue 11

Approval Date: 01/05/2021
Review Date: 01/05/2022

BEACONS OF **EDUCATIONAL EXCELLENCE**
TRANSFORMING THE LIVES OF INDIVIDUALS
AND COMMUNITIES



1. Policy Statement

The purpose of this policy and procedure is to provide employees, workers and governors (referred to as employees in this document, only for the purposes of this policy) with a confidential process for raising concerns about suspected serious malpractice. For example, disclosure of a suspected crime, so that it can be investigated appropriately without fear or retribution from the College. This policy is not intended for grievances as these are dealt with under the Grievance Policy.

This policy makes it clear that individuals raising a concern can do so without fear of victimisation, subsequent discrimination or disadvantage. The aim of the policy is to encourage employees to raise serious concerns via internal proceedings. However, the policy also provides an avenue for external disclosure, outlining protection arrangements in accordance with the Public Interest Disclosure Act, 1998 (PIDA, 1998).

2. Scope

This procedure applies to all employees working under a contract of employment, agency workers, governors (referred to as employees elsewhere in this document, only for the purposes of this policy), contractors working on or off site or individuals contracted to provide a service from their own premises. The Public Interest Disclosure Act 1998 (PIDA) upon which this policy is related covers all workers.

Definitions of whistleblowing:

Whistleblowing occurs when an employee or worker provides certain types of information usually to the employer or a regulator which has come to their attention through work. Whistleblowing can be defined as the disclosure of confidential information that relates to some danger, fraud or other illegal or unethical conduct connected with the work place where the whistle-blower does not have sufficient confidence that the normal management procedures can be relied upon to halt the malpractice.

Generally, the misconduct is a breach of law, rule, regulation, and / or a direct threat to others.

Whistle blowing does not include:

- Grievances about an employee's employment situation
- Complaints about terms and conditions
- Matters concerning students for which other forums exist
- Financial or business decisions that are taken by the corporation unless these decisions fall within the context of malpractice as described above

3. Reference

The Public Interest Disclosure Act 1998 (PIDA).

4. Documentation

The policy will be made available on the staff intranet and hard copies will be available from the Human Resources department. The policy is available in adapted formats on request.

This policy should not be read in isolation, but cross referenced with all relevant College

employment policies.

5. **Monitoring and Review**

The policy will be reviewed by the Head of HR & Organisational Development and Clerk to the Corporation on a regular basis in accordance with legislative developments and the need for good practice.

The monitoring of accurate implementation of the procedures will be undertaken by the Human Resources Department. Frequency of use will also be assessed.

Responsibility for Review: Head of HR & Organisational Development

Review Date: May 2022

Endorsed by: *Group Principal
Senior Leadership Team
Corporation*

Owned and Authorised by: Head of HR & Organisational Development

To Ensure that: There is access to a confidential reporting process in which they can raise concerns relating to possible serious malpractice and that such concerns are responded to in a fair and consistent manner.

Role of HR: To provide advice and guidance in relation to the policy.

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 (referred to as 'employees' 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 employees 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 employees to raise genuine concerns through internal College procedures without fear of adverse repercussions being taken against them. The law allows employees to raise such concerns externally and this policy informs employees 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 employees against vexatious allegations or allegations which are not well-founded.
1.5	The principles of openness and accountability which underpin legislation protecting whistle blowers are reflected in this policy and procedure. The College is also committed to ensuring compliance with the Bribery Act 2010.
1.6	Students at the College are also encouraged to raise genuine concerns about suspected wrongdoing by making a complaint to the Head of Professional Services.
2	Applicability of this policy and procedure
2.1	This policy applies to all those included in Section 2 Scope above
2.2	The definition of employees includes apprentices, casual workers; employees of subcontractors and governors.
2.3	Agency workers engaged by the College are also covered by the Policy.
2.4	Employees might be unsure whether it is appropriate to raise their concern under this policy and procedure or whether the concern is a personal grievance, which may be more appropriate to raise under the Grievance Procedure. Any employee in this situation is encouraged to approach Human Resources in confidence for advice.
3	Protected disclosures
3.1	The law protects employees who, out of a sense of public duty, want to reveal suspected wrongdoing or malpractice.
3.2	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 4) and the disclosure must also be made in an appropriate way (see section 5). A 'protected disclosure' must, in the reasonable belief of the employee 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

	<p>If, in the course of employment, an employee becomes aware of information which they reasonably believe tends to show one or more of the following, they must use this policy and procedure:</p> <ul style="list-style-type: none"> • 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 a 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
5.1	If it is inappropriate to make such a disclosure to their line manager, an employee can raise the issue with Human Resources.
5.2	Information which an employee reasonably believes tends to show one or more of the situations given in section 4) should promptly be disclosed to Human Resources so that any appropriate action can be taken.
5.3	If the disclosure relates to the Group Principal, a governor or the Clerk to the Corporation, an employee can raise the issue with the Chair of Corporation. If the Chair of the Corporation is included in the alleged malpractice, the matter will be raised directly with the Education & Skills Funding Agency (ESFA).
5.4	<p>Employees 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 <i>that action is being</i> taken in line with section 6.6 below. Anonymity also means that the College will have difficulty in whether to apply this procedure in respect of an anonymised disclosure in light of the following considerations:</p> <ul style="list-style-type: none"> • 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.
5.5	For further guidance in relation to this policy employees should speak in confidence to Human Resources.
6	Procedure for investigation of a disclosure
6.1	When an employee makes a disclosure, the College will acknowledge its receipt, in writing within a reasonable time. See Appendix 1.
6.2	The Human Resources Department, Clerk to the Corporation, and the Chair of the Corporation, in liaison with the appropriate legal advice, if required, 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

	<p>further action, the employee 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:</p> <ul style="list-style-type: none"> • If the College is satisfied that an employee 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. • If the College is satisfied that the employee's belief is erroneous or misconceived and the subject of the disclosure can be satisfactorily explained.
6.3	<p>When an employee 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, <i>including disciplinary if appropriate</i>). Possible actions could include internal <i>or external</i> investigation; referral to the College's auditors; or referral to relevant external bodies such as the police, OFSTED, Health & Safety Executive or the Information Commissioner's Office, or reporting to ESFA.</p>
6.4	<p>If appropriate, any internal investigation would be conducted by a manager of the College who does not have any direct association with the individual to whom the disclosure relates, or by an external investigator appointed by the College as appropriate. In some cases, it might be that appropriate for a designated investigation officer to be the Clerk to the Corporation, rather than an external investigator. <i>Meetings will usually take place within 10 working days with a trade union representative or workplace colleague in attendance if appropriate.</i></p>
6.5	<p>Any recommendations for further action made by the College will be addressed to the Group Principal or the Chair of Corporation 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.</p>
6.6	<p>Whilst the College will endeavour to provide details of the type of action being taken, sometimes the need for confidentiality may prevent the College giving specific details of the investigation or any disciplinary action taken as a result. If the employee is not satisfied that their concern has been appropriately addressed, they can appeal against the outcome by raising the issue with the Head of HR & Organisational Development or the Clerk to the Corporation within 10 working days. The appeal will be assigned and that person will make a final decision on action to be taken and notify the employee making the disclosure.</p> <p>Timescales should be flexible, taking into account that different types of concerns will require varying investigation time. Communication should be in writing and updates on prolonged investigations should estimate the timeframe for conclusion, where possible.</p>
6.7	<p>For appropriate cases, the Clerk to the Corporation will advise the Corporation Chair and Chair of Audit of the outcome of the allegations. The Group Principal will agree with the Corporation Chair and the Chair of the Audit Committee the appropriate communication to the Board.</p>
7	Safeguards for employees making a disclosure

7.1	An employee making a disclosure under this procedure can expect the matter to be treated confidentially by the College and, where applicable, their name will not be disclosed to anyone implicated in the suspected wrong doing, without their prior approval.
7.2	The College will take all reasonable steps to ensure that any report of recommendations, or other relevant documentation, produced by the College or external investigator does not identify the employee making the disclosure without their 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 an employee on grounds of making a disclosure under this policy. This does not prevent the College from bringing disciplinary action against an employee where the College has <ul style="list-style-type: none"> (a) grounds to believe that a disclosure was made maliciously or vexatious, or (b) where a disclosure is made outside the college without reasonable grounds. (c) where evidence of wrongdoing by the employee making the disclosure comes to light during the investigation and such evidence would provide valid grounds for disciplinary action if the wrong doing had come to light at any other time.
7.4	An employee will not suffer dismissal or any detrimental action or omission of any type (including formal pressure or any form of victimisation) by the College for making a disclosure in accordance with this policy and procedure. Equally, where an employee 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 employees to raise disclosures internally within the College. An employee 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	Employees 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 www.gov.uk website
8.3	Employees can also make disclosures on a confidential basis to a practising barrister or solicitor.
8.4	If an employee seeks advice from outside of the College, they must be careful not to breach any confidentiality or obligations or damage the College's reputation in so doing.
9	Accountability
9.1	The College will keep a record of all the 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 Clerk to the Corporation on an annual basis as appropriate.
10	Further assistance for employees
10.1	The College will not tolerate any harassment or victimisation of employees who make disclosures. If, at any stage of this procedure an employee 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 Head of HR & Organisational Development.

10.2	An employee 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 & Organisational Development. Such a request would be made in confidence.
10.3	Employees can also contact the charity Protect for confidential advice on whistleblowing issues. Contact details are as follows: The Green House 244-254 Cambridge Heath Rd London E2 9DA Free, confidential whistleblowing advice : 020 3117 2520 www.protect-advice.org.uk

Appendix 1: Communication of Outcome

