

Policy/Procedure Name: Whistleblowing Policy

Policy/Procedure Number: HR022

Date of Approval: September 2018

Review Date: August 2021

Role Responsible: HR Manager

Approved By: SLT

1.0 Introduction

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 'workers' in this policy) with a means for raising genuine concerns of suspected bribery, breaches of the law and other serious wrongdoings.

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.

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.

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.

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.

Learners at the College are also encouraged to raise genuine concerns about suspected wrongdoing by making a complaint to the Deputy Principal. This policy and procedure is designed for the use of workers of the College.

This policy and procedure is not a mechanism for employees to raise private grievances or for complaints relating to individual circumstances.

2.0 Scope of this policy and procedure

This policy applies to 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.

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 seek advice from the Clerk to the Governors in confidence for advice.

3.0 Protected disclosures

The law protects workers who, out of a sense of public duty, want to reveal suspected wrongdoing or malpractice.

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.

4.0 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.

5.0 Procedure for making a disclosure

Information which a worker reasonably believes tends to show one or more of the situations given in Section 4 should promptly be disclosed verbally or in writing to the individual's line manager so that appropriate action can be taken.

If it is inappropriate to make such a disclosure to their line manager, a worker can raise the issue with their Head of Faculty or Head of Service. 5.3 If the Disclosure relates to the Principal and Chief Executive, a worker can 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 Governors.

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.

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 HR Manager or Clerk to the Governors.

6.0 Procedure for investigation of a disclosure

When a worker makes a disclosure, the College will acknowledge its receipt, in writing, within 10 working days where reasonably practical. All communications with the worker making the disclosure will be made in writing to the worker's home address and/or private email address

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.

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, Health and Safety Executive or the Information Commissioner's Office.

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. Depending on the seriousness of the concern raised, it may be appropriate for a senior manager or a designated officer, such as the Clerk to the Corporation, to investigate the concern. . 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 timescale for its conclusion.

Any recommendations for further action made by the College will be addressed to the Principal or Chair 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.

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 following completion of the investigation. 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 Principal within ten working days. The Principal will make a final decision on action to be taken and notify the worker making the disclosure.

7.0 Safeguards for workers making a disclosure

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.

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.

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 veraciously, or where a disclosure is made outside the College without reasonable grounds.

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.

8.0 Disclosure to external bodies

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.

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.

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

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.

9.0 Accountability

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 Audit Committee and summaries, which shall not include names, shall be reported to the Full Governing Body on an annual basis as appropriate.

10.0 Confidentiality, data protection and record keeping

We aim to deal with allegations raised under this policy sensitively and with due respect for the privacy of the individuals involved. All employees must treat as confidential any information communicated to them in connection with an allegation made under this Policy.

Conducting investigations and hearings under this policy involves us processing the personal data of the employees concerned. We use this personal data in order to investigate and deal with whistleblowing allegations. Our legal grounds for doing so are that it is necessary:

- to comply with our legal obligations and for the performance of the employment contract (i.e. to investigate and deal with allegations of wrongdoing in accordance with our duty of trust and confidence to our employees)
- in our legitimate interest to deal effectively with whistleblowing allegations, whether you are the subject of them or are otherwise connected to the issues raised

Special category data¹ and data relating to criminal offences or convictions may occasionally need to be processed under this policy – for example, where an employee raises an allegation of wrongdoing in the company which involves treating individuals badly because of their race or sexual orientation, or where an employee requires a reasonable adjustment to the operation of this policy to accommodate a disability. Our additional legal grounds for using such data are that this is necessary: to exercise legal rights/comply with legal obligations in relation to employment; and to establish, exercise or defend legal claims.

Where we take witness statements from employees with information about the allegations being investigated under this policy, such statements will be treated confidentially and will only be shared with individuals who need to be involved in the investigation and any follow-up action. This will ordinarily be HR and the person/people conducting investigations. In addition, if in the course of investigations under this policy it becomes apparent that misconduct has taken place which requires

¹ (i.e. personal data that reveals racial or ethnic origin, political opinions, religious or philosophical beliefs, trade union membership, physical or mental health conditions, sexual life or sexual orientation, or biometric or genetic data that is used to identify an individual)

investigation under our disciplinary policy, witness statements taken under this policy may be used in any subsequent disciplinary procedure and may therefore be shared with the person/people conducting investigations and hearings, as well as the employee whose conduct is the subject of disciplinary proceedings, to enable them to prepare for the hearing and respond to the allegations against them.

We will ordinarily keep records of allegations raised under this procedure, as detailed in the College's Employee Privacy notice, which can be accessed via the Brooklands Staff Intranet, held under Policies & Procedures; HR policies, or a copy can be obtained from the HR Department.

More general information, including details of who your personal data is shared with, your rights under data protection law and who you should contact if you have any concerns, is also contained in our main employee privacy notice.

11.0 Further assistance for workers

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.

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 should be addressed to the Head of HR. Such a request would be made in confidence.

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>