

# Whistleblowing Policy

<b>Owner: Clerk to the Governing Body</b>	<b>Related Strategies: Sustainability and People</b>
<b>Relevant to: All staff and agency/contractor workers</b>	

*Office Use only:*

<b>Corporate Intranet Family: Governance</b>	<b>Approval: Governing Body delegated to Audit and Risk Assurance Committee Executive Owner: Clerk</b>	<b>Approved Date: 24/9/2018  Re-approved 6 July 2022</b>	<b>Implementation Date: 1 August 2018</b>	<b>Next Review Date: July 2023</b>
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## New Policy or Substantive Policy Review

Version	Date	Policy Development Agreed by (Executive Owner)	Policy Development Author	Draft Policy Verified by	Policy Approval	Impact Assessment (If applicable)
1	Sept 2013				GB	
2	Sept 2016				CEO	
3	Sept 2018	Clerk	Clerk	ELT	GB	
4	Oct 2018	Clerk	Clerk			
5	Nov 2018	Clerk	Clerk		ARA Committee	
6	July 2019	Clerk	Clerk	ELT	ARA Committee	
7	Oct 2020	Clerk	Clerk	ELT	ARA Committee	
8	May 2021	Clerk	Clerk	ELT	ARA Committee	
9	May 2022	Clerk	Clerk	No changes	ARA Committee	

<b>Rationale for new or substantive policy review</b>	
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## Periodic Policy Review / Change History

Version	Date of Review / Revision	Description of Change	Reviewed By	Approved By (Executive Owner)
3	21/9/2018	Change 'member of staff' to 'Worker' to reflect clarification in case law of scope of legislation Reformat and add Definitions and Responsibilities sections Add note on whom should be notified about receipt of a Public Interest Disclosure	ELT 18/09/2018	Governing Body
4	17/10/2018	Sentence added to s.4.2 to direct staff to college policy for bullying and harassment.	GB	Governing Body
5	13/11/2018	Addition of contact details for Action Fraud in guidance on Procedure (section 4.3 refers).	Internal Audit	Clerk
6	1/7/2019	s.1.7 added to highlight availability of confidential support and counseling for TSC group staff considering using the Policy	EDHROD	ARA Committee
7	21/10/2020	Annual review - role titles updated to reflect changes to Executive Leadership Team role titles	EDP	ARA Committee
8.	26/5/2021	Minor textual corrections	Clerk	ARA Committee
9.	6/7/2022	No changes other than to update periodic review history and date of next review	Clerk	ARA Committee

**Communication**

To be agreed by Executive Leadership Team

Announcement on hub	✓	SLT email	□
College newsletter	□	All staff email	□
SLT meeting	□	Cascade brief	□
External website	✓	Training needed (specify who)	□

## **1. POLICY STATEMENT**

- 1.1 The college is committed to operating in accordance with its values. The aim of this policy and procedure is to provide staff members with a means for raising genuine concerns of suspected bribery, breaches of the law and other serious wrongdoings.
- 1.2 The college encourages staff members to raise genuine concerns about suspected wrongdoing at the earliest practicable stage. This policy and procedure are intended to provide safeguards to enable staff to raise concerns about malpractice in connection with the college.
- 1.3 This policy and procedure also aim to encourage staff members to raise genuine concerns through internal college procedures without fear of adverse repercussions being taken against them. The law allows staff members to raise such concerns externally and this policy informs staff members how they can do this. However, a failure to raise a concern under this procedure may result in a disclosure losing its protected status under the law (see definition below).
- 1.4 This policy and procedure also seek to balance the need to allow a culture of openness with the need to protect other staff members 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 College students are also encouraged to raise genuine concerns about suspected wrongdoing using the college's complaints procedure. This policy and procedure are designed for all **Workers** at the college (see definitions below).
- 1.7 For further advice about using this policy, staff may contact the People Team or the Employee Assistance Programme (a free confidential personal support service on 0800 716 017) that gives advice and counselling to staff. Further details on sources of information on whistleblowing are listed on page 7 of this document.

## **2 DEFINITIONS**

- 2.1 **Whistleblowing** is when a report is made about a suspected wrongdoing which is in the public interest. This is referred to as making a disclosure in the public interest. A whistleblower is someone who raises serious concern about wrongdoing or malpractice so that problems can be identified and resolved quickly.
- 2.2 **Workers** - this includes all employees of the college including apprentices and any casual workers; home-based casual workers; employees of subcontractors, the college's wholly owned subsidiary companies and agency workers engaged by the college.
- 2.3 **Protected disclosure** – protected or qualifying disclosures are disclosures of information where the Worker reasonably believes (and it is in the public interest) that one or more of the following matters is either happening, has taken place, or is likely to happen in the future.
  - A criminal offence
  - The breach of a legal obligation
  - A miscarriage of justice
  - A danger to the health and safety of any individual
  - Damage to the environment
  - Deliberate attempt to conceal any of the above.

And there is a reasonable belief that it is in the “public interest” for protection to apply.

- 2.4 **Prescribed person** – is an external organisation designated by law as one to whom a whistle blower may make a protected disclosure if, for good reason, they are not able to make the disclosure to their employer. The list of ‘prescribed’ organisations and bodies can be found in information on [the GOV.UK website](#). Workers may also make disclosures on a confidential basis to a practicing solicitor or barrister or their MP.

### **3 PRINCIPLES**

- 3.1 Under the Public Interest Disclosure Act 1998 and the Enterprise and Regulatory Reform Act 2013 the disclosure of confidential information in the public interest is a lawful act and a Worker cannot be dismissed, disciplined, or unfavourably treated provided:
- the Whistleblowing procedure has been followed to raise the concerns
  - the Worker has acted in the public interest and not for personal gain or out of personal motives.
- 3.2 Disclosure of confidential information or information that may bring the college into disrepute outside of this procedure may not be a protected or qualifying disclosure and therefore Workers must not to speak to the media or to any other person or body (other than a Prescribed Body) without first exhausting the proper procedure.
- 3.3 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.
- 3.4 The college will take 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.
- 3.5 No 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 is vexatious, or where a disclosure is made outside the college without reasonable grounds.
- 3.6 The college will not tolerate any harassment or victimization 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 Executive Director of People.

### **4 SCOPE AND LIMITATIONS**

- 4.1 The law protects the employment rights of Workers and therefore the policy does not apply to people who are not Workers. Students are encouraged to use the college Complaints Procedure.
- 4.2 Workers may be unsure whether it is appropriate to raise their concern under this policy and procedure or whether the matter is a personal grievance, which is more appropriate to raise under the college’s staff grievance procedure. Where an employee is concerned about bullying or harassment, they should use the procedure under the **Dignity at Work Policy** to report and resolve the matter and that policy also provides protection against victimization for reporting a concern. Any Worker who is unsure about which policy to use should contact a member of the People team in confidence for advice.

## **5 RESPONSIBILITIES**

- 5.1 **Workers** should make themselves aware of the policy and procedure and use it or other appropriate routes to raise concerns.
- 5.2 **Line managers, senior managers** should make sure that Workers within their area have access to the policy and procedure. When a serious matter is raised with them that may constitute a Protected Disclosure, they should follow the procedure or seek advice from a Senior People Business Partner.
- 5.3 **Executive Director of People and People Senior Business Partners** provide advice to managers on the operation of the procedure. Workers may contact the Executive Director of People if they believe they are being subject to informal pressures, bullying or harassment due to making a disclosure,
- 5.4 **Clerk to the Governing Body** is responsible for
- Periodically reviewing the policy and making minor changes to keep it up to date
  - Advising governors and executive colleagues on changes to the law that might have an impact on whistleblowing policy and procedures
  - Reporting to the Audit and Risk Assurance Committee of Governing Body on the operation of the procedure on an annual basis
  - Receiving and dealing with whistleblowing allegations related to Senior Post Holders or Governors.
- 5.5 **Audit and Risk Assurance Committee** oversees the operation of this Policy, on behalf of Governing Body, and ensures that the procedures for investigating disclosures and acting on the findings are proper, proportionate, and independent and that findings of irregularity or other wrongdoing are reported to the appropriate authorities.

## **6 IMPLEMENTATION ARRANGEMENTS**

- 6.1 This version of the Policy, with minor changes and clarifications, was implemented from September 2013.

## **7 MONITORING AND REVIEW**

- 7.1 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 Governing Body as and when appropriate.
- 7.2 The Audit and Risk Assurance Committee monitors the implementation of the policy annually and the policy and procedure are subject to period review on a triennial basis and when there are relevant changes to laws and regulations.

## **8 SUPPORTING/RELATED DOCUMENTS**

- 8.1 Procedures for making and investigating a disclosure (below)
- 8.2 Staff Grievance Policy and Procedures (available on staff hub)
- 8.3 Dignity at Work Policy (available on staff hub)
- 8.4 Complaints Procedure (available on college website)

## **WHISTLEBLOWING PROCEDURES**

### **1. Procedure for making a Protected Disclosure**

- 1.1 Information which a Worker reasonably believes to show wrongdoing as outlined in the definition of a protected or qualifying disclosure in the Policy should be disclosed promptly to their line manager so that any appropriate action can be taken.
- 1.2 If it is inappropriate to make such a disclosure to their line manager, a staff member can raise the issue with their Head of Department/Academy.
- 1.3 If the disclosure relates to the Chief Executive, a staff member can raise the issue with the Clerk to the Governing Body. If the disclosure relates to the Clerk to the Governing Body, a staff member can raise the issue with the Chair of the Governing Body.
- 1.4 Staff are encouraged to identify themselves when making a disclosure. If an anonymous disclosure is made, the college will not be able 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 undertaking an investigation. The college reserves the right to determine whether to apply this procedure in respect of an anonymized disclosure considering the following:
  - 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.
- 1.5 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 a Senior People Business Partner

### **2. Procedure for Investigation of a Disclosure**

- 2.1 When a Worker makes a disclosure, the recipient will acknowledge its receipt, in writing, normally within 5 working days.
- 2.2 The recipient will then determine whether they believe that the disclosure is wholly without substance or merit. If the recipient considers that the disclosure does not have sufficient merit to warrant further action, the Worker will be notified in writing of the reasons for that decision and advised that no further action will be taken by the college under this policy and procedure. Factors to be considered when making this determination may include (but are not limited to) the following:
  - If the recipient 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.
- 2.3 When a Worker makes a disclosure which has sufficient substance or merit warranting further action, the recipient will act as they deem appropriate (including action under any other applicable college policy or procedure). The recipient will normally notify the Chief Executive and Principal and the Chair of Audit and Risk Assurance Committee that a Public Interest Disclosure is being investigated, unless the individuals are the subject of the allegations, in which case the Clerk would advise. The Chair of Audit and Risk Assurance Committee or nominee, in consultation with the appropriate Executive Director and the Clerk, would notify internal auditors, external auditors and ESFA depending on the nature and seriousness of the allegations.
- 2.4 Possible actions could include internal investigation; referral to the college's auditors; referral to relevant external bodies such as the police, OFSTED, ESFA,

the Local Authority Designated Officer (for safeguarding concerns), Health and Safety Executive or the Information Commissioner's Office.

- 2.5 If appropriate, an internal investigation may be conducted by a manager of the college or by an external investigator appointed by the college as appropriate.
- 2.6 There may be situations where the process of investigating a disclosure makes it likely that the identity of the whistle blower would become known to other people in the investigation. Where this seems likely, the investigator will discuss with the whistle blower how this is handled and the safeguards that are available to protect them from detriment.
- 2.7 Any recommendations for further action made because of the investigation will be addressed to the Chief Executive and Principal, as appropriate in the circumstances. They will take all steps within their power to ensure the recommendations are implemented unless there are good reasons for not doing so.
- 2.8 The Worker making the disclosure will be notified of the outcome of action taken by the college under this policy within a reasonable period. If the Worker is not satisfied that their concern has been appropriately addressed, they can appeal against the outcome to the Chair of Governing Body within 10 working days of receiving the outcome letter. The Chair of Governing Body (or nominee such as a Vice Chair) will make a final decision on action to be taken and notify the Worker.

### **3 Disclosure to External (Prescribed) Bodies**

- 3.1 This policy and procedure have been implemented to allow Workers to raise disclosures internally within the college without detriment. 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.
- 3.2 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](#).
- 3.3 Workers can also make disclosures on a confidential basis to a practicing solicitor or barrister or to their MP.
- 3.4 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.

### **4. Further Assistance for Staff**

- 4.1 Those responsible for receiving concerns are trained and provide information about further support.

A Worker making a disclosure may make a confidential request for counselling or other support from the college. Any such request for counselling or support services should be sought from the People Team and will be dealt with confidentially. This is in addition to the confidential employer assistance programme on 0800 716 017.

- 4.2 There is advice on Whistleblowing at <https://www.gov.uk/whistleblowing>
- 4.3 Workers can also contact the following: - Public Concern at Work for confidential advice on whistleblowing issues. Contact details are as follows:

3<sup>rd</sup> Floor, Bank Chambers  
6 - 10 Borough High Street  
London SE1 9QQ

**Whistleblowing advice Line:** 020 7404 6609 <http://www.pcaw.org.uk>

**Action Fraud reporting Line:** 0300 123 2040 [www.actionfraud.police.uk](http://www.actionfraud.police.uk)