

College Group Policy

Whistleblowing

Manager Responsible: Deputy Principal: Finance and Corporate Services

Version Number: 2.8

Approval Date:	03 Nov 2021
Approved by:	Senior Management Team
Minute number:	
Ratified by:	Not Required
Minute number:	
Review Date:	30 Nov 2022
Author / Editor:	MahoneyB@chelmsford.ac.uk

Intended Audience: <i>(Check appropriate box)</i>			
Staff:	<input checked="" type="checkbox"/>	Governors:	<input type="checkbox"/>
Students:	<input type="checkbox"/>	External:	<input type="checkbox"/>

AMENDMENT SUMMARY

<u>Version</u>	<u>Date</u>	<u>Remarks</u>
2.1	10/03/2015	Inclusion of Local Authority Designated Officer (LADO) service contact details as a referral route for staff who have safeguarding concerns about employees or others who are in a position of trust working with children.
2.2	30/06/2015	Strengthened following LSCB Safe Recruitment self-assessment audit to make it explicit that whistleblowing procedures extend to recruitment or commissioning of services.
2.3	31/08/2016	Periodic Review.
2.4	30/08/2017	Periodic Review.
2.5	06/09/2018	Periodic Review.
2.6	06/08/2019	Periodic Review
2.7	02/09/2020	Periodic Review
2.8	03/11/2021	Period Review

Age, Disability, Gender & Race Equality Statement

Age, Disability, Gender and Race Equality Impact Measures will be set and monitored through analysis of all data related to potential suspected or actual abuse of this policy.

A copy of the Equality Impact Assessment Initial Screening Form is attached as an Annex to this document

1. Purpose and scope

This policy and procedure aims to encourage employees and workers (referred to as 'workers' in this policy) who may have genuine concerns about serious malpractice at the College to raise such concerns without fear of repercussions being taken against them. It sets out the legal protection provided to those who make 'protected disclosures' and the procedure to be followed.

This policy and procedure applies to all workers of the College Group, including employees, volunteers, apprentices, casual workers, agency staff, and employees of subcontractors.

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 Staff Grievance Procedure. Any worker in this situation is encouraged to approach the Human Resources Manager in confidence for advice.

2. References

- Staff Grievance Procedure
- Bribery Act 2010
- Complaints Procedure
- Staff Harassment Procedure
- Safeguarding Policy

3. Introduction

The College is committed to operating in an ethical and principled way. The aim of this policy and procedure is to provide workers 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.

The policy and procedure seeks to balance the need to allow a culture of openness against the need to protect other workers against vexatious allegations or allegations that are not well founded.

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 and local authority safeguarding requirements to enable concerns about the behaviours of those working with children to be made directly to the Local Authority Designated Officer (LADO).

Learners at the College and parents are also encouraged to raise genuine concerns about suspected wrongdoing by making a complaint under the College's Complaints

Procedure. This policy and procedure however, is designed for the use of workers of the College.

4. 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 5 below) and the disclosure must also be made in an appropriate way, (see section 6 below). 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.

5. 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.

6. Procedure for making a disclosure

Information which a worker reasonably believes tends to show one or more of the situations given in section 5 should promptly be disclosed to their immediate 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 a senior manager.

In circumstances when it is inappropriate to raise the matter with a senior manager, or 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 the Board of Governors.

For concerns regarding the safeguarding of children, workers should refer to the College Safeguarding Policy. This details the arrangements for workers to report disclosures made to them by students or others, or their own concerns, to the senior designated manager with responsibility for safeguarding. For safeguarding concerns relating to the appointment of staff or commissioning of services, workers should refer to the Safer Recruitment Policy & Procedure. Workers may also make disclosures directly to the Local Authority Designated Officer, (LADO), where they have concerns

regarding the safeguarding of children. Contact details for the LADO are provided in section 9 of this procedure.

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, workers should speak in confidence to the Clerk to the Corporation.

7. Procedure for investigation of a disclosure

When a worker makes a disclosure, the College will acknowledge its receipt, in writing, within a reasonable time.

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 or the seniority of the worker making the disclosure, a senior College manager or designated officer, such as the Clerk to the Corporation may be directed to investigate the concern.

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

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 Principal and Chief Executive within five working days. The Principal and Chief executive will make a final decision on action to be taken and notify the worker making the disclosure.

8. Safeguards for workers making a disclosure

A worker 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 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 vexatiously, 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.

9. 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 can be found in information on the www.gov.uk/whistleblowing website. Please note that the list of prescribed organisations does not include any press or media organisations.

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

In addition to the list of prescribed organisations, workers may make a disclosure directly to the Local Authority Designated Officer, (LADO), if their concerns are regarding the safeguarding of a child. The Essex Duty LADO telephone line is open from Monday to Friday, (during office hours but excluding public holidays).

Essex Duty LADO telephone number: 03330 139 797

The above duty line is for allegations made against those who work with children only and is not a general line of enquiry for children's safeguarding. For further information, please see the College's Safeguarding Policy.

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.

10. 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 College's Board of Governors on an annual basis as appropriate.

11. 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 subjected to informal pressures, bullying or harassment due to making a disclosure, they should raise this in writing through application of the College's Staff Harassment Procedure.

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 Human Resources Manager. 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:

CAN Mezzanine
7 – 14 Great Dover Street
London SE1 4YR.

Whistleblowing Advice Line: 020 7404 6609

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

Equality Impact Assessment (EIA) Initial Screening Form

Name of the Policy, Procedure, Practice or Proposal being screened:

Whistleblowing Policy and Procedure

Provide a brief description of its purpose:

To provide guidance on the College's policy and procedure to enable workers to disclose concerns about serious malpractice at the College.

Are there controls in place to monitor the uniform application of this practice? (if no please explain below)

Yes

~~No~~

Controls are in place through SMT meetings to monitor any disclosures made under this policy and to ensure that any subsequent investigation and/or action is taken independently of the person making the disclosure. The Staff Harassment Policy provides a further control to ensure that whistleblowing concerns are dealt with without workers receiving detrimental treatment as a consequence of making a protected disclosure.

Does the policy or process have the potential to affect a particular group disproportionately in either a positive or negative way? Please provide comments with supporting evidence:

The policy document is not considered to have the potential to affect a particular group disproportionately.

If you have identified a medium or high equality impact please complete the following, otherwise leave blank. Add additional comment below the questions as necessary.

Are there any other policies or practices that need to be assessed alongside this screening?

Yes

No

Should the policy or practice proceed to a full Equality Impact Assessment?

Yes	No
------------	-----------

If the answer to the above question is no, please give the reasons for this decision:

If a full impact assessment is required, please give the date by which it will be completed

(Note – If you have assessed a negative impact as high, you must seek advice and conduct a full EIA on a high priority basis)

Declaration:

We are satisfied that an initial screening has been carried out and a full Equality Impact Assessment [~~is~~ / is not] required at this time.

(If a full EIA is required, a template form is available within the EIA Guidance Notes which must be read before completing a full EIA).

Manager:

Signature:

Beverley Mahoney

Date:

26 Oct 2021

Countersigned

Signature:

Debs Hurst

Date:

3 Nov 2021