

# Whistleblowing Policy

**Policy Author:** Chief Governance Officer/ Data Protection Officer

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**Approved By:** SLT Policy Committee

**Reviewed:** Every two Years

## Our Mission

To unleash potential, creating better futures for our learners, businesses and communities

## Our Vision

A Truly Great College, delivering inspirational learning and excellence through career focused education.

## Our Values

**Learner and customer focused** – ensuring they are at the heart of everything we do

**Respectful** – by valuing and treating all fairly and as individuals

**Passionate** – demonstrating energising, engaging and inspiring all to achieve their potential

**Collaborative** – always working together to achieve excellence and growth

**Innovative** – leading the way, seeking new ways to continually improve

**Excellent** – in learning, teaching and assessment; the key to our success



Barking & Dagenham College

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# Whistleblowing 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 '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 Public Interest Disclosure Act 1998 (PIDA) protects individuals who make certain disclosures of information in the public interest, and also permits workers to raise such concerns externally. 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 this 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 allegation 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 Learners at the College are also encouraged to raise genuine concerns about suspected wrongdoing by making a complaint following the same procedure.

## 2. Definition of Whistleblowing

- 2.1 There is no single legal definition of the term 'whistleblowing.' The Association of Colleges describes whistleblowing as the action of an individual exposing evidence of wrongdoing by employers or third parties in the context of the workplace.

## 3. Application of this policy and procedure

- 3.1 This policy applies to all employees of the College, including:
  - Apprentices
  - Workers which includes any casual workers
  - Home-based casual workers
  - Employees of subcontractors
  - Agency workers engaged by the College.

- 3.2 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. Whistleblowing is where an individual has a concern about a danger or illegality that has a public interest aspect to it eg because it threatens learners, third parties or the public generally. A grievance is a complaint that generally relates to an individual's own employment position or personal circumstances at work. Any worker in this situation is encouraged to approach the Director of HR in confidence for advice.

#### **4. Protected disclosures**

- 4.1 The PIDA protects workers who, out of a sense of public duty, want to reveal suspected wrongdoing or malpractice.
- 4.2 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 5 below) and the disclosure must also be made in an appropriate way (See Section 6). 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**

- 5.1 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**

- 6.1 Information which a worker reasonably believes tends to show one or more of the situations given in Section 5 should promptly be disclosed to the Chief Governance Officer so that any appropriate action can be taken.
- 6.2 Disclosures can be made via email, verbally or in the form of a letter. If a verbal disclosure is made the Chief Governance Officer, Principal/CEO or Chair of the Audit Committee reserve the right to confidentiality record the disclosure to enable an investigation to take place.
- 6.3 If the matter directly concerns the Chief Governance Officer, then the disclosure should be made to the Principal/CEO. If the matter directly

concerns both these individuals, then the Chair of the Audit Committee should be approached.

- 6.4 The College hopes that workers will feel able to voice their concerns openly under the policy and 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.

- 6.5 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 the Chief Governance Officer.

## **7. Procedure for investigation of a disclosure**

- 7.1 When a worker makes a disclosure (point 6.2), the College will acknowledge its receipt, in writing, within a reasonable time (generally a maximum of five working days).
- 7.2 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.
- 7.3 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, OfS, ESFA, DfE, Health and Safety Executive or the Information Commissioner's Office.
- 7.4 If appropriate, any internal investigation would be conducted by the Chief Governance Officer (unless s/he is directly involved in the disclosure and in this instance the Principal/CEO or Chair of the Audit Committee would act as Investigation Manager). In some cases a manager without any direct association with the individual to whom the disclosure relates may be asked

to undertake an investigation to ensure confidentiality. An external investigator may also be appointed by the College as appropriate.

- 7.5 Any recommendations for further action made by the College will be addressed to the Chair of the Audit Committee or Vice-Chair of the 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.
- 7.6 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 and an update will be provided every 15 days.
- 7.7 This procedure encourages timely investigation of disclosures, although the College acknowledges that timescales need to be flexible to ensure thorough investigation of different types of concerns. For this reason, receipt of the disclosure will usually be within 10 working days with the timescale for a final response indicated where possible.
- 7.8 All communications with the worker making the disclosure should be in writing and sent to the worker's home address rather than through the College's internal mail. If investigations into the concern are prolonged, the College should keep the worker concerned updated every 15 days as to the progress of the investigation and an estimated timeframe for its conclusion.
- 7.9 All investigation outcomes will be reported to the Board of Corporation Audit & Risk Committee. In addition, the Audit & Risk Committee must be informed immediately, via the Chief Governance Officer, 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 & Risk Committee to ensure that such proposed investigations are proper, proportionate and independent.
- 7.10 **Right of Appeal** - 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 Chair of the Corporation within ten working days. The Chair of the Corporation will make a final decision on action to be taken and notify the worker making the disclosure.

## 8 Safeguards for workers making a disclosure

- 8.1 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
- 8.2 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.

- 8.3 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.
- 8.4 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.

## **9. Disclosure to external bodies**

- 9.1 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. However, it is expected that internal procedures will be exhausted before doing so.
- 9.2 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.
- 9.3 Workers can also make disclosures on a confidential basis to a practising solicitor or barrister or their MP.
- 9.4 If a worker seeks advice outside of the College, they must be mindful not to breach any confidentiality obligations or damage the College's reputation in so doing.

## **10. Accountability**

- 10.1 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 Board of Corporation Audit Committee on an annual basis as appropriate.

## **11. Further assistance for workers**

- 11.1 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 Director of HR and Chief Governance Officer (as investigation manager).
- 11.2 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 Director of HR. Such a request would be made in confidence.

- 11.3 Workers can also contact the charity Protect (formerly Public Concern at Work) for confidential advice on whistleblowing issues. Contact details are as follows:

The Green House  
244-254 Cambridge Heath Road  
London  
E2 9DA

Whistleblowing Advice Line: 020 3117 2520

Online contact form: <https://protect-advice.org.uk/contact-protect-advice-line/>