

# Public Interest Disclosure Policy and Procedure 2018-2021

Reviewed: October 2018  
To be next reviewed: October 2021  
To be reviewed by: Clerk to the Corporation

## **Public Interest Disclosure Policy and Procedure**

### **1. Background**

This procedure was introduced based on:

- a recommendation from the Second Report of the Committee on Standards in Public Life that “Local public spending bodies should institute codes of practice on whistleblowing, appropriate to their circumstances, which would enable concerns to be raised confidentially inside and, if necessary, outside the Organisation”
- the Public Interest Disclosure Act 1998, effective from 2nd July 1999, which is designed to protect “workers” who disclose information in the public interest, in the correct manner, from detriment, unfair dismissal or penalisation by their employers.
- more recently, the Enterprise and Regulatory Reform Act 2013 which amended whistleblowing procedures, with amendments only applying to ‘protected disclosures’ made after 25th June 2013.

### **2. Definition**

The law does not define the term ‘whistleblowing’. However, ‘whistleblowing’ can be described as the action of an individual exposing evidence of wrongdoing by employers or third parties in the context of the workplace.

### **3. 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 workers 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

whistleblowers 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 in relation to the matters referred to in Section 6 below, by making a complaint to the Assistant Principal for Curriculum and Student Studies. This policy and procedure is designed for the use of workers of the College.

#### **4. Applicability 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 it is more appropriate to raise under the College's grievance procedure. Any worker in this situation is encouraged to approach either the Executive Director for HR and Organisational Development or the Clerk to the Corporation, in confidence, for advice.

#### **5. 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 6 below) and the disclosure must also be made in an appropriate way (see Section 7). 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.

#### **6. 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.

#### **7. Procedure for Making a Disclosure**

Information which a worker reasonably believes tends to show one or more of the

situations given in Section 6 should promptly be disclosed, in writing, to the relevant Director for their area of work so that any appropriate action can be taken. If it is inappropriate for a worker to make such a disclosure to their Director, the worker can raise the issue with a member of the Senior Leadership Team.

If the disclosure relates to the Principal 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.

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 Executive Director for HR and Organisational Development or the Clerk to the Corporation.

## **8. 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, the 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.

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

All communications with the worker making the disclosure will 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 will keep the worker concerned updated as to the progress of the investigation and an estimated timeframe for its conclusion.

## **9. 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 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.

## **10. 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.

## **11. 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 Board of Governors, as appropriate.

In accordance with the Joint Audit Code of Practice the Audit Committee has a duty to oversee the College's Public Interest Disclosure Policy and Procedure.

## **12. 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, with the Executive Director for HR and Organisational Development or the Clerk to the Corporation.

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 Executive Director for HR and Organisational Development. Such a request would be made in confidence.

Workers can also contact the charity 'Protect' for confidential advice on whistleblowing issues. Contact details are as follows:

Protect  
CAN Mezzanine  
7 - 14 Great Dover Street  
London SE1 4YR

Whistleblowing Advice Line: 020 3117 2520

<http://www.protect-advice.org.uk>

## **13. Policy and Procedure Review and Amendment**

This procedure will be reviewed at least every three years and any amendments recommended to the Board of Governors.

The Board of Governors may amend this procedure from time to time; following consultation with the College's recognised trade unions.

## Sandwell College

### Public Interest Disclosure Policy and Procedure

#### Contacts

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