



Whistleblowing Procedure

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| Approving Body: SLT | SLT contact: Director of People & Organisational Development |
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Whistleblowing Procedure

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Head of Human Resources

SLT, CIT, Trade Union representatives, Staff Forum

1 INTRODUCTION

- 1.1 The College encourages its employees and workers to raise genuine concerns about suspected wrongdoing at the earliest practicable stage.
- 1.2 The College has produced this procedure to provide its employees and workers with a means for raising genuine concerns of wrongdoing in connection with the College, without fear of repercussions. The law allows workers to raise such concerns externally and this procedure informs workers on how they can do so. However, a failure to raise a concern under this procedure may result in a disclosure losing its protected status in law. We want to promote throughout the College a culture of openness and a shared sense of honesty by inviting all employees and workers to act responsibly to uphold our reputation and maintain the public's confidence in us.
- 1.3 This procedure also aims to create a balance between the need to provide protection for employees and workers who raise genuine concerns about wrongdoings and the need to protect other employees and workers, members of the Corporation, students and the College against incorrect allegations which can cause serious difficulty to innocent people.
- 1.4 The principles of openness and accountability which underpin legislation protecting whistleblowers are reflected in this procedure.
- 1.5 City College Plymouth recognise the importance of maintaining our reputation and the confidence in the people served by our College and is committed to the prevention of bribery and all forms of corruption. City College Plymouth operates a zero tolerance approach to bribery and any allegations of bribery or other forms of corruption by a member of management or employee will be taken seriously. Such complaints will be dealt with in accordance with the College's Anti- Fraud Policy, which may result in the College's staff disciplinary procedures being invoked and the matter reported to the relevant authorities as appropriate.

2. APPLICABILITY OF THIS PROCEDURE

- 2.1 This procedure applies to:-
 - 2.1.1 all employees of the College, including apprentices; and
 - 2.1.2 all workers, which includes any casual workers, home-based casual workers, and employees of sub-contractors; and
 - 2.1.3 agency workers engaged by the College.

- 2.2 The above persons will be referred to as 'workers' in this procedure.
- 2.3 Staff will be made aware of this procedure through the College induction and other communication processes.

3. PROTECTED DISCLOSURES

- 3.1 The law protects workers who, out of a sense of public duty, want to reveal suspected wrongdoing or malpractice.
- 3.2 The law allows workers to raise what it defines as a 'protected disclosure'. In order to be a protected disclosure, a disclosure of information must relate to a specific subject of wrongdoing (see section 4 below) and the disclosure must also be made in an appropriate way (see section 5 below). A 'protected disclosure' must, in the reasonable belief of the worker making it, be made in the public interest. A protected disclosure must consist of information and not merely be allegations of suspected wrongdoing or malpractice.
- 3.3 So called "gagging-clauses" within employment contracts and settlement agreements are void insofar as they conflict with the protections provided by the Public Interest Disclosure Act..

4. SPECIFIC SUBJECT MATTER

- 4.1 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:-
 - 4.1.1 a criminal offence has been committed, is being committed or is likely to be committed;
 - 4.1.2 an individual has failed, is failing or is likely to fail to comply with any legal obligation to which they are subject;
 - 4.1.3 a miscarriage of justice has occurred, is occurring, or is likely to occur.
 - 4.1.4 the health and safety of any person has been, is being, or is likely to be, endangered;
 - 4.1.5 the environment, has been, or is being, or is likely to be, damaged.
 - 4.1.6 information tending to show any of the above, is being, or is likely to be, deliberately hidden or concealed.
- 4.2 If a worker wants to raise a concern about any of the above, they may use the procedure set out below. This will enable the College to treat all disclosures consistently and fairly. However, if the worker has a complaint about their own circumstances, they must use the College's existing grievance procedure. For example, if a worker does not receive the correct amount of holiday pay, this is a personal grievance rather than a disclosure made in the wider public interest, and the grievance procedure must be used.

5. PROCEDURE FOR MAKING A DISCLOSURE

- 5.1 The College actively encourages all workers 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 the action taken by the College. Anonymity also means that the College will have difficulty in investigating such concerns. 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;
- how likely it is that the concern can be confirmed from attributable sources.

Workers need to be aware that making a disclosure anonymously can make it more difficult for them to qualify for protections as a whistleblower. This is because there would be no documentary evidence linking the worker to the disclosure to be considered.

- 5.2 If you have information which you reasonably believe to show one or more of the situations given in section 4, you should raise it, in confidence, as soon as possible, to a member of management with whom you are comfortable, and who you can trust. The manager should then raise the issue with the Principal (or Clerk to the Corporation if the disclosure is against the Principal, or the Chair of Board of Governors if the disclosure relates to the Clerk) who will make sure that at least three (but no more than five) members of staff of appropriate experience within the College are chosen as assessors and that one of the members will be a lead assessor. An assessor may refuse to become involved on reasonable grounds, including:
- a possible previous involvement or interest in the matter concerned;
 - being ill;
 - being unavailable; or
 - an assessor is satisfied, after consulting the lead assessor, that some other assessor would be more appropriate to consider the matter.
- 5.3 If you pass information to an assessor under this procedure, please do so in writing. If this is not possible you can speak to the assessor. You should provide as much written evidence as possible and the reasons for your belief of wrongdoing. There is no requirement to provide evidence to enable the College to look into the concerns raised, but it will assist the College to consider if the disclosure does have sufficient merit to warrant further action.
- 5.4 When the assessor receives your information, they will offer you a confidential interview as soon as possible and within no more than 10 working days. The purpose of the interview will be for the assessor to gather as much information as possible about your reasons for believing wrongdoing has taken place and to consult you about further steps which we could take. You can have a work colleague, trade-union representative or friend with you at the interview. If your friend is a lawyer they cannot be there in their legal capacity. The assessor may have an administrative assistant with them to take notes. For issues to do with confidentiality, see section 8 below.

6. FURTHER STEPS

- 6.1 As soon as possible after the interview (or after you tell the assessor if no interview takes place), and within no more than 20 working days, the assessor will recommend what further steps should be taken. These recommendations may include, but are not limited to, the following:
- The matter may need to be reported to the police.
 - The matter may need to be investigated either by the Audit Committee or some other committee of the Corporation, or referred to other internal or external auditors or investigators. The matter may be referred to relevant external bodies such as OFSTED, the Health and Safety Executive or the Information Commissioner's Office.
 - The matter may need to be reported to the Education and Skills Funding Agency (ESFA), the Department for Education, the National Audit Office (or any organisation which takes over from them) or any other appropriate regulatory or public authority.
 - You or another member of staff may need to be given the opportunity to take action through the grievance or complaints procedures or by making an appeal under the disciplinary procedures relating to staff if the concerns relate to either your or the other member of staff's own personal circumstances rather than wrongdoing within the College.
- 6.2 The reasons when the assessor may recommend no further action are as follows:
- If the assessor is satisfied that you do not have a reasonable belief that wrongdoing has taken place or is likely to.
 - If the matter concerned is already being dealt with under legal proceedings, or has already been referred for appropriate action by an external body.
 - If the matter is already being (or has already been) dealt with under one of the College's other procedures relating to staff or students.
 - If the assessor is satisfied, after investigation, that the wrongdoing has not taken place, is not taking place, or is not likely to.
- 6.3 The assessor will make any recommendations under this procedure to the Principal unless it is alleged that the Principal is involved in the alleged malpractice or unless there are other good reasons for not doing so. If this is the case, the assessor will make the recommendations to the Chair or the Vice-Chair of the Corporation. Wherever possible, the assessor will make the recommendations without revealing your identity as shown in 8.1.
- 6.4 The assessor will take all steps possible to make sure that the recommendations are put into practice unless there are good reasons for not doing so. If the Principal (or Chair or Vice Chair) decides not to put any of the recommendations into practice, they will write to the Chair of the Corporation as soon as possible and give their reasons. This will be within 10 working days of receiving the recommendations.
- 6.5 Once the Principal (or Chair or Vice Chair) has decided what further steps (if any) should be taken, the assessor will let you know the decision within 10 working days. If the College plans to take no further action, the assessor will give you the reasons for this.

7. PASSING INFORMATION OUTSIDE THE COLLEGE

- 7.1 If, having followed this procedure, you are not satisfied with the further steps (if any) the College has decided on or the outcome of these steps, you may appeal against the outcome by raising the issue with the Clerk to the Corporation within 10 days. The Chair or Vice Chair (who has not previously been involved) will make a final decision on action to be taken and notify the worker making the disclosure.
- 7.2 You may also appeal under 7.1 above if you have good reason for believing that all of the assessors are or were involved in the alleged malpractice or that you may suffer as a result of releasing the information.
- 7.3 You may, at any time, pass the matter confidentially to a professionally qualified and practising lawyer to get legal advice.
- 7.4 If an assessor believes that the circumstances of a particular situation will mean they need to get guidance, such as from a regional trade union official, they may do so. In these circumstances the assessor will have to do their best to make sure that the matter stays strictly confidential, unless:
- allowed for by this procedure; or
 - this is not possible by law; or
 - until such time as it becomes public knowledge.

8. PROTECTION

- 8.1 Any report or recommendations by the assessor will not, if possible, identify you, unless you agree in writing or unless there are reasons to believe you have not acted in the public interest or have acted maliciously or vexatiously. If you do not agree, or there are no good reasons, the assessor will not reveal your identity under this procedure unless:
- they legally have to;
 - the information is already public knowledge;
 - it is on a strictly confidential basis to the assessor's administrative assistant;
 - it is on a strictly confidential basis to a professionally qualified lawyer for the purpose of getting legal advice; or
 - it is necessary as part of a proper investigation.

However, while the College takes all practical steps to avoid identifying you, you must accept that in some circumstances it is going to be obvious who has provided the information. Because of this, the College cannot guarantee to keep your identity confidential.

- 8.2 The assessor will keep any documents (including electronic files) relating to the matter secure, so that as far as possible only they and their administrative assistant have access to them. As far as possible, any documents the assessor keeps will not reveal your identity.

- 8.3 If, under 5 above, you involve a local trade-union representative or work colleague in this procedure, you must make sure that the representative or work colleague keeps this matter strictly confidential, unless:
- allowed for by this procedure; or
 - this is not possible by law; or
 - until such time as it becomes public knowledge.
- 8.4 The College may tell you to take part in any enquiry or investigation into the matter that the College organises.
- 8.5 Where you take part in this enquiry or investigation, it will usually be on an open rather than a confidential basis. However, the assessor's obligations under 8.1 of this procedure will still apply about your identity.

9. PROTECTION AGAINST DISCIPLINARY ACTION/DETRIMENTAL ACTION

- 9.1 No formal disciplinary action will be taken against you on the grounds of making a disclosure made under this procedure. This does not prevent the College from bringing disciplinary action against you where the College has grounds to believe that a disclosure was maliciously or vexatiously made, or where a disclosure is made outside the College without reasonable grounds.
- 9.2 You 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 procedure. Equally where you are 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. DISCLOSURES TO EXTERNAL BODIES

- 10.1 This procedure has been implemented to allow workers to raise disclosures internally within the College. A worker has the right to make disclosure outside of the College where there are reasonable grounds to do so and in accordance with the law.
- 10.2 Workers may make a disclosure to an appropriate external body identified by the law. This list of identified organisations and individuals can be found in information on the GOV.UK website.
- 10.3 Workers can also make disclosures on a confidential basis to a practising solicitor or barrister.
- 10.4 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.

11. ACCOUNTABILITY

- 11.1 The College will keep a record of all concerns raised under this 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.

12. FURTHER ASSISTANCE FOR WORKERS

- 12.1 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 Head of Human Resources.
- 12.2 A worker making a disclosure may want to confidentially request counselling or other support from the College's occupational health services. Any such request for counselling or support services should be addressed to the Head of Human Resources. Such a request would be made in confidence.
- 12.3 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: 0207 404 6609

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

13. AMENDMENTS AND REVIEW

- 13.1 This procedure has been developed in accordance with:
- Employment Rights Act 1996
Public Interest Disclosure Act 1998
Enterprise and Regulatory Reform Act 2013
Association of Colleges' Whistleblowing Guidance for Colleges 2013
Department for Business Innovation & Skills Whistleblowing Guidance for Employers 2015.
- 13.2 The College will keep this procedure on whistleblowing under review to take account of any new Government legislation, regulations or best practice to ensure that the College is kept fully up to date with its responsibilities and duties with regard to whistleblowing and the protection of whistleblowers.
- 13.3 This procedure will be reviewed after three years. If you have any comments or suggestions about the procedure, speak to an assessor.

14. MONITORING, REVIEW AND EVALUATION

This policy will be reviewed every three years, taking into account feedback from:

- Disciplinary Authorities
- Invoking Officers
- Trade Union Representatives

15. WRITTEN COMMENTS TO: Head of Human Resources

An Equality Impact Assessment was carried out on this policy by the Vice Principal - Resources on 2nd May 2013.

The EIA has not been updated as no substantial revisions have been made to the Whistleblowing Procedure since April 2016.