

FIRCROFT COLLEGE OF ADULT EDUCATION
PUBLIC INTEREST DISCLOSURE POLICY & PROCEDURE



POLICY / DOCUMENT PURPOSE STATEMENT

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.

It does not apply to genuinely self-employed workers who run a profession or business on their own account.

APPLICATION

This policy and procedure aims to provide and identify mechanisms for workers to raise genuine concerns through internal College procedures without fear of adverse repercussions being taken against them.

INTERPRETATION

Further guidance on the use or interpretation of this policy may be obtained from the Finance team

LINKS WITH OTHER POLICIES / DOCUMENTS

Financial regulations

Disciplinary policy

Disaster management policy and plan

Anti-Fraud Policy & Procedures

Anti-Bribery Policy

Bribery Act 2010

<http://www.legislation.gov.uk/ukpga/2010/23/contents>

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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. It does not apply to genuinely self-employed workers who run a profession or business on their own account.

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 and allows such concerns to be investigated and dealt with appropriately.

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 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.

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 allegations or allegations which are not well-founded.

1.5 The principles of openness and accountability which underpin legislation protecting whistle-blowers 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 not employees of the College and are therefore not covered by the provisions of the Public Interest Disclosure Act and this policy. However the College remains committed to ensuring the highest professional standards and encourages learners to raise genuine concerns about suspected wrongdoing by making a complaint to the Director of Academic Planning and Development.

2. What is Whistleblowing?

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 whistle-blower is someone who raises serious concern about wrongdoing or malpractice so that problems can be identified and resolved quickly.

2.2 Staff members are encouraged to report malpractice (whether by other employees, contractors or governors). The person making the disclosure must have a reasonable belief that it is in the “public interest” for protection to apply.

3 Applicability of this policy and procedure

3.1 This policy applies to all employees of the College, including apprentices; and

3.2 Workers which includes any casual workers; home-based casual workers; and employees of subcontractors; and

3.3 Agency workers engaged by the College.

3.4 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. Any worker in this situation is encouraged to approach the HR Manager in confidence for advice.

4 Protected disclosures

4.1 The law 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. a disclosure must relate to a specific subject matter (See Section 5 below) and
- b. 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. It must consist of information and not merely be allegations of suspected malpractice. There is no legal definition of “public interest” and it will be for courts to decide on the merits of individual circumstances but it is unlikely that disclosures of a personal nature will satisfy a definition of public interest.

4.3 Under no circumstances should workers talk to the media or to any other person or body without first exhausting the proper procedure. Social media sites such as YouTube and Facebook are public rather than private spaces, and are not the appropriate channel for raising concerns.

4.4 A member of staff cannot be dismissed, disciplined or unfavourably treated provided:

- the procedure has been followed;
- the employee has acted in the public interest and not for personal gain or out of personal motives;

4.5 This policy is not to be used by individuals seeking to challenge decisions already made by the College or to consider matters already dealt with via internal procedures, such as disciplinary matters.

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.

5.2 Complaints about disputes/dissatisfaction in employment should be dealt with under the College Grievance procedure. For instance complaints about breaches of employee's own contract of employment should be raised as a grievance.

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 their *line manager* so that any appropriate action can be taken.

6.2 If it is inappropriate to make such a disclosure to their line manager, a worker can raise the issue with the *HR Manager/ Principal*.

6.3 If the disclosure relates to the Principal/Chief Executive, a worker can raise the issue with the *Clerk to the Governing Body*. In the event that the disclosure relates to the Clerk to the Governing Body, a worker can raise the issue with the *Chair of the Board of Governors*.

6.4 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 HR Manager*.

6.6 Where appropriate the Principal, Chair of Audit Committee and the Chair of the Governing Body will be informed that a disclosure has been made and is being investigated.

7. Procedure for investigation of a disclosure

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

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, Health and Safety Executive or the Information Commissioner's Office.

7.4 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.

7.5 Any recommendations for further action made by the College will be addressed to the *Principal or Chair of the College's 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 College will aim to keep the worker informed of the progress of the investigation and its likely timescale. However, sometimes the need for confidentiality may prevent the College giving specific details of the investigation or any disciplinary action taken as a result. All information about the investigation must be treated as confidential.

7.6 **Appeal** 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/Chief Executive* within 10 working days. The *Principal/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

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. **The College may also take appropriate disciplinary action against any person found to be deterring any person from reporting genuine concerns under this procedure** (please tell the HR Manager if you think you have been deterred, and raise it formally under the grievance procedure if the matter is not remedied).

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.

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.

9.4 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.

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

11. Liabilities

11.1 Personal liability of employees

The College will not tolerate any harassment or victimisation of workers who make disclosures. The College has a number of policies including harassment and bullying, grievance and disciplinary which staff must adhere to. 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 *Principal/Chief Executive*.

Such victimisation may provide grounds for grievance, disciplinary or other appropriate action to be taken against the perpetrator.

Workers should note that anyone found to have victimised a colleague as a result of their whistleblowing may be found to be personally liable at an Employment Tribunal. This may be the case even where the whistleblowing allegation was subsequently unfounded.

11.2 Vicarious liability of the College

In addition to the personal liability of its employees, the College recognises that it may also be vicariously liable for the behaviour of its workers who victimise a whistle-blower. Such liability may arise with or without the College's knowledge or approval.

12. Further assistance for workers

12.1 A worker making a disclosure is encouraged to call the College's free confidential counselling service, Care First or they may want to confidentially request support from the College's occupational health service. Any such request for counselling or support services should be addressed to the *HR Manager*. Such a request would be made in confidence.

12.2 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

Staff Guidance Notes

7.4 Guidance note: Depending on the seriousness of the concern raised and the seniority of the worker making the disclosure, it would be appropriate for a senior manager or a designated officer, such as the Clerk to the Governing Body to investigate the concern.

7.6 Appeal Guidance note: The procedure should encourage the expeditious investigation of disclosures and can specify timelines for different stages of the procedure. However, timescales should be flexible, taking into account that different types of concerns will require varying time for investigation. 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 as to the progress of the investigation and an estimated timeframe for its conclusion.

8.1 Guidance note: For confidentiality purposes, if the worker requests to raise their concern verbally, it would be appropriate for the College to allow the worker to do so

Whistleblowing – simple guidelines

This document is an attempt to simplify the guidelines – it can only give you a guide and if you want further information then you should read the full Public Interest Disclosure (Whistleblowing) procedure at the College Staff Hub on Sharepoint (within Operations>Finance>.Finance Policies)

Purpose

The College encourages “workers” to raise genuine concerns. Some things are internal matters (e.g. personal grievances, challenges to decisions, appeals, etc) and should be dealt within the College.

However if you suspect more **serious wrong doing** (e.g. bribery, breaches of the law and other serious wrongdoings) then it may be covered under the Whistleblowing procedure.

Who can raise an issue under this procedure?

Employees and other “workers” (*see section 3* for definition) – but not students

What issues are covered?

If you have a **reasonable belief that it would be in the public interest** to bring the College’s attention to a major issue (*see section 5* for definition) concerning **employees, contractors or governors** then you should raise it.

How do I raise it?

If you have a concern then please raise it first with your line manager. (*Section 6* sets out what you should do in other situations where it is not appropriate to raise it with your line manager). The College would hope that the matter can be raised and dealt with internally but you can, as an alternative, raise the issue through appropriate external channels (*see section 9.2*) – not the media.

What will the College do?

The College will investigate the disclosure and decide on an outcome. You will be notified of the outcome and if you are not satisfied then you have the right of appeal (*see section 7* for further information).

Will I be protected?

If you whistle blow in the appropriate way then your disclosure will be kept confidential and under law you will be protected against dismissal or any detrimental action (*see section 8*) – however if you do not use the proper procedures then you lose that protection.

If you are victimised by another worker for whistleblowing then the College may take appropriate disciplinary action against that person and he/she may also be personally liable for their victimisation (see *section 11*).