

WHISTLEBLOWING POLICY AND PROCEDURE

29 April 2015

Approved by Corporation on 29 April 2015

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(Review Date April 2017)

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1. Introduction

1.1 This Policy has been developed in accordance and under the guidance of the:

- Public Interest Disclosure Act 1998 (PIDA)
- Employment Rights Act (1996)
- Enterprise and Regulatory Reform Act (2013)
- Association of Colleges' Whistleblowing Guidance for Colleges (2013)

The Corporation will keep its policy and procedures on whistleblowing under review to take account of any new Government legislation, regulations or best practice documents to ensure that the Corporation is kept fully up to date with its responsibilities and duties with regard to whistleblowing and protection of whistleblowers.

Hugh Baird College is committed to the highest standards of openness, probity and accountability. It seeks to conduct its affairs in a responsible manner, taking into account the requirements of the funding bodies and the standards in public life set out in the reports of the Nolan Committee. The aim of this policy and procedure is to provide all 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 members of staff to raise concerns about malpractice which they reasonably believe to be taking place in 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 College's culture of openness against the need to protect other workers against vexatious allegations or allegations which are not well-founded and should be read in conjunction with the College's grievance and disciplinary policy and procedures.

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, further details of which are included within the College's Financial Regulations.

Learners at the College are also encouraged to raise genuine concerns about suspected wrongdoing by making a complaint to the Pastoral Co-ordinator.

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

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.

The College recognises that 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 actively encouraged to approach the Head of Human Resources 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.

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 and the disclosure must also be made in an appropriate way. 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.

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. Procedure for Making a Disclosure

5.1 Information which a worker reasonably believes tends to show one or more of the situations detailed in Section 4 above should promptly be disclosed to the Director of Governance so that any appropriate action can be taken.

If the matter directly concerns the Director of Governance then the disclosure should be made to the Principal and Chief Executive. If the matter directly concerns both these individuals then the Chair of Audit Committee should be approached. The appropriate person will become the Investigation Manager for the subsequent procedures.

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 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 Director of Governance.

6. Procedure for Investigating 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 commissioned by the Director of Governance (unless s/he is directly involved in the disclosure and in this instance the Principal and Chief Executive or Chair of Audit Committee would act as Investigation Manager) and this may be conducted by an external investigator appointed by the College.

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.

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 Chair of the Corporation within 10 working days. The Chair of the Corporation will make a final decision on action to be taken and notify the worker making the disclosure.

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 the Investigation Manager will usually write to the worker making the disclosure within 10 working days to acknowledge receipt of the disclosure; indicate where possible the timescale for a final response.

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.

7. 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.

8. Disclosure to External Bodies

The College has implemented this policy and procedure 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.

9. Accountability

The College will keep clear and comprehensive records 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 Audit Committee of the Corporation on an annual basis as appropriate.

10. Further sources of Information

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 and Director of Governance (as Investigation Manager).

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 in confidence to the Head of Human Resources.

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: 020 7404 6609
<http://www.pcaaw.org.uk>



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