

WHISTLEBLOWING POLICY AND PROCEDURE

Policy / Document Purpose Statement

This document sets out the combined policy and procedure supporting whistleblowing (Public Interest Disclosure) for Cornwall College Group.

Application

The objective of this document is to provide a framework to enable staff to raise genuine concerns of breaches of the law, suspected bribery and / or other serious wrongdoings.

Interpretation

Further guidance on the use or interpretation of this policy may be obtained from the responsible post holder.

Legislator / Regulatory Compliance

Compliance with relevant current Health and Safety legislation, Data Protection Act and other legislation / regulations named within the body of the document.

Publication Restrictions

A version of this document is available to view on the Cornwall College Website.

Name of document:	Whistleblowing Policy and Procedure
Author (Post title):	Clerk to the Corporation
Post Title responsible for review:	Clerk to the Corporation
Version Number:	7
Approved by:	Corporation Board
Date of first approval:	14/10/2009
Date of review:	8 July 2020
Date of next review:	8 July 2022

WHISTLEBLOWING POLICY AND PROCEDURE

1. Introduction

- 1.1. The Cornwall College Group (TCCG) is committed to operating in an ethical and principled way. The aim of this policy and procedure is to provide staff with a means for raising genuine concerns of breaches of the law, suspected bribery and/or other serious wrongdoings. The principles of openness and accountability which underpin legislation protecting whistleblowers are reflected in this policy and procedure. TCCG is also committed to ensuring compliance with the Bribery Act 2010.
- 1.2. TCCG encourages staff to raise genuine concerns about suspected wrongdoing at the earliest practicable stage. Staff should refer to clause 10 for further advice and assistance.
- 1.3. This policy and procedure also aims to encourage staff to raise genuine concerns through internal procedures without fear of adverse repercussions even if they turn out to be mistaken. The law allows staff to raise such concerns externally and this policy informs staff how they can do so. However, should staff raise a concern otherwise than under this procedure it 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 with the need to protect other staff against vexatious allegations or allegations which are not well-founded.
- 1.5. Learners at TCCG are also encouraged to raise genuine concerns about suspected wrongdoing by making a complaint to the HR Director or Executive Director of Curriculum and Learner Experience. This policy and procedure is designed for the use of TCCG staff.

2. Applicability

- 2.1. This policy applies to all staff engaged by TCCG, including all employees, apprentices, casual staff, employees of subcontractors, agency staff and consultants engaged by TCCG. Reference to staff in this document refers to all categories detailed above.
- 2.2. Staff 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 TCCG's grievance procedure. A whistleblowing concern is about a risk, malpractice or wrongdoing that affects others. It could be something which affects learners, the public, other staff or the College. A grievance, on the other hand, is a personal complaint about an individual's own employment situation. For example, a staff member may feel aggrieved if they think a management decision has affected them unfairly or that they are not being treated properly. A whistleblowing concern is where an individual raises information as a witness whereas a grievance is where the individual is a complainant. Any staff member in this situation is encouraged to approach the Clerk to the Corporation in confidence for advice:

Head Office, Cornwall College, Tregonissey Road, St Austell PL25 4DJ
Tel: 01726 226528 (direct) or Tel: 01726 226557 (office)

The Clerk to the Corporation is employed by the Board of Governors not TCCG and is therefore independent of management.

3. Protected disclosures

- 3.1. The law protects staff who, out of a sense of public duty, want to reveal suspected wrongdoing or malpractice.
- 3.2. The law allows staff 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 4 below) and the disclosure must also be made in an appropriate way (See Section 5). A 'protected disclosure' must, in the reasonable belief of the staff member making it, also be made in the public interest. A protected disclosure must consist of information and not merely be allegations of suspected malpractice. It is not however necessary for the staff member to provide evidence.

4. Specific Subject Matter

- 4.1. If, in the course of employment, a staff member 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. That a criminal offence has been committed, is being committed or is likely to be committed.
 - 4.1.2. That 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. That a miscarriage of justice has occurred, is occurring, or is likely to occur.
 - 4.1.4. That the health or safety of any individual has been, is being, or is likely to be, endangered.
 - 4.1.5. That the environment, has been, is being, or is likely to be, damaged.
 - 4.1.6. 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 staff member reasonably believes tends to show one or more of the situations given in Section 4 should promptly be disclosed to the Clerk to the Corporation in writing so that any appropriate action can be taken. The Clerk to the Corporation reports directly to Governors and is therefore well placed to deal with concerns.
- 5.2. If it is inappropriate to make such a disclosure to the Clerk to the Corporation, because the disclosure relates to the Clerk to the Corporation, a staff member can raise the issue with the Chair of the Audit and Risk Committee via the Principal's office. .
- 5.3. Staff are encouraged to identify themselves when making a disclosure. If an anonymous disclosure is made, the Group will not be in a position to notify the individual making the disclosure of the outcome of action taken. Anonymity also means that the Group will have difficulty in investigating such a concern. The Clerk to the Corporation reserves the right to determine whether to apply this procedure in respect of an anonymised disclosure in light of the following considerations:
 - 5.3.1. The seriousness of the issues raised in the disclosure.
 - 5.3.2. The credibility of the concern.
 - 5.3.3. How likely it is that the concern can be confirmed from attributable sources.
- 5.4. 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 Clerk to the Corporation. Whilst advice about the policy can be given in confidence where a specific disclosure is made confidentiality will be maintained as far as possible dependant on the disclosure. There

are situations where a disclosure must be shared such as to protect a child or to safeguard Health and Safety or prevent a criminal act from occurring.

6. Procedure for investigation of a disclosure

- 6.1. When a staff member makes a disclosure, the Clerk to the Corporation will acknowledge its receipt, in writing, within ten working days.
- 6.2. The Clerk to the Corporation will carry out an initial assessment to determine whether they consider that the disclosure is wholly without substance or merit, or the scope of any investigation. The staff member will be notified in writing of the outcome of this assessment. If the Clerk to the Corporation considers that the disclosure does not have sufficient merit to warrant further action, the staff member will be notified in writing of the reasons for this decision and advised that no further action will be taken by the Group under this policy and procedure. Considerations to be taken into account when making this determination may include the following:
 - 6.2.1. If the Clerk to the Corporation is satisfied that a staff member does not have a reasonable belief that suspected malpractice is occurring; or
 - 6.2.2. If the matter is already the subject of legal proceedings or appropriate action by an external body; or
 - 6.2.3. If the matter is already subject to another, appropriate College procedure.
- 6.3. When a staff member makes a disclosure which has sufficient substance or merit warranting further action, the Clerk to the Corporation will take action they deem appropriate (including action under any other applicable Group policy or procedure). Possible actions could include internal investigation; referral to the Group's auditors; or referral to relevant external bodies such as the Police, OFSTED, Health and Safety Executive or the Information Commissioner's Office.
- 6.4. If appropriate, any internal investigation will be conducted by a manager of the Group without any direct association with the individual to whom the disclosure relates, or by an external investigator appointed by the Clerk to the Corporation as appropriate. The Clerk to the Corporation may, in particular circumstances, appoint a team of investigators including staff with relevant experience of investigations or specialist knowledge of the subject matter.
- 6.5. Any recommendations for further action made by the Clerk to the Corporation will be addressed to the Principal and Chief Executive or Chair of the Board as appropriate in the circumstances. The addressee will take all steps within their power to ensure the recommendations are implemented unless there are good reasons for not doing so.
- 6.6. The staff member making the disclosure will be notified of the outcome of any action taken by the Group under this policy and procedure within a reasonable period of time. However, sometimes the need for confidentiality may prevent the Group giving the worker specific details of the investigation or any disciplinary action taken as a result. The staff member should treat any information about the investigation as confidential.
- 6.7. If the staff member 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 Audit and Risk Committee or Chair of Governors within ten working days through the Clerk to the Corporation (see contact details in section 2.2). The Chair of the Audit and Risk Committee or Chair of Governors will make a final decision on action to be taken and notify the staff member making the disclosure.

- 6.8. The timescale for progressing a whistleblowing allegation will depend upon a variety of factors and cannot therefore be specified but the Clerk to the Corporation will monitor the progress of the investigation and keep the staff member appropriately informed.
- 6.9. Where the allegation relates to an individual or several individuals, the Clerk to the Corporation will assess the risks and, if necessary, take professional advice before informing the individual(s) of the allegations made. Subject to this assessment if informed, the individual(s) will be kept informed of progress.

7. Safeguards for staff making a disclosure

- 7.1. A staff member making a disclosure under this procedure can expect their matter to be treated confidentially by the Group and, where possible, their name will not be disclosed to anyone implicated in the suspected wrongdoing, without their prior approval.
- 7.2. The Group will take all reasonable steps to ensure that any report of recommendations, or other associated documentation, produced by the Group does not identify the staff member making the disclosure without their consent unless the Group is legally obliged to do so, or for the purposes of seeking legal / safeguarding advice. Where the Group must disclose a name to an outside body such as the Police the staff member will be notified of this disclosure in advance.
- 7.3. No formal disciplinary action will be taken against a staff member on the grounds of making a disclosure under this policy or procedure. This does not prevent the Group from bringing disciplinary action against a staff member where the Group has sound reason to believe that a disclosure was made maliciously or vexatiously, or where a disclosure is made outside the Group without reasonable grounds.
- 7.4. A staff member will not suffer dismissal or any detrimental action or omission of any type (including informal pressure or any form of victimisation) by the Group for making a disclosure in accordance with this policy and procedure. The Group is required to take reasonable steps to prevent the harassment or victimisation of whistleblowers by their colleagues and liable for failing to do so. Equally, where a staff member is threatened, bullied, pressurised or victimised by a colleague for making a disclosure, disciplinary action will be taken by the Group against the colleague in question (see section 10.1).

8. Disclosure to external bodies

- 8.1. This policy and procedure has been implemented to allow staff to raise disclosures internally within the Group. A staff member has the right to make a disclosure outside of the Group where there are reasonable grounds to do so and in accordance with the law.
- 8.2. Staff 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.
- 8.3. Staff may also make disclosures on a confidential basis to a practising solicitor or barrister.
- 8.4. If a staff member seeks advice outside of the Group, they must be careful not to breach any confidentiality obligations or damage the Group's reputation in so doing.

9. Accountability

- 9.1. The Clerk to the Corporation will keep a record of all concerns raised under this policy and procedure (including cases where it is decided that there is no case to answer and therefore that

no action should be taken) and will report to the Governors' Audit and Risk Committee as appropriate.

10. Further assistance for staff

10.1. The Group will not tolerate any harassment or victimisation of staff who make disclosures. If, at any stage of this procedure a staff member feels that they are being subject to informal pressures, bullying or harassment due to making a disclosure, they should raise this matter, in writing/email, to the Human Resources Director

10.2. A staff member making a disclosure may want to confidentially request counselling or other support from the Group's occupational health service. Any such request for counselling or support services should be addressed to the Human Resources Director. Such a request would be made in confidence.

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

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

Tel: Whistleblowing Advice Line: 020 3117 2520;
Advice Line: whistle@protect-advice.org.uk

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

10.4. Staff can also contact the Advisory, Conciliation and Arbitration Services (ACAS) for guidance on whistleblowing and grievances.

11. Related Documents

- Grievance Procedure