

TITLE: Public Interest Disclosure Policy (Whistleblowing)	REF: CP006	VERSION:4
APPROVAL BODY: Corporation	DATE: 11/12/2017	REVIEW DATE: 01/09/2020
LEAD PERSON: Clerk to the Corporation		
VERSION	REVIEWER/APPROVAL	REVIEW NOTES
3. 15/10/13	Corporation	The Whistleblowing policy is now a Group policy, and has been through the appropriate approval processes having been looked at by Human Resources
4. 11/12/2017	Corporation	Approved by Corporation, following review by HR & GET

PUBLIC INTEREST DISCLOSURE POLICY (WHISTLEBLOWING)

1. Background to the policy

- 1.1 The Public Interest Disclosure Act 1998, and subsequently the Enterprise and Regulatory Reform Act 2013, provide staff with legal protection against dismissal or penalty as a result of disclosing certain serious concerns. It also requires staff who wish to disclose such concerns to follow the relevant internal procedure in all but the most exceptional circumstances.
- 1.2 The following guidance and procedure have been designed to:
 - assist Activate Learning staff who wish to make protected disclosures; and
 - secure the proper investigation of such disclosures.

2. Policy statement

- 2.1 Activate Learning is committed to high standards and openness in management and governance. If fraud, corruption or malpractice occur within the organisation, it will normally be addressed through the Corporation's management procedures. However, the Corporation recognises that, in certain circumstances, a further procedure is needed to enable staff to raise serious concerns confidentially, both inside and, if necessary, outside the organisation.
- 2.2 Activate Learning encourages staff to raise genuine concerns about suspected wrongdoing at the earliest stage and through this internal policy. The aim of this policy is to provide safeguards to enable staff to raise genuine concerns confidently and without fear of repercussions.
- 2.3 The law allows staff to raise such concerns externally, and this policy contains guidance on how to do so. However, failure to raise a concern under this procedure may result in a disclosure losing its protected status under law.
- 2.4 This policy also seeks to balance the need to allow a culture of openness against the need to protect other staff against vexatious allegations or allegations which are not well founded.

3. Scope of the policy

- 3.1 This policy applies to all employees and staff of Activate Learning (referred to as 'staff' in this policy), including apprentices, casual or home-based staff, voluntary workers and employees of subcontractors and agency staff engaged by the Corporation.
- 3.2 This policy is intended to assist staff who believe that they have discovered malpractice or impropriety. It is not designed to question the quality of financial or business decisions, nor should it be used to reconsider matters which have been addressed under another policy.
- 3.3 Learners at our colleges are also encouraged to raise genuine concerns about suspected wrongdoing, by making a complaint to Student Services.
- 3.4 Activate Learning has in place a number of policies and procedures to address problems that may arise for its staff, such as those relating to grievance, harassment, discipline and safeguarding. In many instances, allegations will be dealt with by reference to these procedures, details of which are set out in the available on the Activate Learning intranet. Staff seeking to raise a concern should carefully consider the most appropriate channel in light of these policies, and seek advice from the Clerk to the Corporation or HR department if they are uncertain.

4. Protected disclosures

- 4.1 The law protects staff who, out of a sense of public duty, want to reveal suspected wrongdoing or malpractice, allowing staff to raise what it defines as a 'protected disclosure'. In order to constitute a protected disclosure, the disclosure must relate to a specific subject matter (see paragraph 4.4) and be made in an appropriate way (see section 5).
- 4.2 A protected disclosure must, in the reasonable belief of the staff member raising it, be made in the public interest, and consist of information, not merely allegations of suspected malpractice.
- 4.3 A protected disclosure must relate to one or more of the following subject matters:
 - a. criminal activity;
 - b. failure to comply with legal obligations;
 - c. danger to health and safety;
 - d. damage to the environment;
 - e. academic or professional malpractice;
 - f. failure to comply with the Policies, Procedures and Regulations of the College and the codes of practice contained therein;
 - g. a breach of the Corporation's Safeguarding and Child Protection Policy;
 - h. attempts to conceal any of the above.

5. Safeguards for staff making a disclosure

- 5.1 Activate Learning undertakes to ensure the safeguards outlined in this section are afforded to any staff member who makes a protected disclosure in line with this policy.
- 5.2 Matters raised in accordance with this policy will be treated confidentially although, to allow a full investigation, the nature of the concern may be disclosed to the alleged perpetrator(s).
- 5.3 The whistleblower's name will not be disclosed to any implicated person, unless withholding that information prejudices a fair investigation of the facts and/or without their prior approval.

- 5.4 The Corporation will take all reasonable steps to ensure that any report or other relevant documentation does not identify the whistleblower without their consent, unless for the purposes of seeking legal advice or in order to fulfil a legal obligation.
- 5.5 No disciplinary action will be taken against a staff member on the grounds of having made a protected disclosure under this policy. This does not prevent the Corporation from bringing disciplinary action, in line with the Disciplinary Policy, where there are grounds to believe that a disclosure was made maliciously or vexatiously, or was made outside the organisation without reasonable grounds.
- 5.6 A staff member will not suffer dismissal, detrimental action or omission of any type (including informal pressure or any form of victimisation) by the Corporation for making a protected disclosure in accordance with this policy. The Corporation will take all reasonable steps to ensure that a staff member is not threatened, bullied, pressurised or victimised by a colleague for making a disclosure, and will take disciplinary action against any colleague found to have behaved in such a manner.

6. Public interest disclosure procedure

6.1 Procedure for making a disclosure

- 6.1.1 If a staff member is unsure whether a concern should be disclosed, or unsure whether to use this procedure, they should contact their trade union representative or a member of the senior management team. This can be an individual to whom a staff member does not report.
- 6.1.2 In the first instance and where appropriate, staff are encouraged to discuss their concerns informally with their line manager. Raising an informal concern may not result in a formal report, unless the staff member agrees or the Corporation is required to do so by law.
- 6.1.3 Where a staff member is in possession of information which cannot be addressed informally and relates to one or more of the subject matters outlined in paragraph 4.4, they should disclose this promptly and in confidence to the Clerk to the Corporation.
- 6.1.4 In the event that the disclosure relates to the Clerk to the Corporation, the disclosure should be made to the Chief Executive Officer.
- 6.1.5 In making a disclosure, staff should bear in mind that withholding any information may impede an investigation.

6.2 Anonymous disclosures

- 6.2.1 Staff are strongly encouraged to identify themselves when making a disclosure. Anonymous disclosures may result in the Corporation being unable to fully investigate the concern raised or notify the whistleblower of the outcome of their disclosure.
- 6.2.2 The Corporation reserves the right to determine whether to apply this procedure in respect of an anonymised disclosure in light of the following considerations:
- a. the seriousness of the issues raised;
 - b. the credibility of the concern; and
 - c. how likely it is that the concern can be confirmed from attributable sources.

6.3 External disclosures

- 6.3.1 This policy has been implemented to allow staff to raise disclosures internally, and staff who wish to make a protected disclosure should always use the internal procedure first, unless:

- a. they reasonably believe that they may be victimised or that evidence is likely to be concealed or destroyed as a result of such action; or
- b. the concern has been raised previously and the matter has not been resolved.

6.3.2 A staff member has the right to make a disclosure outside of the Corporation where there are reasonable grounds to do so and in accordance with law.

6.3.3 Staff may make a disclosure to an appropriate external body prescribed by law, or on a confidential basis to a practising solicitor or barrister. This list of 'prescribed' organisations and bodies can be found on the GOV.uk website.

6.3.4 If a staff member seeks advice outside the Corporation, they must be careful not to breach any confidentiality obligations or damage the Corporation's reputation in so doing.

6.4 Procedure for investigating a disclosure – initial investigation

6.4.1 In the event that a disclosure is made, in line with this policy, concerning Corporation staff, receipt will be acknowledged written within a reasonable timescale.

6.4.2 Correspondence will normally be in writing to a home address, rather than through the Corporation's internal mail, unless otherwise requested by the whistleblower.

6.4.3 The Clerk to the Corporation shall appoint three appropriate members of the management team, who have no direct association with area of concern, to conduct an initial investigation. Where the concern relates to safeguarding, the Clerk to the Corporation will notify the designated officer or external body, as appropriate and in line with the Safeguarding Policy.

6.4.4 Following the initial investigation, the appointed officers shall decide whether or not they believe that the disclosure is wholly without substance or merit, considering whether or not:

- a. they are satisfied that the staff member does not have a reasonable belief that the suspected malpractice is occurring; or
- b. the matter is already the subject of legal proceedings or appropriate action by an external body; or
- c. the matter is already subject to another, appropriate Activate Learning procedure.

6.4.5 If the disclosure is considered to have insufficient merit to warrant further action, the staff member will be notified in writing, including the reasons for the decision.

6.4.6 If the outcome of the initial investigation is that the disclosure has sufficient substance or merit to warrant further action, the appointed officers shall decide upon the appropriate course of action, which may include: action under existing Corporation procedures; internal investigation; referral to the Corporation's auditors; or referral to relevant external bodies such as the police, OFSTED, HSE or the ICO.

6.4.7 The Clerk to the Corporation will notify the whistleblower of the recommended course of action and likely timescales in writing, as soon as is reasonably practicable, and shall keep the staff member informed if the action is prolonged.

6.5 Procedure for investigating a disclosure – internal investigation

6.5.1 Where a full internal investigation is deemed necessary, the officers shall appoint an investigating officer. This may be an independent member of the management team, governor, or external investigator appointed by the Corporation, as appropriate.

6.5.2 The internal investigation will be concluded as speedily as is consistent with thoroughness and fairness.

- 6.5.3 The investigating officer shall inform the person(s) against whom the disclosure is made of the nature and evidence supporting the disclosure, and allow them to comment before any investigation, or further action, is concluded.
- 6.5.4 Depending upon the nature of the disclosure, the investigating officer may also interview the whistleblower, in order to ascertain further facts of the matter.
- 6.5.5 Upon conclusion of the investigation, the investigating officer shall make recommendations for further action to the CEO or Chair of Audit and Risk Committee, as appropriate.
- 6.5.6 The recipient will take all steps within their power to ensure that the recommendations are implemented, unless there are good reasons for not doing so.

6.6 Outcome and appeal

- 6.6.1 The Clerk to the Corporation will notify the whistleblower of the final outcome resulting from a disclosure, in writing, as soon as is reasonably practicable.
- 6.6.2 If the staff member is not satisfied that their concern has been appropriately addressed, they may appeal against the outcome by writing to the Chair of the Corporation within 10 working days of notification of the outcome. The Chair of the Corporation will make a final decision on action to be taken and notify the whistleblower, in writing, as soon as reasonably practicable.
- 6.6.3 If the staff member remains dissatisfied with the Corporation's response to the disclosure, they may make a disclosure to an external body, as outlined in section 6.3 above.

6.7 Reporting and notification

- 6.7.1 The Corporation will retain a record of all concerns raised under this policy and will report all cases of whistleblowing to the Audit and Risk Committee. The Committee shall bring issues of general importance to the attention of the Corporation.
- 6.7.2 Any evidence of criminal activity uncovered or reported during the course of an investigation of a disclosure shall be promptly reported to the police. The Corporation will ensure that any internal investigation does not hinder a formal police investigation.
- 6.7.3 Where there is actual or perceived risk of harm to a child or vulnerable adult the appropriate agencies will be informed by the designated person, in line with the Corporation's Safeguarding Policy.

7. Further Assistance for Staff

- 7.1 The Corporation 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, to the Clerk to the Corporation.
- 7.2 A staff member making a disclosure may want to confidentially request counselling or other support from the Corporation's occupational health provider. Any such request for support should be addressed to the Human Resources department.
- 7.3 Staff 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

www.pcaw.org.uk