



TITLE	REF	VERSION
Whistleblowing Procedure	GOVPRO007	1.0

DEPARTMENT	Governance		
DATE	21 April 2020	REVIEW DATE	21 April 2021

WHISTLEBLOWING PROCEDURE

Background

Under UK law, staff are provided with legal protection against dismissal or penalty as a result of disclosing certain serious concerns. Staff are required to follow the relevant internal procedures to make a disclosure.

Procedure statement

Activate Learning is committed to the highest standards of ethics, professionalism and regulatory compliance, and have established clear procedures for identifying and addressing any fraud, corruption or malpractice. Enabling and encouraging staff to raise serious concerns, confidentially and without fear of repercussion, allows a further layer of protection against such practices. As a responsible employer, Activate Learning seeks to balance a culture of openness against our duty to protect staff against vexatious or unfounded allegations.

You are encouraged to raise genuine concerns about suspected wrongdoing at the earliest stage and through this internal procedure.

Purpose

This procedure outlines the process for making and investigating protected disclosures. The procedure also provides guidance on raising a concern externally, as is permitted by law, however it should be noted that failure to raise a concern under this procedure may result in a disclosure losing its protected status under law.

Scope

This procedure applies to all individuals working for Activate Learning Group, including managers, employees, contractors and volunteers (collectively referred to as “staff” in this procedure).

Learners are encouraged to raise genuine concerns by making a complaint to Student Services.

This procedure is for staff who believe that they have discovered malpractice or impropriety and wish to make a protected disclosure, as defined below. Activate Learning provides other mechanisms for raising concerns that do not meet this definition, including the following:

- concerns over the quality of financial or business decisions should be escalated via line management;
- concerns relating to your employment or work should be raised under the [Grievance Procedure](#);
- concerns relating to safeguarding should be raised under the [Safeguarding Policy](#);
- requesting reconsideration of matters which have been addressed under another procedure should be pursued via the appeal mechanism set out in the relevant procedure.

If you are unsure of the most appropriate procedure for raising a concern, please contact the Director of Governance or HR.

Protected disclosures

A protected disclosure / public interest disclosure is a report of suspected wrongdoing or malpractice, relating to specific subject matters (outlined below), made under the relevant procedure. A protected disclosure must be made in the public interest and consist of reliable information, not merely allegations or suspicions.

A protected disclosure must relate to one or more of the following subject matters:

- criminal activity;
- failure to comply with legal obligations;
- danger to health and safety;
- damage to the environment;
- academic or professional malpractice;
- failure to comply with the policies, procedures and regulations of Activate Learning;
- a breach of the [Safeguarding Policy](#); and

- attempts to conceal any of the above.

Safeguards for staff making a disclosure

Activate Learning will ensure that:

- matters raised in under this procedure are treated confidentially in so far as is possible. However, to allow a full investigation, the nature of the concern may be disclosed to the alleged perpetrator(s);
- the discloser's name is not shared with any implicated person without their prior approval, unless withholding that information prejudices a fair investigation of the facts;
- explicit consent will be sought before the discloser is identified in any report or other relevant documentation, except for the purposes of seeking legal advice or in order to fulfil a legal obligation;
- the discloser will not be subject to disciplinary action, dismissal, omission or detrimental treatment as a result of having made a protected disclosure. However, disclosures that are reasonably considered to have been made maliciously or vexatiously, or made externally without reasonable grounds may result in disciplinary action under the [Staff Disciplinary Procedure](#); and
- the discloser is not threatened, bullied, pressurised or victimised by colleagues for making a disclosure, including taking disciplinary action as necessary.

Public interest disclosure procedure

Making a disclosure

In the first instance and where appropriate, you are encouraged to discuss your concerns informally with your line manager. Raising an informal concern may not always result in a formal report, unless you agree or we are required to do so by law.

If you are in possession of information which cannot be addressed informally and relates to one or more of the subject matters outlined above, you should disclose this promptly and in confidence to the Director of Governance. In the event that the disclosure relates to the Director of Governance, the disclosure should be made to the Chief Executive Officer, who will take all actions ascribed to the Director of Governance in this procedure. Disclosures may be made verbally or in written format, such as email. You should include any relevant information in your disclosure, bearing in mind that withholding any information may impede an investigation.

If you are unsure whether a concern should be disclosed or whether to use this procedure, please contact your trade union representative, a member of the senior management team, or the Director of Governance.

Anonymous disclosures

You are strongly encouraged to identify yourself when making a disclosure. Anonymous disclosures may result in us being unable to fully investigate the concern raised or notify the discloser of the outcome.

Activate Learning reserves the right to determine whether to apply this procedure to an anonymised disclosure in light of the seriousness and credibility of the disclosure, and how possible it will be to confirm the allegations.

External disclosures

This procedure allows staff to make disclosures internally, and you should always use the internal procedure first. However, you have the right to make a disclosure externally, where you have grounds to do so, such as:

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

You 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. When seeking advice outside of Activate Learning, you must be careful not to breach any confidentiality obligations or damage the Group's reputation in so doing.

Procedure for investigating a disclosure – initial investigation

Receipt of a protected disclosure will be acknowledged written within a reasonable timescale by the Director of Governance, provided that the discloser is identifiable. Correspondence will normally be in writing to a home address, rather than through internal mail, unless otherwise requested by the discloser.

The Director of Governance shall appoint three appropriate Directors, who have no direct association with the subject, to conduct an initial investigation. Where the concern relates to safeguarding, the designated officer will be notified immediately, in line with the [Safeguarding Policy](#).

Following the initial investigation, the appointed officers shall decide whether they believe that the disclosure is wholly without substance or merit, on the basis that:

- the discloser does not have reasonable cause to believe that the suspected malpractice is occurring;
- the matter is already the subject of legal proceedings or appropriate action by an external body; or
- the matter is already subject to another, appropriate Activate Learning procedure.

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

If the disclosure is considered to warrant further action, the appointed officers shall decide upon the appropriate course of action. This may include: action under existing procedures; internal investigation; referral to the auditors or relevant external bodies such as the police, OFSTED, HSE or the ICO.

The Director of Governance will notify the discloser of the recommended course of action and likely timescales in writing as soon as is reasonably practicable, and shall keep the discloser informed if the action is delayed.

Procedure for investigating a disclosure – internal investigation

Where a full internal investigation is deemed necessary, the officers shall appoint an investigating officer. This may be an independent member of the Group Leadership Team, Group Executive Team or Corporation Board, or an external investigator, as appropriate.

The internal investigation will be concluded quickly, thoroughly and fairly. The investigating officer shall inform any implicated person(s) of the nature and evidence supporting the disclosure, and allow them to comment before any investigation or further action is concluded. Depending upon the nature of the disclosure, the investigating officer may also interview the discloser, in order to ascertain further facts of the matter.

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. 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.

Outcome and appeal

The Director of Governance will notify the discloser of the final outcome of the disclosure, in writing and as soon as is reasonably practicable.

If the discloser 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 discloser, in writing, as soon as reasonably practicable.

If the staff member remains dissatisfied with the Chair of the Corporation's response to the disclosure, they may make a disclosure to an external body, as outlined above.

Reporting and notification

The Director of Governance will retain a record of all concerns raised under this procedure and will report all protected disclosures to the Audit and Risk Committee. The Committee shall bring issues of general importance to the attention of the Corporation.

Any evidence of criminal activity uncovered or reported during the course of an investigation of a disclosure shall be promptly reported to the police. Activate Learning will ensure that any internal investigation does not hinder a formal police investigation.

Where there is actual or perceived risk of harm to a child or vulnerable adult, the appropriate agencies will be informed by the designated officer, in line with the [Safeguarding Policy](#).

Further assistance for staff

Activate Learning 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 notify the Director of Governance.

A staff member making a disclosure is entitled to request counselling or other support from the Group's occupational health provider; please contact HR for details of this service.

You 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

References

This Policy complies with the following legislation:

- [Public Interest Disclosure Act 1998](#)
- [Enterprise and Regulatory Reform Act 2013](#)

This Procedure should be read in conjunction with the following Activate Learning Policies and Procedures:

- [Corporate Ethics Policy](#)
- [Safeguarding Policy](#)
- [Staff Disciplinary Procedure](#)
- [Grievance Procedure](#)
- [Fraud Response Procedure](#)
- [Bribery and Corruption Procedure](#)