

Name of Policy:	Whistleblowing (Public Interest Disclosure) policy and procedure
Last Approved:	May 2020
Approved by:	Corporation
Owner:	Clerk to the Corporation
To be reviewed	Minimum 3 years

1 Policy statement

- 1.1 This policy is made in accordance with the Public Interest Disclosure Act (PIDA) 1998, and subsequently the Enterprise and Regularity Reform Act 2013, which provide legal protection for individuals against detriment or dismissal, who make disclosure of information about designated failures to maintain the required standards of public life in the College. This policy should also be read in conjunction with the College's Anti-Fraud Bribery and Corruption policies; the Safeguarding & Child Protection Policy; and the Data Protection Policy.
- 1.2 If any member of the Corporation, or staff, student, or visitor has a genuine and legitimate concern about potential fraud, corruption or other failure to meet required standards, it is the wish of the College that such concerns be raised without fear for the future relationship between the individual(s) and the College. The College encourages individuals to raise genuine concerns about suspected wrongdoings at the earliest practicable stage. This policy and procedure is intended to provide safeguards to enable individuals to raise concerns about malpractice in connection with the College.
- 1.3 This policy and procedure aims to encourage individuals to raise genuine concerns through internal College procedures without fear of adverse repercussions being taken against them. The law allows employees to raise such concerns externally and this policy informs individuals how they can do so. However, an individual disclosing any information directly to an external body, such as the press, or via social media, without following the procedures outlined in this policy, will be deemed to be in breach of the College's Codes of Conduct as appropriate to that individual, and may be disciplined for gross misconduct. A failure to raise a concern under this procedure may also 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 individuals against vexatious allegations or allegations which are not well-founded. If individuals use this policy to make allegations which are vexatious, false, malicious or for personal reasons, they will be liable to disciplinary action. Wilful misuse of this policy could constitute an act of gross misconduct which may lead to dismissal.

2 Scope of the policy

- 2.1 This policy applies to all staff, students, visitors, and governors/Corporation members.
- 2.2 An individual may be unsure whether it is appropriate to raise their concern under this policy or whether it is a personal grievance which is more appropriate to raise under the College's grievance procedures. Any individual in this situation is encouraged to approach the Human Resources department in confidence for advice, or trade union, or Protect (formerly known as Public Concern at Work), a registered charity which advises on serious malpractice within the workplace.

3 Protected disclosures

- 3.1 Under the Public Interest Disclosure Act 1998 and the Enterprise and Regulatory Reform Act 2013 the law protects an employee who, out of a sense of public duty, wants to reveal a suspected wrongdoing or malpractice.
- 3.2 The law allows employees 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 must be made in an appropriate way (see section 5 below), meeting the following criteria:
- The procedure in this policy has been followed;
 - The individual has acted in the public interest and not for personal gain or out of personal motives; and
 - It must consist of information and not merely be allegations of suspected malpractice.

4 Specific subject matter

- 4.1 If an individual 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 and 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.

This policy does not apply to issues that merely relate to mismanagement.

5 Procedure for making a disclosure

- 5.1 Information which an individual reasonably believes to show one or more of the situations given in Section 4 should be disclosed promptly to the "designated person" so that any appropriate action can be taken. The procedure allows for referral to a

number of specified office holders, so that, if necessary, an allegation can be raised against any member of staff or the Corporation as follows:

Allegations about	Allegation communicated to designated person
Any committee of the Corporation	Chair of Audit committee via the Clerk
Corporation Chair	Chair of Audit committee via the Clerk
Any individual Corporation member	Corporation Chair via the Clerk
Principal	Corporation Chair via the Clerk
Senior member of staff (SPH)	Principal
Any other member of College staff	Principal, Vice Principal or Finance Director

5.2 If the matter is more serious, or if the designated person has not addressed their concern or if it is inappropriate to make such a disclosure to the designated person for any reason, an individual can raise the issue with the Clerk to the Corporation.

5.3 The College hopes that individuals will feel able 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.

If individuals wish to raise their concern confidentially, the College will make every effort to keep their identity secret and only reveal it where necessary to those involved in investigating their concern.

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 Human Resources Department or to the Clerk to the Corporation.

6 Procedure for investigation of a disclosure

6.1 When an individual makes a disclosure, whether orally or in writing, the College will acknowledge its receipt, in writing, within a reasonable time. All correspondence will be sent to the home address of the person making the allegation. Where appropriate, to ensure matters are expedited, the College reserves the right to make use of email, or internal mail. If the allegation is made orally, then the designated person should make a full written note of it.

6.2 The College will then determine whether further investigation is required. If the College considers that the disclosure does not have sufficient merit to warrant further action, the employee will be notified in writing of the reasons for that 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 the determination may include the following:

- If the College is satisfied that an employee 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.

- 6.3 When an individual 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, the Health and Safety Executive or the Information Commissioner's Office.
- 6.4 If appropriate, any internal investigation would be conducted by the designated person as outlined in paragraph 5.1. If the designated person is the line manager for the individual to whom the disclosure relates, the investigation should be conducted by either the Human Resources Department or by an external investigator appointed by the College, as appropriate. The designated person, whose action may be flexible according to the nature of the allegation, should, if necessary, seek advice from an external body such as the College's auditors or legal advisers.
- 6.5 The College will arrange a meeting with the individual making the disclosure as soon as reasonably possible to discuss their concern. Individuals can bring a colleague or a trade union representative to meetings under this policy, but companions must respect the confidentiality of the disclosure and subsequent investigation.
- 6.6 Any recommendations for further action made as a result of the investigation will be addressed to the Principal or 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.
- 6.7 If the investigation is protracted, the designated person must indicate the progress of the investigation to the individual making the allegation and the likely time of conclusion. The individual making the disclosure will be notified, in writing, of the outcome and the nature of any action taken by the College under this policy and procedure, within a reasonable period of time.
- 6.8 If the individual 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 or the Chair of Audit Committee, via the Clerk to the Corporation. Any appeal must be heard by a person not involved in the investigation or at any other earlier stage of the proceedings. If both Chairs have been so involved, the appeal will be held by the College's legal adviser, who may choose to delegate the responsibility to one of his or her staff. The person dealing with the appeal will make a final decision on action to be taken and notify the individual making the disclosure.
- 6.9 If the individual making the allegation remains dissatisfied, or if there is a concern about the wilful wrongdoing of the Corporation as a whole, contact may be made with an external body such as the College auditors. Such action should only be taken

after all internal procedures have been exhausted. The person making the allegation should make such contact through the Clerk to the Corporation who will provide on request details of external bodies.

- 6.10 The individual making the disclosure must not, under any circumstances whatsoever, conduct their own or another investigation. Such action will be deemed to be in breach of this policy and the College's Codes of Conduct as appropriate to that individual, for which the individual may be disciplined.

7 Safeguards for individuals making a disclosure

- 7.1 An individual making a disclosure under this procedure can normally 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.
- 7.2 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 individual 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.
- 7.3 No formal disciplinary action will be taken against an individual on the grounds of making a disclosure made under this policy or procedure. This does not prevent the College from bringing disciplinary action against an individual where the College has grounds to believe that a disclosure was malicious, vexatious, false or made for personal reasons; or where a disclosure was made outside the College, such as to the press, or via social media, without reasonable grounds.
- 7.4 An individual 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 an individual is threatened, bullied, pressurised or victimised by a colleague for making a disclosure, disciplinary action will be taken by the College against the individual in question.

8 Disclosure to external bodies

- 8.1 This policy and procedure has been implemented to allow individuals to raise disclosures internally within the College. An individual may have the legal right to make a disclosure outside of the College where there are reasonable grounds to do so and in accordance with the law to a "prescribed" organisation or body. The list of prescribed organisations can be found on information on the GOV.UK website. Individuals can also make disclosures on a confidential basis to a practising solicitor or barrister.
- 8.2 The College would encourage individuals to report their concerns internally in the first instance. The College strongly encourages individuals to seek advice before reporting a concern to any third party. The independent whistleblowing charity, Protect, operates a confidential helpline. Their details are at the end of this policy.

8.3 If an individual seeks advice outside the College, they must not breach any confidentiality obligations or damage the College's reputation in so doing.

9 **Accountability**

9.1 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 Corporation as and when appropriate.

10 **Further assistance**

10.1 The College will not tolerate any harassment or victimisation of individuals who make disclosures. If, at any stage of this procedure an individual 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.

10.2 An individual making a disclosure may want to confidentially request counselling or other support from the College. Any such request for counselling or support services should be sought from the Human Resources Department and will be dealt with confidentially.

11 **Further information and contacts**

11.1 If you have any queries about the application of this policy, please contact the Clerk to the Corporation in the first instance: clerk@longroad.ac.uk

11.2 Protect is a source of further information and advice at www.pcaw.co.uk. It also provides a free helpline offering confidential advice on 0207 404 6609.