
Bury College Policy and Procedures

Public Interest Disclosure Policy – Whistleblowing

Document Information				
Directorate:		Human Resources		
Document Owner:		Lisa Woodman		
Document Type		Policy		
Date:		June 2020		
Version:		Version 1.2		
Review Period:		3 Years		
Date adopted by the Leadership Team				
Date Approved:		March 2001		
Approved by:				
Version Control Tracking				
Version	Date	Revision Description	Editor	Status
V1.1	June 2016	Minor Amendments	Lisa Woodman	Active
V1.2	June 2020	Minor Amendments	Lisa Woodman	

Introduction

- 1.1 The College is committed to operating in an ethical and principled way. The aim of this policy and procedure is to provide employees, Corporation Members and individuals (referred to as 'individuals' in this policy) with a means for raising genuine concerns of suspected bribery, breaches of the law and other serious wrongdoings, in an ethical manner and in line with College Values and Objectives.
- 1.2 The College encourages individuals 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 in connection with the College.
- 1.3 This policy and procedure also aims to encourage individuals to raise genuine concerns through internal College procedures without fear of adverse repercussions being taken against them. The law allows individuals to raise such concerns externally and this policy informs individuals 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.
- 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.
- 1.5 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.
- 1.6 Learners at the College are also encouraged to raise genuine concerns about suspected wrongdoing by making a complaint to Head of Quality. This policy and procedure is designed for the use of individuals of the College.

2. Applicability of this policy and procedure

- 2.1 This policy applies to all employees, and Corporation Members of the College, including apprentices; and
- 2.2 Individuals which includes any casual individuals; home-based casual individuals; and employees of subcontractors; and
- 2.3 Agency individuals engaged by the College.
- 2.4 Individuals 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 individual in this situation is encouraged to approach the Director of Human Resources Student and Customer Services in confidence for advice.

3. Protected disclosures

- 3.1 The law protects individuals who, out of a sense of public duty, want to reveal suspected wrongdoing or malpractice.
- 3.2 The law allows individuals 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 individual making it, also be made in the public interest. A protected disclosure must consist of information and not merely be allegations of suspected malpractice.

4. Specific Subject Matter

If, in the course of employment, 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 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.
- That an instance of Malpractice has occurred, is occurring, or is likely to occur.

Examples of Malpractice are (but not limited to):

- Actions which are unprofessional, inappropriate or conflict with a general understanding of what is right and wrong, e.g. falsification of student grades or actions which call into question the integrity of educational standards;
- Failure to comply with a statutory obligation, e.g. Safeguarding;
- Gaining, or seeking to gain, a pecuniary advantage from an association or relationship with, or membership of, an organisation, company or other body which ought properly to have been disclosed to the College.
- Fraud or financial irregularities (including improper or unauthorised use of public funds);
- Bribery, corruption (including abuse of authority) or other forms of dishonesty, e.g. showing undue favour over a contractual matter or to a job applicant;

- A breach of code of conduct;

Complaints about breaches of employees' own contract of Employment should be raised as a grievance and not as part of this policy and procedure.

5. Procedure for making a disclosure

- 5.1 Information which an individual reasonably believes tends to show one or more of the situations given in Section 4 should promptly be disclosed to the Director of Human Resources Student and Customer Services so that any appropriate action can be taken.
- 5.2 If the disclosure relates to the Principal and Chief Executive or another Senior Postholder, or member of the Leadership Team, an individual can raise the issue with *Clerk* of the Corporation. In the event that the disclosure relates to the Clerk of the Corporation, an individual can raise the issue with the *Chair of the Board of Governors*
- 5.3 Individuals are encouraged 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.
- 5.4 If an individual wishes to make a disclosure verbally they can do so, to the people listed above
- 5.5 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 Human Resources, Student and Customer Services.

6. Procedure for dealing with disclosures

- 6.1 It is important that all disclosures are handled in confidence and not discussed outside those directly involved as far as possible.
- 6.2 Concerns or allegations raised which fall within the scope of specific established procedures may be referred for consideration under those procedures. Concerns should not be brought under this procedure where the College already has guidelines/procedures in place to deal with the issue.
- 6.3 Receipt of disclosure will be acknowledged by the person having received it within 5 working days and an indication given of how the College proposes to deal with the issue within 10 working days of the initial disclosure.
- 6.4 Some concerns may be capable of resolution by agreed action without the need for investigation.
- 6.5 However, usually the matters raised will be investigated by management, by internal audit or through disciplinary procedures. Alternatively they may be subject to independent enquiry.

- 6.6 A Leadership Team member or the College's Internal Auditors may be requested to undertake an investigation to establish the facts.

The investigation may take the following:

Step 1: A meeting should be arranged to take place within a reasonable period of time in order to find out more by considering any relevant documentation or supporting evidence in order to decide on the next steps. The person carrying out the investigation should be accompanied by a note-taker at this meeting.

Any such meeting can be held off-site at a mutually convenient location and time.

The investigator should prepare for the meeting in advance and, in consideration of any relevant documentation received, should explore the need of any clarification of the disclosure, request any additional supporting evidence and identify other potential witnesses.

STEP 2: After the meeting, the investigator will review the evidence relating to the investigation in order to establish whether or not the disclosure is supported. Further meetings might be arranged if the investigator deems these necessary.

STEP 3: The investigator will report back with the findings without any unnecessary delay. If the disclosure is supported, the Manager will either sanction action externally, e.g.

- Police;
- Funding Agencies/Bodies
- OFSTED
- National Audit Office
- External Audit organisation
- Health & Safety Executive
- Environmental Agency
- Serious Fraud Office
- Inland Revenue
- Local Authority
- Information Commissioner's office;

Or

- Take action internally, e.g. (disciplinary proceedings, internal audit, review of internal policies and procedures).

- 6.7 Where a fraud has been discovered, the Chair of the Corporation, the Chair of the Audit Committee and the College's Internal Auditors should be informed immediately.

Subject to the nature of the fraud, the Chief Executive of the **Education & Skills Funding Agency (ESFA)** should also be informed in accordance with the requirement of the Joint Audit Code of Practice

- 6.8 Due note must be taken of College Disciplinary Procedures particularly where the matter might involve the suspension of a member of staff. The relevant sections of the disciplinary procedure would be used to determine whether a member of staff suspected of fraud or corruption would be suspended on full

pay. The suspended person would be required to hand over items such as key, documents and College property. The suspended individual will be denied access to College premises.

- 6.9 With regard to allegations where the Police are involved, the College will be guided by the Police as to when the person can be informed.
- 6.10 The College will take appropriate steps to minimise any difficulties that a member of staff may experience as a result of using this procedure.
- 6.11 The person making the disclosure will be given as much information as possible on the outcome of the investigation, subject to the constraints of the College's duty of confidentiality or any other legal constraint.

The person who is the subject of the disclosure will be informed of the allegations as early as possible in the process.

Although it is difficult to be prescriptive about time scales it is in the best interests of all parties for any investigations to be undertaken as speedily as possible.

The individual will be written to, to confirm the outcome and the discloser will also be given a note confirming how the disclosure has been addressed.

- 6.12 A discloser who has not had a response within the time limits stated above or otherwise feels that the complaint is not being dealt with appropriately has the right to appeal to the Principal. The Principal will make a final decision on action to be taken and will notify the discloser of the outcome. The appeal will be final.

If the Principal has been personally involved in the case, then the appeal will be made to the Clerk of Corporation.

7 Safeguards for individuals making a disclosure

- 7.1 An individual 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.
- 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 made maliciously or vexatiously, or where a disclosure is made outside the College 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 colleague 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 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.
- 8.2 Individuals 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 Individuals can also make disclosures on a confidential basis to a practising solicitor or barrister.
- 8.4 If an individual 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

- 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 Board of Governors on an annual basis as appropriate.

10. Further assistance for individuals

- 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 Principal and Chief Executive.
- 10.2 An individual 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 to Director Human Resources, Student and Customer Services. Such a request would be made in confidence.
- 10.3 Individuals can also contact the charity Protect (formerly known as 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

Equality Impact Assessment

Screening for effects on equality	
Name of policy being assessed.	Public Interest Disclosure Policy (Whistleblowing)
Policy Holder and/or person with authority to make changes to policy:	Lisa Woodman
Position:	Director of HR, Student & Customer Services
Directorate:	HR
New/Revised/Reviewed Policy:	Reviewed
What is the aim, objective or purpose of the policy, procedure, strategy or decision?	
To ensure that the college operates in an ethical and principled way and so that individuals have a route to raise concerns.	
Who was consulted when the policy was first written?	
Unions, Board	
Who does the policy affect?	
All employees	
Who implements the policy, and what steps will be taken to ensure the effective implementation of the policy?	
Staff Corporation Workers including agency staff	
What pre-existing evidence is available to facilitate the screening of the policy?	
Number of whistleblowing concerns raised	

What impact is the policy likely to have on the following characteristics?					
Protected characteristic*	Positive impact	Negative impact	Neutral impact	Unclear	Further comments
Age (or age group)	<input type="checkbox"/>	<input type="checkbox"/>	X	<input type="checkbox"/>	
Disability	<input type="checkbox"/>	<input type="checkbox"/>	X	<input type="checkbox"/>	
Gender reassignment	<input type="checkbox"/>	<input type="checkbox"/>	X	<input type="checkbox"/>	
Pregnancy and maternity	<input type="checkbox"/>	<input type="checkbox"/>	X	<input type="checkbox"/>	
Race (including ethnicity and nationality)	<input type="checkbox"/>	<input type="checkbox"/>	X	<input type="checkbox"/>	
Religion or belief	<input type="checkbox"/>	<input type="checkbox"/>	X	<input type="checkbox"/>	
Sex	<input type="checkbox"/>	<input type="checkbox"/>	X	<input type="checkbox"/>	
Sexual orientation	<input type="checkbox"/>	<input type="checkbox"/>	X	<input type="checkbox"/>	
Looked after learners	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	n/a
Social-economic	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	n/a
Carers	<input type="checkbox"/>	<input type="checkbox"/>	X	<input type="checkbox"/>	
Ex-offenders	<input type="checkbox"/>	<input type="checkbox"/>	X	<input type="checkbox"/>	

*Protected Characteristics as identified by the Equality Act 2010.

If any answers are 'negative' can any adverse impact be justified on the basis of a legal requirement? Yes No **N/A**

Please detail any suggested actions identified to improve positive impact or remove negative impact of this policy.

Issue identified	Suggestion action to address this issue

Should a Full Equality Impact Assessment be carried out?

No

If 'yes', is the priority High or Low? (Based on the number of people to whom the policy applies and the level of impact it is likely to have as a result.)

Yes No

How will this policy be approved?

Governors

This Preliminary Impact Assessment was checked and signed off by the policy holder:

Name & Signature	Lisa Woodman
Date	June 2020