

WHISTLEBLOWING POLICY

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WHISTLEBLOWING POLICY

The College is committed to creating an environment where individuals feel safe to raise concerns about suspected malpractice or wrongdoing in the public interest, without fear of reprisal.

This policy and procedure applies to all employees* of the College. The policy describes the process employees should follow if they have concerns about matters in the public interest. The policy ensures that any person suspecting malpractice knows how to raise concerns and what procedures are in place to deal with these.

1. Purpose of the policy

1.1 The Whistleblowing policy provides employees and workers with a means for raising genuine concerns of suspected bribery, breaches of the law and other serious wrongdoings other than a personal grievance without suffering any detriment. The procedures ensure that issues are dealt with promptly, fairly and consistently and in line with legal requirements.

1.2 *For the purposes of this policy, the term *staff* includes all employees of the College, agency workers, contractors, consultants, volunteers, governors and any other individuals undertaking work on behalf of the College. Learners are not covered by this policy and should raise concerns through the Complaints Procedure.

2. Responsibilities

2.1 The Public Interest Disclosure Act 1998 ('the Act') came into force on 2 July 1999 and has been amended by the Enterprise and Regulatory Reform Act 2013. This legislation gives legal protection

to employees against being dismissed or penalised by their employers for publicly disclosing serious concerns falling in certain specified categories. It also gives protection to employees against suffering a detriment, bullying or harassment from another employee for publicly disclosing serious concerns falling within certain specified categories.

2.2 Craven College is committed to ensuring that standards in College are high and that all statutory regulations and requirements are complied with. It will take seriously any concerns relating to malpractice within the College but for it to be a “qualifying disclosure” under the Act, the whistleblower should reasonably believe that there is

- A criminal offence which has been committed or is about to be committed
- A failure or likelihood of failure to comply with any legal obligation
- A miscarriage of justice has occurred, is occurring or is likely to occur
- A health and safety risk to an individual
- Damage to the environment has occurred or is likely to occur
- Concealment of the above has occurred or is likely to occur

Examples of this include corruption, bribery, financial irregularities, criminal activities, theft, abuse or fraud.

2.3 The Act is not designed to support a claim from an employee about a breach of their own contract of employment. In these circumstances the employee should raise concerns with Human Resources.

2.4 The law allows workers to raise what it defines as a “protected disclosure” and in order for a matter to be a protected disclosure it must be a qualifying disclosure, related to a specific subject matter (see list above). A protected disclosure must also be made in an appropriate way, as set out in the reporting process (section 3 below). In addition, a protected disclosure must, in the worker’s reasonable belief (on some substantiated basis), be made in the public interest and consist of information, not merely allegations of suspected malpractice.

2.5 Once a disclosure has been made to the Director of Governance it will be protected under the Act, and this should be the first route for employees. No formal disciplinary action will be taken against a worker on the grounds of making a disclosure under this policy. If, however, without good reason, a member of staff discloses or publicises concerns in some other way, or abuses the process by maliciously raising unfounded allegations, they are at risk of serious disciplinary action.

It will be considered a serious disciplinary offence to:

- Deter anyone from using the whistleblowing procedure
- Victimise or bully anyone using the whistleblowing policy
- Maliciously raising false concerns
- Concealing or destroying information about wrongdoings

2.6 Whistleblowing is not the same as making a complaint or raising a grievance where the individual is saying that they have personally been poorly treated. A whistleblower is usually not directly or personally affected by the concern, and any concerns staff may have about their employment should be dealt with through the Grievance Procedures.

2.7 A worker will not suffer dismissal or any detrimental action or omission of any type by the College for making a disclosure in accordance with this policy and procedure.

2.8 If an individual is unclear whether to use this procedure, or if they want independent advice at any stage, they may contact an appropriate employee representative, the Citizen's Advice Bureau or Protect (formerly Public Concern at Work).

2.9 Where a staff member feels unable to raise a safeguarding issue with their employer or feel that their genuine concerns are not being addressed, other whistleblowing channels may be open to them: the NSPCC whistleblowing helpline is available for staff who do not feel able to raise concerns regarding child protection failures internally. Staff can call 0800 028 0285 or email help@nspcc.org.uk

3. Reporting process

3.1 Any concerns about malpractice should be raised internally, verbally or in writing, with the Director of Governance. If the matter concerns the Director of Governance, it should be raised with the Principal.

3.2 It is the Director of Governance's responsibility, in conjunction with the Chair of the Audit Committee and the Principal (unless in cases involving the Principal when the Director of Governance would act in conjunction with the Chair of the Audit Committee or in cases involving the Director of Governance when the Principal would act in conjunction with the Chair of the Audit Committee) to determine the method of investigation.

3.3 Initial stages may involve interviewing the employee raising the concern, in confidence, to assess what further action should be taken. Normally, this will take place within 10 working days of the concern being raised. It is expected that the whistleblower will raise their concern(s) constructively and provide as many facts / documentation / information available as possible to support their disclosure of malpractice, impropriety or wrongdoing. They will be entitled to be accompanied by a work colleague or trade union representative provided that the person is not involved in the area of work to which the concern relates. This person is for support only and will not be allowed to participate in proceedings.

3.4 If legal representation is taken by the whistleblower, the College should be notified of the substance of this prior to the meeting.

3.5 If a member of staff seeks advice outside of the College, they must be careful not to breach any confidentiality obligations. Such advice may be obtained from a trade union in accordance with their Page 6 of 6 normal procedures or through legal representation.

3.6 Interviews may also have to take place with individuals against whom the allegations are made. These individuals may also be accompanied by a work colleague or trade union representative provided that the person is not involved in the area of work to which the concern relates. This person is for support only and will not be allowed to participate in proceedings.

3.7 All concerns will be investigated carefully and thoroughly. Every effort will be made to keep the employee's identity confidential, if they wish it to be the case. Where this may prove difficult, for example if they are asked to give evidence, then the options will be fully discussed first.

3.8 All parties involved in the concern raised, the person reporting the concern and/or the individual(s) against whom the allegations have been made are able to access support through the process through the College's Counselling team, and/or Employee Assistance Helpline. This will be discussed and details provided as part of any interviews.

3.9 Anonymous disclosures will be considered at the College's discretion and in exercising this discretion, the College will take account of such matters as:

- the seriousness of the concern raised
- the credibility of the concern
- how likely it is that the concern can be confirmed from attributable sources

3.10 Untrue, malicious, vexatious, false or frivolous accusations will be dealt with under the College's disciplinary procedures.

4. Outcomes

4.1 If the suspicions raised are not confirmed by an investigation, the matter will be closed. Staff will not be treated or regarded any differently for raising the concern and their confidentiality will continue to be protected.

4.2 A confidential record will be made of the nature and outcome of the concern. An anonymised annual summary of all whistleblowing activity will be reported to the Audit Committee to support its oversight of governance, risk and control

4.3 The outcome and recommendations of the report will inform the next steps / course of action and the whistleblower will be informed of these within a reasonable time. Correspondence will be always addressed to their home address. Where action is not taken, they will be given an explanation.

4.4 Records of whistleblowing cases will be retained securely for a minimum of six years in accordance with the College's Data Retention Schedule. An anonymised summary will be reported annually to the Audit Committee.

4.5 If the investigation concludes that false, malicious or vexatious claims or accusations have been made and no malpractice has occurred this will be investigated under the staff disciplinary policy.

5. Appeals

5.1 If the employee disagrees with the decision they may, within two weeks of receiving that notification, request in writing, to the Director of Governance, a review by the Governing Board of the decision, stating the grounds for the appeal. If, having exhausted all internal procedures, the individual feels that they still want independent advice, they can contact Protect (formerly Public Concern at Work) or the Citizen's Advice Bureau for confidential advice.

6. Legislation and Regulatory Compliance

- Public Interest Disclosure Act 1998 (PIDA)
- Employment Rights Act 1996
- Bribery Act 2010
- Fraud Act 2006
- Health and Safety at Work Act
- Environment Protection Act 1990 Education Act 2002 (Sections 175 & 157)
- Data Protection Act 2018 / GDPR
- Staff Code of Conduct
- Anti-Fraud and Anti-Bribery Policy
- Keeping Children Safe in Education (KCSIE)

7. Monitoring and Review

- The Director of Governance shall maintain a register of all disclosures under this policy and report annually to the Audit Committee and Governing Board.
- This policy will be reviewed annually by the Director of Governance or in response to legislative changes.

8. Related Policies and Documents

Links to other policies:

- Anti Bullying and Harassment Policy
- Anti -Fraud and Anti-Bribery Policy
- Capability Policy
- Disciplinary Policy
- Staff Code of Conduct
- Financial Regulations