



Whistleblowing Code



Document change control

Document title:	Whistleblowing Code
Audience:	All College 'workers' within the meaning of the Public Interest Disclosure Act 1998 Act, including current and former employees, trainees, apprentices and agency staff as well as individuals undergoing training or work experience as part of a training course (other than at an educational establishment).
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Monitoring and review

- This Code ("Code") will be reviewed by the Clerk to the Corporation and the Audit Committee and approved by the Corporation at least annually.

Executive Summary:

This Code has been constructed by the College in response to the Public Interest Disclosure Act 1998. It takes account of the Whistleblowing Arrangements Code of Practice issued by the British Standards Institute and Public Concern at Work and the 'Nolan principles', which are the basis of the ethical standards expected of public office holders in this country. It has been implemented following consultation with the recognised Trade Unions.

This Code describes:

- a) The College Group's policy on 'whistleblowing';
- b) The procedure for reporting workplace concerns and for addressing them; and
- c) The protections available for staff reporting concerns.

1. Preamble

- 1.1. In line with its core values, the College is committed to the highest possible standards of honesty and integrity and is unequivocally opposed to wrongdoing.
- 1.2. As in all organisations, there is a risk of things going wrong from time to time, or of unknowingly harbouring illegal or unethical conduct. A culture of openness and accountability is essential in order to prevent such situations occurring and to address them when they do occur.
- 1.3. The aims of this Code are:
 - To encourage internal reporting of suspected wrongdoing;
 - To give an assurance that concerns will be taken seriously and investigated as appropriate, and that confidentiality will be respected;
 - To provide guidance as to how to raise concerns;
 - To reassure staff that they can raise concerns without fear of reprisals, even if they turn out to be mistaken;
 - To seek to ensure that whistle-blowers are not disadvantaged.

2. Scope of this Code

- 2.1. You are encouraged to report any concerns you may have about any aspect of the College's service provision, the conduct of other staff members, Governors, committee or panel members, contractors or others acting on behalf of the College.
- 2.2. You should report anything that:
 - makes you feel uncomfortable in terms of established quality standards, your experience, or the values you believe the College subscribes to;
 - contravenes College rules or procedures; or
 - amounts to improper conduct or unethical behaviour.

This may include:

- criminal activity;
- failure to comply with any legal or professional obligation or regulatory requirement;
- miscarriages of justice;
- danger to health and safety;
- damage to the environment;
- bribery under our Bribery Policy;
- fraud or financial impropriety under our Fraud Policy;
- breach of the Financial Regulations;
- academic and/or professional malpractice;
- other conduct likely to damage our reputation or financial wellbeing;
- unauthorised disclosure of confidential information;
- negligence; or
- the deliberate concealment of any of the above matters.

- 2.3. This Code is intended to be used as an option of last resort after informal channels for raising concerns internally have been exhausted. It is designed to complement rather than replace the Grievance Procedure, Collective Disputes Procedure, Harassment & Bullying Policy and the roles of Trade Union representatives. In particular, it is not intended to deal with:
- complaints relating to your own personal circumstances, such as the way you have been treated at work, or about personal differences or conflicts, in which cases you should use the Grievance Procedure or Harassment and Bullying Policy, as appropriate; or
 - complaints relating to legitimate financial or business decisions properly taken by the College or your complaints as a student if in that capacity you have a complaint about service delivery. In such cases you should use the relevant complaints procedure.
- 2.4. If you disclose information which suggests that any person has:
- behaved in a way that has harmed or may have harmed a child, young person or vulnerable adult;
 - possibly committed a criminal offence against a child, young person or vulnerable adult, or related to a child, young person or vulnerable adult; or
 - behaved towards a child, young person or vulnerable adult in a way that indicates s/he is unsuitable to work with children, young people and/or vulnerable adults,
- the statutory guidance contained in the Department for Education publication *Working Together to Safeguard Children, 2018* and, where relevant, the specific guidance given by the Secretary of State under section 175 of the Education Act 2002, namely *Keeping children safe in education: Statutory guidance for schools and colleges on safeguarding children and safer recruitment May 2018*, will be followed due to the specific obligations upon persons reporting concerns regarding the wellbeing of children and young people. The statutory protections for whistle-blowers will still apply.
- 2.5. The College's Safeguarding Policy and Procedures and the Safeguarding pages set out the arrangements for reporting safeguarding concerns. Please visit the College Staff Intranet for a copy of the policy or contact the Safeguarding team on 01274 088 999 if you have any queries.
- 2.6. If you are uncertain whether something is within the scope of this Code you should seek advice from your line manager, a trade union representative, and/or the Clerk to the Corporation (whose contact details are on the front page of this Code).
- 2.7. This Code does not form part of any employee's contract of employment and the College may amend it at any time.

3. Protections and Support for Whistle-blowers

- 3.1. The College is committed to ensuring that anyone who blows the whistle having a reasonable belief in the truth of what they are reporting is not subject to any detrimental treatment as a result.

- 3.2. “Detrimental treatment” includes dismissal, disciplinary action, threats or other unfavourable treatment. If you believe that you have suffered any such treatment as a consequence of making a disclosure, you should inform the Clerk to the Corporation immediately. If the matter is not remedied, you should raise the matter formally using the College’s Grievance Procedure.
- 3.3. You must not threaten or retaliate against whistle-blowers in any way. Anyone who engages in such conduct may be subject to disciplinary action. In some cases a whistle-blower may have a right to sue another member of staff personally for compensation. If you have any questions or concerns about compliance with this Code or the Public Interest Disclosure Act 1998, you should seek advice from the HR team or the Clerk to the Corporation.

4. Responsible Personnel

- 4.1. The Corporation’s Audit Committee has responsibility for overseeing the implementation and operation of this Code, for ensuring the proper, proportionate and independent investigation of all disclosures, and reviewing the effectiveness of actions taken in response to concerns raised under it.
- 4.2. The Clerk to the Corporation has day-to-day operational responsibility for this Code and must ensure that all investigation outcomes are reported to the Audit Committee. Along with the Audit Committee, the Clerk to the Corporation shall review this Code from a legal and operational perspective at least once a year.
- 4.3. The Chief Executive Officer is responsible for ensuring compliance with this Code and ensuring that all managers and other staff who may deal with concerns or investigations under this Code receive regular and appropriate training.
- 4.4. The Head of Human Resources or equivalent (or an alternative HR advisor where the disclosure concerns the Head of Human Resources or equivalent) will oversee and may advise on any investigative processes and will ensure confidentiality as far as possible.
- 4.5. All managers must ensure that their supervised staff, including apprentices, trainees and agency workers for whom they are responsible, are aware of and have access to this Code.
- 4.6. Any individual receiving a disclosure who reasonably considers that it is not appropriate for him or her to become involved in the matter, should immediately refer it to the Clerk to the Corporation.
- 4.7. All staff are responsible for the success of this Code and should ensure that they use it to disclose any suspected danger or wrongdoing. Staff and staff representatives are invited to comment on this Code and suggest ways in which it might be improved. Comments, suggestions and queries should be addressed to the Clerk to the Corporation.

5. Confidentiality

- 5.1. The College will treat all disclosures in a sensitive manner and will have respect for the confidentiality of those who make them. Your identity may be kept confidential on condition that it does not hinder or frustrate any investigation and it is required to be disclosed by law. In some cases there may be no means of pursuing an investigation without revealing the source of the information, in which case this will be restricted to those people directly involved. You are likely to be required to provide a statement, which will form part of the evidence.

6. Anonymous Allegations

- 6.1. It will not normally be necessary for anyone to act anonymously and the College encourages staff to put their name to any disclosure they make. The College will consider anonymous allegations or tip-offs, but the following factors will be taken into account:
 - the seriousness of the concerns raised;
 - the credibility of the concern in the context in which it arises; and
 - the likelihood of confirming the allegation from attributable sources and the practicality of conducting a proper investigation in the circumstances.

7. False Allegations

- 7.1. If the Case Manager considers that a whistle-blower has made false allegations maliciously, vexatiously, or with a view to personal gain, the matter will be referred for investigation under the relevant disciplinary procedure.

8. Raising a Whistleblowing Concern

- 8.1. It is hoped that in the vast majority of cases, concerns will be raised with line managers or other senior managers, as appropriate. You may choose to discuss your concern in person, or put it in writing if you prefer. Your line manager, personal tutor or the senior manager may be able to agree a way of resolving your concern quickly and effectively. In some cases they may refer the matter to the Clerk to the Corporation.
- 8.2. Where the matter is more serious, or if you feel unable to draw it to the attention of your line, personal tutor or another senior manager for whatever reason, or if you feel that, having done so, your concern has not been fully addressed, you should contact the Clerk to the Corporation, who is independent of management and whose role is to advise Governors. If the matter relates to the Clerk, the disclosure may be addressed to the Chair of the Audit Committee instead.
- 8.3. The Clerk to the Corporation (or the Audit Committee Chair) will make arrangements for an initial meeting to discuss your concern in confidence as soon as possible and normally within ten working days of you communicating it to him or her. You should bring to the initial meeting any evidence you have to support the disclosures you intend to make.

- 8.4. The Clerk will either meet with you personally, or arrange for some other impartial person to meet with you. It is not normally possible for whistle-blowers to meet with members of the Corporation, as College Governors are volunteers with limited availability and they are not trained to conduct interviews or carry out investigations.
- 8.5. You may bring a colleague or union representative to any meeting under this Code. Your companion must respect the confidentiality of your disclosure and any subsequent investigation.
- 8.6. You may be asked to provide a signed written statement outlining your concern. Alternatively, a written summary of your concern will be provided to you following the initial meeting. Once you confirm that it is accurate and complete, the Corporation will authorise one of its number to act as Case Manager in respect of the disclosure you have made. This will not normally be the Chair or Vice Chair of the Corporation, as they will be reserved in case a review of the process followed or decision reached is required. The Governor who is appointed as Case Manager will have oversight of the investigation and will make all decisions relating to it, but he or she will not normally meet with you directly.
- 8.7. If the matter relates to the actions or omissions of the full Corporation, the Clerk will discuss with you alternative arrangements to pursue your disclosure.

9. Initial response to your Disclosure

- 9.1. In order to protect individuals and those accused of misdeeds or possible malpractice, initial enquiries will be made to decide whether investigation is appropriate and, if so, what form it should take. You may be required to attend additional meetings at this stage to provide further information.
- 9.2. On the basis of the initial enquiries and normally within ten working days of the initial meeting, the Case Manager will reach a decision about how the matter should be dealt with. This may include:
 - Referring the allegation and any evidence to any of the following:
 - the Audit Committee;
 - the Police;
 - Auditors;
 - College Inspectors;
 - the Health and Safety Inspectorate; or
 - other agencies as appropriate;
 - Commissioning an internal investigation or internal audit;
 - Referring the matter to one of the formal personnel procedures;
 - Requiring a report to be prepared for consideration by the Corporation; or
 - After full consideration of the concern and the evidence, taking no action.

This list is not exhaustive and it is not intended to constrain the Case Manager's range of decisions.

10. Investigation or Referral Stage

- 10.1. If the matter cannot be resolved through normal line management procedures and the Case Manager considers that it is suitable for internal investigation, an investigator or team of investigators will be appointed, which may include College staff members with relevant experience of investigations or specialist knowledge of the subject matter.
- 10.2. Where an investigation is commissioned, a proportionate investigation will take place. The investigation will be objective and evidence-based and will produce a report that focuses on identifying and rectifying any issues, and learning lessons to prevent problems recurring.
- 10.3. The Case Manager may decide that your concern would be better looked at under another process. Concerns or allegations which fall within the scope of specific procedures (for example, safeguarding or Prevent or allegations of fraud or corruption) will normally be referred for consideration under those procedures.

11. Notification of decisions and outcomes

- 11.1. The Clerk to the Corporation will aim to keep you informed of the progress of the matter, the decisions taken and the likely timescale for dealing with the concern. However, sometimes the need for confidentiality may prevent the disclosure of the specific details of an investigation or any action taken as a result. You should treat any information you do receive as confidential.
- 11.2. In every case, upon conclusion of the investigation, including following the referral of the matter to an external agency where appropriate, the Case Manager will report the outcome and action taken to the Chair of the Corporation within three working days (or if the Chair is not available, to the Vice Chair).

12. If you are not satisfied

- 12.1. While there is no guarantee that any particular outcome you are seeking will be achieved, the College will seek to deal with your concern fairly and in an appropriate way and to ensure that you do not suffer detriment as a consequence of your disclosure.
- 12.2. If you are not satisfied with the action taken in response to your disclosure, you have the right to meet with the Chair of the Corporation to discuss your concern (or if the Chair is not available, the Vice Chair). At his or her discretion, the Chair (or Vice Chair) may call a special meeting of the Corporation to consider the alleged wrongdoing, the decision and/or the action taken. In such cases, the Corporation will undertake a review of the decision and/or action taken and will reach a decision by a majority of those in attendance.
- 12.3. If you remain dissatisfied, it is open to you to refer your complaint to an external agency as follows.

13. External Disclosures

- 13.1. The aim of this Code is to provide an internal mechanism for reporting, investigating and remedying any wrongdoing in the workplace.
- 13.2. In most cases we hope you will not find it necessary to refer concerns to anyone externally.
- 13.3. The law recognises that in some circumstances it may be appropriate for you to report your concerns to an external body such as a regulator. It will very rarely if ever be appropriate to alert the media. You are strongly encouraged to seek advice before reporting a concern to anyone external. The independent whistleblowing charity, Public Concern at Work, operates a confidential helpline. They also have a list of prescribed regulators for reporting certain types of concern. Their contact details are at the end of this Code.
- 13.4. Whistleblowing concerns may sometimes relate to the actions of a third party, such as a student, customer, supplier or service provider. In some circumstances the law will protect you if you raise the matter with the third party directly. However, you are encouraged to report such concerns internally first.

14. Contacts

Clerk to the Corporation	Email: clerk@bradfordcollege.ac.uk
Chief Executive Officer	Chris Webb Tel: 01274 088440
College's External Auditors	PricewaterhouseCooper Central Square, 29 Wellington St, Leeds LS1 4DL Tel: 0113 289 4000
Confidential counselling service	Counselling Service Tel: 01274 235750 Mob (text): 07749 820070 Email: counselling@bradford.ac.uk www.brad.ac.uk/counselling/
Public Concern at Work (Independent whistleblowing charity)	Helpline: (020) 7404 6609 Email: whistle@pcaw.org.uk Website: www.pcaw.org.uk

15. RELATED POLICIES

- Policy on the Publication of Corporation Minutes, Agendas and Papers
- Governors Code of Conduct
- Safeguarding Policy and Procedures
- Register of Governors' Interests
- College Financial Regulations and Detailed Financial Procedures
- Disciplinary Procedure
- Grievance Procedure
- Health and Safety Procedures
- Data Protection and GDPR Policy
- College Financial Regulations, in particular Appendix D: Main Features of the Public Interest Disclosure Act 1998 (appended)
- College Code of Conduct

FINANCIAL REGULATIONS APPENDIX D: MAIN FEATURES OF THE PUBLIC INTEREST DISCLOSURE ACT 1998

SUMMARY

The Public Interest Disclosure Act 1998 Act protects workers reporting wrongdoing by their employers or third parties against victimisation or dismissal - provided they have made a protected qualifying disclosure.

The categories of wrongdoing that are covered by the Act are as follows:

1. Criminal offences;
2. Breach of any legal obligation (including any legal contract, statute or regulation);
3. Miscarriages of justice;
4. Danger to the health and safety of any individual;
5. Damage to the environment; and
6. The deliberate concealing of information about any of the above.

The protections apply whether or not the information disclosed by the worker is confidential and extend to wrongdoing occurring in the UK and any other country or territory.

For the purposes of the Act, the term “worker” includes current and former employees, trainees, apprentices and agency staff as well as individuals undergoing training or work experience as part of a training course (other than at an educational establishment). Employment law restrictions on minimum length of service and age do not apply. At present, the Act does not cover the genuinely self-employed or volunteers, including College Governors.

INTERNAL DISCLOSURES

A whistleblower making a disclosure to a manager or the employer will qualify for protection if she or he has:

- disclosed information which relates to one of the six categories listed above;
- a reasonable belief that that information tends to show that malpractice is happening now, took place in the past, or is likely to happen in the future; and
- a reasonable belief that the disclosure is in the public interest.

Note that since 25 June 2013, the requirement that a qualifying disclosure be made "in good faith" has been replaced by a new requirement that the whistleblower reasonably believes that the disclosure is in the public interest.

REGULATORY DISCLOSURES

The Act protects disclosures made to ‘prescribed persons’, such as the Health and Safety Executive, the Financial Services Authority and the Inland Revenue, where the whistleblower has a reasonable belief that the information and their allegation(s) are substantially true. If you make a disclosure to a prescribed person, you must reasonably believe that the wrongdoing in question falls

within its remit, e.g. a disclosure about health and safety should be made to the Health and Safety Executive.

WIDER DISCLOSURES

The Act contemplates that there may be a public interest in workers making wider disclosures, for example to the Police, MPs, and even the media. However intending whistleblowers may wish to seek guidance from the Advisory, Conciliation and Arbitration Service (Acas), the whistleblowing charity *Public Concern at Work* or a trade union representative before making a wider disclosure, as rigorous conditions must be met for such wider disclosures to be protected:

- The worker must reasonably believe that the information disclosed, and any allegation contained in it, are substantially true;
- The worker must not make the disclosure for the purposes of personal gain (but rewards offered under statute, for example by HM Revenue & Customs, are ignored);
- The worker must:
 - a) have previously disclosed substantially the same information to their employer or to a prescribed person; or
 - b) reasonably believe, at the time of the disclosure, that they will be subjected to a detriment by their employer if they make disclosure to the employer or a prescribed person; or
 - c) reasonably believe (where there is no prescribed person) that material evidence will be concealed or destroyed if disclosure is made to the employer; and
- In all the circumstances of the case, it must be reasonable for the worker to make a wider disclosure.

WHISTLEBLOWER PROTECTIONS

Where a whistleblower is victimised in breach of the Act they can bring a claim to an employment tribunal for compensation. Awards are uncapped and based on the losses suffered. Additionally, where a worker is sacked, they may apply for an interim order to keep their job.