



Public Interest Disclosure Procedure

Introduction

The Corporation and Management of City College Coventry are committed to the highest standards of openness, probity and accountability. The College seeks to conduct its affairs in a responsible and ethical manner and will take any claims of malpractice seriously.

This procedure is intended to provide a process for employees and staff engaged by the College through an agency to raise genuine and legitimate concerns. It may also be used to investigate any such concerns raised by former staff, contractors, trainees, and homeworkers who work for the College.

The procedure also seeks to balance the need to provide safeguards for staff who raise genuine concerns about malpractice against the need to protect other members of staff and the College against uninformed or vexatious allegations which can cause serious difficulties for innocent individuals.

What is a Public Interest Disclosure?

It is an implied term of every contract of employment that an employee will faithfully serve his/her employer. Contracts of employment contain a clause specifically relating to the non-disclosure of confidential information about the College's affairs.

A Public Interest Disclosure can be defined as the disclosure of confidential information which relates to some danger, fraud or other illegal conduct connected with the workplace (see below for more detailed information).

A Public Interest Disclosure does not include grievances about an individual's personal employment situation or for furthering any private dispute. This procedure is not designed to generally question financial or business decisions taken by the College unless these decisions fall within the above definition. It may not be used to consider any matters which should be addressed under existing procedures (for example, discipline and grievance procedures) or used to reconsider any matters that have already been addressed under these procedures.

When should I use the Public Interest Disclosure Procedure?

You should only use this procedure if you discover or have genuine concerns about serious malpractice within the College. If you are unsure about whether the practice you have discovered is deemed serious malpractice, you may wish to seek the confidential advice of the independent charity **Public Concern at Work** (Tel. **020 7404 6609**, Website www.pcaw.co.uk).

Serious malpractice may be defined as one of the following (which has occurred, is in the process of occurring or is likely to occur)

- Fraud
- Financial irregularities
- Corruption
- Bribery or blackmail
- Miscarriage of justice
- A criminal offence
- Failure to comply with a legal or regulatory obligation or with the College's codes, procedures or regulations
- Endangering the health and safety of an individual
- Endangering the environment
- Concealment of information relating to any of the above.

If you want to raise a concern about any of the above, please use the procedure set out below.

Please note that the College's existing grievance procedure does not in any way restrict you from making disclosures under this procedure if your concerns relate to malpractice as identified above. If you have a complaint relating to your own personal circumstances however, then you should use the College's existing grievance procedure.

What should I do if I discover malpractice?

1. The Corporation and College Management require the matter to be raised internally in the first instance except in exceptional circumstances listed below. This is so every chance is given to investigate and take appropriate action before the disclosure is in the public domain and all parties are given the opportunity to act professionally and with propriety.
2. If you have reasonable grounds for believing that serious malpractice is happening in the College you should contact the Clerk to the Corporation and make your complaint, preferably in writing. You should provide as much supporting evidence as possible about the grounds for the belief of malpractice.
3. The Clerk to the Corporation will notify the Principal of the details. The Principal (the Assessor) will decide on the form of investigation that will be carried out.
4. If the complaint is in whole or in part about the Principal, the Clerk to the Corporation will notify the Chair of the Corporation of the details. The Chair (the Assessor) will decide on the form of investigation that should be carried out.
5. If the complaint is in whole or in part about the Clerk to the Corporation, it should be made to the Principal (the Assessor), who will decide on the form of investigation that will be carried out.
6. If you feel you have been victimised or deterred from raising your concerns, this should be made known to the person instigating the investigation of your complaint. If proven, such victimisation or deterrence will be regarded as a serious disciplinary offence.

Investigation

1. The investigation will not be carried out by the Assessor who will have to reach a decision on the matter.
2. On receipt of the disclosure, you will be interviewed as soon as reasonably practical after the initial disclosure. You may be accompanied by a trade union representative or work colleague at the interview. Where you involve a trade union representative or a work colleague, you will be under an obligation to use all reasonable endeavours to

ensure that the representative or work colleague keeps this matter strictly confidential save, as permitted under the Procedure, as required by law or until such time as it comes into the public domain.

3. Dependent on the nature of the complaint, the investigation may involve an external agency for advice and guidance, e.g. in the case of financial malpractice the College's Internal Audit Service will be contacted; where concerns relating to serious breaches of Health & Safety have been raised then the Health & Safety Executive will be approached.
4. If there is evidence of criminal activity the Police will be informed and the details provided to them for further investigation.
5. Governors will be informed on a confidential basis that a complaint has been received and is being investigated under this procedure.
6. The person or persons against whom you have made an allegation will normally be told of it and of the evidence provided to support it. They will be allowed to comment before the investigation is concluded.
7. The findings of the investigation will be reported to the relevant Assessor who will make a decision on the matter.
8. As a result of the investigation, other internal procedures may be invoked such as the disciplinary or grievance procedures.
9. Governors will be informed of the outcome of the investigation and any action taken or intended.
10. A full report on the complaint and investigation will be made to the Audit Committee.

Further Steps

As soon as practicable the Assessor will decide what further steps are to be taken. This may (without limitation) include one or more of the following:

- (a) the matter be reported to the police;
- (b) the matter be investigated further internally by the College or by external auditors or investigators appointed by the College;
- (c) You will be given the opportunity to seek redress through the College's existing grievance procedure if in fact the concerns relate to your own personal circumstances rather than malpractice within the College.

No further action will be taken if the Assessor is:

- (a) satisfied after investigation that the malpractice has not occurred or is not likely to occur.
- (b) aware that the matter is already subject to legal proceedings, or has already been referred to the police or relevant "*External Bodies*" (see below);
- (c) aware that the matter is already (or has already been the subject of proceedings) under one of the College's other procedures;
- (d) satisfied that you do not have a reasonable grounds to believe that malpractice within the meaning of this procedure has occurred, is occurring or is likely to occur;
- (e) satisfied that you are not acting in good faith.

Confidentiality

The College will endeavour to treat all disclosures in a confidential and sensitive manner. You will not, where practicable, be identified unless you consent in writing or there are grounds to believe you acted maliciously.

However, you may need to provide a statement as part of the evidence required and the investigation process inevitably may reveal your identity. Confidentiality of your identity cannot therefore be guaranteed.

In the absence of consent or grounds, you will only be identified if:-

- This is a legal obligation
- The information is in the public domain
- To a professionally qualified lawyer for the purposes of obtaining legal advice or
- Where it is necessary as part of a proper investigation

Anonymous Allegations

The procedure encourages individuals to put their name to any disclosures they make. Concerns expressed anonymously, whilst much less powerful, will be considered at the discretion of the College.

In exercising this discretion, the factors to be taken into account will include:

- the seriousness of the issues raised
- the credibility of the concern
- the likelihood of confirming the allegation from attributable sources

How will I know what is happening?

The College will endeavour to resolve the matter as quickly as possible.

The Clerk to the Corporation (or other person instigating investigation of your complaint) will send you a written acknowledgement of your concern within 3 working days of receiving the complaint and will inform you that an investigation will take place under this procedure.

You will be informed of the outcome of the investigation and any action taken or intended. You will be told as far as possible, and subject to third party rights, the outcome of any action taken.

What if I am not happy with the way the matter is being handled?

If you feel that the Clerk to the Corporation (or other person instigating investigation of the complaint) or the investigating officer is not dealing with the matter properly you should raise this, in confidence, with the Chair of the Corporation (or as appropriate the Chair of the Audit Committee).

What if I am unhappy with the outcome?

If, having followed this procedure, you are not satisfied with the outcome you may raise the matter on a confidential basis directly with Police, the Coventry and Warwickshire Learning & Skills Council, the Department for Business, Innovation & Skills/Department for Children, Schools & Families, the Health and Safety Executive, a Member of Parliament or other appropriate public authority (collectively referred to as "External Bodies").

You may at any time disclose the matter on a confidential basis to a professionally qualified lawyer for the purpose of taking legal advice.

You may also raise the matter externally as in the paragraph above, if you have reasonable grounds for believing that you will be subjected to a detriment as a result of making the disclosure, or that all the personnel referred to in this Policy are or were involved in the alleged malpractice.

Under no circumstances should you talk to the media as such a step could have serious implications for the College as a whole.

As an employee, what protection do I have if I raise a concern under this procedure?

The disclosure of confidential information in the public interest is a lawful act. The Act gives legal protection to staff against being dismissed or penalised by their employers as a result of disclosing certain serious concerns. You cannot be disciplined for using this procedure, provided:

- You have acted in good faith and not for personal gain or out of personal motives and are not motivated by personal antagonism.
- You have reasonable grounds to believe that malpractice has occurred, is occurring or is likely to occur. This means more than just a possibility or risk that malpractice has occurred, is occurring or is likely to occur in the College.

In cases of referral to External Bodies you may be protected under law after all internal procedures have been exhausted or it is such an extreme circumstance that you feel unable to raise the issue internally in the belief that evidence would be concealed or destroyed.

Protection against detriment for making a disclosure

If you make an allegation in good faith which is not confirmed by the subsequent investigation, no disciplinary action will be taken against you and no detriment will be imposed.

However, if the College has grounds to believe that you have used this procedure to make malicious or vexatious accusations or where external disclosure is made in breach of this procedure without reasonable grounds or otherwise than to the police or External Bodies listed above. you will be committing a disciplinary offence as wilful misuse of this procedure will constitute an act of gross misconduct and may lead to your dismissal.

Variation of Procedure

Due to the potential joint involvement of several senior parties in the College under this procedure, there may be instances where it is necessary, in the interests of natural justice, for aspects of the procedure to be varied. In such cases, the Chair of the Corporation is authorised to make such variances (or, if the Chair subject to an investigation, the Chair of the Audit Committee).

All concerned will be notified of any such variances and the reasons for them.

Procedure Review Date	November 2010
Officer responsible for implementation	Clerk to the Corporation

Approval and Review History
<ul style="list-style-type: none">• Approved by the Corporation on 7th December 2005 (Minute C92/05)• Reviewed and approved by the Corporation on 13th September 2006 (Minute C72/06)• Reviewed and approved by the Corporation on 5th December 2007 (Minute C102/07)• Reviewed and approved by the Principal (under delegated authority from the Corporation) at the Executive meeting of 13th July 2009 (Minute 4)