



Introduction

This policy applies to all employees and officers of the College. Other individuals performing functions in relation to the College, such as agency workers and contractors, are encouraged to use it.

It is important to the business that any fraud, misconduct or wrongdoing by employees or officers of the College is reported and properly dealt with. The College therefore encourages all individuals to raise any concerns that they may have about the conduct of others in the business or the way in which the business is run. This policy sets out the way in which individuals may raise any concerns that they have and how those concerns will be dealt with.

Background

The Public Interest Disclosure Act 1998 amended the Employment Rights Act 1996 to provide protection for employees who raise legitimate concerns about specified matters. These are called "qualifying disclosures". A qualifying disclosure is one made in good faith by an employee who has a reasonable belief that:

- a criminal offence;
- a miscarriage of justice;
- an act creating risk to health and safety;
- an act causing damage to the environment;
- a breach of any other legal obligation; or
- concealment of any of the above;

is being, has been, or is likely to be, committed. It is not necessary for the employee to have proof that such an act is being, has been, or is likely to be, committed - a reasonable belief is sufficient. The employee has no responsibility for investigating the matter - it is the College's responsibility to ensure that an investigation takes place.

An employee who makes such a protected disclosure has the right not to be dismissed, subjected to any other detriment, or victimised, because he/she has made a disclosure.

The College encourages employees to raise their concerns under this procedure in the first instance. If an employee is not sure whether or not to raise a concern, he/she should discuss the issue with his/her line manager or the human resources department.

Principles

- Everyone should be aware of the importance of preventing and eliminating wrongdoing at work. Employees should be watchful for illegal or unethical conduct and report anything of that nature that they become aware of.
- Any matter raised under this procedure will be investigated thoroughly, promptly and confidentially, and the outcome of the investigation reported back to the employee who raised the issue to the extent that the law allows.
- No employee will be victimised for raising a matter under this procedure. This means that the continued employment and opportunities for future promotion or training of the employee will not be prejudiced because he/she has raised a legitimate concern.
- Victimisation of an employee for raising a qualified disclosure will be a disciplinary offence.
- If misconduct is discovered as a result of any investigation under this procedure the College's disciplinary procedure will be used in conjunction with any appropriate external measures.
- Maliciously making a false allegation is a disciplinary offence.
- An instruction to cover up wrongdoing is itself a disciplinary offence. If told not to raise or pursue any concern, even by a person in authority such as a manager, employees should not agree to remain silent. They should report the matter to a director.

This procedure is for disclosures about matters other than a breach of an employee's own contract of employment. If an employee is concerned that his/her own contract has been, or is likely to be, broken, he/she should use the College's grievance procedure. Anonymous disclosures are not encouraged but the right to anonymous disclosure is recognised. Any such disclosure will be investigated at the discretion of the officer to whom the disclosure is made, having regard to the seriousness of the allegation.

Procedure

(1) In the first instance, and unless the employee reasonably believes his/her line manager to be involved in the wrongdoing, or if for any other reason the employee does not wish to approach his/her line manager, any concerns should be raised with the employee's line manager. The employee's line manager must report that an investigation is underway to the Principal and Chief Executive Officer (CEO)). If a member of CEG is, or is likely to become a subject of an investigation, then the matter should be reported to the Chair of the Audit and Risk Committee. If he/she believes the line manager to be involved, or for any reason does not wish to approach the line manager, then the employee should proceed straight to stage 3.

(2) The line manager will arrange an investigation of the matter (either by investigating the matter him/herself or immediately passing the issue to someone in a more senior position). The investigation may involve the employee and other individuals involved giving a written statement. Any investigation will be carried out in accordance with the principles set out above. The employee's statement will be taken into account, and he/she will be asked to comment on any additional evidence obtained. The line manager (or the person who carried out the investigation) will then report to the Principal and CEO for report to the Board of Governors, which will take any necessary action, including reporting the matter to any appropriate government department or regulatory agency. If disciplinary action is required, the Principal and CEO will escalate the process and start the disciplinary procedure. On conclusion of any investigation, the employee will be told the outcome of the investigation and what the Board of Governors has done, or proposes to do, about it to the extent that the law allows.

(3) If the employee is concerned that his/her line manager is involved in the wrongdoing, has failed to make a proper investigation or has failed to report the outcome of the investigations to the Principal and CEO, he/she should inform the Vice Principal, the Principal and CEO or Chair of the Board of Governors, as appropriate, who will arrange for another manager to review the investigation carried out, make any necessary enquiries and make his/her own report to the board as in stage 2 above. If for any other reason the employee does not wish to approach his/her line manager he/she should also in the first instance contact the Vice Principal, Principal and CEO or Chair of the Board of Governors as appropriate. Any approach will be treated with the strictest confidence and the employee's identity will not be disclosed without his/her prior consent.

(4) If on conclusion of stages 1, 2 and 3 the employee reasonably believes that the appropriate action has not been taken, they may submit their concerns to the College's whistleblowing email address (whistleblowing@bruford.ac.uk). An appeal must be in writing, and must be submitted no later than four weeks after the individual was advised of the outcome. Grounds for appeal will be limited to:

- i. The discovery of new information not available to the person making the disclosure at the time of the first investigation and decision;
- ii. procedural irregularities in the way that the disclosure was investigated or the outcome decision was taken, such as a person acting outside the authority given to them by this policy; or
- iii. evidence of prejudice, bias or unreasonable decisions by the investigator or person deciding the outcome.

Appeals will normally be considered by a member of CEG but may be considered by someone appointed from outside the College. The person considering the appeal shall be appointed by the Principal and Chief Executive Officer (CEO) or by the Chair of the Board of Governors if the disclosure relates to the Principal and CEO and must have had no prior involvement in the disclosure or the matters to which the disclosure relates. They may seek further information if they consider it necessary. Within a reasonable timeframe, they must provide a written decision, with reasons, to the parties involved in the appeal. The appeal outcomes may include upholding the outcome decision, requiring the matter to be reinvestigated and/or redecided, or substituting a different outcome decision. The appeal decision will be final, and not subject to review or appeal within the College.

(5) If on conclusion of stages 1, 2, 3 and 4 the employee reasonably believes that the appropriate action has not been taken, he/she should report the matter to the proper authority. The legislation sets out a number of bodies to which qualifying disclosures may be made. These include:

- HM Revenue & Customs;
- the Financial Conduct Authority (formerly the Financial Services Authority);
- the Competition and Markets Authority;
- the Health and Safety Executive;
- the Environment Agency;
- the Independent Police Complaints Commission; and
- the Serious Fraud Office.

Law relating to this document

Leading statutory authority

Employment Rights Act 1996
Public Interest Disclosure Act 1998

The legislation protecting individuals who make a protected disclosure applies not only to employees but also to any person who undertakes to do or perform personally (or otherwise) any work or service for the employer, regardless of the nature of the contractual relationship between them.

A whistleblowing policy should establish the procedure for a worker to follow if he or she has genuine concerns about a colleague's conduct or the organisation's practices. The whistleblowing policy should make clear what sort of allegations will count as a protected disclosure and should allow for the worker to raise these concerns with a nominated person and set out the steps that the employer will take in response.

A "qualifying disclosure" means any disclosure of information that, in the reasonable belief of the worker, is made in the public interest. The requirement that a whistleblower make a qualifying disclosure "in good faith" has been removed. Therefore, while the employer can seek a declaration from the whistleblower that he or she is not knowingly making false allegations, disciplinary action is likely to be appropriate only where there is clear evidence that the worker has misused the whistleblowing procedure. A consequence of the requirement that a disclosure be made in the public interest is that an employee will generally be precluded from being able to "blow the whistle" about breaches of his or her own employment contract.

Employees and workers who make protected disclosures are protected from adverse treatment in relation to their employer's activity. In addition, whistleblowers are protected from suffering a detriment, bullying or harassment from another worker.

Document Control

Title: Whistleblowing Policy

Applicable to: All Staff Groups

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Approved by: Audit and Risk Committee Chair

Policy Owner: Clerk to the Board