

Brixham College

Whistleblowing Policy

December 2020

Date Adopted	December 2020
Prepared by	Mark
Ratified by	The Trustees
Review Date	December 2022

Success in learning, success in life.



Introduction

Each of us at one time or another has concerns about what is happening at work. Usually these concerns are easily resolved. However, when they are about unlawful conduct, financial malpractice and similar wrongdoings, it can be difficult to know what to do.

The Board of Trustees of Brixham College has introduced this policy to enable employees to raise concerns about malpractice/wrongdoing at an early stage and in the correct way. The Whistle-blowing Policy is to be used for reporting concerns where the employee holds a reasonable belief that the concern is within the public interest or where the organisation, and/or members of it, may be at risk.

1.1 Aims of the Policy

This policy aims to:-

- inform employees how to take issues of concern forward appropriately, using the correct policies and procedures
- provide a clear procedure for employees to raise concerns and receive feedback on any action taken
- ensure that confidentiality of the disclosure is maintained as far as possible
- reassure employees that they will be protected from reprisals or victimisation for whistle-blowing in good faith and in accordance with this procedure.

1.2 Scope

This policy applies to all employees and Trustees of Brixham College. Contractors, partner agencies, agency workers, apprentices/trainees and volunteers who wish to raise whistleblowing concerns can do so through this policy.

2 What is whistleblowing?

Someone 'blows the whistle' when they tell their employer, regulator, customers, the police or media about a dangerous or illegal activity they are aware of through work. The disclosure must be made in the public interest, i.e. a public interest disclosure is a disclosure by a worker concerning a wrongdoing on the part of his or her employer.

Whistleblowing legislation is in place to protect workers from dismissal or victimisation at work in the event that they disclose some sort of wrongdoing to the employer or another appropriate body.

The Public Interest Disclosure Act 1998 and the Employment Rights Act 1996 clearly define what types of disclosure qualify the person making them for protection against dismissal and detrimental treatment by their employer. These are known as 'protected' disclosures. A qualifying disclosure can be where any of the following is being, has been, or is likely to be, committed:

- 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
- a disclosure will also be protected if the information disclosed is of a nature that shows that any of the above is likely to be deliberately concealed.

The law also protects the individual from detrimental treatment by work colleagues for raising a concern. Brixham College is 'vicariously' liable for any wrongdoing of this nature unless it can prove that it took all reasonable steps to protect the individual who raised the concern from detrimental treatment by their co-worker.

2.1 What is the difference between making a complaint and blowing the whistle?

When someone blows the whistle, they are raising a concern about danger or illegality that affects others (for example customers, members of the public, or

their employer). The person blowing the whistle is usually not directly, personally affected by the danger or illegality. Consequently, the whistleblower rarely has a personal interest in the outcome of any investigation into their concern – they are simply trying to alert others. For this reason, the whistleblower should not be expected to prove the malpractice, but to give clear, factual information about the concern. He or she is a messenger raising a concern so that others can address it.

This is very different from a complaint or grievance. When someone complains or raises a grievance, they are saying that they have been personally treated poorly. This poor treatment could involve a breach of their individual employment rights or unacceptable behaviour, and the complainant is seeking redress or justice for themselves. The person making the complaint therefore has a vested interest in the outcome of the complaint and, for this reason, is expected to prove their case.

Some examples showing the differences are as follows:

Grievance	Protected disclosure
An employee's complaint about the type of work that he or she is being asked to do, for example if it is not covered by his or her contract	A disclosure that an individual has been instructed to carry out actions that he or she genuinely believes to be illegal, e.g. to falsify tax returns
An employee's complaint that he or she has received insufficient safety training	A disclosure that safety rules within the workplace are routinely being flouted, thus endangering safety of employees, the public and/or children (in a school setting)

An employee's complaint about the hours that he or she is expected to work	A disclosure that the requirements imposed by the organisation on a group of employees represent a breach of the working time legislation
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3 Safeguarding Whistleblowers

In accordance with the law, The Board of Trustees of Brixham College undertakes that no employee who reports a concern in the public interest under this procedure will be subjected to any detriment as a result. In the event that the employee believes they are being subjected to a detriment by any person within the College, they have the right to raise any concerns of harassment via the College's Acceptable Behaviour policy.

3.1 Confidentiality

The Board of Trustees of Brixham College will do its utmost to protect an individual's identity when they raise a concern and do not want their name to be disclosed. It must be acknowledged by the employee raising the concern, though, that the investigation process itself may well reveal the source of the information and, depending on the outcome, a formal witness statement by the individual may be required as evidence in a Court.

3.2 Anonymous Allegations

This policy is designed to encourage staff to put their names to allegations. Concerns expressed anonymously are much less powerful and more difficult to investigate, but they will be considered at the discretion of The Board of Trustees of Brixham College. In exercising this discretion, the factors to be taken into account would include:

- the seriousness of the issue(s) raised,
- the credibility of the concern, and
- the likelihood of confirming the allegation from attributable sources.

3.3 Untrue Allegations

If an employee makes an allegation but it is not confirmed by the investigation, no action will be taken against them. If, however, there is reasonable evidence that an allegation has been made maliciously, or with the primary intent of personal gain, action will be taken in line with the College's Disciplinary Policy.

4 Procedure

The following procedure is to enable employees to raise a concern directly with the College and for it to be addressed directly. Employees have the right to report a whistleblowing concern outside the College and this procedure if they wish. This should be done by contacting the relevant external organisation and following their published procedure. A list of external contacts is given at the end of this policy.

4.1 Raising a Concern

Employees who have a whistle blowing concern should address their concern in writing to their immediate line manager or the Principal. If the concern relates to their line manager/ Principal, or if the individual does not feel at ease raising the concern through this route, the Chair of Trustees may be contacted.

Employees who are members of a recognised trade union may also wish to approach their representative. The concern should be put in writing, giving clear details of the concern, using the proforma contained in Appendix 1 of this policy. The proforma can be emailed to the Principal, the Chair of Trustees and the line manager.

4.2 How the Complaint will be Dealt With

The Board of Trustees, through its Strategy Committee, will convene a meeting to take overall responsibility for action in regard to the complaint, including formal written response to the matter.

Within ten working days of a concern being received, The Board of Trustees will write to the employee:

- acknowledging that the concern has been received

- indicating how the matter will be dealt with
- telling the employee whether any initial enquiries have been made
- telling the employee whether further investigations will take place and if not, the reason for this
- giving some indication of timescales.

Following the initial investigation, should the appointed Investigating Officer consider that the complaint falls outside of the scope of this policy, the employee will be advised of alternative courses of action to take, for example, to raise the complaint under one of the College's other policies. If, after initial investigation, it becomes clear that the matter uncovers criminal activity or welfare/safeguarding concerns, these will be reported directly to the police and/or other relevant external organisations for further action. The Board of Trustees and the employee will be advised of this course of action and the College will take no further action in respect of the complaint, unless requested by the police or external organisation the complaint has been referred to.

4.3 How the College will respond

Following initial investigation, the action recommended by The Board of Trustees will depend on the nature of the concern raised and may:

- be resolved by agreed action without the need for further investigation
- be investigated further
- be referred to the police
- form the subject of an independent inquiry
- be referred to the external auditor.

Should an investigation be necessary, The Board of Trustees will appoint an appropriate investigation team from within the College. The investigation will be dealt with as expediently as possible with an estimated timescale for completion to be provided to the employee at the start by the investigation team.

Where the employee is called to an investigation meeting, they may be accompanied by a trade union representative or work colleague, and such

representative or colleague will be required formally to agree to any matters arising at that meeting being kept confidential.

Following the outcome of the investigation process, the investigating team will inform The Board of Trustees and/or the Principal of the outcome, and an appropriate course of action will be agreed.

The investigating team will put the formal response in writing to the individual at the earliest opportunity.

The employee is not entitled to be able to determine the outcome of the investigation process or to insist that disciplinary action must be taken or a prosecution instigated. There is no further recourse under this policy, however, should the employee wish to pursue the matter further. They have the right to report their concerns to an external organisation or one of those listed at the end of this policy.

5 Further Support

It is The Board of Trustees's objective to ensure that due regard and sensitivity will be exercised by all involved in the process to ensure that the employee raising the concern does not suffer detrimental treatment as a result of raising a complaint.

Further support can be sought through counselling services offered by the College.

6 Monitoring of the Policy

The policy will be monitored by The Board of Trustees, who has overall responsibility for the maintenance and operation of this policy. The Board of Trustees will maintain a record of concerns raised and the outcomes (in a form which does not endanger confidentiality) and will report as necessary to the Principal.

7 Raising a Complaint outside the College

If an employee wishes to take the matter outside the College, they need to ensure that they do not disclose confidential information or that disclosure would be privileged. This can be checked with the Local Government Ombudsman who will also advise on ways to proceed.

(Local Government Ombudsman Local Government Ombudsman Advice line:- 0300 061 0614) www.lgo.org.uk

The Government has produced a document “Blowing the Whistle to a Prescribed Person – List of Prescribed people and Bodies”. It lists the appropriate organisations to handle whistleblowing complaints and should be referred to for up-to-date advice and guidance about whom to contact:-
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/404330/bis-15-43-blowing-the-whistle-to-a-prescribed-person-list-of-prescribed.pdf

7.1 Other Contacts:-

The Local Authority Designated Officer (LADO) (Torbay Council) Tel: 01803 208563 (*specifically for safeguarding issues*)

Audit Commission (External Audit) for England and Wales Tel: 0844 798 3131
www.audit-commission.gov.uk

Public Disclosures Hotline Tel: 0845 0522 646

Devon and Cornwall Police Tel: 101 www.devon-cornwall.police.uk

Ofsted www.ofsted.gov.uk/contact-us/whistleblower-hotline

Prescribed People and Bodies

www.gov.uk/government/uploads/system/uploads/attachment_data/file/183340/11-641-blowing-the-whistle-to-a-prescribed-person.pdf

Public Concern at Work Tel: 020 7404 6609

www.pcaw.org.uk/

ACAS Tel: 0300 123 1100

www.acas.org

ESFA

Public Concern at Work

Whistleblowing Reporting Form



This form is to be used for report a concern under Brixham College's Whistleblowing Policy and Procedure. The information given on this form will be treated in the strictest confidence.

Description of the concern Please include:	
<ul style="list-style-type: none">• Dates of incidents• Who was involved• Why this is a concern• What the result was	<ul style="list-style-type: none">• Whether there were any other witnesses• Whether you have tried to raise this with anyone previously• What the result was
<p>You are encouraged to give your name to this report. Complaints raised anonymously are much harder to investigate but will be considered at the discretion of The Board of Trustees.</p>	

Name:		School:	
Address:		Contact Tel number:	
Date:		Email address:	
Signature:			

Send this form by post or by email to either the Principal or Governing Body of the College.

Initial Investigation of Concern – to be completed by the College

Complaint received by: Date:
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Action taken

