



LONDON
COLLEGE OF
INTERNATIONAL
BUSINESS
STUDIES



Whistleblowing Policy

Date Created:	07/11/2019
Amendment Date:	
Review Date:	01/11/2020
Author:	A.Warner
Approved by:	SSG: 19/11/2019
Version Control	V1

Contents

Aim.....	3
Definitions and Legislative Context.....	3
Whistleblowing.....	3
Public Interest Disclosure Act (PIDA) 2013	3
1. Policy statement.....	4
2. Purpose.....	4
3. Scope.....	4
4. Core Principles.....	5
Whistleblowing Procedure	7
Appendix 1- Guidance for the Investigating Officer	11

Aim

The aim of the Whistleblowing Policy and Procedure is to provide an open and transparent way to raise serious concerns that are in the public interest. The raising of such concerns can make a positive difference, alerting the College to malpractice or serious risks that might otherwise take time to come to light.

Definitions and Legislative Context

Whistleblowing

The term whistleblowing has no legal definition within UK and EC law, however, it has been used to describe incidents where an employee (which for these purposes includes not only employees but workers and other staff members) reports some alleged wrongdoing within an organisation.

The College's employees may be the first to realise that there is something wrong within the College. However, they may not express their concerns, because they feel that speaking up would be disloyal to their colleagues or fear of reprisal. In such circumstances, it may be easier for individuals to ignore the concern rather than to report what may just be a suspicion of wrongdoing. All members of the College are encouraged to raise genuine concerns about wrongdoing at the earliest opportunity.

Public Interest Disclosure Act (PIDA) 2013

The UK Government implemented legislation, known as the Public Interest Disclosure Act 1998 ("the Act") to provide legal protection against victimisation or dismissal for workers reporting malpractices by their employers or third parties; such disclosures are commonly referred to as "whistleblowing".

Whilst the Act specifically covers those working in the UK against detriment if they make 'protected disclosures' as defined in the Act (as subsequently amended), the College believes that to promote a culture of shared responsibility and transparency, all members of the College community, including students should also feel able to raise legitimate concerns without fear of their position within the College being jeopardised. The College will treat all disclosures made under this policy consistently and fairly

This Whistleblowing Policy is a key part of the College's governance arrangements and is designed to encourage and enable staff to come forward to raise their concerns without fear of reprisals.

Whistleblowing Policy

1. Policy statement

- 1.1 London College of Business Studies (LCIBS), its board of Governors and senior executive are committed to a culture of honesty, openness and accountability in the pursuit of the College strategic aims and ambitions. LCIBS seeks to conduct its business in a responsible way by creating an environment where staff feel able to raise any concerns about wrongdoing in the workplace.
- 1.2 This policy sets out arrangements for individuals to raise serious concerns, which are in the public interest, at senior levels within the College.
- 1.3 Individuals who raise concerns under this policy will be taken seriously and treated fairly. They will be protected from detrimental treatment following their disclosure; any victimisation may result in disciplinary action for the perpetrator.

2. Purpose

- 2.1 The aims of this policy, in line with the Public Interest Disclosure Act (PIDA) 1998, (as amended by the Enterprise & Regulatory Reform Act 2013) are to
 - a) encourage employees to raise matters of concern that are in the public interest (often referred to as Whistleblowing) such as malpractice, impropriety or wrongdoing,
 - b) provide a means by which employees are enabled to raise concerns with the appropriate College authorities, if they have reasonable grounds for believing serious malpractice has occurred or is likely to occur. These concerns can then be investigated and where appropriate acted upon.
 - c) reassure employees that they can raise genuine concerns without fear of reprisal
 - d) To give a clear message that allegations of malpractice / impropriety are taken seriously.
 - e) To act as a deterrent to potential perpetrators of misconduct.
 - f) To strengthen the confidence of all interested parties (funding bodies, students, members of staff, etc.) that the College maintains the highest standards of conduct.

3. Scope

- 3.1 This policy applies to all employees and those who are engaged to work in the College and includes casual and temporary staff, agency workers, apprentices, interns, self-employed workers, contractors and suppliers.
- 3.2 The policy is designed to deal with concerns raised in relation to the specific issues which are in the public interest and are detailed in section 4.3 below, and which fall outside the scope of other College policies and procedures.
- 3.3 This policy is not intended to apply to personal grievances concerning individual's terms and conditions of employment, or other aspects of the working relationship, complaints of bullying or harassment, or disciplinary matters.

- 3.4 This Policy does not form part of any employee's contract and may be amended at any time.

4. Core Principles

London College of International Business Studies. recognises that, from time to time, individuals may have genuine concerns about an actual or potential risk, fraud or other illegal or unethical conduct.

- 4.1 This policy seeks to reassure individuals that it is acceptable and safe for them to raise such concerns without fear of detriment and to provide a clear procedure for doing so. All disclosures (i.e. the sharing of information relating to potential wrongdoing) will be acted upon promptly, sensitively, fairly and properly. All disclosures will be treated confidentially to the extent that this is compatible with a thorough investigation where that is deemed to be necessary.
- 4.2 This policy incorporates the requirements of the Public Interest Disclosure Act 1998, which was introduced to encourage employees to raise concerns in a responsible way where they believe there is malpractice or wrongdoing and when they do so, to protect them from detriment.
- 4.3 The Act provides legal protection to prevent individuals from being penalised - for example by dismissal or victimisation - as a result of making a qualifying disclosure; a dismissal for making such a disclosure is automatically unfair. A qualifying disclosure is one made in the public interest by an individual who has a reasonable belief that one of the following has been (in the recent past), is being, or is likely to be committed:
- A criminal offence
 - A failure to comply with a legal obligation
 - A miscarriage of justice
 - Abuse of authority for illegal or unethical purposes
 - An act creating risk to health and safety
 - An act causing damage to the environment
 - Deliberate concealment of any of the above

This would include less favourable treatment because of any of the "protected characteristics" specified in the Equality Act 2010 in respect of which discrimination in employment is unlawful, namely: sex, being married or in a civil partnership, gender reassignment, pregnancy, sexual orientation, race, religion or belief, age and disability. The purpose of the legislation is to encourage employees to raise their concerns through appropriate channels rather than, for example, publishing them in the media.

- 4.4 It is expected that any disclosures will be raised internally under this policy in the first instance.
- 4.5 A disclosure is protected if made to the employer or to a person in the organisation whom the worker believes to be responsible for the wrongdoing, to a legal adviser, or to a prescribed person or body.
- 4.6 If misconduct is discovered as a result of any investigation under this procedure the College's disciplinary procedure will apply, in addition to any appropriate external measures.
- 4.7 Maliciously making a false allegation is a disciplinary offence.

- 4.8 It is recognised and expected that the majority of concerns will be raised openly with managers as part of day to day practice and this policy does not seek to undermine this.
- 4.9 As any qualified disclosure needs to be in the 'public interest' the policy cannot be used to raise purely private matters (e.g. in relation to a member's individual contract) or in relation to a grievance which seeks to redress a wrong done to oneself. There are however a number of other appropriate policies and procedures available to staff and students through which individuals may raise and attempt to resolve such specific concerns, e.g. relating to a grievance, disciplinary, or harassment matters.

Whistleblowing Procedure

1.0 Introduction

This policy and associated procedure are distinct from other internal policies and procedures specifically for dealing with complaints by staff connected with their terms of employment – these are dealt with under the College's Grievance Procedure. Some complaints may be more appropriately dealt with under the College's Harassment and Bullying Policy.

The Whistleblowing policy is not intended to be used to re-open or review a matter already dealt with under other policies or procedures or to question or reconsider financial or business decisions taken by the LCIBS. The purpose of this policy and procedure is to assist individuals who believe they have discovered serious misconduct in the College.

This document outlines what needs to be done, when, and by whom, when a whistleblowing disclosure is made under the Whistleblowing Policy. This includes disclosures made directly to the whistleblowing mailbox whistleblowing@lcibs.co.uk.

2.0 Making a disclosure

2.1 Informal

An individual may seek to resolve any issues of concern informally by bringing these to the attention of their line manager or another senior colleague either within or outside their department to enable swift, appropriate action as part of the day-to-day good practice of the College. Alternatively, an individual may seek to resolve an issue of concern by raising this with the HR team. Any concerns should be raised promptly so that they may be resolved as soon as possible. However, it is recognised that the seriousness and sensitivity of some issues, together with who the individual thinks may be involved in wrongdoing, it may be difficult or even impossible to use the informal process. In this case the formal process should be used.

The College would generally expect individuals to initially consider whether an informal route would be sufficient to deal with any concerns.

Individuals who make protected disclosures will be kept informed of the progress of any investigations at appropriate stages throughout the course of an investigation.

2.2 Formal

2.2.1 Qualifying disclosures under this procedure are disclosures of information which the staff member (or any other person within the scope of this Policy) reasonably believes that one or more of the matters listed below, is either happening now, took place in the past or is likely to happen in the future (and it is in the public interest to report it):

- A criminal offence
- A failure to comply with a legal obligation
- A miscarriage of justice
- Abuse of authority for illegal or unethical purposes
- An act creating risk to health and safety
- An act causing damage to the environment
- Deliberate concealment of any of the above

2.2.2 Circumstances when use of this Policy is not appropriate, include the following:

- complaints by an individual about breaches of their own employment contract;
- disagreements or discontent with the principles or substance of University policies and regulations;
- matters of individual discipline;
- personal and collective staff grievances;
- bullying or harassment on grounds of age, gender, race, religion, or sexual orientation;
- equal opportunity complaints;
- complaints about poor standards of service;
- matters covered by the University's Code of Practice on Free Speech; and
- complaints about the Students' Union under the 1994 Education Act.

2.2.3 Where an individual considers that it may be necessary to make a disclosure under this policy and procedure, and that disclosure fulfils one of the criteria described above in **2.2.1**, the disclosure should be made in writing or verbally to Head of Quality and Registry (the designated person). If, however, the disclosure is about the Head of Quality and Registry, then the disclosure may be made to the Provost. In the event that the disclosure concerns the Provost, then the disclosure may be made to the Chair of Governing body.

2.2.4 Disclosures should make clear that this is being done within the terms of this policy. A disclosure should include the nature of the concern and why it is believed to show malpractice (supported with relevant evidence) and that such a disclosure is in the public interest. Although individuals are not expected to prove the truth of any allegation, they will need to demonstrate that there is a sufficient reason for making initial enquiries.

2.2.5 Upon receipt of a formal disclosure, the designated person, shall nominate an Investigating Officer (see appendix 1 for guidance on the Investigating Officer's responsibilities) as appropriate to investigate. The designated person will acknowledge the disclosure in writing within 10 working days and discuss the next steps with a senior independent member of staff or HR, depending on the nature of the disclosure.

2.2.6 The designated person member must ensure that the Investigating Officer conducting the investigation is not by any person involved in the matter.

2.2.7 The person(s) against whom an allegation is made will be informed of it along with the supporting evidence. They will then be given the opportunity to offer their explanation or mitigation before concluding the investigation.

2.2.8 Where an investigation is undertaken, the outcome will be reported to the designated person, who will determine what further action to take, if any.

3.0 Appeals

3.1 If the individual making the disclosure is dissatisfied with the response to the disclosure, appeals may be made in writing to a member of the Head of Quality and Registry, Provost, or Chair of Governing body, stating the grounds for dissatisfaction which may cover the following and providing supporting evidence:

- There is evidence of procedural irregularity, or
- There is evidence of prejudice or bias, and/or
- There is further evidence that was not available at the time the original disclosure was made.

3.2 The Head of Quality and Registry, Provost, or Chair of Governing body will then decide whether the matter should be investigated under the Whistleblowing Procedure. If it is agreed yes, then one of the above will ask another senior manager to arrange an investigation or nominate an external auditor to investigate this matter.

4.0 Confidentiality

4.1 All disclosures made under this policy and procedure will be treated in a sensitive and, where possible, confidential manner. If necessary, the identity of the individual making the disclosure will be kept confidential for as long as possible, provided that this is compatible with an effective investigation. The investigatory process may have to reveal the identity of the individual making the disclosure and they may be requested to make a statement and/or attend an investigatory interview as part of the process.

4.2 Summary information about each disclosure will be kept on a central record by the Head of Quality and Registry. This will include the date and nature of the disclosure, the department that was the subject of the disclosure and the individual who investigated the matter and considered the outcome. Investigation notes for any disclosure will be treated as confidential and retained by the Investigating Officer. Disclosure records will be kept allowing for review of the effectiveness of this policy and to allow for a strategic view on the number and nature of disclosures.

5.0 Anonymous disclosures

5.1 Individuals making a disclosure are expected to identify themselves, as disclosures raised anonymously can be significantly more difficult to address. The College may investigate anonymous disclosures depending on the seriousness of the issue, the credibility of the concern, any prejudice to those named in an anonymous disclosure and the likelihood of being able to investigate the matter and confirm the allegation from alternative sources.

5.2 It should be noted that the ability to provide appropriate feedback and protect against detriment will depend on the College knowing the identity of the individual making a disclosure.

6.0 False allegations

6.1 Individuals who, on the basis of the evidence available, it is believed on reasonable grounds, knowingly make malicious, vexatious or false allegations may be subject to disciplinary or other appropriate action.

6.2 However, employees who make allegations that turn out to be unfounded will not be penalised for being genuinely mistaken.

7.0 Protection

7.1 LCIBS is committed to ensuring good practice and high standards, furthermore wants to also ensure that our staff feel supported. We recognise that making the decision to report concerns can be difficult; however, if concerns are raised in good faith there will be nothing to fear as individuals will be doing their college a duty.

7.2 Staff raising concerns internally will be protected from harassment, victimisation, disciplinary action or dismissal or any other disadvantage at work (even if the disclosure of malpractice or wrong doing is not substantiated after investigation) as long as the concerns raised are done in good faith.

- 7.3 Harassment or victimisation will not be tolerated, and the college will take necessary action to protect staff when concerns are raised in good faith.
- 7.4 In raising concerns, only staff who are involved in the investigation will be made aware of the individual's identity. However, the following exceptions will need to be made:
- to the police or as required under anti-money laundering requirement
 - to a professional qualified lawyer or accountant for obtaining advice
 - for legal reasons
 - where there is reason to believe that the member of staff has acted maliciously
 - where that information is already in the public domain
- 7.5 If for any reason other than the above the college is required to reveal your identity, discussions will be held with the member of staff first.
- 7.6 In circumstances where staff decide to involve a colleague or a trade union representative, it will be their own obligation to ensure that the matter is kept strictly confidential, as permitted under this procedure and as required legally until it comes into the public domain.
- 7.7 The member of staff must ensure that the matter is raised internally first. The concerns should be raised in good faith, in honest belief, and not by personal resentment.
- 7.8 If the member of staff fails to comply with the Whistleblowing Policy and Procedure, they will be liable for fundamentally breaching their contract of employment by disclosing information that belongs to LCIBS.

8.0 External disclosures

- 8.1 LCIBS recommends concerns are raised internally in the first instance. This policy and procedure and the protection it provides are intended to provide the necessary support for individuals to do so. However, there may be occasions where an individual feels they need to report matters outside of the college.

To retain whistleblowing legal rights, disclosures must be made to a prescribed person.

8.1.1 Seeking Independent Advice

An individual considering reporting a concern may wish to seek independent advice before doing so, particularly if they are considering making a disclosure to a regulator/prescribed person or other external body, as this must be made to the correct prescribed person or body for the issue and has additional requirements that will need to be met in order to qualify for the protections provided under the Public Interest Disclosure Act.

The independent whistleblowing charity, Public Concern at Work, operates a confidential helpline. Their contact details are found at www.pcaw.co.uk.

A list of the prescribed people and bodies to whom a disclosure can be made is available at: <https://www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies--2>

Individuals who make disclosures publicly to the media, in most cases lose their whistleblowing legal rights.

Appendix 1- Guidance for the Investigating Officer

Action to be Taken Before Commencing Investigation

- Ensure terms of reference, timescales and issues of confidentiality with regards to information to be passed to the person(s) against whom the allegation is made, are confirmed with the complainant, and designated person.
- The primary role of the Investigating Officer is to gather all facts related to the allegation and to enable the alleged individual the opportunity to respond. The Investigating Officer must remain objective and not make assumptions when drawing conclusions and making recommendations.

Conducting Interviews

- All interviews with the complainant, alleged individual and witnesses must be conducted in the strictest of confidence and comply with the investigation's terms of reference. The Investigating Officer will be responsible for arranging detailed notes of the interview to be taken and transcribed into a statement.
- All witnesses identified by the complainant or alleged individual should be interviewed.
- All parties, including witnesses, should receive formal notification of the terms of reference, timescales for the investigation and be advised of their rights to be accompanied.
- All interviews must be directed in accordance with the terms of reference and should include the following kinds of questions:
 - Explain what happened.
 - Who was involved?
 - When did the incident take place?
 - Where did incident/s take place?
 - Were there any witnesses?
- The complainant and witnesses need to be informed that the person(s) against whom the allegation is made may receive a copy of their statement. They also need to be made aware that their evidence may lead to them being required to attend a disciplinary hearing. All statements should be signed and dated by the witnesses. Statements can be used in any relevant proceedings.

Support for the Investigation Officer

- Human Resources will provide support and advice on procedures and precedent relating to dealing with disclosures of wrong doing.

Production of an Investigation Report

- The report shall be factual and include all statements obtained during the investigation and should be submitted to the member of the designated person who commissioned the investigation.
- A meeting will be arranged to enable the Investigating Officer to present the report to the designated person, with Human Resources in attendance.

- The Investigating Officer should make findings as to whether or not the disclosure/complaint is upheld in whole or in part, taking into account the evidence obtained. Recommendations should then be provided which may include disciplinary action or how the on-going working relationship is to be managed as set out in the Policy.
- The outcome, but not the report of the investigation, will be disclosed to the complainant and the person(s) against whom the allegation is made by the designated person who commissioned the investigation with the support of a Human Resources team member. If disciplinary action does arise then it is at that point that any relevant evidence should be disclosed to the person(s) against whom the allegation is made against as part of a disciplinary process.