

Whistleblowing Policy

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Approver: Philip Attwell

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This policy should be read in conjunction with:

- The Child Protection and Safeguarding Policy
- Staff Code Of Conduct Policy
- Health and Safety Policy

'Cheltenham College' refers to Cheltenham College Senior School *and* Cheltenham College Preparatory School (including Cheltenham College Pre-Prep and Nursery School)

'College' refers to Cheltenham College Senior School

'Cheltenham Prep' refers to Cheltenham College Preparatory School

'Nursery and Pre-Prep' refers to Cheltenham College Nursery School and Pre-Prep

1 Introduction

Cheltenham College is committed to the highest standards of openness, probity and accountability. It seeks to conduct its affairs in a responsible manner taking into account its charitable status and the standards in public life set out in the reports of the Nolan Committee.

Normally any concern about a workplace situation should be raised with the employee's immediate Manager or Head of Department unless the concern is of a safeguarding nature in which case Child Protection and Safeguarding procedures should be followed. For any concerns pertaining to radicalizing behaviour the procedures in the Prevent Policy should be followed. It is recognised that because of the seriousness and sensitivity of some issues, together with the knowledge of who the employee thinks may be involved in any wrongdoing or malpractice, this may be difficult or even impossible and the matter should, therefore, be communicated through a different member of staff.

The Public Interest Disclosure Act gives legal protection to employees who raise legitimate concerns about specified matters from being dismissed or penalised by their employers or work colleagues as a result of publicly disclosing certain serious concerns, provided that they are disclosed under procedures identified in the Act. The Act makes provision about the kinds of disclosure which may be protected and the circumstances in which disclosures are protected. These provisions are therefore intended to comply with the Act by encouraging employees to make disclosures about fraud, misconduct, bribery, or other wrongdoing to Cheltenham College without fear of reprisal so that problems can be identified, dealt with and resolved quickly.

It is a fundamental term of every contract of employment that an employee will faithfully serve their employer and not disclose confidential information about the employer's affairs. However, where an individual discovers information which they believe shows malpractice or wrongdoing within the organisation, then there should be identified procedures to enable the individual to disclose the information without fear of reprisal and, where necessary, independently of line management.

This policy sets out arrangements for individuals to raise serious concerns about malpractice or serious wrongdoing in ways that will protect them from reprisal, provided that any disclosure is made in accordance with this policy.

2 Scope of Policy

This policy applies to all permanent and temporary employees, workers, agency workers, self-employed workers, contractors, consultants, volunteers and any others who perform functions in relation to Cheltenham College, including commercial hirers and activities providers.

3. Qualifying Disclosures

In accordance with the Public Interest Disclosure Act 1998, this Policy is intended to protect employees who raise legitimate concerns, in the public interest, about possible malpractice in Cheltenham College that falls within one or more of the following categories:

- Financial malpractice or impropriety or fraud
- Failure to comply with legal obligations
- Any activity likely to contravene Cheltenham College's Anti-Corruption and Bribery Policy
- A danger to the health and safety of any individual
- Damage to the environment
- Criminal offences
- Miscarriage of justice
- Inappropriate behaviour or unethical conduct, including academic malpractice
- Poor or unsafe practice and potential failures in Cheltenham College's safeguarding procedures
- Deliberate concealment of information tending to show any of the above matters.

Note: This policy extends the list of categories where a protected disclosure may be made beyond those identified in the Act.

The employee must have a reasonable belief that the wrongdoing or failure is either happening, took place in the past, or is likely to happen in the future. The belief must be reasonable but need not be correct. It might be discovered subsequently that the employee was wrong or mistaken. The employee must be able to show that the belief was held and that it was a reasonable belief to hold in the circumstances at the time of disclosure.

The employee must also reasonably believe that the disclosure is made in the public interest. It will therefore not include disclosures which can properly be characterised as being of a personal, rather than a wider, public interest. For example, a disclosure about a breach of terms of the employee's own contract of employment which does not affect anyone else, or about the way they have been treated at work. In these cases, the Employee is advised to use College's Grievance Procedure or Dignity at Work Policy as appropriate. If the Employee's complaint relates to their own personal circumstances but they also have wider concerns regarding one of the areas set out under qualifying disclosures above, the Employee should discuss with their line manager (or designated College contact if you an agency worker, consultant or contractor) which procedure is most appropriate.

In assessing the reasonableness of your belief that a disclosure is in the public interest, you should be aware that the following factors will be relevant: the number of individuals whose interests your disclosure serves, the nature of the alleged wrongdoing, the nature of the interests affected and the extent to which they are affected by the alleged wrongdoing disclosed and the identity of the wrong-doer.

If the Employee is uncertain whether the proposed disclosure is within the scope of this policy they should seek advice from their line manager (or designated College contact).

Employees should not use this policy:

- To raise grievances about their personal employment situation
- Where the employee simply disagrees with the way Cheltenham College is run or wishes to question financial or business decisions taken by Cheltenham College
- To reconsider any matters that have already been addressed under the complaint or disciplinary procedures unless the concern is of a safeguarding nature.

Individuals who make disclosures outside the arrangements set out in this policy will not be protected under this policy and may not be protected under the Act.

4 General Principles

In accordance with the Nolan principles (<https://www.gov.uk/government/publications/the-7-principles-of-public-life>), this policy is intended to demonstrate that Cheltenham College:

- Will not tolerate malpractice;
- Encourages employees to raise concerns about malpractice without fear of reprisal, so that problems can be identified, dealt with and resolved quickly;
- Respects the confidentiality of staff raising concerns and will provide procedures to maintain confidentiality so far as is consistent with progressing the issues effectively;
- Will provide a clear and simple procedure for raising concerns, which is accessible to all members of staff;
- Will provide the opportunity to raise concerns outside of the normal line management structure where this is appropriate;
- Will not victimise staff, or subject them to a detriment, for raising a genuine or legitimate concern, providing that it is done so in good faith and in accordance with this procedure;
- Will not tolerate the victimisation or detrimental treatment (including bullying and harassment) of any employee, particularly for raising a concern under this policy. Such behaviour will be dealt with under Cheltenham College's Disciplinary Procedure and, depending on the seriousness of the offence, it may amount to potential gross misconduct and could result in the offender's summary dismissal;
- Will invoke Cheltenham College's Disciplinary Procedure in the case of false, malicious, vexatious or frivolous allegations.

5 The Disclosure Procedure

5.1 Raising a concern

For a disclosure to be protected, it needs to be made to the right person and in the right way. Cheltenham College encourages all relevant individuals (permanent and temporary employees, workers, agency workers, self-employed workers, contractors, consultants, volunteers and any others who perform functions in relation to Cheltenham College, including commercial hirers and activities providers), to raise any disclosure internally in the first instance.

A member of staff will be at liberty to express their concern to:

- The Head by email to Head@cheltenhamcollege.org; or
- The Prep Head by email to Prep.Head@cheltenhamcollege.org; or
- The Bursar by email to Bursar@cheltenhamcollege.org

If the disclosure is about the Head or the Bursar (or a Council member), then the disclosure may be made to the President of Council by email to President@cheltenhamcollege.org. A disclosure about the President of Council should be made to the Deputy President. The name of the President of Council and the Deputy President and their contact details may be obtained in complete confidence from the PA to the Head or the Bursar.

Disclosures should be made promptly and in writing with the nature of the disclosure set out in detail, so that investigation may proceed and any action taken expeditiously.

Cheltenham College views Child Protection and Safeguarding as of the highest importance, and in this context poor or unsafe practice and potential failures in Cheltenham College's safeguarding procedures should be reported to a member of the Designated Safeguarding Lead (DSL) team. Should the concern relate to a member of the DSL Team, then the matter should be reported to the Head. If a member of staff has a concern about the management of a Child Protection issue and has gone through the relevant escalation process in the school, they should contact the Local Authority Designated Officer (LADO) as outlined in 5.3 below.

Covering up someone else's wrongdoing is a disciplinary offence. Staff must never agree to remain silent about a wrongdoing, even if told to do by a person in authority.

Staff will not be penalised for raising a qualifying disclosure even if it is not upheld, unless the complaint was both untrue and made with malice.

College encourages qualifying disclosures to be made openly under this policy. We do not encourage staff to make qualifying disclosures anonymously, although we will attempt to investigate anonymous disclosures where we are able to do so. Completely anonymous disclosures can make a proper investigation more difficult if not impossible in some cases.

5.2 The Investigation

Any concern raised will be treated seriously and referred to the appropriate Head or Bursar (except where it is about the Head or Bursar when it will be referred to the President of Council) who will appoint an appropriate investigating officer. College reserves the right to arrange for another manager, (or a team of investigators) to conduct the investigation other than the manager to whom the concern was originally raised. It is important that the investigation is conducted by a person or person with appropriate experience of investigations or specialist knowledge of the subject matter of the qualifying disclosure.

The matter will then be investigated thoroughly, in a timely manner, and appropriate corrective action will be pursued. This may include either reporting the matter to an appropriate external Government Department or Regulatory agency and/ or taking internal disciplinary action against relevant members of staff. The member of staff making the allegation will be kept informed of progress and, whenever possible and subject to third party rights, will be informed of the resolution. If no action is to be taken, then the reasons for this will be explained.

As part of the investigatory process, it may be necessary to interview the member of staff responsible for raising the concern. Confidentiality will be maintained during the investigatory process to the extent that this is practical and appropriate in the circumstances. However, in order to effectively investigate a disclosure, Cheltenham College must be able to determine the scope of the investigation and the individuals who should be informed or interviewed about the disclosure. For example, it may be necessary to interview witnesses to any incidents mentioned in the qualifying disclosure. The importance of respecting the confidentiality of the process will be made clear to all involved and any failure to maintain this confidentiality may in turn lead to disciplinary

action under College's Disciplinary Procedure. Serious breaches of confidentiality will be treated as potential gross misconduct and could render the relevant employee liable to summary dismissal.

The employee has no responsibility for investigating the matter; it is Cheltenham College's responsibility to ensure that an investigation takes place.

Once these investigations are complete and conclusions finalised, any necessary actions will be taken. This could include either reporting the matter to an appropriate external government department or regulatory agency, and/or taking internal disciplinary action against relevant members of staff.

College will, as far as possible, report the result of investigation and subsequent action to the person who raised the original complaint. College is committed to taking appropriate and prompt action in response to all qualifying disclosures which are upheld. If no action is to be taken, or if for some reason we cannot give the complainant details of the outcome of the investigation, this will be explained to the complainant. A member of staff who is not satisfied that their concern is being properly dealt with will have a right to raise it in confidence with Council.

5.3 External Procedures

Where all internal procedures have been exhausted, and the employee reasonably believes that appropriate action has not been taken, they may then report the matter externally to the proper authority in accordance with the Act, which may include (depending on the subject matter of the disclosure) HMRC, the Charity Commission for England and Wales, the Health and Safety Executive and/or where the disclosure relates to a child protection issue, the Local Authority Designated Officer (LADO). A full list of the prescribed external bodies or persons to which qualifying disclosures may be made as set out under The Public Interest Disclosure Act 1998 (as amended) can be accessed at:

<https://www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies--2>.

We strongly encourage any complainant to seek advice before reporting the matter to any external body. The independent whistleblowing charity 'Protect' operates a free, confidential advice line for whistleblowers and you can find the details at <https://protect-advice.org.uk/>.

The circumstances whereby a member of staff may be entitled to raise a concern directly with an external body are where the employee reasonably believes: -

- That exceptionally serious circumstances justify it;
- That Cheltenham College would conceal or destroy the relevant evidence;
- Where they believe they would be victimised by Cheltenham College;
- Where the Secretary of State has ordered it.

A protected disclosure made under this procedure overrides any confidentiality provisions in the employee's contract of employment.

In addition, the employee may also contact the NSPCC Whistleblowing helpline by calling [0800 028 0285](tel:08000280285) or by emailing help@nspcc.org.uk.

5.4 Malicious Accusations

False, malicious, vexatious or frivolous accusations will be dealt with under Cheltenham College's Disciplinary Procedure. If the concern is raised by a third party, such as an agency worker, consultant or contractor, commercial hirer or activity provider, then it could result in the engagement being terminated.

5.5 Protection from Reprisal or Victimisation

No member of staff will suffer a detriment or be disciplined for raising a genuine and legitimate concern, providing that they do so in good faith and following this Whistleblower Procedure.