

# ROYAL COLLEGE OF ART

## Public Interest Disclosure (Whistleblowing) Policy

### *Version Control*

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| Department                                            | President & Vice-Chancellor's Office                                                                                                                                                                                                                                          |
| Policy owner                                          | College Secretary                                                                                                                                                                                                                                                             |
| Lead contact/s                                        | College Secretary & Governance Officer                                                                                                                                                                                                                                        |
| Approving body/route                                  | Executive Board; Audit & Risk Committee                                                                                                                                                                                                                                       |
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| Related/ supporting documents, policies or guidelines | Grievance Policy<br>Dignity at Work policy<br>Financial Regulations<br>Anti-Bribery policy<br>Counter-fraud policy and Fraud Response Plan<br>Anti-Money Laundering policy and Procedures.<br>Prevention of Sexual Harassment policy<br>Code of Practice on Freedom of Speech |

### **1. Introduction**

- 1.1 The 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 the requirements of the funding bodies and the Committee on Standards in Public Life (the Nolan Committee).
- 1.2 The Public Interest Disclosure Act (1998) gives legal protection to employees against being dismissed or penalised by their employers as a result of disclosing certain serious concerns. 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 he or she believes shows malpractice or wrongdoing within the organisation, then this information should be disclosed without fear of reprisal. Such disclosure may be made independently of line management.
- 1.3 This policy is intended to assist individuals who believe they have discovered malpractice or impropriety. It is not designed to question financial or business

decisions taken by the College, nor may it be used to reconsider any matters which have already been dealt with under any grievance or disciplinary procedure.

- 1.4 Although the Public Interest Disclosure Act applies only to 'workers', the College believes that it is important that the policy and its procedures should apply to all persons officially connected with the College, including students and independent members of Council as well as visiting lecturers and temporary staff.
- 1.5 Students and staff should report concerns relating to bullying and harassment, sexual misconduct, hate crime and discrimination using the College's [Report + Support](#) portal or the College's Student Complaints Procedure. Such disclosures will be investigated according to the procedures set out in the Report + Support portal, which also provides information on the support available to those making reports.

## **2. What is Whistleblowing**

- 2.1 **Whistleblowing** is the disclosure of information, which relates to suspected wrongdoing or dangers relating to the running of the College or to the work-related activities of staff (examples of which are set out in section 3.2 below). These disclosures must be in the public interest.
- 2.2 A **whistleblower** is a person who raises a genuine concern relating to any wrongdoing falling within the scope of this Policy. The whistleblower may or may not be directly affected by the matter. If an individual is uncertain whether something is within the scope of this policy, they should seek advice from the College Secretary. They may also contact Protect, which is an independent whistleblowing charity which operates an advice hotline.

## **3. Scope of the policy**

- 3.1 The policy is designed to allow members of the College to raise concerns at a high level or to disclose information which the individual believes may show malpractice.
- 3.2 The policy is intended to cover concerns which are in the public interest and are not appropriately dealt with under existing disciplinary and grievance procedures. These disclosures might include:
  - financial or non-financial malpractice, impropriety or fraud;
  - failure to comply with a legal obligation or with the Statutes, Ordinances and Regulations of the College;
  - serious health and safety risks
  - damage to the environment;
  - criminal activity;
  - academic or professional malpractice;
  - miscarriage of justice;
  - improper conduct or unethical behaviour;
  - Allegations that sexual harassment has or is likely to occur that are in the public interest
  - Attempts to suppress or conceal any information relating to any of the above
- 3.3 Concerns that are not of a public interest nature, or those which fall into an area covered by another procedure, will not be considered under this policy. Any such concerns may be considered under other policies and procedures of the College. For example, where the concerns relate to research integrity or research misconduct the investigation shall be conducted in accordance with the Code of Research Misconduct. Allegations of Fraud and Bribery shall be investigated in

accordance with the College's anti-bribery policy. Complaints that relate to a personal grievance are not usually covered by this Policy.

#### **4. Safeguards**

##### **4.1 Protection**

This policy is designed to offer protection to those members of the College (or persons officially associated with the College as set out in paragraph 1.4) who disclose concerns in the public interest provided that the disclosure is made in the reasonable belief of the individual making the disclosure that it reveals evidence of malpractice. The disclosure must not be made for reasons of personal gain and, in the circumstances, it must be reasonable to make the disclosure. Such individuals will be protected if they make the disclosure to the appropriate person (see section 4 below).

No individual reporting a disclosure under this policy should suffer any detrimental treatment as a result of raising the concern. Detrimental treatment includes dismissal, disciplinary action, threats or other unfavourable treatment connected with raising a concern. If someone who has raised a concern believes they have suffered any such treatment, they should report it immediately.

##### **4.2 Confidentiality**

The College will treat all such disclosures in a confidential and sensitive manner. Every effort will be made to keep the identity of the whistleblower confidential insofar as this is compatible with making an effective investigation into the allegations which are the subject of the disclosure. The investigation process may however at some stage have to reveal the source of the information, and the individual making the disclosure may need to make a statement as part of the evidence required.

##### **4.3 Named Individual**

Whenever an allegation is made as part of this procedure against a named individual, that person will be told of the allegation and of the evidence supporting it, and will be allowed to respond before any investigation or further action is concluded. The point at which the individual is informed will depend on the nature of the concerns raised.

##### **4.4 Anonymous Allegations**

This policy encourages individuals to put their names to any disclosures they make. Concerns expressed anonymously are much less powerful, difficult (sometimes impossible) to investigate and far less capable of being addressed, but they will be considered if they appear to be serious, credible and capable of being confirmed by other credible sources.

##### **4.5 Untrue Allegations**

If an individual makes an allegation in good faith which is not confirmed by subsequent investigation, no action will be taken against that individual. If, however, an individual makes malicious or vexatious allegations, does not act in good faith, or makes the allegations for the purposes of personal gain, disciplinary action may be taken against the individual concerned.

## **5. Procedure for Making a Disclosure**

### **5.1 Initial Steps**

If making the disclosure to the line manager is inappropriate or has proved ineffective, the individual should make the disclosure to the College Secretary who has been designated by the Council as the person responsible for considering such allegations. All disclosures will be acknowledged within 5 working days. If, however, the disclosure is related to the College Secretary, then the disclosure may be made to the Chief Operations Officer. If the individual does not wish to make the disclosure to either of the above, they may raise the matter with the Chair of the Audit & Risk Committee, who can be contacted through the College's internal auditors.

### **5.2 Process**

A Response Group will consider the information available and decide what action is necessary. The Response Group will usually be made up of the Chief Operating Officer and the College Secretary. In the event of one of the officers of this Group being included within the disclosure, or not being available, the President and Vice Chancellor will appoint a replacement. Where the President & Vice-Chancellor is included within the disclosure, the Chair or Deputy Chair of the Council (or an appropriate member nominated by the Chair or Deputy Chair of Council) would be included within the Response Group

Having received a disclosure, the Response Group will decide whether an investigation should be conducted and what form such an investigation should take. This will depend on the nature of the matter raised, and may include an internal investigation, an independent inquiry or referral to the Police.

If the Response Group considers that the concern is wholly without substance or merit, then it can decide that no further action be taken. Additionally, it can determine if the concern should be considered under a different procedure and the person raising the concern will be notified accordingly.

### **5.3 Investigation**

An investigation to establish all the relevant facts may be conducted by an independent officer of the College (or by an appropriately experienced external investigator if deemed necessary). Investigations should not be carried out by the person who will have to reach a decision on the matter. Any investigation will be carried out as sensitively and speedily as possible.

The person nominated to conduct the investigation will report their findings to the Response Group. Where allegations are made against members of staff, matters will be followed up in accordance with relevant HR procedures. This will include permitting the member of staff to be accompanied by an RCA colleague or TU Representative during any interview undertaken as part of the investigation. In cases where the person making the disclosure (the whistle-blower) agrees to be interviewed, they also may be accompanied by a trade union representative or colleague.

### **5.4 Decision**

Upon completion of the investigation by the Investigation Officer, the Response Group will determine what, if any, further action is required. This may include:

- Management action;
- Referral to disciplinary or other internal procedures;

- Referral to an external body.

#### 5.5 Reporting of Outcomes

The College Secretary or designated person will inform the individual who made the disclosure of the outcome and what action, if any, is to be taken, (subject to confidentiality and legal considerations). If no action is taken, then the individual concerned should be informed of the reason for this. This may include (but is not limited to): that malpractice within the meaning of this procedure has not occurred; that the person making the disclosure is not acting in the public interest; or that the matter concerned is already the subject of legal proceedings or action has taken place under one or of the other procedures relating to members of staff or students.

A confidential record of all disclosures, and subsequent actions taken, will be kept by the College Secretary who will retain such records for not less than three years. In all cases an anonymised summary will be reported annually to the Audit & Risk Committee to monitor effectiveness and compliance.

#### 5.6 Review of outcome

If the whistleblower is dissatisfied with the outcome notified to them under section 5.5 they may submit a written request for review to the Chair of the Audit and Risk Committee within 10 working days of receiving confirmation of the outcome. A review request may only be made on the grounds that there was a material procedural irregularity in the conduct of the investigation that may have affected the outcome, or that material evidence available at the time was not considered and may reasonably have led to a different outcome.

The review will be conducted on the papers. The reviewer may seek written clarification from the person who made the disclosure or from those who conducted the investigation but will not convene a meeting. The review will be conducted as speedily as possible having regard to the nature and complexity of the disclosure. A decision will be issued following the review. The reviewer's decision will be final insofar as the College's internal procedures are concerned.

#### 5.7 External reference of outcome

If the person making the disclosure remains dissatisfied with the outcome of the internal procedure, they can consider reporting the concerns to an external body, such as a regulator. The independent whistleblowing charity, Protect, operates a confidential helpline and also provides a list of prescribed regulators for reporting concerns. Before taking such action, the individual is requested to inform the Response Group.

### 6. **Freedom of Speech**

Free speech attracts a high level of protection in UK law, and the RCA is committed to upholding all speech unless it is restricted by law. Anyone making decisions in accordance with this policy is required to have particular regard to, and place significant weight on, the importance of freedom of speech within the law, as further detailed in the RCA's Code of Practice on Freedom of Speech ('the Code').

The RCA's policies will be interpreted and applied in a manner compatible with the Code. For the avoidance of doubt, if there is a conflict between this policy and the Code, the Code will prevail.