Policy: Whistleblowing and Confidential Reporting Policy

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FRANKLIN COLLEGE TRUST

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POLICY: Whistleblowing and Confidential Reporting

1. Purpose

1.1 Franklin College Trust (the Trust) is committed to operating in an ethical and principled way. The aim of this policy and procedure is to provide employees with a means for raising genuine concerns of suspected bribery, breaches of law and other serious wrongdoings. Franklin College Trust takes malpractice very seriously and is committed to conducting our institution with honesty and integrity and expects all staff to maintain high standards too. Open communication is encouraged from all those who work for us and we want everyone to feel secure about raising concerns.

1.2 Employees are often the first to realise that there may be something seriously wrong within the Trust. However, they may not express their concerns because they feel that speaking up would be disloyal to their colleagues or to the Trust. They may also fear harassment or victimisation. In these circumstances, it may be easier to ignore the concern rather than report what may just be a suspicion of malpractice.

1.3 The Trust adheres to the highest standards of openness, probity and accountability. In line with that responsibility, we expect employees and others with whom we deal who have serious concerns about any aspect of the Trust's work to come forward and voice those concerns. It is recognised that most cases will have to proceed on a confidential basis.

1.4 This policy document makes it clear that the employee can do so without fear of victimisation, subsequent discrimination or disadvantage. This Confidential Reporting Policy is intended to encourage and enable employees to raise serious concerns within the Trust through internal Trust procedures rather than overlooking a problem or "blowing the whistle" outside. The law allows employees to raise such concerns externally and this policy informs them how they may do so (see paragraph 7.3). However, a failure to raise a concern under this procedure may result in a disclosure losing its protected status under the law.

1.5 The principles of openness and accountability which underpin legislation protecting whistleblowers are reflected in this policy and procedure. The Trust is also committed to ensuring compliance with the Bribery Act 2010.

1.6 The policy applies to all employees, officers, consultants, contractors and to other workers working for the Trust, including agency staff, casual staff, builders, subcontractors and their employees, volunteers, interns and home workers. It also covers suppliers and those providing services under a contract with the Trust in their own premises.

1.7 Students studying at a setting within the Trust are also encouraged to raise genuine concerns about suspected wrongdoing. Complaints and other communication about such issues should be sent to the Principal and CEO or the Governance Professional (telephone: 01472 875000).

Where the concern directly involves the Principal and CEO, then students should contact the Governance Professional (01472 875000).

1.8 This policy does not form part of any contract of employment and Franklin College Trust may amend it from time to time.

2 When to Use this Policy

2.1 There is a difference between whistleblowing and raising a grievance:

2.1.1 whistleblowing is where an individual has a concern about a danger or illegality that has a public interest to it, e.g., because it threatens students, third parties or the public generally; but

2.1.2 a grievance is a complaint that generally relates to an individual's own employment position or personal circumstances at work.

2.2 This policy does not set out the procedure that applies to general grievances. If the employee has a complaint about their own personal circumstances, then they should use the Trust's Grievance Procedure in the first instance.

3 Scope of this Policy and Legal Definitions

3.1 The law allows employees to raise what it defines as a 'protected disclosure'. In order to be a protected disclosure, a disclosure must relate to a specific subject matter (see paragraph 3.3 below) and the disclosure must also be made in an appropriate way (see section 4). A 'protected disclosure' must, in the reasonable belief of the employee making it, also be made in the public interest. A protected disclosure must consist of information and not merely be allegations of suspected malpractice.

3.2 This policy aims to:

- encourage the employee to feel confident in raising serious concerns and to question and act upon concerns about practice;
- provide avenues for the employee to raise those concerns and receive feedback on any action taken;
- ensure that the employee receives a response to their concerns and that they are aware of how to pursue them if they are not satisfied;
- reassure the employee that they will be protected from possible reprisals or victimisation if they have a reasonable belief that they have made any disclosure in good faith.

3.3 Whistleblowing is the reporting of suspected malpractice, wrongdoing or dangers in relation to the activities the Trust undertakes. The kinds of malpractice covered by this policy include:

- conduct which is an offence or a breach of law, or is likely to be a breach of the law including those in relation to fraud, bribery and corruption, and tax evasion facilitation;
- disclosures related to the Trust's responsibilities under child protection and Safeguarding and/or the *Prevent* duty (in which case the Trust's child protection/Safeguarding and *Prevent* policies and procedures should be followed if and where possible);
- disclosures related to miscarriages of justice;
- health and safety risks, including risks to the public as well as other employees;
- damage to the environment;
- the unauthorised use of public funds;
- breach of any legal or professional obligation, including those in relation to fraud, bribery and corruption, and tax evasion facilitation;
- abuse of students;
- other unethical conduct;
- information tending to show any of the above is being, or is likely to be, deliberately concealed.

3.4 Thus, any serious concerns that the employee has about any aspect of service provision or the conduct of employees of the Trust or Directors, Members, Community Governors or others acting on behalf of the Trust can be reported under the Confidential Reporting Policy. This may be about something that:

- makes the employee feel uncomfortable in terms of known standards, their experience or the standards to which the employee believes the Trust subscribes; or
- is against the Trust's Memorandum and Articles of Association and policies; or
- concerns the reasonable belief that students are at risk under the terms of the *Prevent* duty (in which case the Trust's *Prevent* policy should be followed if and where possible); or
- falls below established standards of practice; or
- amounts to improper conduct
- is a breach of financial regulations.

4 Safeguards

4.1 Harassment or Victimisation

4.1.1 The Trust is committed to good practice and high standards and wants to be supportive of employees.

4.1.2 The Trust recognises that the decision to report a concern can be a difficult one to make. If what the employee is saying is true, they should have nothing to fear because they will be doing their duty to their employer and to the Trust as a whole.

4.1.3 The Trust will not tolerate any harassment or victimisation (including informal pressures) and will take appropriate action to protect the employee when they raise a concern in good faith. Where an employee perceives they have been threatened, bullied, pressurised or victimised by a colleague for making a disclosure, the matter will be investigated fully and if found to be true, disciplinary action will be taken by the Trust against the colleague in question.

4.1.4 Any investigation into allegations of potential malpractice will not influence or be influenced by any disciplinary or redundancy procedures that might already affect the employee.

4.2 Confidentiality

4.2.1 All concerns will be treated in confidence, and every effort will be made not to reveal the employee's identity if they so wish. If disciplinary or other proceedings follow the investigation, it may not be possible to take action as a result of a disclosure without their help. At the appropriate time, however, they may need to come forward as a witness.

4.2.2 The Trust will take all reasonable steps to ensure that any report of recommendations or other relevant documentation produced by the Trust does not identify the employee making the disclosure without their written consent, or unless the Trust is legally obliged to do so, or for the purposes of seeking legal advice.

4.3 Anonymous Allegations

4.3.1 This policy encourages the employee to put their name to their allegation whenever possible.

4.3.2 Concerns expressed anonymously are much less powerful and difficult to investigate but will be considered at the discretion of the Trust.

4.3.3 In exercising this discretion, the factors to be taken into account would include:

- the seriousness of the issues raised;
- the credibility of the concern; and
- the likelihood of confirming the allegation from attributable sources.

4.3.4 If an anonymous disclosure is made, the Trust will not be in a position to notify the employee making the disclosure of the outcome of action taken by the Trust.

4.4 Untrue Allegations

If the employee makes an allegation in good faith, but it is not confirmed by the investigation, no action will be taken against them. If, however, an allegation is made frivolously, maliciously or for personal gain, disciplinary action may be taken against the employee.

5. How to Raise a Concern

5.1 The Trust is committed to ensuring that all disclosures raised will be dealt with appropriately, consistently, fairly and professionally. The main purpose of this policy is to give all Trust staff the opportunity and protection they need to raise concerns internally. In almost all cases, raising concerns internally would be expected to be the most appropriate course of action.

5.2 As a first step, the employee should normally raise concerns with their immediate line manager. This depends, however, on the seriousness and sensitivity of the issues involved and who is suspected of malpractice. If the line manager is not appropriate for any reason, concerns should be raised with the Principal and CEO or the Governance Professional.

5.3 If the disclosure relates to the Principal and CEO, an employee can raise the issue with the Governance Professional (01472 875000). In the event that the disclosure relates to the Governance Professional, an employee can raise the issue with the Board of Directors.

5.4 Concerns may be raised verbally or in writing. Staff who wish to make a written report are invited to use the following format:

- The background and history of the concern (giving relevant dates);
- The reason why the employee is particularly concerned about the situation.

5.5 The earlier the employee expresses the concern, the easier it is to take action.

5.6 Although the employee is not expected to prove beyond doubt the truth of the allegation, they will need to demonstrate to the person contacted that there are reasonable grounds for concern.

Advice and guidance on how matters of concern may be pursued can be obtained from the Governance Professional, the Principal and CEO or the Governance Professional (01472 875000).

5.7 The employee may wish to consider discussing their concern with a work colleague first and may find it easier to raise the matter if there are two (or more) employees who have had the same experience or concerns. The employee must remember that once they have raised a concern formally (alone or with a colleague), in the interests of everyone involved, they have entered into a confidential process.

5.8 The employee may invite their trade union representative or a work colleague to be present during any meetings or interviews in connection with the concerns raised. The companion must respect the confidentiality of the disclosure and any subsequent investigation. The Trust may ask the employee for further information about the concern raised, either at this meeting or at a later stage.

6 How the Trust will Respond

6.1 The Trust will respond to the employee's concerns. Do not forget that testing out concerns is not the same as either accepting or rejecting them.

6.2 Where appropriate, the matters raised may:

- be investigated by management, or through the disciplinary process;
- be referred to the police;
- be referred to the external auditor;
- be referred to other relevant external bodies such as Ofsted, the Health and Safety Executive or the Information Commissioner's Office;
- form the subject of an independent inquiry.

6.3 In order to protect individuals and those accused of misdeeds or possible malpractice, initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it should take. The overriding principle which the Trust will have in mind is the public interest.

6.4 Concerns or allegations raised which fall within the scope of specific established procedures may be referred for consideration under those procedures. Concerns should not normally be brought under this procedure where the Trust already has guidelines/procedures in place to deal with the issue, (for example its responsibilities under Child Protection/Safeguarding, and the *Prevent* duty).

6.5 If appropriate, any internal investigation would be authorised by the Principal and CEO.

6.6 Some concerns may be resolved by agreed action without the need for investigation. If urgent action is required, this will be taken into account before any investigation is conducted.

6.7 Within **ten** working days of a concern being raised, the responsible person will write to the employee:

- acknowledging that the concern has been received;
- indicating how it is proposed to deal with the matter;
- giving an estimate of how long it will take to provide a final response;
- telling the employee whether any initial enquiries have been made;
- supplying the employee with information on staff support mechanisms; and
- telling the employee whether further investigations will take place and if not, why not.

6.8 The amount of contact between the staff considering the issues and the employee will depend on the nature of the matters raised, the potential difficulties involved and the clarity of the information provided. If necessary, the Trust will seek further information from the employee.

6.9 Where any meeting is arranged, off-site if the employee so wishes, they can be accompanied by a trade union representative or a friend.

6.10 The Trust will take steps to minimise any difficulties which the employee may experience as a result of raising a concern. For instance, if they are required to give evidence in criminal or disciplinary proceedings, the Trust will arrange for them to receive advice about the procedure.

6.11 The Trust accepts that the employee needs to be reassured that the matter has been properly addressed. Thus, subject to legal constraints, the employee will be informed of the outcome of any investigation.

6.12 Any recommendations for further action made by the Trust will be addressed to the Principal and CEO or the Chair of the Board of Directors as appropriate in the circumstances. The recipient will take all steps within their power to ensure the recommendations are implemented unless there are good reasons for not doing so.

7 The Responsible Person

The Principal and CEO has overall responsibility for the maintenance and operation of this policy. The Principal and CEO maintains a record of concerns raised and the outcomes (but in a format which does not endanger the employee's confidentiality). This includes cases where the Trust deems that there is no case to answer and therefore that no action should be taken. The Principal and CEO will report as necessary to the Board of Directors.

8 How the Matter can be Taken Further

8.1 This policy is intended to provide the employee with an avenue within the Trust to raise concerns. The Trust hopes they will be satisfied with any action taken. If they are not, they may raise it, in confidence, with the Principal and CEO. The Principal and CEO will make a final decision on action to be taken and notify the employee making the disclosure.

8.2 If they are still not satisfied, they have the right to make a disclosure outside of the Trust where there are reasonable grounds to do so and in accordance with the law.

8.3 Employees may make a disclosure to an appropriate external body prescribed by the law. The following are possible contact points:

- The Department for Education;
- Ofsted;
- the external auditors;
- their trade union;
- their local Citizens Advice;
- relevant professional bodies or regulatory organisations;

- a relevant voluntary organisation;
- the employee's MP;
- the police.

The list of other 'prescribed' organisations and bodies can be found in information on the gov.uk website at:

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

8.4 Employees can also make disclosures on a confidential basis to a practising solicitor or barrister.

8.5 If the employee does take the matter outside the Trust, they should ensure that they do not disclose confidential information or damage the Trust's reputation in so doing.

9. Further Assistance for Employees

9.1 The Trust is committed to good practice and high standards and to being supportive to staff who raise genuine concerns under this policy, even if they turn out to be mistaken.

9.2 The Trust strongly encourages any individual to seek appropriate advice before reporting a concern to anyone external. Employees can contact the charity Protect (formerly known as Public Concern at Work) for confidential advice on whistleblowing issues. Contact details are as follows:

The Green House,
244-254 Cambridge Heath Road,
London,
E2 9DA

Free helpline: 020 3117 2520

https://protect-advice.org.uk/

10. Related Trust Policies

- Anti Bribery Policy
- Anti-Fraud, Corruption and Irregularity Policy
- Dignity at Work Policy
- Financial Regulations
- Safeguarding and Child Protection Policy
- *Prevent* Strategy and Policy

11. Policy References

11.1 Access to the Policy

The policy will be available via Franklin College Trust's website www.franklin.ac.uk

11.2 Quality and Assurance Monitoring

The Trust Leadership Team and the Trust's Directors will review the policy every five years, or earlier if there are important changes in legislation.