

GOVERNING BOARD 23 March 2021

Whistleblowing Policy & Procedure

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Policy Introduction

This Whistleblowing Policy encourages and enables individuals to make a “protected disclosure” in order to raise serious concerns to the College. We are committed to the highest possible standards of openness, honesty, integrity and accountability therefore, in line with that commitment, we expect people who have serious concerns about any aspect of the College’s work to come forward and voice those concerns.

This procedure has been written to take account of the Public Interest Disclosure Act 1998 and the Employment Rights Act 1996, which protect workers making disclosures about certain matters of concern, where those disclosures are made in accordance with the provisions of the legislation.

The Governing Body has overall responsibility for this policy and for reviewing the effectiveness of actions taken in response to concerns raised under this policy.

What is Whistleblowing?

Whistleblowing is when a report is made, in the public interest, about a suspected wrongdoing. This is referred to as making a disclosure. A whistleblower is someone who raises serious concern about wrongdoing or malpractice so that problems can be identified and resolved quickly.

Staff members are encouraged to report malpractice (whether by other employees, contractors or others). The person making the disclosure must have a reasonable belief that it is in the “public interest” for protection to apply.

Whistleblowing Policy and Procedure

1. Scope and purpose

- 1.1 The College is committed to operating in an ethical and principled way. The aim of this policy and procedure is to provide employees and workers (referred to as 'workers' in this procedure) with a means for raising genuine concerns that are in the public interest, of issues such as suspected bribery, breaches of the law and other serious wrongdoings.
- 1.2 The College encourages workers to raise genuine concerns about suspected wrongdoing at the earliest practicable stage. This procedure is intended to provide safeguards to enable members of staff to raise concerns about malpractice in connection with the College. This procedure is designed for the use of workers at the College.
- 1.3 This procedure also aims to encourage workers to raise genuine concerns through internal College procedures without fear of adverse repercussions being taken against them. The law allows workers to raise such concerns externally and this procedure informs workers how they can do so. However, a failure to raise a concern under this procedure may result in a disclosure losing its protected status under the law.
- 1.4 This procedure also seeks to balance the need to allow a culture of openness against the need to protect other workers against vexatious allegations or allegations which are not well-founded.
- 1.5 The principles of openness and accountability which underpin legislation protecting whistleblowers are reflected in this procedure. The College is also committed to ensuring compliance with the Bribery Act 2010.
- 1.6 Learners at the College are also encouraged to raise genuine concerns about suspected wrongdoing by making a complaint to the Heads of Studies.

2. Applicability procedure

- 2.1 This procedure applies to all employees of the College, including apprentices; and
 - 2.1.1 any hourly paid, permanent, temporary or fixed term staff, employees of subcontractors, volunteers; and
 - 2.1.2 agency workers engaged by the College.
- 2.2 Workers might be unsure whether it is appropriate to raise their concern under this procedure or whether it is a personal grievance, which it may be more appropriate to raise under the College's grievance procedure. Any worker in this situation is encouraged to approach their line manager or the HR Team for advice.
- 2.3 This policy does not form part of any employee's contract of employment and the College may amend it at any time.

3. Protected disclosures

- 3.1 The law protects workers who, out of a sense of public duty, want to reveal suspected wrongdoing or malpractice.
- 3.2 The law allows workers 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 Section 4 below) and the disclosure must also be made in an appropriate way (See Section 5). A 'protected disclosure' must, in the reasonable belief of the worker making it, also be made in the public interest.
- 3.3 A protected disclosure must consist of information and not merely be allegations of suspected malpractice.

4. Specific Subject Matter

A worker should use this procedure if, in the course of employment, they become aware of information which they reasonably believe tends to show one or more of the following:

- That a criminal offence has been committed, is being committed or is likely to be committed;

- That an individual has failed, is failing or is likely to fail to comply with any legal obligation to which they are subject;
- That a miscarriage of justice has occurred, is occurring, or is likely to occur.
- That the health or safety of any individual has been, is being, or is likely to be, endangered.
- That the environment, has been, is being, or is likely to be, damaged.
- That information tending to show any of the above, is being, or is likely to be, deliberately concealed.

5. Procedure for making a disclosure

- 5.1 Information which a worker reasonably believes tends to show one or more of the situations given in Section 4 should promptly be disclosed to their line manager, preferably in a detailed letter, so that appropriate action can be taken.
- 5.2 If it is inappropriate to make such a disclosure to their line manager, a worker can raise the issue with any member of The Executive Team.
- 5.3 If the disclosure relates to the Principal, a worker can raise the issue with the Clerk to the Corporation. In the event that the disclosure relates to the Clerk of the Corporation, a worker can raise the issue with the Chair of the Governing Board.
- 5.4 If a worker wants to raise their concern confidentially, the College will make every effort to keep their identity protected. If it is necessary for anyone investigating the concern to know the worker's identity, this will be discussed with the worker.
- 5.5 The College does not encourage workers to make disclosures anonymously. An anonymous disclosure may make proper investigation more difficult or impossible. It will also be difficult for the College to establish whether any concerns raised are credible. Workers who are concerned about reprisals if their identity is revealed should discuss the

matter with their Line Manager who will consider appropriate measures for preserving confidentiality.

5.6 Workers are encouraged to identify themselves when making a disclosure. If an anonymous disclosure is made, the College will not be in a position to notify the individual making the disclosure of the outcome of action taken by the College. Anonymity also means that the College may have difficulty in investigating such a concern. The College reserves the right to determine whether to apply this procedure in respect of an anonymised disclosure in light of the following considerations:

- The seriousness of the issues raised in the disclosure; and
- How likely it is that the concern can be confirmed from attributable sources.

5.7 For further guidance in relation to this procedure, or concerning the use of the disclosure procedure generally, employees should speak in confidence to the HR Advisors from the HR Team.

6. Procedure for investigation of a disclosure

6.1 When a worker makes a disclosure, the College will acknowledge its receipt, in writing, within a reasonable time.

6.2 The College may need to meet with the worker to carry out an initial assessment to determine the scope of any investigation and to gather further information.

6.3 The College will then determine whether or not it believes that the disclosure is wholly without substance or merit or whether there may be other reasons why an investigation is not necessary. If the College considers that the disclosure does not warrant further action, the worker will be notified in writing of the reasons for the College's decision and advised that no further action will be taken by the College under this procedure. Considerations to be taken into account when making this determination may include the following:

- If the College is satisfied that a worker does not have a reasonable belief that suspected malpractice is occurring; or

- If the matter is already the subject of legal proceedings or appropriate action by an external body; or
 - If the matter is already subject to another, appropriate College procedure.
- 6.4 When a worker makes a disclosure which has sufficient substance or merit warranting further action, the College will take action it deems appropriate (including action under any other applicable College policy or procedure). Possible actions could include internal investigation; referral to the College's auditors; or referral to relevant external bodies such as the Police, Local Area Designated Officer, Independent Safeguarding Authority, OFSTED, Health and Safety Executive or the Information Commissioner's Office (this is not an exhaustive list).
- 6.5 If appropriate, any internal investigation would be conducted by a manager of the College without any direct association with the individual to whom the disclosure relates, or by an external investigator appointed by the College as appropriate.
- 6.6 Any recommendations for further action made by the College will be addressed to the Principal or Chair of the Governing Board 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.
- 6.7 The worker making the disclosure will, where appropriate, be notified of the outcome of any action taken by the College under this procedure within a reasonable period of time. If the worker is not satisfied that their concern has been appropriately addressed, they can raise this with the Principal within **5** working days. The Principal will make a final decision on action to be taken and notify the worker making the disclosure. If the Principal has been involved in the investigation then the worker may raise their concern with the Chair of the Governing Body. However, sometimes the need for confidentiality may prevent the College giving the worker specific details of the investigation or any disciplinary action taken as a results. Workers should treat any information about the investigation as confidential.

6.8 There may be circumstances where the College concludes that the disclosure is without substance or merit or it is not appropriate to carry out further investigations. This may apply where:

- The College is satisfied that a worker does not have a reasonable belief that suspected malpractice is occurring; or
- The matter is already the subject of legal proceedings or appropriate action by an external body; or
- The matter has already been raised and is being investigated or has been investigated and appropriate action has been taken.

6.9 If the concern has safeguarding implications the College will discuss the details with the Designated Safeguarding Officer, prior to conducting an internal investigation. If required, the LADO (Local Authority Designated Officer) will be contacted to determine if action is required.

7. Safeguards for workers making a disclosure

7.1 A worker making a disclosure under this procedure can expect their matter to be treated confidentially by the College and, where applicable, their name will not be disclosed to anyone implicated in the suspected wrongdoing, without their prior approval.

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

7.3 No formal disciplinary action will be taken against a worker on the grounds of making a disclosure made under this procedure. This does not prevent the College from bringing disciplinary action against a worker where the College has grounds to believe that a disclosure was made maliciously or vexatiously, or where a disclosure is made to a third party without reasonable cause.

7.4 A worker should not be dismissed or subject to any detrimental action or omission of any type (including informal pressure or any form of

victimisation) by the College for making a disclosure in accordance with this procedure. Equally, where a worker is threatened, bullied, pressurised or victimised by a colleague for making a disclosure, disciplinary action may be taken by the College against the colleague in question.

8. Disclosure to external bodies

- 8.1 This procedure has been implemented to allow workers to raise disclosures internally within the College. A worker has the right to make a disclosure outside of the College where there are reasonable grounds to do so and in accordance with the law.
- 8.2 Workers may make a disclosure to an appropriate external body prescribed by the law. This list of 'prescribed' organisations and bodies can be found in information on the gov.uk website.
- 8.3 Workers can also make disclosures on a confidential basis to a practicing solicitor or barrister.
- 8.4 If a worker seeks advice outside of the College, they must be careful not to breach any confidentiality obligations or damage the College's reputation in so doing.

9. Accountability

- 9.1 The College will keep a record of all concerns raised under this procedure (including cases where the College deems that there is no case to answer and therefore that no action should be taken) and will report to the Governing Board on an annual basis as appropriate.

10. Safeguarding and Prevent

What a school or college should do if they have concerns about safeguarding and Prevent practices within the school or college.

- 10.1 All staff and volunteers should feel able to raise concerns about poor or unsafe practice and potential failures in the school or college's safeguarding or Prevent regime and know that such concerns will be taken seriously by the Executive Team.

- 10.2 Appropriate whistleblowing procedures are in place for such concerns to be raised with the College's Executive Team.
- 10.3 Where a staff member feels unable to raise an issue with their employer or feels that their genuine concerns are not being addressed, other whistleblowing channels may be open to them:

The NSPCC whistleblowing helpline is available for staff who do not feel able to raise concerns regarding child protection failures internally. Staff can call 0800 028 0285 – line is available from 8:00 AM to 8:00 PM, Monday to Friday and email:

help@nspcc.org.uk

11. Further assistance for workers

- 11.1 The College will not tolerate any harassment or victimisation of workers who make disclosures. If, at any stage of this procedure a worker feels that they are being subject to informal pressures, bullying or harassment due to making a disclosure, they should raise this matter, in writing, to the Vice Principal, Corporate Services.

Staff must not threaten or retaliate against whistleblowers in any way and staff that are found to be involved in such conduct may be subject to disciplinary action.

- 11.2 A worker making a disclosure may want to confidentially request counselling or other support from the College's occupational health service. Any such request for counselling or support services should be addressed to the Vice Principal, Corporate Services. Such a request would be made in confidence.

- 11.3 The College also provides a confidential Employee Assistance Programme (EAP) which is available 24 hours a day 7 days a week free of charge. To access this service you can contact at any time on **0800 882 4102** or via their website at www.pamassist.co.uk with the username **Wigan&Leigh** and password of **College**

- 11.4 Workers can also contact the charity Public Concern at Work for

confidential advice on whistleblowing issues. Contact details are as follows:

3rd Floor, Bank Chambers
6 - 10 Borough High Street
London SE1 9QQ

Whistleblowing Advice Line: 020 7404 6609 <http://www.pcaw.org.uk>

Please also refer to other relevant College policies and procedures in relation to Safeguarding and Prevent as well as Disciplinary and Grievance procedures which are referred to as part of this procedure. All policies and procedures can be found on the Staff Intranet under HR, Policies and Procedures. For further information please contact the HR Team on 01942 76 1554/1565.

Appendix: Whistle-Blowing Letter Template

To:
From: (name and contact details of whistle-blower)
Date of Submission: (when the individual makes the whistle-blowing concern)
<p>Nature of concern:</p> <ul style="list-style-type: none"> • an outline of the known or suspected wrongdoing • details, to the best of your knowledge, about when, where it occurred • a list of the names of those suspected of being involved • a list of the names of anyone who may have relevant information • details of how you came to know about the suspected activities • what, if any breaches of internal controls, policy and procedure or other requirements you believe took place • the name of anyone who you have discussed or reported this incident to • your name and contact details (these will be kept confidential as far as reasonably practicable) • the date and time of making the report
Details of any previous attempts to raise a concern (<i>what, who with, if this applies</i>)
Outcome of any previous investigations (<i>if this applies</i>)
Comments/ suggestions for action (<i>if appropriate</i>)
Signed by the individual