

## Introduction

The Oldham College is committed to promoting a culture of openness, honesty and integrity where malpractice is not tolerated.

This procedure conforms to guidance in the Public Interest Disclosure Act which is designed to protect employees who report wrongdoing in their organization provided that they have an honest and reasonable suspicion that the allegations are true. It includes those elements identified by the AoC Centre for Excellence in Leadership Guidelines as good practice and also the recommendations of the Nolan Committee

## 1 Scope

- 1.1 This procedure applies to any member of staff in the College, including agency staff and contract workers.
- 1.2 Whistleblowing is the term that describes a situation where an employee or ex-employee discloses serious wrongdoings within an organisation
- 1.3 The procedure should be used only when the matter is perceived by the "whistleblower" to be of a significant and/or sensitive nature which contravenes existing guidelines, the law, or College rules, regulations, policies and procedures
- 1.4 Staff should use the Staff Individual Grievance Procedure for all matters falling within its scope.
- 1.5 Serious malpractice may include the following grounds:
  - A criminal offence that has been, is being or is likely to be committed
  - A person has failed, is failing or is likely to fail to comply with a legal obligation
  - Misuse of public money
  - A miscarriage of justice that has occurred, is occurring or is likely to occur
  - That the health and 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 about a matter in one of the categories above has been or is likely to be deliberately concealed

## 2 Responsibilities

- 2.1 The Clerk to the Corporation will act as designated person to provide an accessible first point of contact for members of staff with concerns. S/he will investigate all "whistleblowing" reports and make appropriate recommendations
- 2.2 The Principal (or Deputy Principal if required) is responsible for deciding the action to be taken in an investigation
- 2.3 The Chair of the Corporation is responsible for invoking any appropriate disciplinary action as a consequence of 2.2.

- 2.3 The Chair of the Corporation (or Vice chair if required), is responsible for deciding the action to be taken in the event of an allegation against the Clerk. S/he will also take any appropriate disciplinary action arising.

### **3 Student Input**

None

### **4 Procedure**

#### **4.1 Disclosure**

- 4.1.1 All disclosures should be made to the Clerk to the Corporation.
- 4.1.2 Any disclosure relating to the Clerk should be made to the Chair of Governors through the Governors administrator.
- 4.1.3 Disclosures should normally be made in writing. However, if the "whistleblower" prefers the allegation can be made orally, the Clerk will then make a full transcript of the disclosure.
- 4.1.4 The Discloser may wish to seek advice from the independent charity 'Public Concern at Work' which advises on malpractice in the workplace (tel 020 7404 6609 [www.pcaw.co.uk](http://www.pcaw.co.uk)).

#### **4.2 Investigation**

- 4.2.1 The Clerk will acknowledge receipt of the disclosure and arrange a confidential interview with the Discloser at an early opportunity (normally within five working days of initial contact).
- 4.2.2 The purpose of the interview will be to clarify and confirm all available information concerning the alleged malpractice and establish if internal procedures have been exhausted.
- 4.2.3 The Discloser may be accompanied by a friend/colleague (a friend or colleague must be someone who is employed by Oldham College or a Trade Union Representative). The role of the 'friend' will be to support not represent the Discloser. Consequently, a colleague or trade union representative may serve in the capacity of 'friend', but not a solicitor or barrister acting in their professional capacity.
- 4.2.4 The Clerk will determine whether there are grounds to proceed.
- 4.2.5 Where there are grounds for concern, but the matter is covered by another college procedure, the Clerk should advise the Discloser accordingly.
- 4.2.6 The Clerk will report any disclosure under this procedure to the Chair of the Corporation and the Principal (providing they are not involved in the allegation) on a confidential basis.
- 4.2.7 The Principal will decide what further action, if any to take and the member of staff who raised the complaint will be informed of the decision by the Clerk.
- 4.2.8 Where allegations concern the Principal the matter must be referred to the Deputy Principal who will decide the action required and an appropriate person to investigate. Under these circumstances the Deputy Principal must make the Chair of the corporation aware of the allegations as soon as possible.

4.2.9 The Clerk will take whatever steps are necessary to investigate the allegation, this may include seeking independent or professional advice. The Clerk will ensure that any investigation does not hinder any potential police investigation.

4.2.10 A confidential written record of the investigation will be kept by the Clerk.

4.2.11 In the event that the "whistleblowing" involves the Clerk to the Corporation, or the "whistleblower" feels that the Clerk would not be impartial due to line management roles, then the matter should be dealt with by the Chair of the Corporation, or the Vice Chair in his absence

### **4.3 Protection of the Discloser**

4.3.1 If the disclosure is made in accordance with the provisions of the Public Interest. Disclosure Act, statutory protection is given to the Discloser (see Appendix 1).

4.3.2 The College will make every effort to keep the Disclosers identity confidential except as specified below, unless the Discloser consents in writing or unless there are grounds for believing s/he has acted maliciously (see 4.5) In the absence of such consent/grounds, the Clerk shall not reveal the identity of the Discloser except in the following circumstances:

- a) Where there is a legal obligation to do so
- b) Where knowledge of his/her identity is already in the public domain
- c) On a strictly confidential basis to the College's legal advisors

4.3.3 The College will take all reasonable steps to ensure that Disclosers are protected from bullying, harassment or victimization and, in the event of such action, will take disciplinary action where appropriate. This stands whether the allegation is found to be true or false.

4.3.4 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:

- General guidance can be found at Advice on Whistleblowing [www.gov.uk/whistleblowing](http://www.gov.uk/whistleblowing)
- 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 – the line is available from 8.00am – 8.00pm, Monday – Friday or e-mail [help@nspcc.org.uk](mailto:help@nspcc.org.uk)

### **4.4 Timescale of the Investigation**

The investigation under 4.2.5 will normally be completed within thirty working days from the initial interview.

4.4.2 In the event that the investigation is necessarily prolonged, the Clerk will inform the Discloser in writing, as to the progress of the investigation and when it is likely to be conclude.

### **4.5. Outcome of the Investigation**

4.5.1 Having completed the investigation the Clerk will inform the Chair of the Corporation as to whether the allegation has been upheld.

4.5.2 Where an allegation is not upheld, no further action will be required.

4.5.3 Where an action has been upheld, the Clerk will make recommendations for action(s) to address the matter. The action to be taken will depend on the nature of the allegation. It could include:

- Invoking the Poor Performance Procedure
- Invoking the Disciplinary Procedure
- Referral to a regulatory body, other authority or the police
- Matter passed to Governors (if involving disciplinary action against a senior postholder).

4.5.4 As far as possible, and subject to third party rights, the Clerk will notify the Discloser in writing of the outcome of the investigation within five working days of his/her recommendation to the Chair of Corporation under the above.

#### **4.6 Malicious Accusation**

4.6.1 If the allegation is proven to be untrue then the Clerk must decide if the whistleblower" has used the Procedure in good faith and with the best interests of the College in mind. . No disciplinary action will be taken against the member of staff who is deemed to have made a disclosure in good faith nor will they be victimized in any way. If this is the case then the matter will be considered closed, all parties will be notified, all records will be kept confidentially by the Clerk and will not be available for public inspection.

4.6.2 If the Discloser is found not to be acting in good faith, for example to support a personal vendetta, to avoid disciplinary proceedings or for personal gain, the disclosure may make him/her liable for disciplinary action.

4.6.3 If 4.6.2 applies, the Clerk must inform the Discloser in writing of the judgment and inform them of any further action the College may take.

#### **4.7 Opportunities for Disclosers to Express Dissatisfaction**

4.7.1 A discloser who is not satisfied that his/her concern is being properly addressed by the Clerk has the right to raise the issue in confidence with the Chair of the Corporation (where an allegation involves the Chair, the matter should be dealt with by the Vice Chair).

4.7.2 In the event of an allegation not being upheld and the Discloser is not satisfied with the validity of the decision, the Clerk will refer unresolved concerns to the ESFA.

### **5 Associated Documentation**

None

### **6 Related Procedures**

Anti Harassment Procedure  
 Staff Individual Grievance Procedure  
 Capability Procedure  
 Disciplinary Procedure inc. Senior Post Holders Disciplinary Procedure

## Change History Record

Issue	Description	Approval (author signature)	Date of Issue
1	Reformatted to latest College standard.	N. Middleton	20.10.14
1	Approved as fit for purpose for 2015/16	J. Frost	10.09.15
1	Approved as fit for purpose for 2016/17	J. Frost	20.09.16
1.1	Minor amendment to 4.3.4; approved for 2017/18.	J. Frost	25.09.17
1.2	Minor amendment to 6 – Names of procedures	J. Frost	1.10.18
1.3	Minor amendment to para 4.2.3	J. Frost	05.09.18
1.4	Fit for Purpose for 2021/22	J. Frost	10.09.21