

## PUBLIC INTEREST DISCLOSURE POLICY (WHISTLEBLOWING)

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## Public interest disclosure policy and procedure (whistleblowing)

### 1. Introduction

- 1.1. Highbury College seeks to achieve the highest possible standards of probity and honesty in all of its activities. The College is committed to the delivery of its vision and mission and in doing so must demonstrate full accountability.
- 1.2. This Whistleblowing Policy encourages and enables individuals to make a “protected disclosure” to raise serious concerns to the College in the public interest in line with the Public Interest Disclosure Act 1998. 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.
- 1.3. This Policy sets out a clear statement that any malpractice or wrongdoing by members of the Corporation, employees or third parties (including sub-contractors) reported to the College will be swiftly and thoroughly investigated. The College will also look at ways to ensure that such malpractice or wrongdoing can be prevented for the future
- 1.4. This policy has been developed to comply with the recommendations of the Lord Nolan Report to the Committee of Standards in Public Life. The term ‘whistleblowing’ is most commonly used when an individual (normally a member of staff or ex-member of staff) publicly discloses wrong doing within the organisation. In the case of Highbury College, students, prospective students and other interested parties can also make use of the procedure.

### 2. Scope and Purpose

- 2.1. The purpose of this policy is to provide the approved way for concerns to be raised. An individual must reasonably believe that the disclosure tends to show past, present or likely future wrongdoing falling into one or more of the following categories:
  - Fraud and other financial irregularity (e.g. misappropriation of money)
  - Criminal offences (e.g. theft)
  - corruption (e.g. bribery, blackmail, or serious breach of academic standards, such as consistent and deliberate award of unjustifiably high or low marks for student work)
  - Abuse of the Code of Conduct and/or Code of Ethics
  - Failure to comply with an obligation set out in law

- Miscarriages of justice
- Immorality, impropriety and/or lack of probity
- Endangering of someone's health and safety
- Causing damage to the environment
- Serious mal-administration arising from deliberate commission of improper conduct
- A serious safeguarding or child protection concern including any involvement in radicalisation or extremist activity
- Dangerous acts or omissions which create a risk to health and safety risk
- Deliberate attempt of covering up wrongdoing in the above categories.

2.2. The Policy is intended to supplement, and to be read in conjunction with and not replace, the existing College Policies and Procedures on Grievance, Discipline, Equality & Diversity, Harassment, Health and Safety, Absence Control, Complaints, Code of Conduct and any other relevant policy and procedure

2.3. The College's grievance procedure is the means by which an employee may raise a private concern about an employment matter.

### **3. Definition**

3.1. Whistleblowing can be defined as "the disclosure by an employee (or professional) of confidential information which relates to some danger, fraud or other illegal or unethical conduct connected with the workplace, be it of the employer or of his/her fellow employees".

### **4. Who can make a complaint under the procedure?**

4.1. Members of staff, students or potential students or a member of the local community are able to make a complaint under the Whistleblowing Procedure.

### **5. Confidentiality**

5.1. The College will make every effort to keep the Discloser's identity confidential unless the Discloser otherwise consents in writing or unless there are grounds to believe that the Discloser has acted maliciously. In the absence of such consent or grounds, the Designated Assessor will not reveal the identity of the Discloser except:

- where the Designated Assessor is under a legal obligation to do so,
- where the information and identity of Discloser is already in the public domain,
- on a strictly confidential basis to the Designated Assessor's personal assistant,

- on a strictly confidential basis to a professionally qualified lawyer for the purpose of obtaining legal advice,
- where it is essential that the Discloser provides evidence at a Disciplinary Hearing,
- where the Discloser is exercising his/her official responsibilities as an officer of the Corporation e.g. Head of IT, disclosing a practice or associated detail discovered in the normal course of his/her duties.

5.2. To encourage employees to raise legitimate concerns in complete confidence the matter may, initially, be raised orally rather than in writing with the Designated Assessor.

5.3. The College will not tolerate harassment or victimisation of anyone raising a concern in good faith, whether or not it proves well-founded.

5.4. In order that the complainant can raise a concern without fear of the confidentiality of the matter being accidentally leaked in any way, the College will allow concerns to be raised orally rather than requesting them in writing. Full notes (which should not identify the complainant) will be made by the person hearing the concern.

## **6. Anonymous Concerns**

6.1. Anonymous letters, phone calls or E-mails sent outside this procedure will not normally be investigated or actioned.

## **7. What the College requires of Members of Staff**

7.1. It is the responsibility of all staff and others connected with the College to raise concerns about serious malpractice and to do so in accordance with this Policy and Procedure.

7.2. Staff who raise a concern need to be clear as to what the issue is and which procedure applies e.g. whether it is a matter that would be better dealt with through this procedure or through the Grievance Procedure. If in doubt, staff should ask for procedural advice from the Human Resources Department, their Line Manager, Trade Union representative, or Protect (a registered charity which advises on serious malpractice within the workplace) – Tel: 020 3117 2520 or use the online form available at <https://protect-advice.org.uk/contact-protect-advice-line/>

7.3. A member of staff who raises a concern must declare any personal interest he/she has in the matter. If a disclosure is made maliciously or vexatiously (or where an external disclosure is made in breach of the Procedure without reasonable grounds

or otherwise than to one of the appropriate bodies stated in paragraph 2.14) the member of staff who raised the concern is at risk of disciplinary action. Where the Discloser involves a local Trade Union representative or friend to assist him/her, the Discloser will be under an obligation to ensure that the representative or friend keeps the matter strictly confidential except as required by law.

## **8. Who is responsible for investigating the allegation?**

- 8.1. The responsibility for initially investigating the complaint will be the Clerk to the Corporation. If the complaint is against the Clerk to the Corporation then it will be the Chair (or in their absence, Vice-Chair) of the Corporation. Once an initial investigation has been completed it may be appropriate for the Chair (or in their absence the Vice-Chair) to involve an outside body to expand and continue the investigation. This may be the internal or external College auditors or some other appropriate recognised outside body.
- 8.2. If there is evidence of criminal activity then the police will be informed. Any internal investigation will ensure that it does not hinder a formal police investigation. The specific circumstances are detailed in the Discovery of Fraud Procedure which is part of the Financial Procedure

## **9. Procedure for operating the policy on Whistleblowing**

- 9.1. As a first step, the member of staff should normally raise concerns with his/ her immediate line manager or superior. This may be done verbally or in writing.
- 9.2. If a member of staff feels unable to follow this route, for good reason, or would like to discuss his/her concern in confidence, he/she can refer the matter of concern to the Clerk to the Corporation. In the event that the individual feels unable to put the matter in writing then he / she should seek to arrange a face to face appointment with the Clerk, or if the concern relates to the Clerk then directly to the Chair. A suggested format for raising this is in Appendix 1.
- 9.3. Where a member of staff has raised a concern with his/her line manager or superior, the line manager or superior shall raise the matter with Clerk to the Corporation releasing the name of the member of staff and the concern identified.
- 9.4. Where a person who is not a member of staff makes a disclosure, this should be made initially to the Clerk to the Corporation. In circumstances in which a public interest disclosure is made to any member of staff by a non-staff member, the member of staff to whom the disclosure was made shall immediately inform the Clerk to the Corporation. The Discloser should provide as much supporting

evidence as possible about the disclosure and the grounds for the belief of malpractice.

- 9.5. The Clerk (or the Chair if appropriate) to the Corporation will initiate (but not necessarily conduct) investigations into complaints which do not fall within the scope of the Public Interest Disclosure Procedures. Where it is felt necessary and in conjunction with the Chair and Members of the Corporation, they will involve outside authorities as necessary, for example the College Auditors or the Police.
- 9.6. Where a written complaint is received it will be acknowledged in confidence and sent to the individual's home address within 2 working days of it being received (see template in appendix 2).
- 9.7. On the receipt of the concern by the member of staff or other complainant, the Clerk to the Corporation will offer to interview the Discloser within seven working days, in confidence, or immediately if there is any danger of loss of life or serious injury.
- 9.8. The purpose of the interview will be for the Clerk to the Corporation to obtain as much information as possible from the Discloser about the grounds for the belief of malpractice.
- 9.9. The Discloser may be accompanied by a Trade Union representative, carer, parent, colleague or friend at the interview. (The Clerk to the Corporation may be accompanied by an assistant to take notes. These notes will not identify the Discloser).
- 9.10. The Clerk to the Corporation will recommend what further steps should be taken. This will be communicated in writing to the Discloser (see template in appendix 3). Such recommendations may include one or more of the following:
- that the matter should be investigated by the Clerk to the Corporation,
  - that the matter should be investigated internally using appropriate College Managers, the Audit Committee or other investigators appointed by the College,
  - that a member of staff should be given the opportunity to seek redress through the College's Grievance Procedure,
  - that the matter should be reported to the relevant Funding Agency\*, or other relevant public authority,
  - that the matter should be reported to the Police; and
  - that no further action be taken.

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\* [https://form.education.gov.uk/en/AchieveForms/?form\\_uri=sandbox-publish://AF-Process-f9f4f5a1-936f-448b-bbeb-9dcdd595f468/AF-Stage-8aa41278-3cdd-45a3-ad87-80cbffb8b992/definition.json&redirectlink=%2Fen&cancelRedirectLink=%2Fen](https://form.education.gov.uk/en/AchieveForms/?form_uri=sandbox-publish://AF-Process-f9f4f5a1-936f-448b-bbeb-9dcdd595f468/AF-Stage-8aa41278-3cdd-45a3-ad87-80cbffb8b992/definition.json&redirectlink=%2Fen&cancelRedirectLink=%2Fen)

9.11. The grounds on which the Clerk to the Corporation may recommend that no further action by the College should be taken are as follows:

- that the Clerk to the Corporation is satisfied that on the balance of probabilities, there is no evidence that malpractice within the meaning of this procedure has occurred, is occurring or is likely to occur,
- that the Clerk to the Corporation is satisfied that the Discloser is not acting in good faith,
- that the matter is already (or has been) the subject of proceedings under this or one of the College's other procedures; and
- that the matter concerned is already the subject of legal proceedings, or has already been referred to the Funding Body\*, other relevant public authority or the Police

9.12. If the Clerk to the Corporation considers an investigation to be the appropriate step to take, he/she will initiate this investigation, aiming to convey an initial conclusion to the Discloser within 28 days. However, if there is any danger of loss of life or serious injury, the investigation will be completed within less than 28 days.

Where it is the case that the investigation is prolonged, then the Clerk to the Corporation will ensure that the individual concerned is kept regularly informed on progress and likely dates when the investigation may be concluded.

9.13. At the completion of the investigation, a detailed report will be submitted to the Chair of the Corporation. It would also be expected that the individual making the complaint would receive a copy of the final report.

9.14. The report will be put to the Audit Committee, and may make recommendations to management for appropriate remedial action if required, and monitor management action to implement these recommendations; and make regular reports to the Corporation's Audit Committee; this will be done by the Chair of the Audit Committee or the Reporting Assessor, the Clerk to the Corporation.

9.15. Where appropriate. the Chair to request the setting up of a special committee (comprising of three members of the Corporation excluding the Principal, members of staff or the student representative) to investigate the situation further and make recommendations to the Chair and Corporation Members on any action to be taken.

9.16. Any recommendations made under this procedure should be made by the Clerk to the Corporation to the Principal unless it is alleged that the Principal is involved in the alleged malpractice. In any case, the recommendations will be made without revealing the identity of the Discloser except as provided in paragraph 5.1 above. The recipient of the recommendations will take all steps within his/her powers to ensure that they are implemented except to the extent that in the view of the recipient there are good reasons for not doing so.

9.17. If the Principal decides not to implement fully any such recommendations, that decision will be notified in writing by the Clerk to the Corporation, the Chair of the Audit Committee, together with the reasons for it.

9.18. The report, and any recommendations arising from an investigation, shall be in writing and to the Principal, unless the Principal is the subject of the complaint when the report will be to the Chair of the Corporation.

9.19. The Discloser may at any time disclose the matter on a confidential basis to a professionally qualified lawyer for the purpose of taking legal advice.

## **10. Following the outcome**

10.1. Once the channels laid out in this procedure have been exhausted, the Discloser has a right and duty to publish his/her concerns publicly provided that he/she:

- is acting in good faith,
- believes on reasonable grounds that the information is accurate,
- has not made the disclosure principally to obtain payment or personal gain; and
- has exhausted the stages of this procedure.

10.2. The Discloser shall have a right of appeal against the decision of the Clerk to the Corporation (Investigating Officer) or the manner of the investigation to the Chair of the Corporation's Audit Committee or to the Chair of the Corporation. They have the right to raise this either in writing or in person, in confidence, within 10 working days of the final report, or if there is a good substantial reason, during the investigation.

## **11. Monitoring**

11.1. The Chair of the Corporation will make an annual report to the Members of the Corporation detailing the number, nature and outcomes of concerns / complaints raised in the previous 12 months under the Whistleblowing Procedure.

11.2. Where the internal procedures have been fully exhausted and the Corporation Members have received a full report of the investigation but find the allegations are unsubstantiated then it may be appropriate for the individual bringing the complaint to have access to an appropriate official, external body, for example External Auditors, Local Learning and Skills Council\*. It should be stressed that this course of action should only be taken where all internal processes have been fully completed.

## **12. Protection for Members of staff**

12.1. As detailed above, complaints under the procedure will be dealt with in confidence. Members of staff bringing a complaint under the above procedure will not be subject to Disciplinary action for bringing a complaint so long as they follow the procedure above. The Disciplinary Procedure will only be considered against members of staff or students if the procedure is used to raise false concerns in bad faith. The College will also seek to ensure that staff / students are able to bring a complaint and be free from harassment or bullying from other staff / students.

## **13. Following the Procedure**

13.1. It is expected that members of staff will follow the internal procedure before seeking to go externally especially to the press. The purpose of this is to give management of the Corporation every chance to investigate and take appropriate action before the disclosure is in the public domain. It is in the interests of both the College and the staff that members of staff/ students that speak out and follow the procedure are given adequate protection. Similarly those that maliciously use the policy and procedure to bring unsubstantiated and erroneous complaints will, where appropriate, be subject to disciplinary action under the College Procedures for Gross Misconduct.

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\* [https://form.education.gov.uk/en/AchieveForms/?form\\_uri=sandbox-publish://AF-Process-f9f4f5a1-936f-448b-bbeb-9dcdd595f468/AF-Stage-8aa41278-3cdd-45a3-ad87-80cbffb8b992/definition.json&redirectlink=%2Fen&cancelRedirectLink=%2Fen](https://form.education.gov.uk/en/AchieveForms/?form_uri=sandbox-publish://AF-Process-f9f4f5a1-936f-448b-bbeb-9dcdd595f468/AF-Stage-8aa41278-3cdd-45a3-ad87-80cbffb8b992/definition.json&redirectlink=%2Fen&cancelRedirectLink=%2Fen)

Appendix 1: Template for raising concerns

**PUBLIC INTEREST DISCLOSURE PROCEDURE (WHISTLEBLOWING)  
CONFIDENTIAL MEMORANDUM**

To: Clerk to the Corporation

From: .....

Date: .....

**CONCERN ABOUT MALPRACTICE UNDER THE COLLEGE'S PUBLIC INTEREST  
DISCLOSURE PROCEDURE**

I would like to notify you as the College's Clerk to the Corporation, about concerns under the College's Public Interest Disclosure Procedure of the following malpractice that has come to my attention:

1. Category (please tick relevant box(es)):
  - Fraud
  - Corruption
  - Actions or omissions which have potential for loss of life or serious injury
  - Breach of a legal requirement
  - Other, please specify: .....

2. Details of malpractice occurring:

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Appendix 2: Response to Public Interest Disclosure (Whistleblowing) template

**CONFIDENTIAL MEMORANDUM**

To: .....

From: Clerk to the Corporation

Date: .....

**CONCERN ABOUT MALPRACTICE UNDER THE COLLEGE'S PUBLIC INTEREST DISCLOSURE PROCEDURE**

**YOUR MEMORANDUM DATED:** .....

Thank you for raising with me your concern about malpractice. To discuss the matter further, I suggest the following date for a meeting: .....

This will take place in my office unless you would prefer an alternative venue. Please indicate whether you will be accompanied by a Trade Union representative, colleague or friend. Please note that the purpose of this meeting is for me to obtain as much information about your concern as possible and to discuss any further steps that could be taken with you.

If you have any additional evidence that supports your concern, please bring this with you to the meeting.

Appendix 3: Follow up to Initial meeting with Clerk to the Corporation

**CONFIDENTIAL MEMORANDUM**

To: .....

From: Clerk to the Corporation

Date: .....

**CONCERN ABOUT MALPRACTICE UNDER THE COLLEGE'S PUBLIC INTEREST DISCLOSURE PROCEDURE**

**OUR MEETING DATED:** .....

Thank you for attending the above meeting. I have carefully considered the allegations made by you under the College's Public Interest Disclosure Procedure and have recommended the following action:

(please tick relevant box(es))

- to investigate the matter personally
- to investigate the matter internally using appropriate College Managers, the Audit Committee or other investigators appointed by the College
- to report the matter to the Funding Agency(s)\* or other relevant public body.
- to refer the matter to ..... (please specify relevant public authority)
- to refer the matter to the Police
- other .....
- to take no further action for the following reasons:- .....

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\* [https://form.education.gov.uk/en/AchieveForms/?form\\_uri=sandbox-publish://AF-Process-f9f4f5a1-936f-448b-bbeb-9dcdd595f468/AF-Stage-8aa41278-3cdd-45a3-ad87-80cbffb8b992/definition.json&redirectlink=%2Fen&cancelRedirectLink=%2Fen](https://form.education.gov.uk/en/AchieveForms/?form_uri=sandbox-publish://AF-Process-f9f4f5a1-936f-448b-bbeb-9dcdd595f468/AF-Stage-8aa41278-3cdd-45a3-ad87-80cbffb8b992/definition.json&redirectlink=%2Fen&cancelRedirectLink=%2Fen)