

MORLEY COLLEGE LONDON

Public Interest Disclosure (Whistleblowing) Policy & Procedure

POLICY OWNER: Clerk to Governing Body and Company Secretary

LAST APPROVAL: 15 December 2015

NEXT REVIEW: 31 December 2019

Public Interest Disclosure (Whistleblowing) Policy and Procedure

1 Policy

- 1.1 The College is committed to operating in an ethical and principled way. The aim of this policy and procedure is primarily to provide all workers with a means for raising genuine concerns of suspected bribery, breaches of the law (including failure to comply with statutory obligations such as those relating to Safeguarding and Prevent) and other serious wrongdoings.
- 1.2 The College encourages workers to raise genuine concerns about suspected wrongdoing at the earliest practicable stage. This policy and procedure is intended to provide safeguards to enable members of staff to raise concerns about malpractice in connection with the College.
- 1.3 This policy and 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 policy 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 policy and 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 the legislation protecting whistleblowers (the Public Interest Disclosure Act 1998), are reflected in this policy and procedure. The College is also committed to ensuring compliance with the Bribery Act 2010.
- 1.6 Although this procedure is primarily designed for the use of workers (as defined in 2.1 below), students, governors, volunteers and those working at the College on a self-employed basis and/or under a contract for services are also encouraged to raise genuine concerns about suspected wrongdoing, following the same procedure.

2 Applicability of this policy and procedure

2.1 This policy applies to all workers. This includes:

- employees;
- apprentices;
- casual workers (including any home-based casual workers);
- employees of subcontractors; and
- agency workers engaged by the College.

2.2 A worker might be unsure whether it is appropriate to raise a concern under this policy and procedure or whether it is a personal grievance, which it is more appropriate to raise under the College's grievance procedure. Any worker in this situation is encouraged to approach the Head of Human Resources in confidence for advice.

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 a worker 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. A protected disclosure must consist of information and not merely be an allegation of suspected malpractice.

4 Specific Subject Matter

- 4.1 This policy and procedure must be used if a worker becomes aware of information which he or she reasonably believes 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; or
 - 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 the Principal or another member of the Senior Management Team (Deputy Principal or Vice Principal).
- 5.3 If the disclosure relates to the Principal, a worker can raise the issue with the Clerk to the Governing Body. If that is inappropriate (for example, because the disclosure relates to both the Principal and the Clerk) the issue may be raised with the Chair of Governors or (if the disclosure relates to the Chair, Principal and Clerk) with the Chair of the Audit Committee.

5.4 Workers are encouraged to identify themselves when making disclosures. 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 will have difficulty in investigating such a concern. The College reserves the right to determine whether to apply this procedure in respect of an anonymous disclosure in light of the following considerations:

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

5.5 For further guidance in relation to this policy and procedure, or concerning the use of the disclosure procedure generally, workers should speak in confidence to the Head of Human Resources.

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 will then determine whether or not it believes that the disclosure is wholly without substance or merit. If the College considers that the disclosure does not have sufficient merit to 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 policy and 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.

6.3 When a worker makes a disclosure that 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 a relevant external body such as the police, OFSTED, the Health and Safety Executive or the Information Commissioner's Office.

6.4 If an internal investigation is appropriate, it will be conducted by a manager of the College without any direct association with the individual to whom the disclosure relates, or by an independent governor or an external investigator appointed by the College.

6.5 Any recommendations for further action arising out of the investigation will be addressed to the Principal or Chair of the Governing Body, as appropriate in the circumstances. The recipient will take all steps within his or her power to

ensure that the recommendations are implemented unless there are good reasons for not doing so.

- 6.6 The worker making the disclosure will be notified of the outcome of any action taken by the College under this policy and procedure within a reasonable period of time. If the worker is not satisfied that their concern has been appropriately addressed, they can appeal against the outcome by raising the issue within 5 working days with the Chair of Governors or, if the initial disclosure was made to the Chair of Governors, with the Chair of the Audit Committee. The Chair of Governors or Chair of the Audit Committee will make a final decision on action to be taken and notify the worker making the disclosure.

7 Safeguards for workers making disclosures

- 7.1 A worker making a disclosure under this procedure can expect the matter to be treated confidentially by the College and 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, unless the College is legally obliged to do so, or needs to do so for the purpose 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 policy or 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 outside the College without reasonable grounds.
- 7.4 A worker will not suffer dismissal or 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 policy and procedure. Equally, where a worker is threatened, bullied, pressurised or victimised by a colleague for making a disclosure, disciplinary action will be taken by the College against the colleague in question.

8. Disclosure to external bodies

- 8.1 This policy and procedure is designed to allow workers to raise disclosures internally within the College. A worker also has the right to make a disclosure to an appropriate person or body outside the College where there are reasonable grounds to do so.
- 8.2 A worker making a disclosure outside the College may only do so to a prescribed person or body that deals with the type of issue that is the subject of the disclosure. A list of prescribed persons and bodies, showing the types of issue that each is able to address, can be found on the GOV.UK website.
- 8.3 A worker may also make a disclosure on a confidential basis to a practising solicitor or barrister.

8.4 Workers seeking advice outside the College 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 policy and 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 Body on an annual basis as appropriate.

10. Further assistance for workers

10.1 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 the matter, in writing, with the Principal, or if that is not appropriate, with the Chair of Governors.

10.2 A worker making a disclosure may want to request counselling or other support from the College's occupational health service. Any such request for counselling or support should be addressed to the Head of Human Resources, who will treat any such request in confidence.

10.3 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>