



# Whistleblowing Policy and Procedure

The Public Interest Disclosure Act (PIDA) 1998, and subsequently the Enterprise and Regularity Reform Act 2013, protects the employee against detriment or dismissal for raising concerns about matters in the public interest. The Act seeks to ensure that any person suspecting malpractice knows how to raise concerns and what procedures are in place to deal with the concern.

Myerscough College is a publicly funded organisation and is committed to the Ten Principles of Public Life - selflessness, honesty and integrity, objectivity, accountability, openness, personal judgement, respect for others, duty to uphold the law, stewardship and leadership. Such a culture should help all employees, at all levels, regardless of age, disability, race, ethnic or national origins, religious or political beliefs and affiliations, gender, sexual orientation, marital status and family responsibilities to feel free to report genuine concerns about malpractice without fear of reprisals.

It is our policy to ensure that “whistleblowing” is facilitated in a manner which fosters openness yet allows for the legitimate protection of the “whistleblower”.

This policy applies to all staff members and Governors of the College. This includes apprentices, volunteers, interns, contractors, temporary employees and agency workers employed by the College.

## Procedure

### 1. Introduction

Malpractice is taken seriously in the College. The Corporation and Senior College Management staff is committed to ensuring that the College is administered honestly at all times and that it is operating in a climate of openness in which staff can raise legitimate concerns.

- 1.1 Staff members and Governors are encouraged to report concerns whether by other employees, contractors or Governors. The person making the disclosure must have a reasonable belief that it is in the 'public interest' for protection to apply under this policy.
- 1.2 This policy and procedure also encourages staff members to raise genuine concerns without fear of adverse repercussions being taken against them. The principals of openness and accountability which underpin legislation protecting whistleblowers are reflected in this policy and procedure. The College is also committed to ensuring compliance with the Bribery Act 2010.
- 1.3 Staff members should not use this policy and procedure for complaints relating to their own personal circumstances, such as the way they have been treated at work. In those cases the Grievance procedure should be used.
- 1.4 This policy does not form part of any staff member's contract of employment and it may be amended at any time.
- 1.5 Students are also encouraged to raise genuine concerns about suspected wrongdoings using the College's complaints procedure. This policy and procedure is designed for the use of staff members and Governors of the College.

### 2. What is Whistleblowing

Whistleblowing is not legally defined however; Lord Borries (QC Business Ethics and Accountability) described it as:

*"Whistleblowing is 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 his fellow employees".*

Whistleblowing is when a report is made about suspected wrongdoing or dangers at work, which is in the public interest. A whistleblower is someone who raises genuine concerns about a wrongdoing or malpractice or danger so that problems can be identified and resolved quickly.

### **3. Applicability of this Policy and Procedure**

Staff might be unsure whether it is appropriate to raise their concerns under this policy and procedure or whether it is a personal grievance, which is more appropriate to be raised under the Grievance Procedure. Any staff member in this situation is encouraged to contact a member of the Human Resources team in confidence for advice.

### **4. Protected Disclosures**

Under the Public Interest Disclosures Act 1998 and the Enterprise and Regularity reform Act 2013 the law protects a members of staff who, out of a sense of public duty, want to reveal suspected wrongdoing or malpractice. The law allows staff to raise what it defines as a “protected disclosure”. In order to be a protected disclosure, a disclosure must relate to specific subject matter (see section 6 below) and must meet the following criteria:

- The procedure in this policy has been followed.
- The employee has acted in the public interest and not for personal gain or out of personal motives.
- It must consist of information and not merely be allegations of suspected malpractice.

Under no circumstances should staff members or members of the College talk to the media or to any other person or body without first exhausting the proper procedure.

### **5. Confidentiality**

Any matter raised under this procedure will be treated in strictest confidence and the name of any employee or member of the Corporation will not be disclosed without permission. Furthermore, any investigation will be carried out discreetly and the nature of the allegations and name(s) of those implicated will not be made public.

### **6. Use of the Procedure**

The procedure should be used if serious malpractice is discovered within the College for example:

- fraud
- financial irregularity
- corruption
- bribery
- dishonesty
- miscarriage of justice
- criminal activity
- creating or ignoring a serious risk to health and safety

The above list is not intended to be exhaustive.

## 7. Misuse of the Procedure

Wilful misuse of this procedure to knowingly make false or malicious accusations could constitute gross misconduct and may lead to ***disciplinary proceedings***.

Whistleblowing is not to be used to raise grievances. The College has a well-established Grievance Procedure designed to resolve and redress employee grievances.

## 8. Concerns about the Procedure

- 8.1 Any concerns about malpractice should always be raised internally in the first instance.
- 8.2 If there are reasonable grounds for believing that malpractice (such as that listed in 6 above) is happening in the College, the Clerk to the Corporation should be contacted immediately and details given either orally or in writing.
- 8.3 The Clerk will arrange for an appropriate investigation to be carried out. The method of the investigation will be determined by the Clerk in conjunction with a senior manager and will be actioned promptly in accordance with the needs of the situation. If there is evidence of criminal activity the police will be involved.
- 8.4 If there is concern or dissatisfaction that the investigation is not being dealt with properly the matter should, after notifying the Clerk, be raised in confidence with the Principal.
- 8.5 If it is the Clerk who is suspected of malpractice the Principal should be contacted. Similarly, if both the Clerk and the Principal are suspected the Chair of the Audit & Governance Committee should be contacted.
- 8.6 Independent confidential advice can be obtained from the charity 'Public Concern at Work' (details below).
- 8.7 The College hopes that staff will be comfortable with identifying themselves when making a disclosure. Confidentiality is assured as detailed in 5 above. If an anonymous disclosure is made, the Clerk will not be in a position to notify the individual making the disclosure of the outcome of any action taken. Anonymity will also mean that the College will have difficulty in undertaking an investigation.
- 8.8 Further guidance in relation to this policy and procedure, or concerning the use of the disclosure procedure generally is available in confidence from the Clerk to the Corporation.

## 9. Timescales

- 9.1 The Clerk or person responsible for the investigation will normally acknowledge receipt of any concern in writing within five working days and report to the "whistleblower" on progress, the eventual outcome and any action proposed or taken. Reports may be oral or written. If written they will be sent to home addresses.
- 9.2 The College will strive to resolve matters as quickly as possible.

## **10. Procedure for Investigating a Disclosure**

- 10.1 When a staff member makes a disclosure, the Clerk, or person dealing with the disclosure, will acknowledge its receipt, in writing, normally within 5 working days.
- 10.2 The Clerk will then determine whether or not further investigation is required. If the Clerk considers that the disclosure does not warrant further action, the staff member will be notified in writing of the reasons for that decision and that no further action will be taken under this policy and procedure.
- 10.3 When a staff member makes a disclosure that warrants further action, the Clerk will take action deemed appropriate (including action under any other applicable College policy or procedure). Possible actions could include internal investigation, referral to the College's Internal Auditors, or referral to external bodies such as the Police, Ofsted, Health and Safety Executive or the SFA.
- 10.4 If appropriate, any internal investigation would be conducted by a manager of the College, chosen by the Clerk, who will have no direct association with the individual to whom the disclosure relates, or by an external investigator appointed by the Clerk as appropriate.
- 10.5 The Clerk will arrange a meeting with the staff member making the disclosure as soon as possible to discuss their concerns. Staff members can bring a colleague or a trade union representative to the meeting under this policy, but companions must respect the confidentiality of the disclosure and subsequent investigation.
- 10.6 The staff member 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 staff member is not satisfied that their concerns have been appropriately addressed they can appeal against the outcome by raising the issue with the Chair of the Governing Body within ten working days. The Chair of the Governing Body (or person nominated by them eg Chair of the Audit and Governance Committee) will make a final decision on action to be taken and notify the staff member making the disclosure.

## **11. Safeguards for Employees Making a Disclosure**

- 11.1 A staff member making a disclosure under this procedure can normally 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.
- 11.2 Myerscough 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 staff member 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.

11.3 No formal disciplinary action will be taken against a staff member on the grounds of making a disclosure made under this policy or procedure unless such action is found to be malicious.

11.4 Equally, where a staff member is threatened, bullied, pressurised or victimised by a colleague for making a disclosure, disciplinary action will be taken against the colleague in question.

## **12. Access to External Bodies**

The Corporation is responsible for considering the allegations in the light of the evidence from the investigation and for determining the appropriate course of action. If there are concerns with the decision the matter should be discussed with the Chair of the Corporation. The staff member may have the legal right to make a disclosure outside the College in certain circumstances or if there is no satisfaction following investigation of the matter the staff member could raise it with an appropriate external body for example:

- the Internal Auditors;
- the Financial Statements Auditors;
- the Skills Funding Agency (SFA) or any successor body;
- the Education Funding Agency or any successor body;
- an MP and/or local Councillor;

Such a step however, would have serious implications for the College and should, therefore, only be taken after very careful consideration. Before taking such a step advice may be sought from 'Public Concern at Work' (details below).

## **12. Accountability**

Myerscough College will keep a record of all concerns raised under this policy and procedure, including instances where the Clerk feels that there is no case to answer and that no action should be taken, and will report to the Governing body as and when appropriate.

## **13. Further Assistance**

A staff member making a disclosure may want to confidentially request counselling or other support. Such a request should be made to the Clerk who will look to the matter favourably and in confidence.

## **14. Child Protection and the Safe Learner**

The Skills Funding Agency has responsibility for funding the education and welfare of students and complaints can be directed to them at:

Senior Account Director  
Arndale House  
Arndale Centre  
MANCHESTER M4 3AQ  
Email: [www.skillsfundingagency.bis.gov.uk](http://www.skillsfundingagency.bis.gov.uk)

In addition attention is drawn to Ofsted which has a social care remit for our under 18 students, particularly those in residence:

WBHL  
Ofsted  
Piccadilly Gate  
Store Street  
MANCHESTER M1 2WD

Tel: 0300 123 3155 or 0161 618 8524 for Textphone/Minicom users.

These helplines are available from 8.00 am to 6.00 pm Monday to Friday.  
Email: [enquiries@ofsted.gov.uk](mailto:enquiries@ofsted.gov.uk)

For confidential advice on whistleblowing issues, staff can also contact the following:

Public Concern at Work  
3rd Floor, Bank Chambers  
6 – 10 Borough High Street  
London SE1 9QQ  
**Whistleblowing Advice Line: 020 7404 6609**

## 15. Approval of this Document

Corporation Meeting 36 held on Thursday 1 July 1999, minute 32.99.1 refers.

## 16. Document Review

Corporation Meeting 146 held on Tuesday 2 October 2019 minute 78.19 refers.

Document History			
<b>Author:</b>	Clerk to the Corporation	<b>Ref and Document Version:</b>	Whistleblowing Policy and Procedure – V1
<b>Approval:</b>	Corporation	<b>Approval Date:</b>	October 2019
<b>Review Date:</b>	October 2020		
<b>Publication:</b>	Staff Intranet Website: Governance Page		
Quality Assurance			
This Policy and Procedure maps to the following external quality assurance frameworks			
Framework	Framework Section Reference(s)		
<b>Common Inspection Framework</b>			
<b>MATRIX</b>			
<b>QAA</b>			
<b>QIA</b>			
<b>SFA</b>			

**All Myerscough College Policies are subject to screening for Equality Impact Assessment**

Equality Impact Assessments are carried out to see whether the policy has, or is likely to have, a negative impact on grounds of: age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, marriage or civil partnership, sex or sexual orientation

Myerscough College not only fulfils its legal position in relation to current and future equality legislation, but additionally goes beyond compliance in providing and promoting “Opportunities for all to succeed”, free from any aspect of discrimination, harassment or victimisation.

All staff have a duty of care to look after the interests of and support their colleagues. *This policy takes account of* our commitment to eliminating discrimination, identifying and removing barriers and providing equal opportunities for our learners, staff and visitors to ensure that no one feels excluded or disadvantaged.

**Safeguarding, Learner Protection and Prevent**

All staff have a responsibility to support and promote the College’s commitment to providing a safe environment for students, staff and visitors. Additionally, all staff have a responsibility to report any safeguarding or Prevent issues to the Designated Senior Lead for Safeguarding and Prevent.