

Public Interest Disclosure (Whistleblowing) Policy

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Document Control

Owner	Executive Director of Human Resources
Audience	All Moulton College Stakeholders
Confidentiality	Low

Version Control

Version	Description/Changes	By	Date
1.0	Initial Release	DHR	03.03.2014
2.0	Review	DHR	07.07.2017
3.0	Review	EDHR	25.11.2021

Approval

Approved By	Meeting Date	Next Review
Senior Leadership Team	November, 2021	August, 2023
Audit Committee	28 March 2022	August, 2023
Corporation	7 April 2022	August, 2023

Related Policies

Ref.	Policy
	Disciplinary Procedures
	Employment Related Concerns Procedures
	Health and Safety Policy
	Prevent Duty Procedure
	Safeguarding Policy

Equality Impact Assessment

Equality Impact Assessment
No change required – the assessment is that the policy is/will be robust. There is no evidence of potentially unlawful discrimination and all reasonable opportunities to advance equality and foster good relations have been taken, subject to continuing monitoring and review.

Public Interest Disclosure (Whistleblowing) Policy

Policy Statement

Introduction

1. Moulton 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 policy) with a means for raising genuine concerns of suspected bribery, breaches of the law and other serious wrongdoings.
2. The College encourages the raising of genuine concerns about suspected wrong doing 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.
3. This policy and procedure also aims to encourage the raising of genuine concerns by staff through internal College procedures without fear of adverse repercussions being taken against them. The law allows concerns to be raised externally and this policy advises on how to do this. However, a failure to first raise a concern under this procedure may result in a disclosure losing its protected status under the law.
4. This policy and procedure also seeks to balance the need to allow a culture of openness against the need to protect others against vexatious allegations or allegations which are not well-founded.
5. The principles 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 and Prevent Duty (as part of the Counter-Terrorism and Security Act 2015).
6. Students at the College are also encouraged to raise genuine concerns about suspected wrongdoing by making a complaint to the Deputy Principal. This policy and procedure is designed for the use of staff at the College.

Applicability of this policy and procedure

7. This policy applies to all individuals working at all levels and grades, including senior managers, officers, directors, employees, governors, consultants, contractors, seconded staff, agency staff, volunteers, interns, agents, sponsors or any other person associated with the College and its subsidiaries.
8. Workers might be unsure whether it is appropriate to raise their concern under this policy and procedure or whether it is a personal complaint, which is more appropriate to raise under the College's Employment Related Concerns Procedures. Personal complaints such as bullying, harassment or discrimination are not covered by this policy or area of law. Anyone in this situation is encouraged to approach the Executive Director of Human Resources in confidence for advice.

Protected Disclosures

9. The law protects individuals who, out of a sense of public duty, want to reveal suspected wrong-doing or malpractice.
10. 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 person making the disclosure be made in the public interest. A protected disclosure must consist of information and not merely be allegations of suspected malpractice.

Specific Subject Matter

11. If, in the course of employment, a worker becomes aware of information which they reasonably believe tends to show one or more of the following, they must use this policy and procedure:
 - 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.

Procedure for making a disclosure

12. Information which someone reasonably believes tends to show one or more of the situations given in Section 4 should promptly be disclosed to their line manager or the Principal and Chief Executive so that any appropriate action can be taken.
13. Concerns with regards to the Prevent Duty should be made directly to the Vice Principal of Curriculum and Quality as the Designated Safeguarding Officer.
14. If it is inappropriate to make such a disclosure to their line manager, a worker can raise the issue with the Principal and Chief Executive or Clerk to the Corporation. In the first instance a worker should provide brief written details of the concern and send this to the Principal and Chief Executive or Clerk to the Corporation in a sealed envelope marked "Private & Confidential – Raising Concerns".
15. If the disclosure relates to the Principal and Chief Executive, a worker can raise the issue with Clerk of 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 Board of Governors.
16. If the disclosure relates to the Chair of Governors, a worker can raise the issue with Clerk of the Corporation.
17. 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 will 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;
 - The credibility of the concern; and
 - How likely it is that the concern can be confirmed from attributable sources.
18. You can give your name but request confidentiality. In this instance the College will do everything it can to protect your identity but please be aware this may not always be possible.
19. 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 Executive Director of Human Resources or the Clerk to the Corporation.

Procedure for investigation of a disclosure

20. When a disclosure is made, the College will acknowledge its receipt, in writing, within 10 working days.
21. The College will then determine whether or not it believes that the disclosure is wholly with or without substance or merit. If the College considers that the disclosure does not have sufficient merit to warrant further action, the person making the disclosure 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.
22. Considerations to be taken into account when making this determination may include the following:
- If the College is satisfied that the worker making the disclosure does not have a reasonable belief that suspected malpractice is occurring
 - If the matter is already the subject of legal proceedings or appropriate action by an external body
 - If the matter is already subject to another, appropriate College procedure
23. 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, OFSTED, Disclosure & Barring Service, Health and Safety Executive or the Information Commissioner's Office.
- a. If appropriate, any internal investigation will 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. *(Guidance note: Depending on the seriousness of the concern raised and the seniority of the worker making the disclosure, it would be appropriate for a senior manager or a designated officer, such as the Clerk of the Corporation, to investigate the concern).*
 - b. Any recommendations for further action made by the College will be addressed to the Principal and Chief Executive or Chair of the Corporation Board of Governors

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.

- c. 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 person is not satisfied that their concern has been appropriately addressed, they can appeal against the outcome by raising the issue with the Chair of the Corporation within 10 working days from receipt of the outcome. The Chair of the Corporation will make a final decision on action to be taken and notify the worker making the disclosure.
- d. All communications with the worker making the disclosure will be in writing and sent to the worker's home address rather than through the College's internal mail. If investigations into the concern are prolonged, the College will keep the worker concerned updated every 10 working days as to the progress of the investigation and an estimated timeframe for its conclusion.

Safeguards for those making a disclosure

24. 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. (Guidance note: For confidentiality purposes, if the worker requests to raise their concern verbally, it would be appropriate for the College to allow the worker to do so).
25. The College will take all reasonable steps to ensure that as far as it can any report of recommendations, or other relevant documentation, produced by the College does not identify the person making the disclosure, unless the College is legally obliged to do so, or for the purposes of seeking legal advice.
26. No formal disciplinary action will be taken against an employee or worker on the grounds of making a disclosure under this policy or procedure. This does not prevent the College from bringing disciplinary action against an employee 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.
27. An employee or 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 an employee or someone associated with the College 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.

Disclosure to External Organisations

28. This policy and 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.
29. 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.

30. Workers and those associated with the College can also make disclosures on a confidential basis to a practising solicitor or barrister.
31. If someone making a disclosure 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.

Accountability

32. 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 College's Board of Governors on an annual basis as appropriate.

Further assistance for those making a disclosure

33. The College will not tolerate any harassment or victimisation of employees or workers who make a disclosure. If, at any stage of this procedure a person making a disclosure 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 Principal and Chief Executive.
34. 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 Executive Director of Human Resources. Such a request would be made in confidence.
35. Employees and workers can also contact the charity Protect for confidential advice on whistleblowing issues. Contact details are as follows:

The Green House
244 – 254 Cambridge Heath Road
London. E2 9DA

Whistleblowing Advice Line: 020 3117 2520

<http://www.protect-advice.org.uk>

Legislative Framework that this Policy relates to the:

- Bribery Act 2010;
- Employment Rights Act 1996 ('ERA 1996') – Part 4A;
- Enterprise and Regulatory Reform Act 2013 ('ERRA') (amended the whistleblowing provisions of the ERA 1996);
- Equality Act 2010
- Prevent Duty (as part of the Counter-Terrorism and Security Act 2015); Public Interest Disclosure Act 1998 ('PIDA').

Appendix A – Equality Impact Assessment

Moulton College Equality Impact Assessment

Policy name: Public Interest Disclosure (Whistleblowing) Policy

Assessment date:

<p>What are the aims of the policy?</p>	<p><input type="checkbox"/> The aim of this policy and procedure is to provide employees and workers (referred to as ‘workers’ in this policy) with a means for raising genuine concerns of suspected bribery, breaches of the law and other serious wrongdoings.</p>
<p>Who does the policy affect?</p>	<p><input type="checkbox"/> This policy applies to all individuals working at all levels and grades, including senior managers, officers, directors, employees, governors, consultants, contractors, seconded staff, agency staff, volunteers, interns, agents, sponsors or any other person associated with the College or its subsidiaries.</p>
<p>Who is involved in implementing the policy?</p>	<p><input type="checkbox"/> Senior Leadership Team; Assistant Directors; Corporation Board; managers and college staff.</p>
<p>What information is currently available about the impact of this policy and its associated procedures?</p>	<p><input type="checkbox"/> None. However, any Public Interest Disclosures would be reported to the Corporation Board on an annual basis.</p>
<p>Do you need more information to help you make an assessment about the impact of this policy and its associated procedures?</p>	<p><input type="checkbox"/> No</p>
<p>Do you have any examples that show how this policy will have a positive impact on any of the equality characteristics listed in the table below?</p>	<p><input type="checkbox"/> Employment Related Concerns (Grievances); Disciplinary; Wellbeing</p>
<p>Which other policies does this policy link with?</p>	<ul style="list-style-type: none"> • Disciplinary procedures • Employment Related Concerns Procedures • Freedom of Expression Policy • Health and Safety Policy • Prevent Duty Procedure • Safeguarding Policy
<p>What consultation has taken place in the development of this policy?</p>	<p>Senior Leadership Team, Executive Director of Human Resources, Corporation Board, EDI Steering Group. Policy is based on central Government guidance, sector based good practice as disseminated by the Association of Colleges (AoC). Replaces existing Policy</p>

Use the table below to assess the impact of this policy on each of the listed characteristics. Your decision must be evidence based. Sources of evidence might include success rates, achievement gaps, application and enrolment data, student voice, consultation outcomes, recruitment and employment data, customer feedback or complaints, meeting minutes *Characteristics 1-9 are protected under the Equality Act 2010

Characteristic*	Negative impact? Y / N	Evidence to support your impact assessment decision	Requires further action? Y/N
Race	N	Policy relates to processes. No evidence to suggest these have a negative impact on race	N
Disability	N	Policy relates to processes. No evidence to suggest these have a negative impact on disability	N
Gender	N	Policy relates to processes. No evidence to suggest these have a negative impact on gender	N
Gender reassignment	N	Policy relates to processes. No evidence to suggest these have a negative impact on gender re-assignment	N
Age	N	Policy relates to processes. No evidence to suggest these have a negative impact on age	N
Sexual orientation	N	Policy relates to processes. No evidence to suggest these have a negative impact on sexual orientation	N
Religion / belief	N	Policy relates to processes. No evidence to suggest these have a negative impact on religion/ belief	N
Pregnancy / maternity	N	Policy relates to processes. No evidence to suggest these have a negative impact on pregnancy/ maternity	N
Marriage / civil partnership	N	Policy relates to processes. No evidence to suggest these have a negative impact on marriage/civil partnership	N
Socioeconomic	N	Policy relates to processes. No evidence to suggest these have a negative impact on socio-economic group	N

Overall EIA judgement

□	<p>No change required – the assessment is that the policy is/will be robust. There is no evidence of potentially unlawful discrimination and all reasonable opportunities to advance equality and foster good relations have been taken, subject to continuing monitoring and review</p>
	<p>Adjust the policy or practice – this involves taking steps to remove any barriers, to better advance equality and/or to foster good relations. This may involve removing or changing the aspect of the policy that creates any negative or unwanted impact. It may also involve introducing additional measures to reduce or mitigate any potential negative impact</p>
	<p>Continue the policy – this means adopting/continuing with the policy despite the potential for adverse impact. Set out the rationale for this decision, including how the decision is compatible with our legal obligation. Where there is discrimination, but it is considered not to be unlawful – the objective justification must be recorded</p>
	<p>Stop the policy – if there would otherwise be unlawful discrimination or adverse effects that are not justified and cannot be prevented/mitigated.</p>

Action Plan

Action required	Person / team responsible	Completion date	Review and impact
None			

Approved by EDI Steering Group on:

Signed:

Position:

Date: November, 2020

Date of next review: August, 2023