



Hertford College

OXFORD

PUBLIC INTEREST DISCLOSURE (WHISTLEBLOWING) CODE OF PRACTICE

October 2023

Replaces any previous versions.

Introduction

The aims of this Code of Practice are to assist any member of staff to disclose concerns without fear of retribution, and to provide a transparent and confidential process for dealing with these concerns.

Background

The Public Interest Disclosure Act 1998 (the "Act") provides employees with legal protection against being dismissed or penalised by their employers as a result of disclosing certain serious concerns. It also requires employees who wish to disclose such concerns and who wish to retain the protection offered by the Act to follow the relevant internal procedure provided by their employer in all but the most exceptional circumstances.

The College places the greatest importance on the integrity of its operations, and operates a number of policies and procedures relating to grievance, harassment, discipline, and individual allegations of fraud and misconduct. In many instances where there is a suspicion of improper behaviour, allegations will be dealt with under these procedures.

The following procedure and associated guidance have been designed to assist employees who wish to make disclosures, and to secure their proper investigation. Although the terms of the Act offer protection specifically to employees, this Code of Practice is also available to students of the College, or others with whom it interacts.

Scope

This Code of Practice is directed specifically at the disclosure of information which is in the public interest, and which in the reasonable belief of the person making the disclosure tends to show malpractice involving one or more of the following:

- criminal activity, including fraud or financial irregularity, corruption, bribery, or blackmail;
- failure to comply with legal obligations;

- danger to health and safety;
- damage to the environment;
- academic or professional malpractice;
- a miscarriage of justice;
- failure to comply with the statutes, regulations and codes of practice of the College;
- attempts to conceal any of the above.

This Code of Practice is intended to assist individuals who believe that they have discovered malpractice or impropriety. It is not designed to address the following:

- to question financial or business decisions taken by the College;
- to reconsider any matters which have already been addressed under grievance or disciplinary procedures;
- to investigate an individual or collective dispute, for which there are established routes of complaint and remedies;
- to investigate an academic dispute between a student and the institution. Complaints of this nature should be addressed to the Registrar in the first instance.

Responsibilities

The College encourages all members of staff and associated persons to raise any genuine concerns about malpractice or impropriety at the earliest possible stage.

In addition, third parties, including members of the public, who have a concern related to any matters referred to above, are encouraged to make a report.

Once a disclosure is being dealt with under this Code of Practice, the College would expect that individuals await the conclusion of any investigation or review instigated under its terms, before raising their complaints to an external party.

Protection

An individual making a disclosure relating to such matters, to the appropriate person, will not be penalised, and will be protected from retaliation, provided the disclosure is made:

- in good faith; and
- in the reasonable belief of the individual making the disclosure that the information disclosed, and any allegation contained in it, are substantially true.

Confidentiality

The College will take all reasonable steps to safeguard the confidentiality of a whistleblower, however confidentiality cannot be guaranteed.

Reports made anonymously limit the ability of the College to undertake investigations and provide feedback effectively. Further, where there is no documentary evidence linking an anonymous person to the disclosure, any staff or associated persons, who submit a report anonymously, may not qualify for the protections received as a whistleblower.

Malicious allegations

In the event of malicious or vexatious allegations, disciplinary action may be taken against the individual concerned.

Procedure for Making a Disclosure

Disclosures should be made to the Bursar, unless:

- If the report relates to the Bursar, it should be made to the Principal
- If the report concerns the Principal it should be made to the Senior Fellow

Where the individual wishing to make a report is a member of the College's staff, they may first wish (but are not obliged) to discuss their concerns with:

- their line manager;
- their Head of Department;
- the HR Manager;
- a College Officer.

Following discussion with one or more of the above, if the suspicion of misconduct remains it **MUST** be reported to the Bursar (or the Principal or Senior Fellow, as set out above).

Reports may be made anonymously, but this may limit the ability of the College to undertake investigations and provide feedback effectively. Further, where there is no documentary evidence linking an anonymous person to the disclosure, any staff or associated persons, who submit a report anonymously, may not qualify for the protections received as a whistleblower.

Disclosures, which should normally be in writing, should provide as much supporting evidence as possible about the grounds on which the disclosure is being made and about the grounds for believing that malpractice has occurred.

Responding to Disclosures

The Bursar, or Principal, as appropriate, shall decide whether the concern is such as should be addressed under other existing College procedures, for example in relation to harassment, grievance, discipline, or fraud, or whether further investigation is required.

If they are of the opinion that further investigation is necessary, the matter will be handled one of the College Officers, as set out below.

Reports concerning Students (not relating to any action carried out as part of any employment by the College) will be referred to the **Student Conduct Officer** to investigate and manage, in accordance with the Student Disciplinary Code, with notification to the Dean and the Registrar.

Reports concerning any Fellow shall be referred to the **Principal** and dealt with as a complaint under Appendix 1, clause 14 of the College's Statutes. For the purposes of handling matters of suspected Fraud, the scope of that Statute and any related Bye laws, and thus the processes outlined therein, shall be deemed to include all Fellows of the College.

Reports concerning the Principal shall be referred to the **Senior Fellow**, and treated as a valid complaint under Section VII of the aforementioned Statute, and shall follow the process prescribed.

All other reports will be investigated and managed by the **Bursar**:

- In accordance with the College's HR policies, processes and guidelines in the case where the report relates to a member of staff (including a student employed by the College where the suspected fraud relates to actions relating to that employment) not otherwise covered by the above.

- In any appropriate manner, in cases where the report relates to another associated person, including suppliers, contractors, former members etc.

In all cases, subject to the provisions of any procedures being followed, other College Officers and/or Senior Staff may also be informed, depending on the circumstances, and in particular where there may be a need to take immediate mitigating action, pending the conclusion of a formal process.

The College's Solicitors, or other professional advisers, may be consulted.

The College will notify OfS, the Charity Commission, the University, or any other relevant body of any serious incidents of fraud, impropriety or misconduct, as may be required under the various obligations owed to each.

The complainant will be informed (by the Bursar, or the Principal, or Senior Fellow, as above) in broad terms of the outcome of the investigation, having due regard to the confidentiality of information relating to the individual or individuals accused and any others identified during the investigation.

Principles for handling cases

Notwithstanding any provisions to the contrary within the various procedures being followed, the following principles will be adopted for all investigations:

- Any person who is the subject of a report of misconduct should not be involved in managing the corresponding investigation. The Bursar (or the Principal) shall appoint appropriate replacements in such cases.
- Reports should be investigated and dealt with as quickly as is reasonably practical to do so.
- The number of people being informed of the case and investigation should be kept to the minimum required to ensure a comprehensive, fair and efficient process. All persons involved with the investigation must treat all information shared with them in strict confidence. Where necessary, information will be transmitted in confidence to relevant regulatory bodies. An unwarranted breach of confidence may be the subject of disciplinary action.
- If at any point there is a suspicion that the conduct complained of includes unlawful conduct, the appropriate professional advice will be secured immediately regarding the steps required to be taken before proceeding further.
- In all cases where the police are involved, the College reserves the right, where it would be reasonable to do so, to proceed with its own disciplinary procedures and/or with civil proceedings.
- Any member of staff suspected of fraud may be suspended (without deduction of pay) pending a full investigation. The suspension of a member of staff does not constitute a finding of misconduct against them.
- Data collected during the course of the investigation (including personal and special category data) will be treated in line with Data Protection regulations.

Records

The Bursar shall maintain a register of all disclosures reported, including those where there was found to be no case to answer.

The Register will be maintained and will be available for inspection, subject to the requirements and protections of relevant UK legislation.

The Register shall specify the following, in an anonymised form, in relation to each case:

- what the suspected incident was, and when it (allegedly) occurred;
- whether the incident was judged to be actual, incorrect, or not proven;
- what the actual and/or potential impact of the incident on the College was/could have been;
- inquiries made and/or action taken, including any reports to regulators or the police;
- policies and procedures to be introduced or revised as a consequence (if any);

The Treasury Committee will review the Register as part of its regular risk review processes, and instigate any additional mitigations (beyond those that may have already been identified and implemented on account of individual cases being progressed) as it deems necessary.

Governing Body, October 2023