



# POLICIES & PROCEDURES

## Whistle Blowing & Fraud Policy

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## **WHISTLE BLOWING & FRAUD POLICY**

### **INTRODUCTION**

All colleges are required to have appropriate procedures in place for handling whistleblowing and for ensuring staff know who they can contact if they wish to raise a concern.

This document explains the types of concerns that can be raised under this procedure, the legal protection for whistleblowers and how whistleblowing concerns will be handled.

This procedure should be followed for any whistleblowing matters raised by employees of Oxford Energy Academies, casual staff, and agency workers.

### **POLICY STATEMENT**

Oxford Energy Academies is committed to the highest possible standards of:

- openness and inclusiveness
- accountability
- integrity

### **AIM OF PROCEDURE**

- To encourage those working for Oxford Energy Academies to report suspected wrongdoing promptly and in the knowledge that it will be taken seriously.
- To provide guidance on how to raise concerns.
- To reassure staff that they can raise genuine concerns made in the public interest without fear of reprisals, even if they turn out to be mistaken.

### **WHAT IS WHISTLEBLOWING**

Whistleblowing is when a worker reports certain types of wrongdoing or misconduct within an organisation. The wrongdoing disclosed must be in the public interest.

The wrongdoing must relate to or show one of the following:

- a criminal offence
- a failure to comply with a legal obligation.
- a possible miscarriage of justice
- a Health & Safety risk
- damaging the environment
- misuse of public money
- corruption or unethical conduct
- Sexual, physical, or verbal abuse

- deliberate concealment of any of these matters
- any other substantial and relevant concern.

The concern could be about something that happened in the past, is currently happening or likely to happen in the future.

Concerns or complaints that employees wish to raise formally, about their own employment, should normally be raised using the Oxford Energy Academies Grievance Procedure, unless the employee believes the concern is in the public interest. This includes for example, concerns related to working conditions, working relations, employment rights or bullying or harassment.

## SCOPE

The purpose of this policy and procedure is to outline ways in which all employees can express concerns about malpractice or wrongdoing and to encourage employees to raise these at an early stage and in an appropriate way in line with the Public Interest Disclosure Act 1998.

The director is committed to managing the organisation in the best way possible. This policy is in place to reassure staff that it is safe and acceptable to speak up and enable concerns to be raised at an early stage and in the correct way.

Rather than wait for proof, we would prefer you to raise the matter when it is still a concern. It can be difficult to know what to do when these concerns are about unlawful conduct, financial irregularities, abuse of apprentices, dangers to the public or environment, health and safety issues, or if you feel these issues are being inappropriately concealed.

This policy does not replace the companies Complaints Procedure.

This policy is to be applied consistently and in line with Oxford Energy Academies values.

## DEFINITIONS

There will be circumstances where the ordinary processes available to workers to report on matters of concern in the workplace cannot be used. The Public Interest Disclosure legislation, commonly referred to as the “Whistleblowing Act”, encourages and enables workers to raise their concerns about:

- Fraud
- Financial irregularities or serious financial maladministration arising from improper conduct.
- Corruption, bribery, dishonesty or blackmail.
- Breach of health and safety or safeguarding regulations
- Abuse of position
- Miscarriages of justice
- Failure to comply with legal obligations.

- Serious breaches of Oxford Energy Academies procedures which may advantage a particular person or party.
- Unprofessional or unethical conduct
- Misuse or inappropriate use of Oxford Energy Academies funds or resources
- Criminal activity or a criminal offence
- Sexual, physical, and verbal abuse including bullying, racism, sexism and homophobia.
- Endangering an individual's health and safety
- Endangering or damaging the environment
- Deliberate concealment of information relating to any of the above could be deemed improper, illegal, or negligent behaviour by anyone in the workplace.

## LEGAL PROTECTION FOR WHISTLEBLOWERS

Whistleblowers are protected by law from being treated unfairly treated or losing their jobs because they 'blow the whistle'.

Whistleblowers must hold a reasonable belief that the concern they are raising is in the public interest.

Oxford Energy Academies will be responsible for ensuring that appropriate personal support is offered both to a worker raising a concern and to any worker against whom allegations have been made under this procedure.

Although an employee has certain legal obligations of confidentiality to Oxford Energy Academies, in a limited set of circumstances, whistleblowing may override these obligations. This guidance sets out the circumstances under which these disclosures may lawfully be made.

## PROCEDURE FOR RAISING A WHISTLEBLOWING CONCERN

Whistleblowing anonymously or confidentially

- Concerns can be raised anonymously, but Oxford Energy Academies or the person receiving the allegation may not be able to take it further if they have not been provided with all the information they need.
- Whistleblowers can give their name but request confidentiality and in these circumstances, every effort will be made to protect their identity.
- All disclosures made under this procedure will be treated sensitively, consistently, and fairly.

### Step 1

Deciding who to report the concern to. Concerns can be raised verbally or in writing. You can raise your concern with the Office Manager or either Director.

Reporting concerns to the media, in most cases will lead to the loss of your whistleblowing law rights.

Although you are not expected to prove beyond doubt the truth of your concerns, you will need to demonstrate that you have sufficient evidence or other reasonable grounds to raise them.

You can be accompanied by a trade union representative or colleague to any meetings that are required.

## Step 2

The person with whom you have raised your concern will decide what action is needed. They may ask you to provide further information. They will write to you within 10 days to let you know how your concern will be dealt with

The information you can expect to receive is:

- an indication of how the concern will be dealt with
- an estimate of how long it will take to provide a final response.
- whether any initial enquiries have been made
- whether further investigations will take place, and if not why.
- information about support is available for you.

The person with whom you have raised your concern will at the same time notify the director that a whistleblowing allegation has been made.

Advice on dealing with concerns is available from the Office Manager, Centre Manager or Director

## Step 3

Initial enquiries will be made to decide whether an investigation is appropriate.

An investigation may be carried out, depending on the nature of the allegations and the evidence/information presented. Full details of the investigation may be withheld from you to protect the confidentiality of other people.

Information will need to be passed on to those with a legitimate need to have this information and it may be necessary for you to provide a written statement and act as a witness in any subsequent disciplinary proceedings or enquiry. This will be discussed with you first.

Where an investigation is necessary, it may take the form of one or more of the following:

- an internal investigation by the Director & Centre Manager, which may, for example, take the form of a disciplinary investigation.
- a referral to the police

## Step 4

You will be informed of the outcome of any investigation, in writing, and/or of any action taken, subject to the constraints of confidentiality and the law.

If you do not feel your concern has been addressed adequately you may raise it with an independent body such as one of the following as appropriate:

- your trade union
- the Citizens Advice Bureau
- a relevant professional body or regulatory organisation
- a relevant voluntary organisation
- the police
- the Local Government Ombudsman
- Equality and Human Rights Commission

You have a duty to Oxford Energy Academies not to disclose confidential information. This does not prevent you from seeking independent advice at any stage in accordance with the provisions of the Public Interest Disclosure Act 1998.

## REVIEW AND REPORTING

Oxford Energy Academies has overall responsibility for this procedure which has been reviewed with reference to equalities, human rights and discrimination legislation and requirements.

Confidential monitoring of the procedures is undertaken by the Director and Centre Manager, in order to gather data to help establish whether the procedure is operated in a fair and consistent manner. In undertaking monitoring the Director will not identify individuals.

## CIRCULATION

This policy applies to all full-time and part-time staff (including casual hours staff) who work for Oxford Energy Academies.

## REASON FOR DEVELOPMENT OF POLICY

The Whistle Blowing Policy and Procedure is primarily for concerns where, due to malpractice, fraud, abuse or other inappropriate acts or omissions, the interest of others or the organisation itself is at risk.

Staff have the right, and a duty, to raise with their employer any matters of concern they may have associated with the organisation.

The policy is designed to provide a clear commitment to staff that concerns will be taken seriously, and to encourage staff can communicate their concerns through the appropriate channels.

All managers at every level of the organisation have a duty to ensure clear principles and procedures are established enabling staff can have the opportunity to express their concerns.

## AIMS AND OBJECTIVES

The 'Whistle Blowing' Policy is intended to cover serious public interest concerns that fall outside the scope of other procedures. These, as stated in the Act are that in the reasonable belief of the employee, the following matters are either happening now, have happened, or are likely to happen: -

- A criminal offence
- The breach of a legal obligation
- A miscarriage of justice
- A danger to the health and safety of an individual
- Damage to the environment
- Deliberate covering up of/failing to report information tending to show any of the above 5 matters.

The Director is committed to the effective implementation of this policy and procedure. The aim of the procedure is to ensure that an appropriate process exists which supports the resolution of matters raised, in response to any disclosure of wrongdoing or irregularity and in a manner, which is fair, expedient, and discreet.

If you raise a genuine concern under this policy, you will not be at risk of losing your job or suffering any detriment (such as reprisal or victimisation). Provided you are acting in good faith (effectively this means honestly), it does not matter if you are genuinely mistaken or if there is an innocent explanation for your concerns.

This assurance is not extended to those who maliciously raise a matter they know is untrue. If, following a thorough investigation it is found that you raised a matter maliciously; this will be dealt with under the companies Disciplinary Policy.

Your confidence and anonymity with these assurances, we hope you will raise your concern openly. However, we recognise that there may be circumstances when you would prefer to speak to someone in confidence first.

If this is the case, please say so at the outset. If you do not wish to disclose your identity, this will not be done without your consent unless required by law. You should understand that there may be times when we are unable to resolve a concern without revealing your identity, for example where your personal evidence is essential (for example in court cases).

In such cases, we will discuss with you whether and how the matter can best proceed. Please remember that if you do not tell us who you are it will be much more difficult to investigate the matter. We will not be able to protect your position or to give feedback. Accordingly, you should



not assume we can provide the assurances we offer in the same way if you report a concern anonymously.

Where an individual does not wish to come forward as a witness, Oxford Energy Academies retains the right to pursue the matter further but will respect the anonymity of the individual. However, it must be noted that this may ultimately prevent Oxford Energy Academies from being able to proceed.

Concerns expressed anonymously are much less powerful but will be considered at the discretion of Oxford Energy Academies. In exercising this discretion, the factors to be considered would include:

- The seriousness of the issues raised.
- The credibility of the concern
- The likelihood of confirming the allegation from attributable sources.

The procedures contained below should ensure that your concern can be addressed and dealt with internally, however if you believe that a disclosure of information should be made externally in the public interest this should be soundly based and you should first seek independent and/or specialist advice. IF IN DOUBT – RAISE IT!

## WHISTLE BLOWING PROCEDURE

How to raise a concern. If you are unsure about raising a concern at any stage, you can get independent advice. However, we do ask that you explain as fully as you can the information or circumstances that gave rise to your concern.

### Internal Stages

Once you have reported your concern, we will assess it and consider what action may be appropriate. This may involve an informal review, an internal inquiry, or a more formal investigation. We will tell you who will be handling the matter, how you can contact them and what further assistance we may need from you. When you raise the concern, it will be helpful to know how you think the matter might best be resolved. If you have any personal interest in the matter, we do ask that you tell us at the outset. If we think your concern falls within our grievance, harassment and bullying or other relevant procedure, we will inform you accordingly.

The following stages will normally apply:

### Stage 1:

If you have a concern about a risk, malpractice, or wrongdoing at work, we hope you will feel able to raise it firstly with the Office or Centre Manager. This may be done verbally or in writing. You may involve a friend or a colleague at this stage, providing that that person is not involved in the investigation.

The Office or Centre Manager must help to create a climate where staff feel able to talk in confidence without the threat of disciplinary action being taken against them. The Office or Centre Manager will identify the nature of the issue by undertaking a preliminary investigation.



## Stage 2:

If stage 1 of the investigation and any resultant action does not resolve the matter, or if a concern involves the Office or Centre Manager, the member of staff should raise the concerns with the Director who will refer the case to a designated officer, who will be the point of contact for employees under this policy.

Where concerns are raised with the designated officer, they will arrange an initial interview which will, if requested, be confidential to ascertain the areas of concern. At this stage, you will be asked whether you wish your identity to be disclosed and will be reassured about protection from possible victimisation. You will also be asked if you wish to make a written statement.

In either case, the designated officer will write a summary of the interview, which will be agreed by both parties. The designated officer will report to the Director who will be responsible for the commission of any further investigation within Oxford Energy Academies.

### The Formal Investigation:

If the concern raised is very serious or complex, a formal investigation may be held. The investigation may need to be carried out under the terms of strict confidentiality i.e., by not informing the subject of the complaint until it becomes necessary to do so.

In certain cases, however, such as allegations of ill-treatment of apprentices, suspension from work may have to be considered immediately. Protection of apprentices is paramount in all cases. The designated officer will offer to keep the member of staff informed about the investigation and its outcome.

If the result of the investigation is that there is a case to be answered by any individual, the companies Disciplinary Policy will be used and the details discovered by the formal investigation, transferred to that process.

Where there is no case to answer, but the employee held a genuine concern and was not acting maliciously, the designated officer will ensure that the employee suffers no reprisals. If there is no case to answer but there is evidence that the allegation was made frivolously, maliciously or for personal gain, disciplinary action will be taken against the complainant. The matter will be dealt with promptly at each stage. Where appropriate, immediate steps will be taken to remedy the situation as soon as practicably possible.

An outcome may take more time but a final resolution/outcome at each stage should be available within ten working days.

### Following the investigation:

The Director will advise the designated officer as to the possible options open to Oxford Energy Academies because of the outcome of the investigation. The designated officer will then arrange a meeting with the member of staff (where the identity has been disclosed) to give feedback on any action taken. (This will not include details of any disciplinary action, which will remain confidential to the individual concerned).

The feedback will be provided as soon as possible. If the member of staff is not satisfied with the action taken/not taken, the company recognises the lawful rights of employees and ex-employees to make disclosures to prescribed persons.

### Complaints about the Director:

If the concern is about the Director, this concern should be made to the Office or Centre Manager who will decide on how the investigation will proceed.

### Raising Concerns with outside bodies:

The purpose of this policy is to ensure that staff are aware of the way to raise their concerns in-house and for staff to see that action is taken promptly to remedy a particular situation. It is hoped that this procedure will give staff the confidence to raise concerns internally.

However, it is recognised that there may be circumstances where staff may feel they wish to report matters to outside bodies. If members of staff are contemplating making a wider disclosure, they are strongly advised to first seek further specialist guidance from professional or other representative bodies.

The company also recognises that staff may, after taking account of advice, wish to continue to raise their concerns using other avenues. These might include MPs or the Media. Staff should bear in mind that this action, if done unjustifiably could result in disciplinary action and could undermine public confidence in the service. However, disclosure may attract statutory protection from victimisation/other detriment where all the following will apply:

- They have an honest and reasonable suspicion that the malpractice/wrongdoing has occurred, is occurring, or is likely to occur.
- They honestly and reasonably believe that the information and any allegation contained in it are substantially true.
- The disclosure has not been made for personal gain.
- The concern has been raised with the company or a prescribed regulator (unless there was reasonable belief of victimisation, there was no prescribed regulator and there was reasonable belief there would be a cover up)
- The matter was exceptionally serious.

Independent Advice: If you are unsure whether to use this policy or want confidential advice at any stage, you may contact independents. Their lawyers can talk you through your options and help you raise a concern at any stage about how to raise a concern about serious malpractice or wrongdoing at work.

## RESPONSIBILITIES

### Director

The Director is the nominated sponsor for the Whistleblowing Policy and Procedure, ensuring that all concerns raised are dealt with fairly, thoroughly and in accordance with the policy.



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## Office or Centre Manager

The Office or Centre Manager is responsible for ensuring that staff are aware of the policy and its application, and for creating an environment in which staff can express concerns freely and without fear of reprisal.

## Individuals

The individual has a responsibility to raise concerns providing s/he has a reasonable belief that malpractice and/or wrongdoing has occurred.

## TRAINING REQUIREMENTS

There are no mandatory training requirements associated with this Policy.

## MONITORING AND COMPLIANCE

This policy shall be reviewed by the Director. The Director is responsible for collating details of any cases which are dealt with under this procedure and will provide an aggregated report on an annual basis. The latter report will outline the nature of the concern and the outcome in a form that does not endanger the employee's confidentiality.

The Whistle Blowing Policy covers the following: -

- conduct which is an offence or a breach of law, e.g., fraud, corruption, or theft.
- disclosures related to miscarriages of justice.
- health and safety risks, including risks to apprentices/visitors as well as other employees.
- damage to the environment, e.g., green issues
- Verbal, sexual, or physical abuse of apprentices, or other unethical conduct/behaviour
- discrimination on grounds of sex, race or disability or religion
- malpractice
- professional misconduct
- nepotism This list is neither exclusive nor exhaustive and there may be other serious public interest concerns, which would come under this Policy.