

**Revised by the Board
on
23 February, 2010**



JOHN WHEATLEY COLLEGE

PUBLIC INTEREST DISCLOSURE

STATEMENT OF COLLEGE POLICY

1 Statement of Intent

- 1.1 John Wheatley College endorses the principles of Public Life defined by the Nolan Committee. A statement of these principles is attached as Appendix 1 to this policy for information.
- 1.2 The College undertakes to investigate fully any substantive material allegation of a breach of these standards in its corporate governance or in the College's strategic, operational or financial management.
- 1.3 The College will normally place in the public domain any formal report into any allegations which are substantiated. It will also advise the individual making an allegation of the action that will be taken to investigate it and of the outcome of such an enquiry.
- 1.4 John Wheatley College's Board of Management recognises the need for an effective means for learners, members of staff and members of the public to raise matters of public interest related to the quality of the College's management and governance. Nevertheless it is also aware that such facilities can be abused and used for potentially malicious purposes.
- 1.5 The Board also accepts that it has a duty of care to protect members of the College's staff and Board members against the potential impact of vexatious or malicious allegations made against them for malicious reasons. Similarly it accepts that it also has a responsibility in these circumstances to protect the College's reputation and its interests against such allegations. It may also seek redress against any allegations, substantiated to be false, made against members of the Board of Management or College staff.
- 1.6 Issues raised under the terms of the College's Public Interest Disclosure Policy shall be investigated as outlined in this document. However, if, at the conclusion of any investigation there is evidence that the allegations have been raised for vexatious or malicious purposes a member of senior management or the Board may consider if appropriate steps should be taken within the College's Disciplinary and Appeals procedure or Code of Student Discipline to deal with the individual(s) involved.

Vexatious or malicious allegations to deliberately damage the interests of staff, Board members or the College will be considered as gross misconduct.

2 Scope of the Public Interest Disclosure Policy

- 2.1 The College's Public Interest Disclosure Policy is designed to enable concerned individuals to indicate their concerns about malpractice related to the College's governance and management.
- 2.2 The College assumes that all of its employees and members of the Board will exercise both a duty and responsibility to bring any impropriety or malpractice to the attention of appropriate individuals in its structures.
- 2.3 These procedures have not, however, been put in place to hear either individual or collective grievances. The College has separate policies and procedures in this respect which must be used for these purposes. Similarly these procedures are not for use to resolve complaints about the College's services. A Complaints Procedure exists for this purpose. Additionally they may not be used to question policy decisions which have been properly made by its Board which are related to financial, business, academic matters or other issues which arise in the pursuit of its statutory duties.
- 2.4 They are, however, designed to ensure that a member of the public, a student, a member of the Board or a member of staff can raise an issue which shows:
- material breaches of the Board of Management's policies, financial regulations and associated procedures;
 - corruption on behalf of the College's staff or a member of its Board of Management;
 - the commission or the likely commission of a criminal offence;
 - a failure or likely failure to comply with legal or statutory obligations;
 - a failure to adhere to policy directives issued by the Scottish Funding Council or other funding bodies;
 - the occurrence or likely occurrence of a miscarriage of justice;
 - a serious danger to the health and safety of any individual;
 - damage or likely damage to the environment;
 - the improper use of College resources for personal gain or in the interests of relations or associates; and
 - the deliberate concealment of information showing any of the above.

Employees are reminded of their obligations to assist the College to maintain a healthy and safe working environment. It is expected that they will comply with the College's policies and their statutory responsibility in these respects and bring to the Management's attention, within the terms of these policies, any potential hazards to the public, staff or students. Furthermore the Policy may not be used to re-open disciplinary or grievance cases which have been considered fully within the terms of

the College's Policies in that respect.

- 2.5 Some examples of unethical or improper behaviour or serious misconduct are included, as Appendix 2 to this document.

3 Raising Matters of Concern

- 3.1 All matters of concern in respect of the scope of this Policy should be forwarded in writing, on a private and confidential basis, to the Clerk to the Board at the College. These concerns may be made in confidence until such time as the College begins to investigate formally any allegations made within the terms of this Policy.
- 3.2 In the event that the concern or malpractice relates to the activities or conduct of the Clerk to the Board matters should be raised formally with either the Chair of the Board of Management or the Principal.
- 3.3 In the event that the concern involves the collective actions and/or conduct of the Chair of the Board, the Principal and the Clerk to the Board matters should be raised with the Chief Executive of the Scottish Funding Council.
- 3.4 These procedures do not preclude the reference of any competent matter to the Standards Commissioner appointed under the terms of the Ethical Standards legislation. However, it should be noted that these statutory provisions do not relate to the conduct of any of the employees of the College (including the Principal).
- 3.5 For staff who may require external advice prior to them considering raising issues under the terms of this policy the College subscribes to the Employee Counselling Service. Confidential advice on most employment related issues can be obtained from this impartial service on 0800 435768.

4 Admissibility of Concerns

- 4.1 The College will, within the terms of this Policy, investigate fully any concerns which are raised formally and in writing. The receipt of all formal allegations will normally be acknowledged in writing by recorded delivery letter or other secure delivery system by the Clerk to the Board. That individual shall advise any individual making an allegation within the terms of this policy of the steps which have been taken or will be taken to address it. In all cases he/she shall apprise them, in writing, of the outcome of any investigation at the earliest opportunity.
- 4.2 The Clerk to the Board shall, on receipt of any formal allegation of malpractice:
- a) decide whether or not the matter raised should be dealt with within the terms of the Policy; and
 - b) decide whether or not there is a *prima facie* case to be investigated.

He/she may direct an individual or group to raise more appropriately an allegation within the terms of the College's grievance or its complaints procedures. The Clerk to the Board's decision on all of these matters is final.

He/she shall advise the complainant(s) of the reasons for any such decision made in these respects. This should normally be undertaken in no more than ten (10) working days. Individuals may, of course, raise concerns about the appropriateness of decisions made in this respect with the Chief Executive of the Scottish Funding Council.

- 4.3 The College will not automatically investigate anonymous allegations. The Public Interest Disclosure Act 1998 affords staff bringing matters of concern to the attention of the Board considerable legal protection and, in these circumstances, it is expected that all allegations will be attributable. However, the receipt of all anonymous allegations will be formally recorded by the Clerk to the Board and considered by him/her and the Chair (or, if the allegations relate to him/her, the Vice Chair of the Board) normally with (5) five working days. If in their joint opinion the allegations are credible, material and within the scope of this policy they may authorise a formal investigation within the terms outlined below.
- 4.4 The College will take a very serious view about false and malicious allegations made within the terms of this Policy. Such allegations made by a member of the Board, a member of staff or a student will be regarded as gross misconduct and dealt with by means of the College's existing Disciplinary Procedures or its Code of Conduct for Board Members which are already in place for such situations. If substantiated such action will normally lead to dismissal or exclusion from the College.

5 Investigation of Matters of Concern

- 5.1 On receipt of a formal and competent allegation of impropriety which is within the scope of this Policy or an anonymous allegation which both the Clerk to the Board and the Chair (or, if appropriate, the Vice Chair of the Board if a conflict of interest prohibits the Chair's involvement) believe is worthy of formal consideration the Clerk to the Board will take appropriate action to investigate the matter.
- 5.2 At this stage the Clerk to the Board shall formally advise the individual(s) concerned of any allegation made against them within the terms of this policy about their conduct.
- 5.3 The Clerk shall, after consulting the Chair (or the Vice Chair if an allegation is related to the Chair), instigate one of the undernoted actions. He/she shall either:
- a) notify the Police if there is evidence that a criminal act has or may have been or might be committed;
 - b) notify the College's Internal Auditors if there is evidence of fraud, financial misconduct or other related matters. He/she shall also normally inform the Chair of the Board's Audit Committee of such a decision;
 - c) seek to establish an ad hoc committee of the Board of Management (normally excluding the Principal, staff representatives and the student representative on the grounds of potential conflicts of interest) to hold hearings to investigate the matters of concern. This Committee shall normally comprise the Chair of the Audit Committee (acting as Chair), 3 other Board Members and the Clerk to the Board. The Executive Committee (excluding those with potential conflicts of interest) will determine the Committee's remit. Any ad hoc committee shall have the right to seek advice from external sources if required;
 - d) make other appropriate arrangements to establish an independent or external investigation if potential internal conflicts of interest require such action; or
 - e) notify the Chief Executive of the Scottish Funding Council (SFC) if all of the above are precluded.

The Principal shall normally be advised, in his/her capacity as Designated Officer, of any allegation of financial impropriety investigated under paragraph (b) unless the allegations directly concern his conduct or actions. If such an allegation directly concerns the Principal's conduct or actions, consideration should, instead, be given by the Clerk to the Board to advising the Chief Executive of the SFC in his role as the Sector's Designated Officer.

- 5.4 If an allegation is made against the Principal, the Chair may, after discussion with the Clerk to the Board, suspend the Principal on full pay during any investigation if, in the circumstances, such action is appropriate. If allegations are made against members of the Board the Chair may, with the agreement of the Executive Committee, exclude these members from participation in any deliberations of the Board and its standing and ad hoc committees. If an allegation is made against the Chair or the Clerk to the Board the Executive Committee shall make a decision on the Board's behalf to suspend him/her from all meetings of the Board and its related committees until such time as the matter is resolved.
- 5.5 The Principal shall have the authority to suspend (on full pay) any other member of staff against whom a competent allegation has been made normally after having first discussed the issue and the appropriateness of such action with the Chair (or in his absence the Vice Chair) and the Clerk to the Board.
- 5.6 The suspension of any individual will be a neutral act and will not, in any way, impute any presumption of any wrongdoing by that individual. All suspended individuals shall make themselves available at all times during normal working hours to assist the College in the conduct of any investigation arranged by the Clerk to the Board or SFC.
- 5.7 The Clerk to the Board will, after having initiated such an investigation, bring any formal report (except those relating to financial impropriety) to the attention of the Board's Executive Committee. If the matter relates to financial impropriety and the College's Internal Auditors have been involved the report should, instead, be included on the agenda of an appropriate meeting of the Audit Committee for its consideration. The Principal (as the College's Designated Officer) shall, as required by the Scottish Funding Council's Financial Memorandum and related guidance, bring any findings related to financial impropriety to the attention of its Chief Executive.
- 5.8 Once a report has been considered the Executive Committee (or the Audit Committee in cases of financial impropriety) shall decide what further action might be required within the Board's existing policies. In this respect it shall decide whether or not the College should invoke its Disciplinary Code or, at this stage, whether it should involve the Police if evidence of a crime has been discovered or if a criminal act is suspected.

Both an Ad Hoc and the Audit Committee shall also be able to initiate further investigations on behalf of the College into matters related to issues investigated if appropriate.

- 5.9 In line with the College's custom and practice all such reports considered by the Board's Executive Committee shall be a matter of public record and placed in the public domain (unless its members decide otherwise - however any decision *not* to make a report public shall be explained to the entire Board which may, if it does not accept the justification, overturn such a decision at its next scheduled meeting or at a

meeting called for this purpose if more than half of the members wish an earlier meeting). Normally only issues of personal confidentiality or a judgement that the publication such a report would not be in the public interest can be used to justify the non-publication of a report.

- 5.10 The College shall retain all documentation related to investigations initiated under this Policy for a minimum period of three (3) years from the date of the conclusion of any investigation.

6 Approval

- 6.1 This Policy Statement was approved by the Board at its meeting held on 23 February, 2010.

The Seven Principles of Public Life

Selflessness

Holders of public office should take decisions solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family or their friends.

Integrity

Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might influence them in the performance of their official duties.

Objectivity

In carrying out public business, including making public appointments, awarding contracts or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

Accountability

Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

Openness

Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

Honesty

Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

Leadership

Holders of public office should promote and support these principles by leadership and example.

**These principles apply to all aspects of public life.
The Nolan Committee has set them out here for the benefit of all who serve the public
in any way.**

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EXAMPLES OF SERIOUS MISCONDUCT AND UNETHICAL BEHAVIOUR

The undernoted list contains some indicative examples of the forms of misconduct which might be dealt with within the terms of the College's procedures for the investigation of cases of misconduct (i.e. its whistleblowing policy).

- 1 Allegations of fraud;
- 2 Theft or misappropriation of College resources;
- 3 Nepotism;
- 4 Personal financial or other material gain by the award of contracts or by the placing of orders;
- 5 False claims for the reimbursement of expenses;
- 6 Unauthorised commitment or use of College budgets;
- 7 Failure to make accurate material declarations in the College's Register of Interests or before/during meetings; and
- 8 A criminal act which is committed on College premises and which is not reported to the appropriate authorities.

IG/AS/LMCE/JC
John Wheatley College
February 2010