



# Public Interest Disclosure (Whistleblowing) Policy

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## Public Interest Disclosure (Whistleblowing) Policy

### 1. Introduction

1.1. The College is committed to the highest standards of openness, honesty, decency, and accountability. It seeks to conduct its affairs in a responsible manner taking into account the requirements of the Scottish Government, the Scottish Funding Council and the Nine Principles of Public Life in Scotland.

1.2. The Public Interest Disclosure Act 1998, which came into effect on 1 January 1999, amends the Employment Rights Act 1996 to give legal protection to employees against being unfairly dismissed or penalised by their employers as a result of publicly disclosing certain serious concerns.

1.3 The Enterprise and Regulatory Reform Act 2013 introduced a series of changes to the Public Interest Disclosure Act 1998 including protection for whistleblowers from bullying or harassment by co-workers and a requirement that whistleblowers must have a reasonable belief that the disclosure is in the public interest. However, there is no longer a requirement that the disclosure is made in good faith.

### 2. Purpose and Aims

2.1. This policy and related procedure is designed to encourage employees and workers, including agency workers and contractors, to raise, at a high level, concerns and/or disclose information which the individual believes shows malpractice, while protecting employees' rights not to suffer detriment. While students do not fall within the scope of the legislation, this policy and related procedure is intended to extend the same assurance to students who disclose information that they will suffer no detriment.

### 3. Scope

3.1 A number of policies and procedures are already in place relating to grievance, discipline, complaints, centre malpractice etc. This policy is intended to cover concerns which are in the public interest and may (at least initially) be investigated separately, but which might then lead to the invocation of such procedures.

These might include:

- 3.1.1. Financial irregularities, malpractice, impropriety or fraud.
- 3.1.2. Dangers to health and safety or the environment.
- 3.1.3. Breaches of contract.
- 3.1.4. Negligence.
- 3.1.5. Serious maladministration.
- 3.1.6. Corruption
- 3.1.7. Bribery.
- 3.1.8. Criminal activity.
- 3.1.9 Academic or professional malpractice.
- 3.1.10 Improper conduct or unethical behaviour / practices.
- 3.1.11 Failure to comply with or breaches of a legal obligation.
- 3.1.12 Attempts to conceal any of the above.

#### **4. Policy Statement**

4.1 There is a relationship of trust and confidence between an employer and an employee and, in terms of the law, neither party should, without reasonable and proper cause, conduct itself in a manner calculated and likely to destroy or seriously damage that relationship of trust and confidence. However, where an individual discovers information which they believe shows malpractice/wrongdoing within the organisation then this information should be disclosed without fear of reprisal, and may be made independently of line management.

4.2 This policy is intended to assist individuals who have a genuine concern about suspected wrongdoing or danger to College activities. It is not designed to question financial or business decisions properly taken by the College; nor may it be used to

reconsider any matters which have already been addressed under grievance or disciplinary procedures.

#### 4.3 Protection

This policy is designed to offer protection against dismissal or victimisation to those employees or other members of the College who disclose such concerns provided disclosure is made:

4.3.1 Where the individual has a genuine concern in relation to alleged wrongdoing.

4.3.2 Where the whistleblower is victimised in breach of the Act, he/she, irrespective of the validity of the disclosure, can bring a claim to an Employment Tribunal. It is of note that there is no financial cap on compensation in whistleblowing claims, and no requirement for a minimum period of service.

4.3.3 Staff must not threaten nor retaliate against whistleblowers in any way. If staff are involved in such conduct they may be subject to disciplinary action. However, if the College concludes that a whistleblower has made false allegations maliciously or with a view to personal gain, the whistleblower may be subject to disciplinary action.

#### 4.4 Confidentiality

The College will treat all such disclosures in a confidential and sensitive manner. The identity of the individual making the allegation may be kept confidential at their request, and the College will endeavour to maintain confidentiality, recognising that this may hinder any investigation. However, the investigation process may reveal the source of the information and the individual making the disclosure may need to provide a statement as part of the evidence required.

#### 4.5 Anonymous Allegations

4.5.1 This Policy encourages individuals to identify themselves when making any disclosures of the nature referred to above. Disclosures expressed anonymously will only be considered at the discretion of the College.

4.5.2 In exercising this discretion, the factors to be taken into account will include:

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

#### 4.6 Allegations not supported

A whistleblower does not have to prove that the facts or allegations disclosed are true. As long as the worker reasonably believes that the relevant failure has occurred or is likely to occur, it does not matter that the belief subsequently turns out to be wrong, or that the facts alleged don't support a relevant breach in law.

If, however, an individual makes malicious allegations or allegations for personal gain, disciplinary action may be taken against him or her.

## 5. Definitions

"Whistleblower" - The person disclosing information in the public interest.

"Designated Person" – The person within the College to whom any such disclosures should be submitted. This would normally be the Principal or appointed Depute (see Procedure).

## 6. Responsibilities

**Designated Person**     The Designated Person will consider the information made available to them and decide on the form of investigation to be undertaken and ensure appropriate follow up action is completed. (See Procedure).

**Investigating Officer**     The Investigating Officer will be determined by the Designated Person. The Investigating Officer will undertake the role independently, and will report their findings to the Designated Person.

## 7. References

### 7.1. Policy Framework

Associated Policies and Procedures	Title
Policy Framework	Governance
Policy	Public Interest Disclosure (Whistleblowing) Policy
Procedure	Public Interest Disclosure (Whistleblowing) Procedure

### 7.2. Other College Policies and Procedures

Policy / Procedure	Title
See 3.1 "Scope" above.	

### 7.3. External References

Source	Title
<a href="http://www.legislation.gov.uk/ukpga/1998/23/contents">http://www.legislation.gov.uk/ukpga/1998/23/contents</a>	Public Interest Disclosure Act 1998
<a href="http://www.legislation.gov.uk/ukpga/2013/24/contents/enacted">http://www.legislation.gov.uk/ukpga/2013/24/contents/enacted</a>	The Enterprise and Regulatory Reform Act 2013

## 8. Document Control and Review

<b>Approval Status</b>	Approved	
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<b>Board Committee</b>	Audit Committee	
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## 9. Revision Log

Version Date	Section of Document	Description of Revision
Version 2 21 Jun 2017	All	Revision and update of legacy GMC Policy & Procedure. Separate Policy and Procedure documents created as per CoGC templates, with appropriate updates. EQIA completed.  Reference to changes to legislation under The Enterprise and Regulatory Reform Act 2013.