Glasgow Kelvin College

Item 15b - Appendix 3

Public Interest Disclosure ("Whistle Blowing" Policy and Procedure)

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1. Introduction

Glasgow Kelvin College is committed to the highest standards of openness, probity and accountability, as set out in the principles of Public Life defined by the Committee on Standards in Public Life (the Nolan Committee). A statement of these principles is contained in Appendix A to this policy. The College will always seek to conduct its affairs in a responsible manner and to follow best practice in corporate governance.

Part of this commitment is the need to have a policy on Public Interest Disclosure (popularly known as "whistle-blowing"). The policy and associated procedures should be available to all employees, and employees should feel confident to use them.

It is implicit in every contract of employment that an employee will not reveal confidential information about the employer's affairs. However, where an employee discovers information which he or she believes shows malpractice or wrongdoing within the organisation, then the employee should be confident that he or she can "blow the whistle" without fear of reprisal, and, if appropriate, can do so independently of line management.

The Public Interest Disclosure Act 1999 gives legal protection to employees against being dismissed or penalised by their employers as a result of publicly disclosing their serious concerns. The Act applies only to "workers", but the College believes it is important that this policy and procedures should apply to everyone officially connected with the College. The term "employees" where it appears in this Policy should therefore be understood as including students, learners, contract workers, partner organisations and members[1] of the Board of Management of the College.

2. Scope of the Policy

Every employee has a duty and responsibility not to disclose confidential information about their employer's affairs. Equally, if an employee discovers information which they believe shows malpractice or wrongdoing within the College, there is a duty and responsibility to disclose this information. In some instances, such as the need to maintain a healthy and safe working environment, there is a legal obligation to do so.

However, an employee must be confident that there will be no victimisation or reprisal as a result of making a disclosure.

[1] It should be noted that Board members are also charity trustees and any reference to Board members in College policy documents also refers to that role. Board of Management members also sign up to the Code of Conduct for the Members of the Board of Management of Glasgow Kelvin College.

In most situations, reporting concerns direct to line managers will be sufficient to prevent malpractice, but employees need a way to report concerns independently of line management where they have concerns that line management will not take their concern seriously, or may be involved in malpractice themselves.

This policy covers concerns which are in the public interest and are not appropriately dealt with under the College's existing disciplinary and grievance or dignity and respect policies and procedures. This policy is not designed to question financial or business decisions taken by the College.

Employees' concerns might include:

- financial or academic malpractice, impropriety or fraud;
- failure to comply with the College's policies, financial regulations and associated procedures;
- failure to comply with a legal or statutory obligation, or with requirements of the Scottish Funding Council (SFC) or any other funding or regulatory body;
- corruption by a member of College staff or of the Board of Management or by a contract worker;
- improper use of College resources for personal gain or in the interests of relations or associates;
- dangers to health and safety and the environment;
- criminal activity;
- improper conduct or unethical behaviour; and
- attempts to conceal any of the above.

3. The College's Undertaking

The College offers protection to employees who disclose concerns in the public interest under this policy, provided that the disclosure is made:

- in good faith;
- in the reasonable belief of the employee making the disclosure that it reveals malpractice; and
- in accordance with the procedures set out in this document.

The College undertakes to investigate fully and appropriately any disclosure made under this policy.

The College will advise the employee making a disclosure of the action that will be taken to investigate it and of the outcome of any investigation.

The College will normally place, in the public domain, any formal report into a Public Interest Disclosure which is substantiated after investigation and reported to the full Board of Management.

If an employee makes an allegation in good faith, which is not confirmed by subsequent investigation, the College will take no action against that employee. If, however, an investigation finds evidence that allegations have been raised for vexatious or malicious reasons, the College may take disciplinary action against the employee.

The College undertakes to protect employees against whom unfair, vexatious or malicious allegations have been made. Similarly, the College will seek to protect its own reputation and interests.

The College will treat all disclosures in a confidential and sensitive way. The identity of the person making the disclosure will initially be kept confidential. Depending on the nature of the investigation, it might, however, be impossible to keep the source of information confidential, and the person making the disclosure might need to provide a statement in order for the matter to be pursued effectively.

This policy encourages employees to put their names to any disclosures they make. Concerns expressed anonymously are much less powerful, but the College will consider and investigate them if they appear to be serious, credible and capable of being confirmed by other credible sources.

4. Procedures

4.1. Making a Disclosure

When deciding whether to make a disclosure, an employee may wish to seek advice from a trade union or professional body. Impartial external advice can also be obtained from the Employee Assistance Programme - PAM Assist who can help with personal and work related issues. The service helps individuals by providing emotional support through telephone and face to face counselling, as well as providing information and access to specialist advice. Tel: 0800 882 4102.

Any employee who wishes to raise a concern under this policy should contact the College's Designated Public Interest Disclosure Officer, who is the Secretary to the Board of Management. The Secretary is a professional adviser appointed by the Board of Management and is required to act in a fully independent way.

The Public Interest Disclosure Officer may be contacted confidentially by e-mail at: whistleblowing@glasgowkelvin.ac.uk . If an employee who wishes to raise a concern does not wish to use the College's systems to do so, the private email address for the Secretary to the Board of Management may be obtained in confidence from the Principal and Chief Executive's office, and there is no need for the employee to tell the Principal and Chief Executive's office the reasons for requesting the Secretary's private email contact details.

Disclosures should be made to the Secretary to the Board of Management on a private and confidential basis in writing by e-mail. Where possible, any documentary evidence in support of the information which the employee wishes to disclose should be included.

If an employee's concern relates to the activities or conduct of the Secretary to the Board of Management, the matters should be raised formally with the Chair of the Board of Management. If the concern involves the collective activities or conduct of the Chair of the Board and the Secretary, the matter should be raised with the College's appointed Internal Auditors. In either case, contact details may be obtained confidentially from the Principal and Chief Executive's office.

4.2. Decision to Investigate

On receipt of a disclosure, the Secretary to the Board of Management will:

- decide whether or not the matter should be treated under the terms of this Policy;
- decide whether or not there is a *prima facie* case to be investigated;
- decide whether an investigation should be conducted and what form such an investigation should take.

The Secretary to the Board of Management will acknowledge in writing receipt of the disclosure, and advise the person making the disclosure of his/her decision on whether or not to investigate the matter, the reasons for this decision, what form the investigation is likely to take, and the expected time scale. This communication should normally be made within 10 working days of receipt of the disclosure.

If the Secretary to the Board of Management decides that there is no case for an investigation under the Public Interest Disclosure policy, then he/she may advise the person making the disclosure to raise the concern more appropriately within the terms of the College's grievance or complaints procedures. In these circumstances, the Secretary will also advise the person making the disclosure that he/she has the right to repeat the disclosure to the Board Chair (or, if the disclosure refers to the actions of the Board Chair, to the Chair of the Audit and Risk Committee), who will make a final decision on an appropriate course of action based on the information made available, and will instruct the Secretary accordingly.

The Secretary to the Board of Management will inform the Chair of the Board of Management (or, if a disclosure refers to actions of the Board Chair, the Chair of the Audit and Risk Committee) as well as the SFC, of the existence and nature of any disclosure, and of the Secretary's decisions relating to any investigation.

4.3. Investigation

If the Secretary to the Board of Management decides that a concern raised by an employee is worthy of investigation in the public interest under the terms of this policy, he/she shall initiate an investigation.

Unless advised not to do so by the police or other external investigating authority, the Secretary will formally advise any person(s) named in the disclosure of the existence and nature of any allegation(s) made against them.

After consulting the Board Chair (or, if the disclosure refers to the actions of the Chair, the Chair of the Audit and Risk Committee) the Secretary will instigate one or more of the following actions:

- notify the Police if there is evidence that a criminal act has or may have been or might be committed;
- notify the College's Internal Auditors if there is evidence of fraud, financial misconduct or other related matters;
- establish an ad hoc committee of the Board of Management to conduct hearings to consider the matters of concern. This Committee shall normally comprise the Chair of the Audit and Risk Committee (acting as Chair), 3 other Board Members (excluding the Principal and Chief Executive, Staff Board members and Student members) and the Secretary to the Board of Management who would act in an advisory capacity. The ad hoc committee shall have the right to seek advice from external sources if required;
- make other appropriate arrangements to establish an independent or external investigation if internal conflicts of interest or other circumstances indicate that such action is appropriate;
- notify the Chief Executive of the Scottish Funding Council if appropriate to do so, or if the nature of the disclosure precludes all of the above actions.

If the investigation is to be conducted by an ad hoc committee of the Board, the Secretary will determine the terms of reference of the investigation and any other parameters or procedures to be followed, including timescale. The College will seek to conduct the investigation as sensitively and speedily as possible.

The Principal and Chief Executive shall normally be advised, in his/her capacity as Accounting Officer, of any allegation of financial impropriety, unless the allegations directly concern his/her own conduct or actions.

If a disclosure is of a sufficiently serious nature, the Principal and Chief Executive (or the Board Chair if the disclosure relates to the Principal and Chief Executive), acting after consultation with the Secretary to the Board of Management, may suspend any employee on full pay during the investigation in accordance with the College's Disciplinary Procedures. Any such suspension will be a neutral act and will not impute any presumption of wrongdoing.

4.4. Outcome of Investigation

The Secretary to the Board of Management will promptly inform the employee making the disclosure about the progress and outcome of the investigation, and what, if any, action is to be taken. Similarly, any person about whom a disclosure is made will be kept informed about the progress and outcome of the investigation.

The Secretary to the Board of Management will make a written report of the outcome of an investigation (whether conducted internally or by an external adviser or regulatory or funding body) to the Board's Executive Committee, or, if the matter relates to financial impropriety and the College's Internal Auditors have been involved, to the Audit and Risk Committee.

Once a report has been considered, the Executive Committee or Audit and Risk Committee shall decide what further action might be required. Such a decision might include initiating further investigations, use of the College's Disciplinary policy, or involving the police if criminal activity has been discovered or is suspected.

The outcome of any disclosure and investigation will be reported to the Board of Management as soon as possible after the matter is closed. Unless there are compelling reasons not to do so (such a decision being made by the Board after taking appropriate advice), reports on public interest disclosures will be matters of public record and placed in the public domain.

The College shall retain all documentation related to an investigation conducted under this Policy for a minimum of 3 years from the date of the conclusion of an investigation.

If no action is taken as a result of an investigation, the employee making the disclosure may, within 14 days of receipt of the notification from the Secretary to the Board of Management, submit a written request to the Board Chair (or, if the disclosure related to the Board Chair, to the Chair of the Audit and Risk Committee) that the decision be reviewed. The employee's request should explain why they are dissatisfied with the outcome of the investigation of their concern. The Chair will review the information considered by the investigation, the procedures that were followed, and the reasons for not taking any further action. The outcome of this will be either to confirm that no further action is required or to decide that further investigation is required in accordance with the procedures set out above.

5. External Disclosures

The aim of this policy is to provide a robust internal mechanism for reporting, investigating and remedying any malpractice. In most cases employees should not find it necessary to report their concerns outside the College.

However, the College recognises that in some limited circumstances an employee might not wish to raise the matter with either the Secretary to the Board of Management (the Designated Person) or the Board Chair, and it might be more appropriate to report concerns to an external body, for example the Scottish Funding Council, Office of the Scottish Charity Regulator, the Health and Safety Executive, Environment Agency, or the Public Standards Commissioner for Scotland.

Appendix

The Nine Principles of Public Life
(extracted from Model Code of Conduct for Board members of devolved public bodies)

Public Service
You have a duty to act in the interests of the public body of which you are a member and in accordance with the core tasks of that body.

Selflessness
You have a duty to take decisions solely in terms of public interest. You must not act in order to gain financial or other material benefit for yourself, family or friends.

Integrity
You must not place yourself under any financial, or other, obligation to any individual or organisation that might reasonably be thought to influence you in the performance of your duties.

Objectivity
You must make decisions solely on merit when carrying out public business.

Accountability and Stewardship
You are accountable for your decisions and actions to the public. You have a duty to consider issues on their merits, taking account of the views of others and must ensure that the public body uses its resources prudently and in accordance with the law.

Openness
You have a duty to be as open as possible about your decisions and actions, giving reasons for your decisions and restricting information only when the wider public interest clearly demands.

Honesty
You have a duty to act honestly. You must declare any private interests relating to your public duties and take steps to resolve any conflicts arising in a way that protects the public interest.

Leadership
You have a duty to promote and support these principles by leadership and example, to maintain and strengthen the public's trust and confidence in the integrity of the public body and its members in conducting public business.

Respect
You must respect fellow members of your public body and employees of the body and the role they play, treating them with courtesy at all times.