



**GRIMSBY INSTITUTE GROUP**

# **Public Interest Disclosure Policy**

## Change Control

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## Revision History

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V1	New	Unknown	Unknown
V2	Replacement	May 2012	Updated to reflect new legislation and ensure its meets the Committee on Standards in Public Life (Lord Nolan) Report.
V2.1	Replacement	19 September 2013	Format and Structure changes only to incorporate the Framework for the Development and Management of Strategies, Policies and Procedures

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## **1. Scope**

This policy applies to all employees of the Grimsby Institute Group (GIG), irrespective of the precise nature of the individual contractual relationship. It also extends to the employees of contractors who work at the GIG in the context of raising concerns about the behaviour of the staff of the GIG, but not about the contractor or the contractor's staff. In the latter cases, such matters shall be addressed by the contractor's own policy.

## **2. Introduction**

- 2.1 Members of staff are often the first to realise that there may be something seriously wrong within an organisation. They may, however, not express their concerns because they fear that speaking up would be disloyal to their colleagues or to the organisation. They may also fear harassment or victimisation. In these circumstances it may be easier to ignore the concern rather than report what may just be a suspicion of malpractice.
- 2.2 The GIG takes malpractice very seriously. We expect employees, and others, who have genuine and serious concerns about any aspect of the GIG's operations to come forward and voice these concerns.
- 2.3 This policy document makes it clear that staff may do so without fear of victimisation, subsequent discrimination, or disadvantage. This confidential reporting policy is intended to encourage and enable employees to raise serious concerns within the GIG, rather than ignoring a problem or "blowing the whistle" outside (see paragraphs 3.8, 3.10 below). However, nothing in this policy should be seen to encourage the deliberate lodging of false, vexatious or malicious complaints. It will remain the policy of the GIG to take appropriate action in such cases.
- 2.4 These procedures act in conjunction with other GIG policies and procedures, e.g. The Grievance Procedure, the Policy and Procedures on Fraud and Malpractice.
- 2.5 Our aim is to ensure that no person will be treated less favourably on the grounds of their protected characteristic or any other condition which cannot be shown to be wholly justified in relation to employment with the GIG or in delivering services to the community in all that we do.
- 2.6 We are committed to ensuring that equality, diversity, inclusion and human rights remain a key focus in the delivery of our learner-focussed approach to an effective and efficient service for everyone in North East Lincolnshire, Lincolnshire and North Yorkshire that the GIG serves.

### **3. The Public Interest Disclosure Act 1998**

- 3.1 The Public Interest Disclosure Act 1998 (widely referred to as the Whistleblowers' Act) came into force in 1999. The Act is summarised below.
- 3.2 The Act is intended to encourage employees to raise their concerns in a responsible way where there is a practice within an organisation which threatens the public interest.
- 3.3 If employees do raise such concerns, they will be protected from subsequent victimisation, provided that their case falls within the detailed criteria in the legislation.
- 3.4 The intention of the Act is that employees will raise their concerns internally. It strictly regulates the situations in which they may raise the matter externally.
- 3.5 Employees will only be protected if they make a qualifying disclosure which is an allegation of one of the relevant failures summarised below:
- That a criminal offence has been or is likely to be committed;
  - That a person has failed, is failing or is likely to fail to comply with a legal obligation to which she/he is subject;
  - That a miscarriage of justice has occurred, is occurring, or is likely to occur;
  - That the health and safety of any individual has been, is being, or is likely to be jeopardised;
  - That the environment has been, is being, or is likely to be damaged;
  - That information intending to show any matter falling within the above categories has been, is being, or is likely to be deliberately concealed.
- 3.6 In order to benefit from the protection against dismissal and/or victimisation, the employee must normally raise the matter in a prescribed way. It will not often be appropriate for the employee simply to disclose the matter externally. She/he must raise it internally first in most instances.
- 3.7 Initially the disclosure is protected in terms of remaining within the ambit of the Act only if made in good faith to the following persons:
- An employer or some other responsible person who has legal responsibility for the matter or whose conduct it relates to;
  - Some other person in accordance with the employer's procedure;
  - A legal advisor in the course of obtaining legal advice;
  - A Minister of the Crown where the employer is appointed by the Minister.

- 3.8 There are certain circumstances where an employee may be permitted to make the disclosure externally, but ordinarily such a disclosure will have to be to a person or regulatory body prescribed by an order made by the Secretary of State for these purposes e.g. the Health and Safety Executive.
- 3.9 In these circumstances the employee will be obliged to show that she/he reasonably believes the disclosure to be substantially true and that it is not made for personal gain.
- 3.10 In all other circumstances, unless the failure is of an exceptionally serious nature, the employee will not be entitled to disclose the failure externally with immunity unless she/he has already raised it internally, or with a prescribed regulatory body.

#### **4. Aims of the Grimsby Institute Group Policy**

- 4.1 This policy aims to:
- Encourage staff to feel confident in raising concerns and to question and act upon concerns about practice;
  - Provides avenues for staff to raise those concerns and receive feedback on any action taken;
  - Reassure staff that they will be protected from possible reprisals or victimisation if they have a reasonable belief that they have made a disclosure in good faith.
- 4.2 There are existing procedures in place to enable staff to lodge a grievance relating to their own employment or where they feel that they have been unfairly treated.
- 4.3 This confidential reporting policy is intended to cover major concerns that fall outside the scope of other procedures. These concerns include:
- Conduct which is an offence or a breach of the law;
  - Disclosures related to serious miscarriages of justice;
  - Health and Safety risks to staff, students and the public;
  - Damage to the environment;
  - The unauthorised use of public funds;
  - Possible fraud and corruption;
  - Other serious unethical conduct.
- 4.4 Thus, any serious concerns that amounts to any aspect of the GIG's operations, the conduct of its staff, officers and Governors, or others acting on behalf of the GIG, can be reported under these procedures. This could be something that:

- Falls below known standards or the standards to which you believe the GIG should subscribe;
- Is in breach of the Instrument and Articles of Governance, standing orders or agreed policies;
- amounts to improper conduct.

## **5. Initial Steps for Members of Staff**

5.1 If a member of staff is of the view that all internal informal and formal avenues have been exhausted or that no appropriate avenue exists to address the concern in question, a disclosure may be made to a member of the Senior Management Team (SMT) either verbally or in writing.

The SMT will invariably advise members of staff making disclosures of the protection afforded by this policy and will encourage them to submit written statements and to put their names to them. Concerns expressed verbally and/or anonymously are less powerful but may nevertheless be considered at the discretion of the SMT taking into account:

- the seriousness of the issues raised;
- the credibility of the concern
- the likelihood of confirming the allegation from alternative sources

5.2 The SMT will immediately inform the Principal unless they are the subject of the disclosure in which case the Clerk to the Corporation should be informed.

5.3 Although an employee making a disclosure will not be expected to prove the truth of any allegation, sufficient information should be contained in the disclosure to demonstrate that reasonable grounds for the allegation exist.

5.4 An employee wishing to make a disclosure has the right to seek the assistance of her/his trade union and has the right to be accompanied by a trade union representative or colleague, not involved in the area of the GIG activity to which the disclosure relates, during any subsequent investigation of the disclosure.

5.5 In all cases involving financial malpractice or impropriety, the Director of Finance should consider the application of the Fraud Policy and, at all events, act in close consultation with the Principal who is the Accounting Officer responsible for the GIG's public funding.

## **6. Initial Steps for Senior Post Holders**

6.1 If a Senior Post Holder (SPH) is of the view that all internal informal and formal avenues have been exhausted or that no appropriate avenue exists to

address the concern in question, a disclosure may be made to the Principal either verbally or in writing.

The Principal will invariably advise SPHs making disclosures of the protection afforded by this policy and will encourage them to submit written statements and to put their names to them. Concerns expressed verbally and/or anonymously are less powerful but may nevertheless be considered at the discretion of the Principal taking into account:

- the seriousness of the issues raised;
- the credibility of the concern
- the likelihood of confirming the allegation from alternative sources

- 6.2 The Principal will immediately inform the Clerk to the Corporation and Chair if they (the Principal) are the subject of the disclosure; or if both the Chair and Clerk are the subject of the disclosure, the Chair of the Audit committee should be informed.
- 6.3 Although a SPH making a disclosure will not be expected to prove the truth of any allegation, sufficient information should be contained in the disclosure to demonstrate that reasonable grounds for the allegation exist.
- 6.4 A SPH wishing to make a disclosure has the right to seek the assistance of her/his trade union and has the right to be accompanied by a trade union representative or colleague, not involved in the area of the GIG activity to which the disclosure relates, during any subsequent investigation of the disclosure.
- 6.5 In all cases involving financial malpractice or impropriety, the Principal should consider the application of the Fraud Policy and, at all events, act in close consultation with the Clerk to the Corporation and Chair of the Corporation. If the Principal is the subject of the disclosure the Clerk to the Corporation and Chair of the Corporation should be informed; or if both are subjects of the disclosure; the Chair of the Audit Committee should be informed.
- 6.6 In any case in which the Clerk to the Corporation is the subject of a disclosure or wishes to make one, disclosure should be made to the Principal. If the latter is also involved, disclosure should be made to the Chair of the Corporation. If both are involved the disclosure should be made to the Chair of the Audit Committee. In such circumstances, the person to whom the disclosure is made shall pursue this procedure acting in the role of Clerk to the Corporation as specified.

## 7. Process

- 7.1 All concerns will initially be treated confidentially and every effort will be made not to reveal the identity of the discloser who will not be required without his/her written consent to participate in any enquiry or investigation unless there are grounds to believe that s/he may have been involved in misconduct or malpractice.

It must be understood that the success of internal investigations, disciplinary proceedings and criminal prosecutions may be dependent on the willingness of disclosers to participate. In general the SMT or Clerk to the Corporation will not reveal the identity of the discloser without his/her permission unless:

- s/he is under legal obligation to do so
  - the information is already in the public domain
  - on a strictly confidential basis to his/her administrative assistant in the context of preparation of reports
  - on a strictly confidential basis to a professionally qualified lawyer for the purpose of obtaining advice
  - s/he forms the opinion that the disclosure is deliberately untrue, vexatious and/or malicious.
- 7.2 The Senior Manager or Clerk to the Corporation will acknowledge receipt of the disclosure, will consider the information contained within the disclosure and determine whether prima facie the disclosure properly falls for consideration within the terms of this policy and procedure, or whether the matter should more appropriately be considered through other existing approved procedures.
- 7.3 Having determined that the matter disclosed is properly a matter for consideration within this policy and procedure, the Senior Manager or Clerk to the Corporation shall determine whether to:
- Call for the matter to be investigated internally;
  - Refer the matter to the Police;
  - Call for an independent enquiry.
  - In some cases a matter disclosed might be dealt with by agreed action without the need for further investigation. (In determining the above, the Senior Manager or Clerk to the Corporation shall take such advice or consult with senior colleagues as may be necessary.)
- 7.4 If a disclosure is to be referred to the Police, the Grimsby Institute Group will co-operate fully with the Police in the course of Police enquiries and any action under these procedures will be suspended pending the completion of the Police enquiries.

- 7.5 If a disclosure is to be referred to an independent enquiry, internal investigation other than as part of such enquiry will normally be suspended, pending completion of such independent enquiry.
- 7.6 If a disclosure is to be the subject of internal investigation, the Senior Manager or Clerk to the Corporation will determine who should undertake the investigation and its terms of reference. Internal Audit would normally be instructed to investigate disclosures relating to financial malpractice or impropriety and in all cases of alleged fraud the Fraud Policy should replace this procedure unless the Director of Finance is involved.

In other cases the investigation should be carried out by a senior member of staff independent of the area in which malpractice or impropriety is alleged to have occurred. In all cases no one having any part to play in reaching a decision on any matter raised through disclosure shall take any part in investigating matters contained in the disclosure.

## **8. Initial Action and Feedback**

- 8.1 The Senior Manager or Clerk to the Corporation will, as soon as is reasonably practicable, inform the employee making the disclosure what action, if any, is to be taken.
- 8.2 If no action is to be taken, the Senior Manager or Clerk to the Corporation or whoever has assumed that role in accordance with the procedures will inform the person making the disclosure of the reason in writing.

If the disclosure was made by a Senior Post Holder they may request the Clerk to the Corporation (or the Chair of the Corporation or Chair of the Audit Committee if the subject of the disclosure is financial malpractice or impropriety) to review the disclosure and the reasons given for not taking further action.

The Clerk to the Corporation (Chair of the Corporation or of the Audit Committee, as the case may be), whose decision will be final, will either confirm the decision that no further action be taken, or determine what further action is to be taken and through what process.

- 8.3 Where a decision is made to conduct an internal investigation into a disclosure, the person against whom the disclosure is made shall be provided with a copy of the disclosure and any evidence supporting it by the Senior Manager or Clerk to the Corporation and shall have the opportunity to make a full response to the disclosure during the course of the investigation.

No investigation shall be concluded or action taken without the person against whom the disclosure is made having had a copy of the disclosure and

any evidence supporting it, and an opportunity to make a full response to the disclosure. Normal rights of representation will apply to all parties during the course of such internal enquiries. In cases where the person against whom the enquiry is made is at potential risk of criminal prosecution, the right to professional legal representation will apply.

- 8.4 In the event of a decision to call for an independent enquiry, the person against whom the allegation is made will be provided with a copy of the disclosure and any evidence supporting it by the Senior Manager or Clerk to the Corporation.
- 8.5 In the event of a decision to refer the matter directly to the Police, the provision of a copy of the disclosure and any evidence in support of it to the person against whom the allegation is made, will be at the absolute discretion of the Police.

## **9. Subsequent Action**

Upon completion of an internal investigation, a written report will be submitted by the Senior Manager to the Principal who will determine what action, if any, should be taken in the circumstances. This might include the invoking of other approved GIG procedures such as Disciplinary, Grievance or Complaint and Harassment procedures, or reference to an appropriate external authority.

In any circumstance whereby the Principal is identified as a party directly involved in the concern expressed by the discloser, a written report will be submitted by the Clerk to the Corporation to the Chair of the Corporation. Where the Principal and the Chair of the Corporation are both involved the report will be submitted to the Chair of the Audit Committee.

## **10. Reporting of Outcomes**

A report of all disclosures, preserving confidentiality where appropriate, and any subsequent action will be made by the Principal or Clerk to the Corporation to the Audit Committee, which will have the responsibility for the maintenance of oversight of this policy and procedure.

## **11. Protection of Involved Parties**

- 11.1 The GIG recognises that the decision to make a disclosure can be a difficult one. However if this is done in good faith and is based on genuine belief of malpractice, staff have nothing to fear. They will be acting in a manner which is consistent with their duty to the GIG and the public. In such circumstances the GIG will neither initiate nor tolerate harassment or victimisation of

disclosers and will invoke disciplinary procedures against those who might react in this way.

- 11.2 Conversely the GIG has an obligation to protect its staff and other parties from deliberately untrue, vexatious and/or malicious disclosures. Where there are reasonable grounds to believe that this is the case or where an external disclosure is made in breach of these procedures without reasonable grounds or otherwise than to an appropriate regulatory body, the GIG reserves the right to initiate disciplinary procedures.

## **12. Conclusion**

The capacity of this policy to provide an effective vehicle for the expression of serious concerns about malpractice within the GIG will be negated if it is used as a vehicle for the expression of petty, frivolous or vexatious concerns or to address issues which could more effectively be addressed by informal discussion or through formal procedures already in existence.

To the extent that the policy exists for their protection, staff are requested to use it in a responsible manner for appropriate concerns.

## **13. Review**

This policy will be reviewed every three years.

## **14. Monitoring Equality Analysis**

- 14.1 The general duty requires us to analyse the effects of our organisation's functions including policies, procedures and practices on all groups. We recognise that we will not be meeting the duty unless we have enough usable information.
- 14.2 Analysis of the effects on equality (the due regard element) is intended to help us focus more attention on the quality of the analysis and how it enables us to ensure decisions are made that take account of the general duty.
- 14.3 Review of data will be carried out yearly to ascertain if we are reaching our equality outcomes and highlight any gaps in service provision.