South Lanarkshire College

Public Interest Disclosure (Whistleblowing)

Policy and Procedure

Document Information

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Version Number	Date	Author	Rationale
1.0	4 October 2022	G McIntosh	Create a Policy and Procedure
2.0	May 2026	V Anderson	Update legislation and condense procedure

Quick Links

We are inclusive and diverse, and this is one of our values.

We are committed to the FREDIE principles of Fairness, Respect, Equality, Diversity, Inclusion and Engagement.

To find out more about FREDIE click HERE (link to be added)

To find out more about our Vision, Mission and Values click HERE (link to be added)

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1. Introduction

1.1 South Lanarkshire College (the "College") is committed to the highest standards of openness, integrity and accountability. It seeks to conduct its affairs in a responsible manner taking into account the requirements of the Scottish Government, Scottish Funding Council, the Nolan Principles and the Nine Principles of Public Life in Scotland (a statement of these principles is contained in Appendix A).

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.

1.4 The Employment Rights Act 2025 further amends the Employment Rights Act 1996 to make disclosures that sexual harassment has occurred, is occurring or is likely to occur, a qualifying disclosure from 6 April 2026.

2. Purpose and Aims

2.1 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 they believe shows malpractice or wrongdoing within the organisation, then employee should be confident that they can '*blow the whistle'* without fear of reprisal, and, if appropriate, can do so independently of line management. The Policy and associated Procedure should be available to all employees, and employees should feel confident to use them.

3. Who this Policy applies to

3.1 This Policy applies to:

3.1.1 All employees and workers as protected under the Employment Rights Act 1996 ("ERA 1996"); and

3.1.2 Other classes of individuals including students, learners, partner organisations and members of the Board of Management of the College. It should be noted that Board Members are also charity trustees and any reference to Board Members in College policy and procedure documents also refers to that role.

4. Scope of the Policy

4.1 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.

4.2 Several policies and procedures are already in place relating to grievance, discipline, complaints and malpractice etc. This policy is intended to cover concerns which are in the public interest and are not appropriately dealt with under the College and Board's existing policies. Investigation under this policy may lead to the invocation of such other policies and procedures.

4.3 In most situations, reporting concerns direct to line managers will be sufficient to prevent malpractice. In situations where this is not appropriate, employees need a way to report concerns independently of line management where there are concerns line management will not take their concerns seriously or may be involved in malpractice themselves.

4.4 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.

4.5 Under the ERA 1996, a "qualifying disclosure" means any disclosure of information which, in the reasonable belief of the worker making the disclosure, is made in the public interest and tends to show one or more of the following:

4.5.1 that a criminal office has been committed, is being committed or is likely to be committed;

4.5.2 that a person has failed, is failing or is likely to fail to comply with any legal obligation to which he is subject;

4.5.3 that a miscarriage of justice has occurred, is occurring or is likely to occur;

4.5.4 that the health or safety of any individual has been, or is being or is likely to be endangered;

4.5.5 that the environment has been, is being or is likely to be damaged;

4.5.6 that information tending to show any matter falling within any one of the preceding paragraphs has been, is being or is likely to be deliberately concealed; or

4.5.7 that sexual harassment has occurred, is occurring or is likely to occur.

4.5.8

4.6 Some examples which may be considered a qualifying disclosure under the ERA 1996 might include, but are not limited to :

- Financial irregularities, malpractice, impropriety or fraud.
- Failure to comply with Board'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.
- Breaches of contract.
- Negligence;
- Corruption;

- 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
- Academic or professional malpractice.
- Improper conduct or unethical behaviours/practices
- Sexual harassment
- Attempts to conceal any of the above.

5. Definitions and Responsibilities

5.1 The 'Whistleblower' is the person disclosing information in the public interest.

5.2 The 'Designated Person' is the person within the College to whom any such disclosure should be submitted. The Designated Person is independent of college staff and manages all matters with impartiality, confidentiality, and professional discretion. 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, as per the procedure.

5.3 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.

6. Confidentiality and Anonymous Allegations

6.1 The College will treat all disclosures in a confidential and sensitive manner. 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.

6.2 This policy encourages employees to put their names to any disclosures they make. If an employee raises a concern anonymously, proper investigation may be more difficult or impossible as further information cannot be obtained. It may also be more difficult to establish whether any allegations are credible. Disclosures expressed anonymously will only be considered at the discretion of the College. In exercising this discretion, the factors to be considered will include:

- Seriousness of the issues raised;
- Credibility of concern; and
- Likelihood of confirming the allegation from attributable sources

7. Allegations Not Supported

7.1 Allegations must contain information which shows or tends to show a qualifying disclosure. A whistleblower does not have to prove that the facts of the disclosure are true. As long as the employee 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 incorrect, or that the facts alleged don't support a relevant breach in law. The College undertakes to protect employees who make disclosures that they reasonably believe to be true or correct.

8. Procedure

The following sections detail the Public Interest Disclosure (Whistleblowing) procedural steps.

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

8.2 Any employee who wishes to raise a concern under this policy should make the disclosure to the Designated Person, who is the Governance Professional, who should immediately inform the Chair of the Board of Management and the Principal, unless requested not to do so. Disclosures should be made on a private and confidential basis in writing by e-mail or alternatively in person. Where possible, any documentary evidence in support of the information which the employee wishes to disclose should be included. The Governance Professional is located in room 361 within the Principalship.

8.3 In the event that the Governance Professional is unavailable, concerns under this policy should be made to the Senior Independent Member of the Board of Management. Contact details for the Governance Professional and Senior Independent Member can be found on the South Lanarkshire College website under 'Our Board'.

8.4 If an employee's concern relates to the activities or conduct of:

- The Governance Professional, the matter should be raised formally with the Chair of the Board of Management.
- The Chair of the Board, the matter should be raised with the Chair of the Audit and Risk Committee.
- If the concern involves the collective activities or conduct of the Chair of the Board and the Governance Professional, the matter should be raised with the College's appointed Internal Auditors, Henderson Loggie. In either case, contact details may be obtained confidentially from the Principal and Chief Executive's office.

8.5 **Process**

8.6 The Designated Person will acknowledge in writing receipt of the disclosure and advise the person making the disclosure of the decision on whether or not the matter will be investigated, the reason for the decision, what format any investigation will take and the expected time scale. This communication should normally be made within 10 College working days of receipt of the disclosure.

8.7 The Designated Person will, in consultation with the Vice Chair, consider the information available and determine whether:

- To investigate the matter internally;
- To refer the matter to the police;
- To appoint an independent external investigator ; or
- That no action is to be taken

8.8 If the Designated Person and the Vice Chair decide that a concern raised by an employee is to be investigated in the public interest under the terms of this policy, he/she/they shall initiate an investigation.

8.9 **Internal Investigation**

Where the matter is subject of an internal investigation, the Designated Person, in consultation with the Vice Chair, will consider how to conduct the inquiry. This consideration will include determining:

- Who should undertake the investigation;
- The procedure to be followed; and
- The scope of the concluding report.

8.10 **External Investigation**

The Designated Person, taking into consideration the nature and complexity of the disclosure and the role of anyone who may require to take part in the investigation, will have the ability to appoint an independent external person to undertake an investigation. They will report their findings to the Designated Person.

8.11 On receipt of the investigation, the Designated Person may instigate one or more of the following actions:

- Notify Police Scotland, if there is evidence that a criminal act has or may have been committed;
- Notify the College Internal Auditors, if there is evidence of fraud, financial misconduct or other related matters;
- Notify Human Resources who may invoke internal procedures including Disciplinary, Grievance proceedings;

- Make arrangements to establish an independent or external investigation if internal conflicts of interest or other circumstances indicate that such action is appropriate; and
- Notify the Chief Executive of the Scottish Funding Council, if appropriate to do so, or if the nature of the disclosure precludes all the above actions.

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

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

9. Feedback and Reporting Outcomes

9.1 The Designated Person will inform the employee making the disclosure of what action, if any, is to be taken, subject to the requirements of confidentiality.

9.2 If the Designated Person and Vice Chair decides that there will be no investigation going forward, then the individual concerned should be informed of the reason of this and allowed the opportunity to resubmit the disclosure to either the Board Chair or the Senior Independent Board Member, provided that they have not previously been involved in the decision making process. They will consider the information, the procedure followed and the reason for not taking further action. The outcome of this review may be one of the following:

- To confirm that no further action is required; or
- That further investigation is required and will follow the policy's procedures.

9.3 If an investigation has been conducted, the Designated Person will produce a written report to the Chairs Committee of the Board, or, if the matter relates to financial impropriety and the College's Internal Auditors have been involved, to the Audit and Risk Committee.

9.4 Once the report has been considered, the appropriate Committee shall decide what further action might be required. Such a decision might include initiating further investigations, invoking the College Disciplinary Procedure, or involving Police Scotland, if criminal activity has been discovered or is suspected.

9.5 If no action is taken as a result of an investigation, the employee making the disclosure may, within 14 working days of receipt of the notification from the Designated Person, submit a written request to the Board Chair or Senior Independent Board Member (or if the disclosure is related to the Board Chair, to the Chair of the Audit and Risk Committee) for the decision to be reviewed, provided that they have not previously been involved in the decision making process The employee's request should explain why they are dissatisfied with the outcome of the investigation. The Board Chair or Senior Independent Board

Member will review all available information considered by the investigation, the procedures that were followed, and the reasons for not taking further action. The outcome of this will be either to confirm that no further action is required, or to determine what further action should take place.

9.6 The outcome of any disclosure and investigation will be reported to the Audit and Risk Committee as soon as possible after the matter is closed as a means of allowing the Committee to monitor the effectiveness of the procedure. Unless there are compelling reasons not to, reports of public interest disclosures will be matters of public record.

9.7 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 the investigation.

10. External Disclosures

10.1 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. The College recognises that in some limited circumstances an employee might not with to raise the matter with the Designated Person or the Board Chair and it might be more appropriate to pass the matter to an external body as appropriate, for example:

- College External Auditors;
- Health and Safety Executive;
- Scottish Government;
- Member of the Scottish Parliament (MSP)
- Scottish Public Services Ombudsman (SPSO)
- Police Scotland)
- Scottish Funding Council

Appendix 1 – 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.

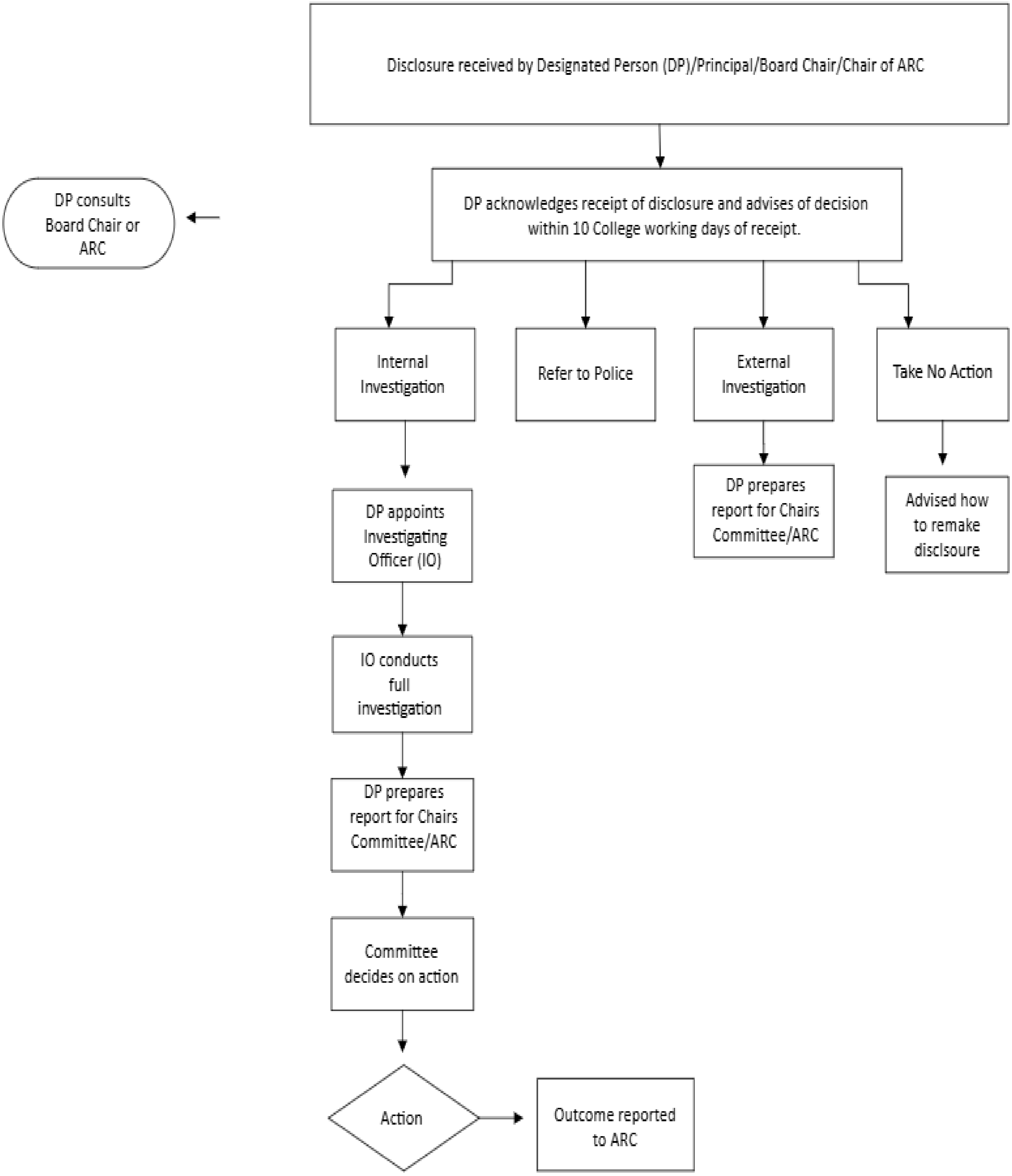
Respect
You must respect fellow members of your public body and employees of the body and the role they play, treating them with courtesy at all times.

Appendix 2 – Useful Websites

Protect - Speak up stop harm - Whistleblowing Homepage

[Citizens Advice]

[PAM Assist]


Disclosure received by Designated Person (DP)/Principal/Board Chair/Chair of ARC
DP acknowledges receipt of disclosure and advises of decision within 10 College working days of receipt.
DP consults Board Chair or ARC
Internal Investigation
Refer to Police
External Investigation
Take No Action
DP appoints Investigating Officer (IO)
DP prepares report for Chairs Committee/ARC
Advised how to remake disclsoure
IO conducts full investigation
DP prepares report for Chairs Committee/ARC
Committee decides on action
Action
Outcome reported to ARC