

PUBLIC INTEREST DISCLOSURE BY STUDENTS

Purpose and scope

- 1.1. This section of the Consolidated Academic Policies and Regulations (CAPR) explains how the College will deal with student concerns about serious malpractice; and how a student may report their concerns to anyone external to the College (whistleblowing by students).
- 1.2. This policy applies to all current students or past students until three (3) months after graduating from the College, and to any concern raised on or after 1 June 2017 regardless of the date of the event giving rise to the concern.
- 1.3. This policy does not apply to past or current staff; other bodies or people working with or for the College (including partners or external examiners). Where appropriate, they must use the policies or regulations about partnerships, external examining or public interest disclosures as the case may be.
- 1.4. This policy does not apply to individual or group student concerns about:
 - a) GSM London Students' Union;
 - b) delivery or provision of their programme or assessments;
 - c) the College's relationship with a particular student or group of students;
 - d) facilities, staffing or resources for their programme or assessments;
 - e) matters that are or have been the subject of an employee public interest disclosure, criminal investigation or legal proceedings; or
 - f) matters that have been or should more appropriately be raised under another College regulation or policy.

NOTE: This policy does not provide an appeal route for disciplinary, academic misconduct, or assessment and examination matters. It only refers to the disclosure of serious malpractice to a body outside the College. All other matters will be dealt with under the Student Concerns and Complaints Policy.

Definitions

- 1.5. In this policy, 'malpractice' means any of the following:
 - a) Fraud or financial irregularity.
 - b) Corruption, bribery or blackmail.
 - c) Criminal offences.
 - d) Failure to comply with a legal or regulatory obligation.
 - e) Miscarriage of justice.

- f) Endangering the health or safety of an individual.
- g) Endangering the environment.
- h) Improper use of authority.
- i) Serious financial administrative fault arising from deliberate improper conduct.
- j) Research misconduct.

Introduction

Overview

- 1.6. The College aims to promote a culture of openness and a shared sense of integrity by inviting all employees and students to act responsibly and with good faith to uphold the College's reputation and maintain public confidence.
- 1.7. Students may be the first to realise there is something wrong in the College. Therefore, the College encourages students to raise genuine concerns about malpractice as soon as they reasonably can.

Principles

- 1.8. The College recognises that students may feel they should suppress their concerns rather than report what may be a reasonable suspicion of malpractice out of loyalty to peers or tutors, or fear of harassment or victimisation.
- 1.9. Therefore, this policy aims to provide a quick way for students to raise concerns internally and, if necessary, externally, without fear of harm to themselves, while balancing the need to protect other students, staff members, members of the Board of Directors, and the College against uninformed or vexatious allegations
- 1.10. To ensure this, in dealing with any concern, College staff are expected to:
 - a) treat anyone raising a concern with trust and respect;
 - b) treat the matter seriously, in good faith and with due confidentiality;
 - c) recognise that other members of the College may need to be consulted to resolve the matter;
 - d) ensure that all stakeholders are fully informed on the consequences of any remedy; and
 - e) seek as swift and as full a remedy as is reasonably practicable.

1.11. However, to protect the College and its members the College will not normally consider concerns that:

- a) are made anonymously or on behalf of someone else;
- b) have already been investigated and disposed of;
- c) are made without disclosing adequate grounds; or
- d) are malicious, vexatious or frivolous.

Safeguards for students with reasonable belief of malpractice

1.12. To safeguard any student making a good faith disclosure (the 'whistleblower'):

1.12.1. any investigatory notes, documents, report or recommendation by the Senior Officer about the matter will not, as far as practicable, identify the whistleblower;

1.12.2. any documents (including computer files and disks) kept by the Senior Officer about the matter will be held securely, and as far as reasonably possible only the Senior Officer and their administrative assistant will have access to them; and

1.12.3. the Senior Officer will not reveal the whistleblower's identity to anyone except on a strictly confidential basis to the Senior Officer's administrative assistant or to a qualified lawyer for the purpose of obtaining legal advice, unless:

- a) the person making the disclosure consents in writing;
- b) there are grounds for believing the whistleblower has acted maliciously;
- c) the Senior Officer is legally obliged to do so;
- d) the information and identity of the whistleblower are already in the public domain;
- e) the Senior Officer thinks there may be imminent danger of physical harm to an individual or group; or
- f) it is essential to do so to deal appropriately with the matter.

1.13. The College may not (and will make all reasonable efforts to ensure its employees do not) cause any harm to the whistleblower because they have made a disclosure. This will not prevent the College bringing disciplinary action:

- a) if the whistleblower acts maliciously or vexatiously in making the disclosure;
- b) if the whistleblower makes an external disclosure in breach of this procedure except on reasonable grounds or to an appropriate public authority; or
- c) on matters not related to the disclosure as approved by the Senior Officer.

1.14. The whistleblower should report any complaints of harmful treatment to the Senior Officer. If they wish the Senior Officer to take action on such complaints, the College may ask them to give written consent to the Senior Officer revealing their identity for the purposes of such action.

Overview

1.15. The process for public disclosure by a student (whistleblowing) contains two (2) stages:

Stage 1 – Initial disclosure and the internal investigation.

Stage 2 – External disclosure.

Stage 1 – Initial disclosure and the internal investigation

1.16. As soon as they reasonably can, the whistleblower should disclose in confidence why they think there has been malpractice. They should do so to a Senior Officer at the College.

1.17. The disclosure to a Senior Officer must, wherever possible, be in writing. The whistleblower should provide as much supporting written evidence as possible about the reasons for their belief of malpractice.

1.18. A Senior Officer may decline to become involved if they have reasonable grounds, including:

- a) previous involvement or interest in the matter;
- b) incapacity or unavailability; or

- c) being satisfied, after consulting the Chief Executive Officer or Chair of the Board of Directors, that another Senior Officer would be more suitable to consider the matter.

1.19. On receiving the disclosure, the Senior Officer will offer to interview the whistleblower in confidence. The interview will take place as soon as it reasonably can after the initial disclosure.

1.20. The purpose of the interview is for the Senior Officer to obtain as much information as possible about why the whistleblower thinks there has been malpractice and to ask them what they think should be done.

1.21. In line with the guidelines on representation, the whistleblower may be accompanied. If so, they must do their best to ensure that the person accompanying them keeps the matter strictly confidential except, as permitted under this policy, as required by law or until it comes into the public domain.

1.22. The Senior Officer may be accompanied by an administrative assistant to take notes. The notes will not identify the whistleblower.

1.23. As soon as the Senior Officer reasonably can after the interview (or after the initial disclosure if no interview takes place), the Senior Officer will decide how all further investigations will take place. They have the right to call for papers, take evidence, examine witnesses and make such other enquiries as they see fit and as are necessary to establish what action is required on the matter.

1.24. Without their consent, the College may not require the whistleblower to take part in any enquiry or investigation into the matter unless there is reason to think they were involved in the malpractice.

1.25. If the whistleblower takes part in any such enquiry or investigation, this must normally be on an open rather than a confidential basis. However, the Senior Officer's obligations will remain as regards not revealing who has made the disclosure.

1.26. The Senior Officer must normally seek to complete the investigations and give conclusions and recommendations in writing to the whistleblower and the Chief Executive Officer¹, within ten (10) working days of receiving the request. Any delay in this timescale will be communicated to all parties before the deadline, with reasons for the delay.

1.27. Recommendations may include one (1) or more of the following:

- a) that the matter be investigated internally by the College's external or internal auditors, and other investigators appointed by the College;
- b) that the College's disciplinary procedures be used;
- c) that a staff member or a student be given the opportunity to seek redress through the College's grievance or complaints procedures;
- d) that the matter be reported to the police; or
- e) that the matter be reported to the Higher Education Funding Council for England (HEFCE); the Department for Business, Innovation and Skills; the National Audit Office; or other suitable public authority.

1.28. The reasons the Senior Officer may recommend that the College take no further action are as follows:

- a) That the Senior Officer is satisfied that the whistleblower lacks a reasonable belief that malpractice has occurred, is occurring or is likely to occur.
- b) That the Senior Officer is satisfied that the whistleblower is not acting in good faith.
- c) That the matter concerned is already the subject of legal proceedings, or has already been referred to the police, HEFCE or other public authority.
- d) That the matter is already (or has already been) the subject of appropriate proceedings under one (1) of the College's other regulations or policies.

1.29. The Chief Executive Officer (or other person) receiving the recommendations will take all steps within their power to ensure they are implemented, except as far as they think there are good reasons for not doing so.

¹ Unless the whistleblower alleges that the Chief Executive Officer is involved in the malpractice or there are other reasonable grounds for not doing so. . In such cases the recommendations will be made to the Chair of the Board of Directors.

1.30.If the Chief Executive Officer (or other person) decides not to implement the recommendations, they will notify the Chair of Board of Directors in writing as soon as they reasonably can, along with the reasons.

1.31.When the Chief Executive Officer (or other person) has decided what further action (if any) should be taken, the Senior Officer will inform the whistleblower. If the College decides not to take any further action, the Senior Officer will explain why.

Stage 2 – External disclosure

1.32.If, having followed the process in this regulation, the whistleblower is not satisfied with the action or inaction decided upon, and its outcome, they may raise the matter on a confidential basis directly with the police, the HEFCE, the Department for Business, Innovation and Skills, a Member of Parliament or other appropriate public authority. Before doing so, the whistleblower must inform the Senior Officer.

1.33.The whistleblower may also raise the matter externally if they have reasonable grounds for believing they will suffer harm as a result of making the disclosure, or that all the available Senior Officers are or were involved in the malpractice. In this case, they should not inform the Senior Officer.

1.34.At any time, the whistleblower may disclose the matter on a confidential basis to a qualified lawyer for the purpose of taking legal advice.

Advice and support

1.35.Advice for students on public interest disclosure, and associated lower-level College rules, is available from any Senior Officer of the College or the GSM London Students' Union (gmsuadvicecentre@gsm london.ac.uk). More complex questions may be referred to appropriate individuals.

1.36.Advice for staff on student public interest disclosure and associated lower-level College rules is available from any Senior Officer of the College.

1.37. Any staff development needs identified may be discussed with members of the Staff and Educational Development or Human Resources team.

Fees

1.38. No additional fees or charges are associated with this policy.

1.39. The College is not liable for financial or other consequences arising from action under this policy.

Legal and regulatory context

1.40. Students are not College employees so their disclosures are not regarded as qualifying disclosures under the *Public Interest Disclosure Act 1998* or the *Employment Rights Act 1996*. Therefore, whistleblowers are not given legal protection by the Act. However, the College will pay regard to the principles in the Act and will implement its spirit as far as is practicable.

1.41. The College may not be bound by the principles in 2.40 and this policy alone may not provide the procedure to meet all of these principles, some of which may be met by other College policies and procedures. It uses the principles as guidance only, to help it deal soundly with these matters.

Enforcement, monitoring and review

1.42. If any person or body in the College refuses to comply with a request or decision taken under this policy, their refusal must be reported to the Chair of the Board of Directors, who will take such action to enforce this policy as they think necessary.

1.43. Each year, the College must receive a report that enables it to monitor, identify and act on any shortfalls in how this policy is interpreted and applied.

1.44. The annual report must include statistical data on the number of cases at each stage; the outcomes, Departments and programmes from which they originate; the length of the process; and the equality characteristics (including sex, disability and ethnicity) of parties to the cases.

- 1.45. Every five (5) years, the College must review this policy to ensure that:
- a) it remains up to date and continues to meet the expectations of UK Quality Code and relevant legislation;
 - b) areas for improvement or any concerns raised by member of the academic community have been addressed; and
 - c) opportunities to reduce unnecessary bureaucracy have been taken.

Schedule (not part of the policies and regulations)

Responsible Officer: Chief Executive Officer

Approved by: Board of Directors and Academic Board

Version: 1.0

Date: 1 June 2017

Monitoring and Review Body: Academic Regulations and Awards Committee

Effective From: 1 June 2017

Next Scheduled Review: Oct 2020