



Council
16 November 2022
Review of the Whistleblowing Policy

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| Classification | Public |
| Purpose | For decision |
| Issue | This paper invites Council to agree to the proposed amendments to the Whistleblowing Policy following a review. |
| Recommendation | To agree the amended Whistleblowing Policy. |
| Financial and resourcing implications | Within existing budget |
| Equality and diversity implications | Ongoing monitoring of equality and diversity trends form part of the Regulation department's future quality assurance framework. |
| Communications implications | The amended Whistleblowing Policy will be published on GOsC's website. |
| Annex | A: Draft Whistleblowing Policy 2022 B: GOsC Whistleblowing Policy 2014 |
| Author | Sheleen McCormack |

Key messages from paper

- The GOsC has a Whistleblowing Policy which has been in place since 2014.
- We have conducted a general review of our Whistleblowing Policy and have made practical changes to the policy in terms of structure to improve its accessibility for those seeking to raise a concern with the GOsC.
- Changes include:
 - setting out the criteria that must be met for a concern to amount to a qualifying disclosure
 - Addition of a section on help for whistleblowers
 - General updating, for example, the addition of the requirement that GOsC, is required to publish an annual report on the whistleblowing disclosures.
- Given the amendments to the policy are predominantly focussed on restructuring existing information we have not proposed that a consultation is required.

Background

1. The Public Interest Disclosure Act 1998 (PIDA) was introduced to protect whistleblowers from negative treatment or unfair dismissal. To qualify in law as a whistleblower, the concern needs to amount to a 'qualifying disclosure'. This requires the disclosure to meet certain criteria. GOsC is a prescribed body to which protected disclosures under 'whistleblowing' legislation can be made in respect of the following:

'Matters relating to-

(a) the registration and fitness to practise of a member of a profession regulated by the Council; and

(b) any activities not covered by (a) in relation to which the Council has functions.'

2. These functions include the approval of courses at osteopathic educational institutions, GOsC's Standards and those wishing to gain registration as an osteopath.
3. To qualify in law as a whistleblower, the disclosure must meet all of the following criteria:
 - The person raising the concern must be a 'worker', someone who works or worked under a contract. This includes employees, agency workers, trainees, volunteers and students.

- The person raising the concern must reasonably believe they are acting in the public interest.
 - The person raising the concern must reasonably believe that the concern shows past, present or likely future wrongdoing in one or more of the following categories:
 - that a criminal offence has been committed, is being committed or is likely to be committed. This may be within or outside the UK.
 - that a person has failed, is failing or is likely to fail to comply with a legal obligation.
 - that a miscarriage of justice has occurred, is occurring or is likely to occur.
 - that the health or safety of any individual has been, is being or is likely to be endangered.
 - that the environment has been, is being or is likely to be damaged.
 - that information showing one or more of these criteria has been, is being or is likely to be deliberately concealed.
 - The person raising the concern must reasonably believe that the matter falls within GOsC's regulatory remit (as detailed in paragraph 1 above).
 - The person raising the concern must reasonably believe that the information they disclose is substantially true.
4. The current GOsC Whistleblowing Policy was approved by Council in May 2014, following a period of public consultation.
 5. Since April 2017, the GOsC, along with the seven other healthcare professional regulators is required to publish an annual report on the whistleblowing disclosures made to us by workers. A copy of the 2021 report can be read here: <https://www.osteopathy.org.uk/about-us/our-work/handling-whistleblowing-concerns-policy/>
 6. The aim of this duty is to increase transparency in the way that whistleblowing disclosures are dealt with and to raise confidence among whistleblowers that their disclosures are taken seriously.

Discussion

7. The length of time since the Whistleblowing Policy has been reviewed together with the recent changes in reporting has prompted a review of our Whistleblowing Handling Concerns Policy to ensure its relevance and accessibility. This activity is contained in the GOsC Business Plan for 2022-23.

8. We conducted a literature review of materials and policies of the other healthcare regulators and identified some amendments to our approach. The main changes to the Whistleblowing Policy include:
- Restructuring the layout and flow to make it practical and enhancing accessibility for those seeking to raise a whistleblowing concern (for example setting out the criteria that must be met for a concern to amount to a qualifying disclosure).
 - Removing the tables setting out details of other organisations to contact (these will be placed on the dedicated page on the GOsC website which have the flexibility to be updated regularly) but retaining a section on sources of further advice.
 - Addition of a section on help for whistleblowers.
 - Removing the annex which contained key points relating to whistleblowing legislation.
 - General updating, for example, the addition of the requirement that GOsC is required to publish an annual report on the whistleblowing disclosures.
9. Given the amendments to the policy are in substance presentational, a consultation is not required.

Policy Education Committee

10. At the meeting in June 2022, the Policy and Education Committee (PEC) considered the revised Whistleblowing Policy where we invited feedback on the new layout and content. The PEC reviewed the guidance and their comments have been incorporated into the version presented to Council being a minor amendment to the wording relating to the Independent Support Service.
11. We set out at Annex A the amended Whistleblowing Policy 2022 and at Annex B the original Whistleblowing Policy 2014.

Recommendation: To agree the amended Whistleblowing Policy.