

Whistleblowing Policy – Draft for consultation: June 2014

1. Introduction and definitions

- 1.1 Whistleblowing is the raising of a concern, either within the workplace or externally, about a danger, risk, malpractice or wrongdoing which affects others.¹
- 1.2 In the UK, 'whistleblowers' are protected by legislation: the *Public interest Disclosure Act 1998* (as amended by *the Enterprise and Regulatory Reform Act 2013*) (PIDA).
- 1.3 This legislation primarily applies to employees and not to people who are self-employed. So for example, you are covered by the legislation if you are an osteopath working in the NHS, a receptionist or other member of staff employed by an osteopathic practice, or are employed by an osteopathic educational institution.
- 1.4 Under the legislation, the General Osteopathic Council (GOsC) is one of the bodies to which whistleblowing concerns can be reported. The legal protection in relation to the GOsC's functions applies whether or not the whistleblower is an osteopath.
- 1.5 More information about whistleblowing legislation is set out in the annex to this policy.

2. Purpose of this policy

- 2.1 We recognise that raising concerns can be difficult. If you are an employee, and are thinking about raising concerns with the GOsC, this policy will explain:
 - a. the type of concerns that we can consider under the legislation
 - b. how we will deal with concerns which have been reported to us
 - c. the action that we will take and the timescales for doing so.

¹ Report on the effectiveness of existing arrangements for workplace whistleblowing in the UK, Public Concern at Work, November 2013 (at page 4) , available at <http://www.pcaw.org.uk/whistleblowing-commission>

3. Matters that the GOsC can not consider under the whistleblowing policy

3.1 Under this policy, the GOsC is not able to consider:

- a. complaints relating to employment
- b. contractual disputes about arrangements to provide osteopathic services, room hire or partnership agreements
- c. contractual disputes about providing osteopathic services within a particular area, or in close proximity to an existing osteopathic practice
- d. ownership of websites and domain names
- e. complaints about soliciting patients from another osteopath or osteopathic practice.

4. Matters that the GOsC will consider under the whistleblowing policy

4.1 The main duty of the GOsC set out in the *Osteopaths Act 1993* is 'to develop and regulate the osteopathy profession'. This includes functions in relation to the approval of courses at osteopathic educational institutions.

4.2 Under this policy, the GOsC can only consider matters relating to:

- a. the registration and fitness to practise of an osteopath registered with the GOsC
- b. any activities not covered by (a) in relation to which the GOsC has functions.

5. How to report concerns ('whistleblow') to the General Osteopathic Council.

5.1 We encourage individuals to consider raising concerns internally within their own organisations before approaching the GOsC. However, if you have raised your concerns within your organisation and are not satisfied with the response, or if you feel unable to raise your concerns within your organisation, you are able to contact us under this policy.

5.2 Before you raise a concern with the GOsC, you must have a reasonable belief that the disclosure of information to us will be in the public interest. This is very important in order to ensure that you are protected under the whistleblowing legislation. Any disclosure which is not made in the public interest may not be protected under PIDA.

- 5.3 In addition, you must reasonably believe that your disclosure and the information you provide to us are substantially true.
- 5.4 You can raise a concern with the GOsC in the following ways:
- By telephone: 0207 357 6655 x248
- In writing to: The Whistleblowing Officer
General Osteopathic Council
Osteopathy House
176 Tower Bridge Road
London SE1 3LU
- By email: whistleblowing@osteopathy.org.uk
- 5.5 If you contact us by telephone, we will talk you through our process and record information about your concerns that you are willing to provide. However, we will usually ask you to confirm your concerns in writing (by post or email).
- 5.6 Please note that any concerns that you wish to report must relate to the GOsC's functions referred to in paragraph 4 above. The GOsC will not be able to consider matters which do not relate to those functions, under this policy.
- 5.7 The GOsC regulates individual osteopaths. Wider concerns about the standards of quality and safety of healthcare offered by another healthcare provider may be more appropriately covered by another healthcare regulator.
- 5.8 Such regulators include: the Care Quality Commission in England; the Regulation and Quality Improvement Authority in Northern Ireland; Healthcare Improvement Scotland; and Healthcare Inspectorate Wales.
- 5.9 In England, you may also wish to contact the sector regulator for health services: Monitor.
- 5.10 Details of these organisations are set out below:

Care Quality Commission (England)	National Correspondence Citygate Gallowgate Newcastle upon Tyne NE1 4PA	Email: enquiries@cqc.org.uk Telephone: 0300 061 61 61 Website: www.cqc.org.uk
Regulation and Quality Improvement Authority (Northern Ireland)	9th Floor Riverside Tower 5 Lanyon Place Belfast BT1 3BT	Email: info@rqia.org.uk Telephone: 028 9051 7500 Website: www.rqia.org.uk

Healthcare Improvement Scotland	Gyle Square 1 South Gyle Crescent Edinburgh EH12 9EB	Email: comments.his@nhs.net Telephone: 0131 623 4300 Website: www.healthcareimprovement.scotland.org
Healthcare Inspectorate Wales	Government Buildings Rhydycar Business Park Merthyr Tydfil CF48 1UZ	Email: hiw@wales.gsi.gov.uk Telephone: 0300 062 8163 Website: www.hiw.org.uk
Monitor (England)	Wellington House 133-155 Waterloo Road London SE1 8UG	Email: enquiries@monitor.gov.uk Telephone: 020 3747 0000 Website: www.monitor-nhsft.gov.uk

- 5.11. If your concern is about a healthcare professional who is not an osteopath, you should raise it with the regulator for that profession.
- 5.12. You can find out more about who regulates healthcare professionals and their contact details from the leaflet *Who regulates health and social care professionals?* which is available at: www.osteopathy.org.uk/uploads/who_regulates_health_and_social_care_professionals.pdf

6. Responsibilities under this policy

Person/Body	Responsibility
The Whistleblowing Officer	The Head of Regulation will act as the GOsC Whistleblowing Officer. The Whistleblowing Officer will acknowledge concerns raised with the GOsC, assess the concerns and decide on appropriate action, referring the matter to other departments or bodies where necessary.
The Chief Executive	The Chief Executive will provide a yearly report to the Audit Committee about: <ul style="list-style-type: none"> a. the number and type of concerns received by the GOsC from whistle blowers b. the number of enforcement actions that have been triggered or contributed to by whistle blowers.
The Audit Committee	The Audit Committee will monitor the operation of this policy; consider a yearly report on any whistleblowing activity; and make recommendations as required to the GOsC Council.
The GOsC Council	Council will consider recommendations from the Audit Committee and keep this policy under review.

7. Confidentiality and concerns raised anonymously

- 7.1 The GOsC will not disclose your identity without your consent unless there are legal reasons that require us to do so. This might be, for example, where your information is about a child or vulnerable adult who is at risk, or where a possible criminal offence may have been committed. We may also have to disclose your identity if ordered to do so by a Court.
- 7.2 However, in order for us to be able to act upon your concerns, we may need your consent to disclose information to any osteopath or institution that we are investigating. If you do not provide this consent, we may not be able to investigate your concerns properly, or at all.
- 7.3 If you wish, you may give us information anonymously. However, in such circumstances, we would not be able to contact you to discuss your concern or ask you for further information, and we would not be able to give you any feedback about any action that we might be able to take.
- 7.4 Unless we consider that evidence or information might be available from other sources, we may decide not to act upon concerns that have been raised anonymously.

8. Action upon receipt of a concern

- 8.1 Where you have provided us with your contact details, we will acknowledge receipt of your concern in writing, within five days. We may also seek further information from you at this stage.
- 8.2 When we have sufficient information, we will make a preliminary assessment of your concern.
- 8.3 If we consider that the matter should be dealt with under our fitness to practise procedures, we will inform you of this, and will send you further information about how those procedures work. Please note that under our fitness to practise arrangements, we are not able to deal with concerns anonymously.
- 8.4 If we decide that your concerns raise issues that the GOsC is not able to deal with, we may refer the matter to another body, and will inform you of this. Alternatively, we may provide you with details of the appropriate body to contact.
- 8.5 If we consider that your concerns should be investigated under our whistleblowing policy, we will confirm this and provide you with an estimate of how long we think any investigation might take.

- 8.6 Wherever possible, we will seek to inform you of the outcome of our investigation and any action we have taken or recommendations that we have made to third parties.
- 8.7 The sorts of action that we can take in relation to your concern include:
- a. adding your concerns to the information that we hold about institutions that the law requires us to approve, and using your information in deciding whether or not to renew our approval of them
 - b. raising your concerns directly with the institution or person if we consider this appropriate
 - c. undertaking visits to institutions that we approve under our legislation, and seeking information and documents from them
 - d. identifying learning points from your concerns and feeding these back to the organisations and individuals that we regulate, or amending our own policies and procedures
 - e. seeking further information about your concerns from other sources
 - f. if your concerns relate to an individual osteopath, dealing with the matter in accordance with our fitness to practise procedures
 - g. referring the matter to another regulator, official body or the police.

9. Sources of further advice

- 9.1 Before you decide whether or not to raise a concern with the GOsC, you may want to get independent advice first, or contact your trade union or professional body.
- 9.2 If you work in the NHS, you can get free, independent and confidential advice from the Whistleblowing Helpline for NHS and Social Care on 0800 0724 725.
- 9.3 You can also call the independent whistleblowing charity Public Concern at Work for free and confidential advice on 020 7404 6609.

10. Review

- 10.1 The GOsC will review this policy annually and also update it in the light of any changes in the law or revisions to relevant codes of practice

Annex to GOsC Whistleblowing Policy

Whistleblowing legislation – key points

1. Under the *Public interest Disclosure Act 1998* (PIDA), it is unlawful for an employer to dismiss or victimise a worker for having made a 'qualifying disclosure' of information. The protections afforded by the Act apply to a worker from their first day of employment, and there is no minimum qualifying period of employment. The protections also apply to agency workers and people who are training with an employer. However, PIDA does not cover the self-employed or volunteers.
2. The Act also provides protection in the event that individuals have difficulty gaining a reference from an employer because they have raised a concern. It makes it clear that any clause in a contract that seeks to prevent an individual from raising a concern that would be protected under the Act, is void. For more information on the law visit: www.pcaw.co.uk/law/uklegislation.htm.
3. In order for a disclosure to be protected, the worker who made it must have a reasonable belief that:
 - a. disclosure was made in the public interest, and
 - b. the disclosure tends to show one or more specified categories of wrongdoing.
4. These categories are set out in Section 43B of the *Employment Rights Act 1996* (as amended by PIDA) that:
 - a. a criminal offence has been committed, is being committed or is likely to be committed
 - b. a person has failed, is failing or is likely to fail to comply with any legal obligation to which he is subject
 - c. a miscarriage of justice has occurred, is occurring or is likely to occur
 - d. the health or safety of any individual has been, is being or is likely to be endangered
 - e. the environment has been, is being or is likely to be damaged, or
 - f. 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.
5. However, the disclosure will not be protected if, by making the disclosure, the worker commits an offence such as misconduct in public office.

6. Under PIDA, disclosure of information by a worker will be protected if the worker makes a qualifying disclosure to a 'prescribed person', reasonably believing that the information and any allegation contained within it are substantially true.
7. Under the Public Interest Disclosure (Prescribed Persons) (Amendment) Order 2013, the General Osteopathic Council (GOsC) is now a 'prescribed person' to which qualifying disclosures may be made.
8. However, the disclosures that can be considered by the GOsC are limited to:
 - '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.'
9. Where an individual is subjected to a detriment by their employer for raising a concern, or is dismissed in breach of PIDA, they can bring a claim for compensation in the Employment Tribunal (or the Industrial Tribunal in Northern Ireland).
10. In Northern Ireland, Part 5A of the Employment Rights (Northern Ireland) Order 1996 (the '1996 Order') gives protection to 'whistleblowers', who raise concerns by making a protected disclosure about dangerous or illegal activity that they are aware of in the workplace. The disclosures qualifying for protection are listed at Article 67B of the 1996 Order, which can be viewed via the attached link - <http://www.legislation.gov.uk/nisi/1996/1919/article/67B>.
11. The 1996 Order ensures that protection is provided against any consequent victimisation or dismissal, and is contingent on the whistleblower having acted in a responsible way in dealing with his/her concerns. Disclosures can be made to a person or body which has been prescribed by the Public Interest Disclosure (Prescribed Persons) Order (Northern Ireland) 1999 (the '1999 Order'), for which the Department for Employment and Learning has responsibility.
12. Further information about whistleblowing in general, can be found at: www.gov.uk/whistleblowing