



# GRIFFITH COLLEGE

## HR PROTECTED DISCLOSURES POLICY

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### 1. INTRODUCTION

1.1 The Protected Disclosures Act 2014 (as amended) (the “**2014 Act**”) \* and the Code of Practice in the Statutory Instrument SI No. 464 of 2015 \*\* provide a statutory framework within which information may be disclosed regarding matters which they have reasonable belief are relevant wrongdoings in the workplace in the knowledge that they will enjoy the protections of the Act. This legislation is available at the following links:

\*<https://revisedacts.lawreform.ie/eli/2014/act/14/front/revised/en/html>\*\*

<http://www.irishstatutebook.ie/eli/2015/si/464/made/en>

1.2 Given the nature and extent of the 2014 Act and the Regulations made under the 2014 Act, it is not practicable to provide in this policy for all rights, entitlements and employee obligations relating to protected disclosures in all particular circumstances. If an employee has any queries relating to rights, entitlements and obligations that are not expressly provided for in this policy or that are not set out in full in this policy, please do not hesitate to contact the persons referred to in Section 3.2 below.

1.3 The legislation requires employers to maintain procedures to encourage the making of protected disclosures internally and the addressing of these by the organization in a responsible and effective manner.

1.4 The College recognises that its staff have an important role to play in supporting the College’s commitment to maintaining the highest standards of honesty, openness and accountability. Staff who become aware of potential irregularities are encouraged to raise their concerns as soon as possible through the usual line management structures, which are the normal and appropriate channels to address issues.

1.5. Where an worker is of the reasonable belief that it is not appropriate to make a disclosure through the usual channels, this policy sets out how they may report information or matters that amount to relevant wrongdoing (as described in Section 2.4 below) in the College which they reasonably believe to be true, without fear of victimisation, less favourable treatment or subsequent discrimination or disadvantage.



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1.6 A worker will not be penalised for making a protected disclosure, and in accordance with the 2014 Act and will be protected from penalisation. Penalisation means any direct or indirect act or omission which occurs in a work-related context, is prompted by the making of a report and causes or may cause unjustified detriment to a worker, and, in particular includes:

- (a) Suspension, lay-off or dismissal;
- (b) Demotion or loss of opportunity for promotion
- (c) Transfer of duties, change of work location, reduction in wages or change in working hours;
- (d) Any discipline, reprimand, or other penalties;
- (e) Unfair treatment;
- (f) Coercion, intimidation or harassment;
- (g) Discrimination, disadvantage or unfair treatment;
- (h) Injury, damage or loss;
- (i) Threat of reprisal;
- (j) withholding of training,
- (k) a negative performance assessment or employment reference;
- (l) failure to convert a temporary employment contract into a permanent one, where the worker had a legitimate expectation that he or she would be offered permanent employment;
- (m) failure to renew or early termination of a temporary employment contract;
- (n) harm, including to the worker's reputation, particularly in social media or financial loss, including loss of business and loss of income;
- (o) blacklisting on the basis of a sector or industry-wide informal or formal agreement, which may entail that the person will not, in the future, find employment in the sector or industry;
- (p) early termination or cancellation of a contract for goods or services;
- (q) cancellation of a licence or permit; or
- (r) psychiatric or medical referrals;]



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1.6 This policy is not designed to address matters which would be more appropriately investigated through mechanisms established in other College's policies or procedures.

## 2. PROTECTED DISCLOSURE TERMINOLOGY

2.1 A **Protected Disclosure** under this policy involves the disclosure of relevant information which the individual reasonably believes tends to show one or more relevant wrongdoings. The relevant wrongdoing must come to the worker's attention in connection with their employment and may be about relevant wrongdoing that is occurring now, that happened in the past or that may happen in the future.

2.2 A **worker** is for the purposes of this policy, defined in the 2014 Act to include employees, consultants, contractors, trainees, work experience learners, interns, part-time, full-time, casual workers and agency workers, and includes an individual who:

(a) is an employee,

(b) entered into or works or worked under any other contract, whether express or implied and (if it is expressed) whether oral or in writing, whereby the individual undertook to do or perform (whether personally or otherwise) any work or services for another party to the contract for the purposes of that party's business,

(c) works or worked for a person in circumstances in which

i) the individual is introduced or supplied to do the work by a third person, and

(ii) the terms on which the individual is engaged to do the work are or were in practice substantially determined not by the individual but by the person for whom the individual works or worked, by the third person or by both of them,

(b) is or was provided with work experience pursuant to a training course or programme or with training for employment (or with both) otherwise than—i) under a contract of employment, or

(i) by an educational establishment on a course provided by the establishment.,



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- (c) an individual who is or was a shareholder of an undertaking,
- (d) an individual who is or was a member of the administrative, management or supervisory body of an undertaking, including non-executive members,
- (e) an individual who is or was a volunteer,
- (f) an individual who acquires information on a relevant wrongdoing during a recruitment process)
- (g) an individual who acquires information on a relevant wrongdoing during pre-contractual negotiations (other than a recruitment process referred to in paragraph (f)).

2.3 A **reasonable belief** is one which may demonstrated to have a reasonable basis in fact.

2.4 **Relevant wrongdoing** is information connected with the College which is defined in the 2014 Act to include:

- (a) an offence that has been, is being or is likely to be committed;
- (b) that a person has failed, is failing or is likely to fail to comply with any legal obligation, other than one arising under the worker's contract of employment or other contracts whereby the worker undertakes to do or perform personally any work or services;
- (c) a miscarriage of justice that 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;
- (f) unlawful or otherwise improper use of funds or resources of a public body, or of ther public money, that has occurred, is occurring or is likely to occur;
- (g) an act or omission by or on behalf of a public body that is oppressive, discriminatory or grossly negligent or constitutes gross mismanagement, or;
- (h) that a breach has occurred, is occurring or is likely to occur, or
- (i) that information tending to show any matter falling within any of the preceding paragraphs has been, is being or is likely to be concealed or destroyed or an attempt has been, is being or is likely to be made to conceal or destroy such information.

2.5 A matter concerning interpersonal grievances exclusively affecting a reporting person, namely, grievances about interpersonal conflicts between the reporting person and another worker, or a matter concerning a complaint by a reporting person to, or about, his or her employer which



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concerns the worker exclusively, shall not be a relevant wrongdoing for the purposes of the 2014 Act and may be dealt with through the College's other procedures applicable to such grievances or complaint.

2.5 A **Recipient** is the person(s) designated in this policy to receive a written Protected Disclosure who referred to in Section 3.2.

### 3. HOW TO MAKE A PROTECTED DISCLOSURE

3.1 A Protected Disclosure should be made to the designated Recipients (as defined in Section 3.2).

3.2 *While a Protected Disclosure may be made orally, it is preferable that a written disclosure be made.* A Written Protected Disclosure should be contained in an envelope which is marked (a) **Private and Confidential**, (b) **Strictly Personal** and (c) the **title of the -Eamonn Nolan and / or Ailish Finucane (the "Recipients")**. The address for submission is South Circular Road, Dublin 8, D08V04N

3.3 The Protected Disclosure should contain the following:

- (i) the individual's name, position and location in the College;
- (ii) a statement that the information is a Protected Disclosure;
- (iii) how the information came to the attention of the individual;
- (iv) a description of the relevant wrongdoing which is reasonably believed to have taken place giving relevant dates; supporting evidence and citing witnesses where possible.

### 4. HOW A PROTECTED DISCLOSURE WILL BE HANDLED

4.1 Upon receipt of a Protected Disclosure, the Recipient will convene a meeting of a Protected Disclosure Review Group (PDRG) comprising a minimum of three persons which will include the HR Director, Head of Law Faculty and the HR Manager. The PDRG may seek additional members or specialist support it considers necessary to complete the Review/Investigation. Any person who is the subject of the Protected Disclosure under review will not serve on the PDRG.

4.2 The PDRG will take the following actions:



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(i) acknowledge in writing to the individual its receipt of the Protected Disclosure within 7 days advising that the PDRG is dealing with the matter and informing that further communications may take place (if appropriate);

(ii) nominate a person or persons who will communicate with you;

(iii) take what actions are required to complete the Review/Investigation including calling on any staff member or learner to provide information to assist in establishing further facts and completing its review/investigation.

(iv) prepare a Report which includes:

- an anonymized summary of the disclosure;
- the review/investigation findings;
- a statement whether the matter was found to be substantiated by other evidence;
- a recommendation and/or finding on whether the matter may be regarded as concluded or should be investigated further which may include:
  - whether or not the matter was previously dealt with and addressed;
  - .determine whether or not there is prima facie evidence that a relevant wrongdoing may have occurred;
  - Where there is no prima facie evidence that a relevant wrongdoing may have occurred, the conclusion of the process and, if applicable, recommend that the matter be more appropriately addressed under another College policy or procedure

4.3 **The Recipients** will consider whether the PDRG Report and recommendations are sufficient to conclude the matter; whether a further review/investigation by the PDRG or others is required, and/or what other actions are to be carried out arising from the Report. This may include engaging external consultant support and reporting the matter to an external body.

4.4 When concluded, the Recipients will inform the individual of the outcome of the Review.

4.5 The PDRG will take all reasonable measures to maintain confidentiality in relation to all matters pertaining to the Protected Disclosure.



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4.6 Feedback to the individual will be provided within three months and thereafter within each successive three month period.

### 5. GENERAL PRINCIPLES

5.1 The individual is required to maintain confidentiality in respect of the making of the Protected Disclosure and all matters in relation to any subsequent review/investigation and outcome.

5.2 The College (acting through the persons referred to in Section 4 of this Policy) will not, without the explicit consent of the individual making the Protected Disclosure, disclose to another person the identity of the individual making the Protected Disclosure or any information from which the identity of that individual may be directly or indirectly deduced, other than: (i) to the persons referred to in Section 4 of this Policy and (ii) to such other persons as those persons reasonably consider may be necessary for the purposes of receiving, transmitting or assessing the accuracy of the information contained in the Protected Disclosure and, where relevant, to address the relevant wrongdoing reported, including, but not limited to, actions such as an internal inquiry, an investigation, prosecution, an action for recovery of funds or the conclusion of the procedure as required under the 2014 Act or (iii) as provided in Section 5.2 below.

5.3 The College (acting through the persons referred to in Section 4 of this Policy) may disclose the identity of the individual making the Protected Disclosure where (a) the disclosure is a necessary and proportionate obligation imposed by EU law or Irish law in the context of investigations or judicial proceedings, including with a view to safeguarding the rights of defence of the person concerned; (b) where the person who became aware of the Protected Disclosure as part of the process described in Section 4 (i) shows that he or she took all reasonable steps to avoid disclosing the identity of the individual/identifying information or (ii) reasonably believes that disclosing the identity of the individual/identifying information is necessary for the prevention of serious risk to the security of the State, public health, public safety or the environment; or (c) where the disclosure is otherwise required by law. Where the identity/identifying information is disclosed to another person in accordance with paragraph (a) or (b)(ii), the individual shall be notified, in writing, before their identity or the information concerned is disclosed unless such notification would jeopardise (i) the effective investigation of the relevant wrongdoing concerned, (ii) the prevention of serious risk to the security of the State, public health, public safety or the environment, or (iii) the prevention of crime or the prosecution of a criminal offence.

5.4 Any individual found to have abused this policy by deliberately making false allegations or repeating allegations found to be unsubstantiated under this or other College policy or procedure,





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may be subject to the College's Disciplinary Procedure. Please refer to Disciplinary Procedure (Policy number 25)

5.5 Any person found deterring, or attempting to deter an individual from making a Protected Disclosure may be subject to Disciplinary Procedures. Please refer to Grievance policy (Policy number 24)

5.6 Any individual who believes they are being penalised for making a disclosure, should refer to the College Grievance Procedures (Policy number 24) and report their concerns, in writing, to the appropriate person, as set out in those procedures and to the Recipients (unless the grievance relates to them).

## 6. ANONYMOUS-PROTECTED DISCLOSURES

6.1 This policy encourages an individual when making a Protected Disclosure to the Recipients to identify themselves and thereby provide as much information as possible in relation to the matter.

6.2 While anonymous Protected Disclosures may be considered by the College the College is not obliged to do so. Without prejudice to this position, the College may at its sole discretion do so and in making that determination of will take into account factors such as:

- the seriousness of the issues raised;
- the credibility of the details provided;
- the likelihood of being able to review/investigate and confirm allegations (using alternative sources if possible).

6.3 While anonymous disclosures may be considered by the College, they are much less powerful and far less capable of being addressed as it is difficult to investigate a matter and to corroborate facts. This policy encourages an individual to put their name to disclosures made where possible.

## 7. Office of the Protected Disclosures Commissioner

You can obtain further information on protected disclosures from the Office of the Protected Disclosures Commission ("OPDC") (<https://www.opdc.ie/>) including rights that you may have to refer a relevant wrongdoing to a prescribed third party. You can also discuss whether or not you have this right with the persons referred to in Section 3.2 above.

## 8. Records

The College will maintain records of Protected Disclosures in accordance with the 2014 Act.



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### 9. REVIEW

This policy will be reviewed having regard to legislation, operational use and other relevant indicators, not less that every two years.

### 1. APPENDIX 1 – ADVICE FOR AN INDIVIDUAL MAKING A PROTECTED DISCLOSURE

The College acknowledges the difficult choice an individual may have to make when deciding to make a protected disclosure within the meaning of the 2014 Act. As the issues that prompt disclosures are likely to be complex, how the member of staff proceeds will vary from situation to situation. The following advice is recommended if an employee wishes to make a disclosure:



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make any disclosures of relevant wrongdoings promptly as timely disclosures can be verified and investigated with less difficulty;

- focus on the facts/information and proceed in a tactful manner to avoid unnecessary personal antagonism which might distract attention from solving the problem;
- be accurate in his/her observations and claims and keep formal records documenting the relevant events.
  
- it is important that the employee is clear that the communications being relied on the amount to a protected disclosure under the 2014 Act.

A staff member should have supporting evidence to any allegations where possible and may also wish to seek independent advice through their line manager or legal advisor.

Finally, a staff member should be satisfied that this policy is the most appropriate policy to use in the circumstances and that there is a relevant wrongdoing to be disclosed . Where there already exists a more appropriate procedure for raising an issue, employees should consider using that procedure. The policy is not designed to be used to re-open any matters which have already been dealt with under other College policies and that do not amount to relevant wrongdoings.

## 2. APPENDIX 2 – FORM FOR AN INDIVIDUAL MAKING A PROTECTED DISCLOSURE



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**1. Name**

**2. Position**

**3. Department**

**4.** Please write how the information came to your attention.

**5.** Please give a description of the alleged relevant wrongdoing which is reasonably believed to have taken place with relevant dates and any details of supporting evidence and/or witnesses where possible.

**6.** Please advise if the alleged relevant wrongdoing is understood to be ongoing.

**7.** Has the matter been disclosed to a member of management or another colleague, and if so, when did this take place?

### **Declaration**

I wish to disclose the above information which I reasonably believe to have taken place as a Protected Disclosure as defined in the Protected Disclosures Act 2014 and the College Protected Disclosures Policy.

Signed \_\_\_\_\_ Date: \_\_\_\_\_