



RCSI Protected Disclosure Policy

Purpose

The Royal College of Surgeons in Ireland (RCSI) is committed to the highest standards of openness and accountability and recognises that the Council of RCSI together with its Board members, managers, staff and students have a very important role to play in achieving this objective.

The purpose of this policy is to provide a mechanism for RCSI Council, employees, contractors, trainees, agency staff, former employees, job applicants and students to make disclosures regarding the occurrence of wrongdoings (as outlined below) without fear of reprisal.

The Protected Disclosures (Amendments) Act 2022, came into effect on January 1st 2023 and gives legal protection to workers who make disclosures including protection for employees from being dismissed or penalised by their employer. While the Act does not apply to students, this Policy includes students within its scope.

At RCSI, we are keen to ensure that we implement this policy in a manner that is consistent with both the letter and spirit of the legislation but equally in a manner consistent with the RCSI culture and values of Respect, Collegiality, Scholarship and Integrity.

Scope

This Protected Disclosures Policy is intended to cover concerns that an individual may have regarding any aspect of service provision or the conduct of other members of the RCSI community which are not properly addressed within the scope of other RCSI policies. Any issues affecting an individual in a personal capacity only shall be dealt with through more appropriate policies and procedures such as the Grievance Procedure and Dignity at Work policy.

The Protected Disclosures Policy covers the disclosure of information which, in the reasonable belief of the individual making the disclosure, tends to show one or more of the following wrongdoings has been, is being or is likely to be committed and that this information came to their attention in a work-related context:

- Financial malpractice, impropriety or fraud
- A criminal offence
- Endangerment of a person's health and safety or damage to the environment
- Academic or professional malpractice
- Improper conduct or unethical behaviour
- Failure to comply with legal obligations (other than under a worker's contract)
- An unlawful or improper use of funds or resources of a public body or other public money
- An act or omission of a public body is oppressive, discriminatory, grossly negligent or constitutes gross mismanagement
- A miscarriage of justice
- The concealment or destruction of information in relation to the above
- An act or omission or a 'breach' of a range of EU laws that are prescribed in the EU Whistleblowing Directive

Raising a Concern

Who should you raise your concern with?

RCSI has engaged the services of an Independent Ombudsman to facilitate disclosures under this policy. Alternatively, there are a number of designated contacts within RCSI to whom disclosures can be made.

The Ombudsman/RCSI Designated Contact is available to discuss concerns raised under this policy. The Independent Ombudsman/Designated Contact will provide assistance to you in understanding your options in raising your concerns. Details of how to contact the Independent Ombudsman/Designated Contact are noted at the end of this document.

How to raise a concern

Concerns may be raised with the Independent Ombudsman through a number of channels, by post, by email, in writing or in a phone call. Should you raise a concern verbally with us or the independent ombudsperson, a written record of the conversation will be kept. You will be given a copy of the notes to review and agree

the details taken. Should you raise a concern in writing we would ask you to give the background and history of the concern, giving relevant details, insofar as is possible, such as dates, the sequence of events and description of circumstances. In line with the legislation, we will acknowledge receipt of a concern raised under this policy in writing within (7) seven days.

Once notified of your concerns, the matters raised will be initially reviewed by the Independent Ombudsman in conjunction with RCSI. The initial review would focus on clarifying if the concerns raised are covered by this policy or may be a matter more appropriate to our other procedures, for example, our Grievance or Dignity at Work policy.

We may seek a meeting with you to discuss your concerns. You can choose whether you want to be accompanied by a colleague at any meeting of this nature. We will be mindful of respecting your right to confidentiality and that of any other party mentioned in the concern raised. Please note that the earlier you express the concern the easier it will be for us to deal with the matter quickly.

How we will deal with your disclosure

When the Independent Ombudsman/Designated Contact have established the details regarding your disclosure, they will liaise with either:

- a) the RCSI CEO/Registrar
- b) the College President if the disclosure pertains to the CEO
- c) the Chair of the Audit Committee if the disclosure pertains to both the CEO and the College President

Where sufficient grounds exist for an investigation, they will consider how best to set up the process. The CEO/President/Chair, in conjunction with the Independent Ombudsman/Designated Contact, will then appoint an Investigation Committee which shall comprise individuals (either internal or external to RCSI) who are most appropriately placed to investigate the particular disclosure in question. The Independent Ombudsman/Designated Contact will advise the individual who raised the concern of the appointment of this committee and the individual will be invited to meet with them to discuss the disclosure further.

It should be noted that fair and due process requires that any person accused of wrongdoing should be made aware of and given the opportunity to respond to any allegations made against them. It is acknowledged that a person who becomes the subject of an investigation arising out of a disclosure made under this Policy may find this personally challenging. Pending the outcome of any such investigation, RCSI Support Services (e.g. Employee Assistance Programme, HR Liaison, Student Counsellors etc.) will remain available and, in all cases, RCSI will endeavour to have any investigation conducted as speedily as the circumstances permit.

It is important to us that you feel assured that a disclosure made by you under this policy is taken seriously and that you are kept informed of steps being taken by us in response to your disclosure. In this regard we undertake to communicate with you as

follows:

- As noted above, we will acknowledge receipt of your disclosure in writing within 7 days and arrange a follow up meeting as required.
- We will inform you of how we propose to investigate the matter.
- We will inform you of the likely time scales regarding to each of the steps being taken but, in any event, we commit to dealing with the matter as quickly as practicable.
- However, it is important to note that where there is a need for confidentiality relating to any other individual mentioned in your concern and any legal considerations this may prevent us from giving you specific details of an investigation or outcomes reached.

In line with the requirements of the Protected Disclosures (Amendment Act) 2022, we will provide feedback or updates on how the matter is being dealt with in a reasonable period, not more than 3 months of the acknowledgement of receipt of the report.

This could be extended to six months if the nature or complexity of the concerns raised justifies it. We will update you in writing of this extension. Further feedback at three monthly intervals will be provided until such time as the procedure relating to the matter concerned is closed.

Protection of All Parties

This policy is intended to encourage and enable individuals to raise serious concerns within RCSI. Under this policy RCSI will endeavour to ensure that no individual who reports a concern, shall suffer harassment, retaliation or adverse consequences as a result of the disclosure.

Any person covered by the policy who believes that they have been subjected to adverse treatment or penalisation as a consequence of the disclosure can bring their concerns to the Independent Ombudsman or to the Director of Human Resources. They will be asked to put their concerns in writing. They should make reference to the Protected Disclosure previously raised, the form the alleged penalisation has taken and the reasons for their belief that there is a link between the two events.

The complaint will be investigated as a matter of urgency. A report on the outcome of that investigation will be sent to the CEO and/or Board of RCSI and the individual concerned. The Report may recommend a prescribed course of action to address the complaint.

If an individual makes an allegation which they reasonably believe to be true, but which is not confirmed by any subsequent investigation, no action will be taken against the individual. However, if the investigation shows that the allegation has been made falsely, the College may take disciplinary action against the individual who made the allegation.

Maintaining Confidentiality

If a person making a disclosure does not wish for their identity to be revealed, their identity will be protected for as long as possible. There may be circumstances however where the person's identity may be revealed, these include:

- For the effective investigation of the disclosure;
- To prevent serious risk to the security of the State, public health, public safety or the environment;
- For the prevention of crime or prosecution of a criminal offence;
- Where identification is required by law;
- Where it is otherwise in the public interest to do so or is required by law.

Should this be the case, the person who makes a protected disclosure will be told that their identity may be disclosed and the basis for that happening.

In the course of an investigation, the College will also endeavour to protect the identity of the individual(s) against which an allegation has been made. Should an allegation prove unfounded, nothing will be added to the file/record of the person who was investigated.

Procedure in relation to Anonymous Notifications

You may, if you wish, raise a concern anonymously; however remaining anonymous might make it more difficult for your concerns to be fully investigated. In the interests of openness and transparency, any individual making a disclosure is encouraged to put their name to it. The College will address anonymous disclosures in consultation with the Independent Ombudsman, taking account of:

- The seriousness of the issues raised
- The credibility of the concern
- The likelihood of being able to investigate the matter and to use alternative sources to verify the allegation
- Fairness to any individual(s) mentioned in the disclosure.

It should also be noted that important elements of these Procedures (e.g. keeping the discloser informed and protecting a discloser from penalisation) may be difficult or impossible to apply unless the individual is prepared to identify themselves. Also, the redress measures noted in the Protected Disclosures (Amendment) Act, 2022, do not cover anonymous disclosures, unless the identity of the anonymous discloser subsequently becomes known.

Reporting on Outcomes and Feedback

The Independent Ombudsman/Designated Contact to whom the original disclosure was made shall, where appropriate, communicate to the staff member or student whether the matter will be investigated further, whether the matter has already been investigated and what action has been taken or whether no action is to be taken. This will be adhered to within the timelines outlined above.

As noted above, while the Independent Ombudsman/Designated Contact will give the individual making the disclosure as much feedback as possible, it may not be possible to tell the individual the precise action to be taken where this would infringe a duty of confidence owed by the College to someone else, or where it might prejudice any future action RCSI might take (including legal action).

On completion of any investigation, a written report shall be presented by the Investigation Committee to the CEO/President and the Independent Ombudsman containing the following information:

- A description of the disclosure and the findings of the investigation;
- The effect the disclosure had on the College
- Measures taken to prevent a recurrence;
- Action required to strengthen future responses under this Policy;
- A conclusion as to the way forward; and Any other relevant material.

Contact Details for Ombudsman/RCSI Designated Contact

The Independent Ombudsman for RCSI can be contacted 24/7:

Email: rcsiombudsman@protecteddisclosure.ie

Phone: +353 1 296 4146 (confidential helpline)

Post: RCSI Ombudsman

11b Ashleigh Retail Centre
Castleknock Village
Dublin 15
D15 VHT4

Online: <http://protecteddisclosure.ie>

Username: RCSI

Password: RCSI2015

Internal RCSI Designated Contacts are:

Name: Mr Philip Curtis, Associate Director Student Services

Email: pcurtis@rcsi.ie

Phone: (01) 402 2266

Name: Professor Zena Moore, Head of School of Nursing and Midwifery
Email: zmoore@rcsi.ie
Phone: (01) 402 2569

Getting Further Help

The Human Resources department is available to support any member of staff in understanding or implementing the content of this policy and procedure.

Policy Review

The Human Resources Department will ensure that this policy will be monitored and kept under review.