

Royal College of Nursing policies

Document Name: Policy and process on whistleblowing for Council, boards and committees
Purpose of Document: Support and guidance for RCN members elected to office within the governance and representative structure
Committees, Groups, Meetings to which this policy applies: Committees, Groups, Meetings to which this policy applies: RCN Reps, RCN Council and its standing committees, Professional Nursing Committee, Trade Union Committee, country/regional boards and any other committee members
Author/Authors: RCN Governance Support Team; Director of Legal and Member Relations
Description of Policy Guidance for Council, board and committee members regarding the context and process of 'whistleblowing' – how members can raise serious concerns they have about the running of the organisation
Other policies, guidelines, legal positions etc that should be considered in conjunction with this policy: Staff Whistleblowing Policy Conflicts of Interest Policy Gifts and Hospitality Policy Anti Bribery, Corruption and Fraud Policy Anti Money Laundering Policy RCN Code of Conduct Regulation: RCN Council, board and committee members – fit and proper persons criteria Member resolution policy
Circulate to: Executive Team Governance Support Committee
Approved and by RCN Council 27 July 2023
Date of implementation: July 2023
Date of next review: July 2026
Department responsible for Review: Governance with Executive Director of Legal and Member Relations

POLICY SUMMARY: WHISTLEBLOWING – COUNCIL, BOARD AND COMMITTEE MEMBERS

As an Elected Member you should:	As an organisation we will:
<ul style="list-style-type: none"> • Familiarise yourself with this policy and follow it. • Refer to any guidance or legal positions as referenced in the policy. • Understand the circumstances and process for a qualifying disclosure. • Avoid misuse of the whistleblowing process to make unsubstantiated or vexatious allegations 	<ul style="list-style-type: none"> • Ensure that this policy and supporting information and processes are clear and accessible, and help elected members understand what they need to do. • Identify a team or individual responsible for keeping this policy under review and in line with any relevant updated guidance. • Provide advice, training and support on the whistleblowing process and when it should be used. • Review and/or audit this policy and associated processes and procedures every 3 years.

Policy and process on whistleblowing for Council, boards and committees

1 Introduction

- 1.1 The RCN is committed to the highest standards of openness, probity and accountability and to conduct affairs in a responsible manner, taking into account the requirements of the NMC Code and the standards expected of institutions in public life, as set out in the Nolan Principles (See Appendix 1). Similarly, RCN members have a responsibility to undertake their duties and activities in line with the RCN Code of Conduct. As part of these commitments, we encourage members who have a serious concern about the way the organisation is being run – including the operation of governance processes – to come forward and voice those concerns. The process of raising such concerns is commonly known as *whistleblowing* (see also section 3 below).
- 1.2 A member of Council or a board/committee (including an external adviser) may be the first person to realise that there is potentially a serious issue within the organisation. Members in this situation might feel unable to express their concerns because they think that speaking up could be in some way disloyal to colleagues, or that there might be some reprisal. In these circumstances it may feel easier to try to ignore the concern rather than report what could just be a suspicion of wrongdoing. All members of the RCN are encouraged to raise genuine concerns about wrongdoing at the earliest opportunity. This policy sets out the means of doing this.
- 1.3 For the purposes of this document, the term ‘Council’ shall mean the elected members of Council¹.

2 Policy Scope

- 2.1 This whistleblowing policy and process is intended to cover concerns that relate to anything within RCN governance processes – Council, board and committee activities and operation – that:

- is potentially unlawful
- is contrary to the RCN's financial and constitutional procedures and policies
- falls below established standards or practice
- amounts to improper conduct.

2.2 How you raise your concerns will depend on the seriousness and sensitivity of the relevant issues and whether members or management are thought to be involved. You would normally raise your concerns within the RCN with the Chair of your Board/Committee, or your country/regional director. Alternatively, you may feel it appropriate to contact the Chair of Council, the General Secretary & Chief Executive or the Chair of the Group Audit Committee. They will advise you how the RCN can best support you through the process.

2.3 Members are also reminded that the RCN offers a range of support services as part of their membership including counselling and peer support. More information is available on the RCN website and by calling RCN Direct on 0345 772 6100.

2.4 This policy applies to Council, board and committee members. It also includes external advisers to committees. Note the policy must be read in conjunction with the corresponding policy for members of RCN staff. (See also other associated documents in 3 below).

3. Associated documents

3.1 This policy is part of a suite of documents aimed at ensuring best practice in governance. The related documents are:

- Staff Whistleblowing Policy
- Conflicts of Interest Policy
- Gifts and Hospitality Policy
- Anti Bribery, Corruption and Fraud Policy
- Anti Money Laundering Policy
- RCN Code of Conduct
- Regulation: RCN Council, board and committee members – fit and proper persons criteria
- Member resolution policy

4 Policy aim

4.1 The aim of this policy is to ensure the RCN has transparent procedures for reporting and dealing with information that would be covered under the policy. Its aims are to:

- encourage members to report suspected wrongdoing as soon as possible, in the knowledge their concerns will be taken seriously and investigated as appropriate
- provide guidance on how to raise those concerns
- reassure members they can raise genuine concerns without fear of reprisal even if they turn out to be mistaken.

4.2 Note that the term “whistleblowing” has no legal definition. However, it is a widely used term with which you may be familiar. It is used in this policy to describe the process of an individual disclosing an alleged wrongdoing (as defined below) within the RCN governance framework, the handling of which would be subject to this policy. A *whistleblower* is a person who raises such a concern.

5 What is covered

5.1 Matters which can be raised under this policy that would be considered as a qualifying disclosure include:

- a criminal offence
- breach of a statutory, legal or regulatory obligation
- a miscarriage of justice
- danger to the health and safety of one or more individuals
- damage to the environment
- deliberate concealment of information, including in relation to any of the above.

6 Safeguards

6.1 Confidentiality/anonymity

The RCN will do its best not to divulge your identity to anyone beyond those carrying out or directly involved in the investigation, and will treat any disclosure in a confidential manner. If you make a disclosure, by request your identity will be kept confidential so long as it does not hinder investigations. If it is deemed necessary, and in the interests of fairness, we may disclose your identity to any persons against whom the allegations are made. The investigation process may reveal the source of the information without us revealing your identity directly and you may be required to give evidence as part of the investigation.

We would however urge members to identify themselves. This enables us to investigate the allegations in a more informed and effective way and

means we can inform the complainant of the outcome of the investigation or explain why a matter is not being investigated.

- 6.2 RCN will not normally consider anonymous disclosures; however, if an anonymous disclosure is deemed serious enough to pursue, it will likely be very difficult to progress it sufficiently without knowledge of the discloser's identity. RCN will take into account the seriousness of the issue raised, the credibility of the concern and the likelihood of confirming the allegation for other attributable sources.

6.3 Unsubstantiated or Vexatious Allegations

If you make a disclosure with the reasonable belief you are doing so in the best interests of the RCN community and the public, you must bear in mind it may be either dismissed by an investigating officer (ie not taken forward), or not confirmed by subsequent investigations. Even if this is the case, there will be no disciplinary or any other punitive action taken against you. This situation is distinct from making allegations deemed to be defamatory, vexatious or malicious, or which are being made for personal gain.

7 External Disclosure

- 7.1 In some circumstances it may be appropriate for an individual to report their concerns to an external body such as a regulator. The RCN accepts that in certain circumstances you may feel inhibited or unable to report your concerns internally, and that you might prefer to pursue the matter outside RCN and its processes. If you are considering reporting a concern externally we strongly urge you to seek advice first – see below for guidance on external organisations who may be able to help. (They can also be contacted for general guidance, even when you already intend to report internally).

8 Responsibility

- 8.1 RCN Council has overall responsibility for this policy and periodic review of its effectiveness. Designated investigating officers (see below) have 'day-to-day' operational responsibility for the policy and will make an annual report to Council on that year's operation of the policy, including a summary of any disclosures and their outcomes subject to the obligations of confidentiality set out above.

9 Disclosure Procedure

This procedure does not supersede any existing procedures relating to complaints or bullying and harrassment, nor may it be used to reconsider matters which have already been addressed under another RCN policy and/or procedure. If the Designated Officer believes that the information you provide would be more appropriately addressed under another procedure then you will be directed to the correct policy/procedure. In this instance, such matters will not be considered under this policy.

RCN Council delegates the authority to pursue the investigative procedure set out below to the Director of Legal Services and Member Relations or their delegate provided that the allegations are not relating to that party.

9.1 Stage One: Making a Disclosure

A member may make a disclosure to the Designated Officer. If you are making a disclosure please ensure you provide as much written detail and any supporting evidence you have.

The Designated Officer shall be Director of Legal Services and Member Relations or their delegate. Where the disclosure pertains to the Designated Officer or a matter in which they are involved in then the disclosure may be made to the General Secretary & Chief Executive Officer, who shall assume the authority of the Designated Officer until the conclusion of the matter. Should the disclosure involve the General Secretary & Chief Executive, the Chair of Council shall become the Designated Officer for the duration of the matter or vice versa in cases which involve the Chair of Council.

You will have the opportunity to meet with the Designated Officer to discuss your disclosure; they will gather as much information from you as possible in order to properly understand the situation, and begin to decide the way forward. It may be possible to reach a resolution at this stage

9.2 Stage Two: Consideration

The Designated Officer shall consider the information presented to them and may:

- decide not to proceed with the matter;
- authorise an initial investigation under this policy;
- refer the matter to another policy within RCN; or
- refer the matter to an external relevant authority if appropriate.

Where a disclosure is made regarding an individual the Designated Officer shall, at their discretion, determine whether it is appropriate to inform the individual concerned, as this may be necessary in order to complete the decision-making process above. If so, the individual will be presented with all details of the disclosure including all supporting evidence. The response formally acknowledging the disclosure will be made to you within five working days.

A decision on how to proceed shall be made within 20 working days of the disclosure being made. Should a delay be likely in this process then the Designated Officer will inform both parties in writing, detailing the reasons for the delay.

9.3 Stage Three: Investigation

The Designated Officer should nominate a person or persons to carry out an initial investigation to assist in the decision on how to proceed. This may be another member or senior officer of the Governance Team considered to be suitably qualified, but will not include anyone who may likely have to be interviewed to assist with decision-making on the matter at a later stage.

The findings of this initial investigation shall be reported to the Designated Officer as soon as is practical from the date of the disclosure. If this initial investigation will be delayed, then the Designated Officer will inform, in writing, the person making the disclosure and any person subject to the allegation of the reasons for the delay.

Note that during the investigation you may be required to give evidence, make representation or co-operate with the investigation eg via a meeting with an investigating officer. If so, you may be accompanied by a Rep or colleague.

If the disclosure relates to one or more individuals, they shall be given the opportunity to make representation to the investigator and have representation.

9.4 Stage Four: Decision by the Designated Officer

Having received the report from the initial investigation, the Designated Officer will decide on the best course of action. Depending on the content of the report, and considering other influential circumstances, the Designated Officer may:

- decide not to proceed with the matter;

- refer matters to another RCN policy/procedure; or
- refer the matter to the appropriate authorities.

The Designated Officer will, in writing, inform the person making the disclosure of the outcome within ten working days. Additionally, if the Designated Officer deems it appropriate, the persons to whom the disclosure relates will be informed, in writing, of the decision.

A decision by the Designated Officer concludes the process under this policy. Should any further evidence be presented to the Designated Officer then it will be at their discretion whether to reconsider the position or not.

A disclosure may require immediate referral to an external body for consideration and investigation (for example the police, the NMC, Health & Safety Executive, National Audit Office, or relevant funding body. Such referral may be necessary at any stage of this process. A decision to refer will be made by the Designated Officer, in consultation with the Director and the Chair of Council.

- 10 If a person making a disclosure is dissatisfied with the outcome
- 10.1 If you have disclosed a concern RCN will follow the above process in a fair and appropriate manner. However, it cannot be guaranteed that you will be satisfied with the outcome. There is no internal review or appeal process for any decision made by the Designated Officer but if you are concerned about the way in which your disclosure has been handled you may raise it with the Designated Officer or one of the external advisory bodies listed below.
- 11 External organisations
- 11.1 The independent charity Protect (formerly Public Concern at Work) are leading experts in whistleblowing and provide free confidential advice for individuals who witness serious wrongdoing in their workplace or place of study but are unsure how to raise their concerns. They also provide advice and information on whistleblowing law and help to individuals who face victimisation for whistleblowing. They can be contacted at protect-advice.org.uk / 020 3117 2520 (contact hours shown on the website) and have a list of case studies at protect-advice.org.uk/case-studies/.
- 11.2 Other external organisations who may be contacted are listed below.
 - The Trade Union Certification Officer (this is the contact for fraud and other irregularities relating to the affairs of trade unions)

- Information Commissioner's Office/Scottish Information Commissioner
- HM Revenue & Customs
- Financial Conduct Authority
- Office of Fair Trading
- Health and Safety Executive
- Environment Agency
- Director of Public Prosecutions/Procurator Fiscal
- Serious Fraud Office
- Your local MP/MSP/Assembly member
- Your local authority

A full list of prescribed bodies who may be contacted regarding whistleblowing disclosures can be found at [Whistleblowing: list of prescribed people and bodies - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/whistleblowing-list-of-prescribed-people-and-bodies)

12 Raising a concern

- 12.1 To raise a concern please email the designated officer or governance.support@rcn.org.uk

As mentioned above, ensure you have as much detail and supporting evidence as possible.

Appendix 1

The Nolan Principles of Public Life

In 1994, the UK government established a Committee on Standards in Public Life. The committee was chaired by Lord Nolan and was tasked with making recommendations to improve standards of behaviour in public life. The first report of the committee established the seven principles of public life, also known as the “Nolan Principles”.

Selflessness – Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other benefits for themselves, their family or their friends.

Integrity – Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.

Objectivity – In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

Accountability – Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

Openness – Holders of public office should be as open as possible about all the decisions and actions they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

Honesty – Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

Leadership – Holders of public office should promote and support these principles by leadership and example.