



## FACULTY OF ADVOCATES / FACULTY SERVICES LIMITED

### WHISTLEBLOWING POLICY

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## 1. Introduction

This policy applies to all members of the Faculty of Advocates. Those individuals connected to our organisation, such as agency workers and contractors are also encouraged to use this policy. This policy should be read in conjunction with our other policies and procedures, including policies on disciplinary rules and code of conduct.

Whistleblowing is the act of reporting on a person or organisation believed to be engaged in an unlawful activity. It is important that any fraud, misconduct or wrongdoing by colleagues, or individuals connected to our organisation, is reported and dealt with properly. We encourage all Advocates to raise any concerns they have about the conduct of others or the way in which the organisation is run. This policy provides guidance and information on how to do this.

## 2. Background

Advocates who raise legitimate concerns about specified matters are protected under the Public Interest Disclosure Act 1998. They are called “qualifying disclosures”. A qualifying disclosure is one made in the public interest by a colleague who has a belief that:

- a criminal offence
- a miscarriage of justice
- an act creating risk to health and safety
- an act causing damage to the environment
- a breach of any other legal obligation
- concealment of any of the above

is being, has been, or is likely to be committed

It is not necessary for Advocates to have proof that such an act is being, has been, or is likely to be, committed. A reasonable belief is sufficient. Advocates are not responsible for investigating the matter.

Advocates who make a qualifying disclosure have the right not to be suspended from membership, subjected to any other detriment, or victimised, because they have made a disclosure.

## 3. Principles

The policy is underpinned by the following guiding principles:

- Advocates should be aware of the importance of preventing and eliminating wrongdoing in practice. Advocates should be watchful for illegal or unethical conduct and report anything of that nature.



- Any matter raised under this procedure will be thoroughly investigated in appropriate detail, promptly and confidentially, and the outcome of the investigation reported back to the colleague who raised the issue.
- No colleague will be victimised for raising a matter under this procedure - continued membership and opportunities for future promotion or instruction will not be prejudiced. If misconduct is discovered because of any investigation, our disciplinary procedure will be invoked in addition to any appropriate external investigations.
- Victimisation of an individual for raising a qualified disclosure, maliciously making a false allegation and an instruction to cover up wrongdoing are all disciplinary offences. If told not to pursue any concern, Advocates should not agree to do so and should report their concerns to the Deans Secretariat.

#### 4. Procedure

The following procedure should be followed in response to a qualifying disclosure:

##### 4.1 Stage 1

Any concerns should be raised via the Talk to Spot platform [app.talktospot.com](http://app.talktospot.com) or with the Deans Secretariat [deans.secretariat@advocates.org.uk](mailto:deans.secretariat@advocates.org.uk).

Anonymous reports to Talk to Spot cannot proceed to investigation as there is no way to update the reporter with the outcome. However, they will be documented and included in the annual report in section 6 of this document.

Any investigation will be carried out in accordance with the principles outlined in this policy. The Advocate's statement will be considered, and they will be asked to comment on any additional evidence obtained. The Deans Secretariat will then take any necessary action, including reporting the matter to any other appropriate bodies such as the Faculty's Complaints Committee or the Scottish Legal Complaints Commission (SLCC).

If disciplinary action is required, the Deans Secretariat will start the disciplinary procedure. On conclusion of any investigation, the reporting Advocate will be told the outcome of the investigation and what the Deans Secretariat has done, or proposes to do, about it. If no action is to be taken, the reason for this will be explained.

Where an allegation related to a Faculty office-bearer is reported, the Deans Secretariat shall immediately notify the other Faculty office-bearers. Where the Dean is disclosing or is the subject of the disclosure, he or she shall direct another Faculty office-bearer to handle that report. The Faculty office-bearer so directed may exercise all the powers of the Dean in relation to that disclosure.

The Dean may remit the disclosure to the Investigating Committee or the Disciplinary Tribunal in terms of the Faculty's Disciplinary Rules or such as required to be investigated and determined by the Scottish Legal Complaints Commission.



The Dean shall communicate the nomination of an investigator and how the investigation will be undertaken to the Advocate who made the disclosure. The investigation shall proceed promptly on this basis.

#### 4.2 Stage 2

If on conclusion of stage 1, the Advocate reasonably believes that the appropriate action has not been taken, they should report the matter to the appropriate authority. The Public Interest Disclosure Act 1998 legislation sets out several bodies to which qualifying disclosures may be made. These include:

- HM Revenue & Customs
- the Competition and Markets Authority
- the Health and Safety Executive
- the Environment Agency
- the Independent Office for Police

#### 5. Data Protection

When an individual makes a disclosure, we will process any personal data collected in accordance with our retention policy. Data collected from the point at which the individual makes the report is held securely and accessed by, and disclosed to, individuals only for the purposes of dealing with the disclosure.

The information provided in line with this policy and procedure will be processed in accordance with our [Privacy Policy](#), which can be found on the Faculty of Advocates website.

#### 6. Reporting of Whistleblowing Disclosures

The Deans Secretariat will receive an annual report on the number and nature of whistleblowing disclosures.

The rationale for reporting disclosures that are received is to increase transparency in the way that whistleblowing disclosures are dealt with and to raise confidence that disclosures are taken seriously. Producing this report will highlight the number of qualifying disclosures received and how they were taken forward will go some way to assure colleagues who blow the whistle that action is taken in respect of their disclosure.

To protect the confidentiality of whistle-blowers and other parties involved, no information will be included in the report that would enable an Advocate who has made the disclosures or the person(s) about whom a disclosure has been made to be identified.



## 7. Definitions

Any terminology that requires further clarification