



Review Sheet



Last Reviewed
14 Jul '23



Last Amended
14 Jul '23



Next Planned Review in 12 months, or sooner as required.

Business impact



Reason for this review

To review the policy following updates by Barry and Ali to a Raising Concerns, Freedom to Speak Up and Whistleblowing Policy and Procedure.

Were changes made?

Yes

Summary:

This policy outlines the process for raising concerns about care and standards. It has been reviewed and updated to cover whistleblowing, raising concerns and the freedom to speak up. The policy title has been changed from Whistleblowing Policy and Procedure to Raising Concerns, Freedom to Speak Up and Whistleblowing Policy and Procedure to reflect this. It includes information about how raising a disclosure to an external body should be dealt with and a whistleblowing flowchart has been added in the forms section. The references and further reading have also been checked. For some customers, the reference number on this policy will have changed.

Relevant legislation:

- The Criminal Justice and Courts Act 2015
- The Enterprise and Regulatory Reform Act 2013
- The Care Act 2014
- Employment Rights Act 1996
- Public Interest Disclosure Act 1998
- The Health and Social Care Act 2008 (Regulated Activities) (Amendment) Regulations 2012

Underpinning knowledge - What have we used to ensure that the policy is current:

- Author: Public Concern at Work, (2016), *PAS 1998:2008 Whistleblowing Arrangements Code of Practice*. [Online] Available from: [Accessed:]
- Author: The National Guardian's Office, (2023), *Freedom to Speak Up*. [Online] Available from: <https://nationalguardian.org.uk/> [Accessed: 14/7/2023]
- Author: The Care Quality Commission (CQC), (2022), *Regulation 20: Duty of candour*. [Online] Available from: <https://www.cqc.org.uk/guidance-providers/all-services/regulation-20-duty-candour> [Accessed: 14/7/2023]
- Author: Nursing and Midwifery Council, (2022), *Whistleblowing to the NMC*. [Online] Available from: <https://www.nmc.org.uk/standards/guidance/raising-concerns-guidance-for-nurses-and-midwives/whistleblowing/> [Accessed: 14/7/2023]
- Author: GOV UK, (1998), *The Public Interest Disclosure Act 1998*. [Online] Available from: <https://www.legislation.gov.uk/ukpga/1998/23/contents> [Accessed: 14/7/2023]
- Author: The Care Quality Commission (CQC), (2013), *Whistleblowing: Guidance for providers who are registered with The Care Quality Commission*. [Online] Available from: https://www.cqc.org.uk/sites/default/files/documents/20131107_100495_v5_00_whistleblow [Accessed: 14/7/2023]
- Author: NHS Business Services Authority, (2023), *Freedom to Speak Up Raising Concerns (Whistleblowing)*. [Online] Available from: <https://www.nhsbsa.nhs.uk/our-policies/freedom-speak-raising-concerns-whistleblowing#:~:text=You%20can%20raise%20a%20concern.unsafe%20working%20conditions> [Accessed: 14/7/2023]
- Author: The Care Quality Commission (CQC), (2023), *Report a concern if you are a member of staff*. [Online] Available from: <https://www.cqc.org.uk/contact-us/report-concern/report-concern-if-you-are-member-staff> [Accessed: 14/7/2023]



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Suggested action:	• Encourage sharing the policy through the use of the QCS App
Equality Impact Assessment:	QCS have undertaken an equality analysis during the review of this policy. This statement is a written record that demonstrates that we have shown due regard to the need to eliminate unlawful discrimination, advance equality of opportunity and foster good relations with respect to the characteristics protected by equality law.



1. Purpose

1.1 To ensure that all staff working at The John Graham Centre understand the importance of raising a concern, sometimes also referred to as 'speaking up' or 'whistleblowing'.

1.2 This policy covers all employees, officers, consultants, contractors, volunteers, interns, casual workers and agency workers.

This policy does not form part of any employee's contract of employment and The John Graham Centre may amend it at any time.

1.3 The purpose of this policy is to:

- | Encourage staff to report suspected wrongdoing as soon as possible, in the knowledge that their concerns will be taken seriously and investigated as appropriate, and that their confidentiality will be respected
- | To provide staff with guidance as to how to raise those concerns
- | To reassure staff that they should be able to raise genuine concerns without fear of reprisals, even if they turn out to be mistaken

This policy and procedure does not apply if a member of the workforce is aggrieved about their personal position. They must use the Grievances Policy and Procedure.

1.4 To support The John Graham Centre in meeting the following Key Lines of Enquiry/Quality Statements (New):

Key Question	Key Lines of Enquiry	Quality Statements (New)
SAFE	S1: How do systems, processes and practices keep people safe and safeguarded from abuse?	QSS3: Safeguarding
SAFE	S2: How are risks to people assessed and their safety monitored and managed so they are supported to stay safe and their freedom is respected?	QSS4: Involving people to manage risks QSS5: Safe environments
SAFE	S6: Are lessons learned and improvements made when things go wrong?	QSS1: Learning culture
WELL-LED	W1: Is there a clear vision and credible strategy to deliver high-quality care and support, and promote a positive culture that is person-centred, open, inclusive and empowering, which achieves good outcomes for people?	QSW1: Shared direction and culture QSW2: Capable, compassionate and inclusive leaders

1.5 To meet the legal requirements of the regulated activities that {The John Graham Centre} is registered to provide:

- | The Criminal Justice and Courts Act 2015
- | The Enterprise and Regulatory Reform Act 2013
- | The Care Act 2014
- | Employment Rights Act 1996
- | Public Interest Disclosure Act 1998
- | The Health and Social Care Act 2008 (Regulated Activities) (Amendment) Regulations 2012



2. Scope

2.1 The following roles may be affected by this policy:

- | All staff
- | NHS staff
- | Persons working on training courses
- | Temporary Agency Staff

2.2 The following Service Users may be affected by this policy:

- | Service Users

2.3 The following stakeholders may be affected by this policy:

- | Commissioners
- | Local Authority
- | Care Quality Commission



3. Objectives

3.1 All staff have a duty to ensure standards of quality care by raising concerns regarding wrongdoing or malpractice. This policy will provide the means of ensuring that staff can confidentially raise genuine concerns of malpractice and/or misconduct through appropriate means at the earliest point without fear of reprisal.



4. Policy

4.1 The John Graham Centre is committed to a high standard of care, to honesty, openness and decency in all its activities and in line with the requirements of duty of candour. It is recognised that Service User safety must come first at all times and, whilst it can be difficult for staff to raise concerns about the practice of others, including managers, the implications of not raising those concerns are potentially very serious for The John Graham Centre, its employees and most importantly for those receiving its services.

4.2 The John Graham Centre encourages a free and open culture in its dealings with its employees and all people with whom it engages in business and legal relations. In particular, The John Graham Centre recognises that effective and honest communication is essential if any wrongdoing or malpractice is to be effectively dealt with and the organisation's success ensured.

4.3 The John Graham Centre recognises that staff members are likely to be the first to realise that there may be something seriously wrong within the organisation but may feel that speaking up would be disloyal to colleagues or their employer who may, under certain circumstances, face criminal charges. They may also fear harassment or victimisation and fear for a loss of job or a reduction in work hours.

4.4 The John Graham Centre will not tolerate the ill treatment, including any bullying or harassment, of anyone raising a concern. It will ensure that any individual who raises a concern, can do so confidentially in line with the Public Interest Disclosure Act 1998 (PIDA).

4.5 The John Graham Centre will ensure that any individual who raises a genuine concern under this policy will not be at risk of termination of their employment or suffer any form of reprisal which includes, but is not limited to, loss or reduction of hours or changes to regular working patterns because of it.

4.6 The John Graham Centre will ensure that it follows not only the law on whistleblowing, but also best practice and guidance from the NHS and regulatory bodies including the Care Quality Commission.



5. Procedure

5.1 Raising Concerns

All staff have a duty to raise concerns regarding inappropriate behaviour, unlawful conduct, poor practice or behaviour to ensure standards of quality care.

5.2 Freedom to Speak Up (FTSU)

Staff at The John Graham Centre are encouraged to speak up about anything that gets in the way of doing a great job.

The John Graham Centre will have a Freedom to Speak Up Guardian who supports staff to speak up when they feel that they are unable to in other ways.

5.3 Whistleblowing

Staff at The John Graham Centre can report certain types of wrongdoing, usually something seen at work - though not always. The wrongdoing disclosed must be in the public interest. This means it must affect others, for example the general public.

5.4 This procedure is intended to provide a safeguard to enable members of staff to raise concerns about one or more of the following that has occurred, is occurring, or is likely to occur. These Qualifying Disclosures (see definition) mean that staff can raise a concern about risk, malpractice or wrongdoing that they think is harming the services, might harm or has harmed in the past any aspect of the services that The John Graham Centre delivers. A few examples of this might include (but are by no means restricted to):

- | Unsafe care
- | Unsafe working conditions
- | Inadequate induction or training for staff
- | Lack of, or poor, response to a reported Service User safety incident
- | Suspicions of fraud (which can also be reported to the local counter-fraud team)
- | Damaging the environment - e.g. disposing of materials or waste incorrectly, for example, flushing medicines or syringes down the toilet or sink
- | A bullying culture (across a team or organisation rather than individual instances of bullying)
- | Incidents of unsafe staffing, falsification of timesheets, Service User records or other clinical or care records
- | Failure to investigate claims of physical or sexual assault
- | Physical, verbal or sexual abuse of any Service User, colleague or other person on the premises of The John Graham Centre
- | Breaching the Data Protection Act

This policy should not be used for complaints relating to a member of staff's own personal circumstances, such as the way they have been treated at work. In those cases, the individual should use the Grievance Policy and Procedure; Anti-Bullying Policy or Procedure; or Harassment Policy and Procedure.

5.5 How to Raise a Concern - Step 1

- | If a member of staff has a genuine concern about a risk, malpractice or wrongdoing at work, it is hoped that they feel they will be able to raise it first with their line manager
- | This may be done verbally or in writing
- | It is better to raise a concern as soon as it arises
- | Where possible, unless, for example, where the concern relates to a safeguarding matter, the concerns raised will be treated confidentially
- | The member of staff's line manager will inform them if they cannot keep the concern confidential
- | The Registered Manager has overall responsibility for concerns raised and the member of staff's line manager may need to share the concern with the Registered Manager who will have access to Angela Cook

5.6 How to Raise a Concern - Step 2

- | If a member of staff does not feel they can raise the concern with their line manager or the concern relates to or involves the line manager (or they have raised it with the line manager and no action has



been taken) the member of staff should then escalate their concerns to the Registered Manager

5.7 How to Raise a Concern - Step 3

- 1 If the member of staff does not feel that the Registered Manager or Angela Cook will appropriately handle their concerns, the member of staff may report their concerns directly to the Care Quality Commission on 03000 61 61 61 or through its website
- 1 The CQC will not disclose the member of staff's identity without their consent unless there are legal reasons requiring the CQC to do so, e.g. where the information is about a child or vulnerable adult who is at risk

5.8 Protection and Support

It is understandable that whistleblowers are sometimes worried about possible repercussions. The John Graham Centre aims to encourage openness and will support staff who raise genuine concerns under this policy, even if they turn out to be mistaken.

Whistleblowers must not suffer any detrimental treatment as a result of raising a concern. Detrimental treatment includes dismissal, disciplinary action, threats or other unfavourable treatment connected with raising a concern. If an individual believes that they have suffered any such treatment, they should inform the Registered Manager immediately. If the matter is not remedied, the individual should raise it formally using the Grievance Procedure at The John Graham Centre.

Anyone who threatens or retaliates against whistleblowers in any way may be subject to disciplinary action. Prior to raising a concern, the member of staff may want to get free, independent and confidential advice from:

- 1 The Whistleblowing Helpline for NHS and Social Care; or
- 1 Public Concern at Work (a whistleblowing charity)

5.9 Investigation

The Registered Manager may arrange a meeting to discuss the concern. If so, the individual may bring a colleague or union representative to any meetings under this policy. The individual's companion must respect the confidentiality of the disclosure and any subsequent investigation.

The Registered Manager, in consultation with Angela Cook, shall have discretion over the nature of the investigation into concerns raised, including, where it is considered appropriate, the involvement of others such as Adult Social Services or auditors. If there is evidence of criminal activity, the Police will be informed.

The John Graham Centre cannot always guarantee the outcome the individual is seeking, however The John Graham Centre will try to deal with the individual's concern in a fair and appropriate way. If the individual is not happy with the way in which the concern has been handled, they can raise it with one of the contacts listed at paragraphs 5.5 to 5.7.

5.10 Registered Manager and Angela Cook Responsibility

- 1 Responsibility for dealing with any concerns reported will lie with the Registered Manager who will have access to Angela Cook
- 1 If the concerns relate to the Registered Manager, concerns should be escalated to Angela Cook
- 1 If the concerns involve both the Angela Cook and Angela Cook or an individual is fulfilling both roles, the member of staff can contact the CQC

5.11 Protected Disclosures and Safeguarding

- 1 Where a safeguarding concern is received by a member of staff, Canterbury City Council safeguarding policies and procedures will be followed
- 1 Where a safeguarding concern is received by a member of staff and refers to the actions of the Manager or Deputy Manager, then the referral must in the first instance be made to the Social Services Adult Protection Team
- 1 The Adult Protection Team will take the responsibility of informing other agencies. The contact details for the local Social Services for The John Graham Centre are as follows:

The John Graham Centre
03000416161

5.12 Raising a Concern - Timescales

The individual with whom the concern is raised will acknowledge the concern within locally agreed timescales and in line with best practice.

The investigating officer will be confirmed to the member of staff along with any further information required



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including contact information and an estimate of the likely timescales involved.

5.13 Where possible, the responsible manager will feed back to the member of staff who raised the concern on the outcome of any investigation, although this may not always be possible in full due to the nature of the disclosure.

5.14 A record of the information provided and details of the proceedings will be kept in line with best practice.

5.15 False, Malicious, Vexatious Allegations

All whistleblowing concerns will be investigated. However, if a member of staff is found to have made allegations maliciously and/or not in good faith, disciplinary action may be taken. A member of staff will never be disciplined for raising a concern, so long as they follow the whistleblowing procedure or make disclosures in accordance with the Public Interest Disclosure Act 1998 (PIDA).

5.16 Bullying and Harassment of Whistleblowers

Unless an employer has taken reasonable steps to prevent this type of victimisation by co-workers, it will be deemed liable for the acts of its staff. It is therefore no longer enough to deal with incidents of bullying or harassment as and when they arise, on a case by case basis. The only basis upon which an employer will now be able to defend itself against liability for the actions of its staff will be by proactive steps. In order to demonstrate a “reasonable steps” defence, an employer will need to anticipate conduct such as bullying and harassment. To avoid incidents of bullying or harassment occurring, The John Graham Centre will take the following steps:

- | Adhere to the Whistleblowing Policy
- | Embed a culture of openness and transparency
- | Communicate the policy
- | Offer any necessary training to ensure that it is put into effect
- | Take action if any worker bullies or harasses a whistleblower

5.17 Employment Contracts, Whistleblowing and Confidentiality

The PIDA protects Whistleblowers from being restricted to bring claims of whistleblowing. The John Graham Centre will seek legal or Human Resource advice to ensure that (where relevant) any agreements between The John Graham Centre and the employee/worker does not prevent them from issuing a whistleblowing claim.

5.18 Monitoring, Review, Continuous Improvement

The John Graham Centre strives through its Good Governance and Quality Assurance policies and procedures to ensure that as an organisation it has a clear audit and review process in place that seeks to foster a culture of continuous improvement and learning.

The John Graham Centre invites and actively seeks feedback, especially from those who may be faced with particular barriers to speaking up and raising concerns.

5.19 External Disclosures

The aim of this policy is to provide an internal mechanism for reporting, investigating and remedying any wrongdoing in the workplace. In most cases it should not be necessary to alert anyone externally.

The law recognises that in some circumstances it may be appropriate for individuals to report their concerns to an external body such as a regulator. It will very rarely, if ever, be appropriate to alert the media. The John Graham Centre strongly encourages staff members to seek advice before reporting a concern to anyone external.

Whistleblowing concerns usually relate to the conduct of staff, but they may sometimes relate to the actions of a third party, such as a supplier or service provider. In some circumstances, the law will protect an individual if they raise the matter with the third party directly. However, The John Graham Centre encourages staff to report such concerns internally first, in line with this policy.



6. Definitions

6.1 Criminal Justice and Courts Act 2015

- | Legislation which lays out the offences involving ill-treatment or wilful neglect by a person providing health or social care

6.2 Whistleblowing

- | The disclosure of information which relates to suspected wrongdoing or dangers at work. This may include (but is not limited to):
 - | Criminal activity
 - | Failure to comply with any legal (or professional) obligation or regulatory requirements
 - | Miscarriages of justice
 - | Danger to health and safety
 - | Damage to the environment
 - | Bribery
 - | Facilitating tax evasion
 - | Financial fraud or mismanagement
 - | Breach of internal policies and procedures
 - | Conduct likely to damage the reputation or financial wellbeing of the organisation
 - | Unauthorised disclosure of confidential information
 - | Negligence
 - | The deliberate concealment of any of the above matters

6.3 Anonymously

- | Made or done by someone whose name is not known or made public

6.4 Employee/Staff

- | PIDA refers to 'workers'. This policy has used the term employee/staff/colleagues to reflect the relevant persons that this policy relates to. The NHS integrated Policy (2016) 'Freedom to Speak Up: Whistleblowing Policy for the NHS' refers to volunteers being included. However, PIDA does not specifically include volunteers as they are not paid employees and therefore cannot be compensated financially for ill treatment or unfair dismissal

6.5 Vicarious Liability

- | Vicarious liability refers to a situation where someone is held responsible for the actions or omissions of another person. In a workplace context, an employer can be liable for the acts or omissions of its employees, provided it can be shown that they took place in the course of their employment

6.6 Grievance or Private Complaint

- | A dispute about the employee's own employment position without a public interest aspect

6.7 Whistleblower

- | The term 'whistleblower' is used to describe people who make a 'qualifying disclosure' about a genuine concern at work. Where a worker suffers a detriment or is dismissed as a result, then they may have certain employment protections under the Employment Rights Act 1996 (as amended by the Public Interest Disclosure Act 1998, often referred to as 'PIDA')

6.8 PIDA

- | Public Interest Disclosure Act 1998 - Legislation which provides protection to workers who make disclosures in the public interest

6.9 Public Interest

- | A disclosure made in the interest of the public, i.e. not relating to an individual such as in a grievance case

6.10 Qualifying Disclosure

- | Qualifying disclosures are disclosures of information where the worker reasonably believes (and it is in the public interest) that one or more of the following matters is either happening, has taken place, or is likely to happen in the future:



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- | A criminal offence
- | The breach of a legal obligation
- | A miscarriage of justice
- | A danger to the health and safety of any individual
- | Damage to the environment
- | Deliberate attempt to conceal any of the above



Key Facts - Professionals

Professionals providing this service should be aware of the following:

- | The John Graham Centre is committed to the Raising Concerns, Freedom to Speak Up and Whistleblowing Policy and Procedure and will act on information given in line with it
- | All whistleblowers will be treated in a fair way and will not be victimised or prejudiced as a result of a genuine concern
- | On induction, staff will be trained on the whistleblowing procedures of The John Graham Centre. Information on how to report concerns will be visible at The John Graham Centre
- | The John Graham Centre will monitor the effectiveness of the whistleblowing procedures and will review every concern raised to identify and address any themes or trends
- | All staff have a duty to ensure standards of quality care by raising concerns regarding inappropriate behaviour, unlawful conduct, poor practice or behaviour and will be protected and supported to do so



Key Facts - People affected by the service

People affected by this service should be aware of the following:

- | If you have concerns that you are at risk of harm or abuse, you can contact Angela Cook. The John Graham Centre has a safeguarding policy and your Service User Guide provides information on who you can talk to
- | If you want to complain or have a comment about your service you can use the procedure for complaints at The John Graham Centre



Further Reading

As well as the information in the 'underpinning knowledge' section of the review sheet we recommend that you add to your understanding in this policy area by considering the following materials:

Care Quality Commission (CQC) - Promoting Sexual Safety Through Empowerment:

https://www.cqc.org.uk/sites/default/files/20200225_sexual_safety_sexuality.pdf

ACAS - Whistleblowing - Public Interest Disclosure:

<https://webarchive.nationalarchives.gov.uk/ukgwa/20210104111253/https://archive.acas.org.uk/index.aspx?articleid=1919>

CQC - Raising a Concern with CQC:

https://www.cqc.org.uk/sites/default/files/20200420_Whistleblowing_quick_guide_final_update.pdf

GOV.UK - Whistleblowing For Employees:

<https://www.gov.uk/whistleblowing>

Protect Charity

<https://protect-advice.org.uk/>

NHS England - Freedom to speak up in Primary Care (includes a draft whistleblowing policy for NHS primary care):

<https://www.england.nhs.uk/wp-content/uploads/2016/11/whistleblowing-guidance.pdf>

Policies:

- | Safeguarding Policies and Procedures
- | Grievances Policy and Procedure
- | Duty of Candour Policy and Procedure
- | Complaints, Suggestions and Compliments Policy and Procedure
- | Anti-Bullying Policy and Procedure
- | Data Protection and Confidentiality Policy and Procedure



Outstanding Practice

To be 'outstanding' in this policy area you could provide evidence that:

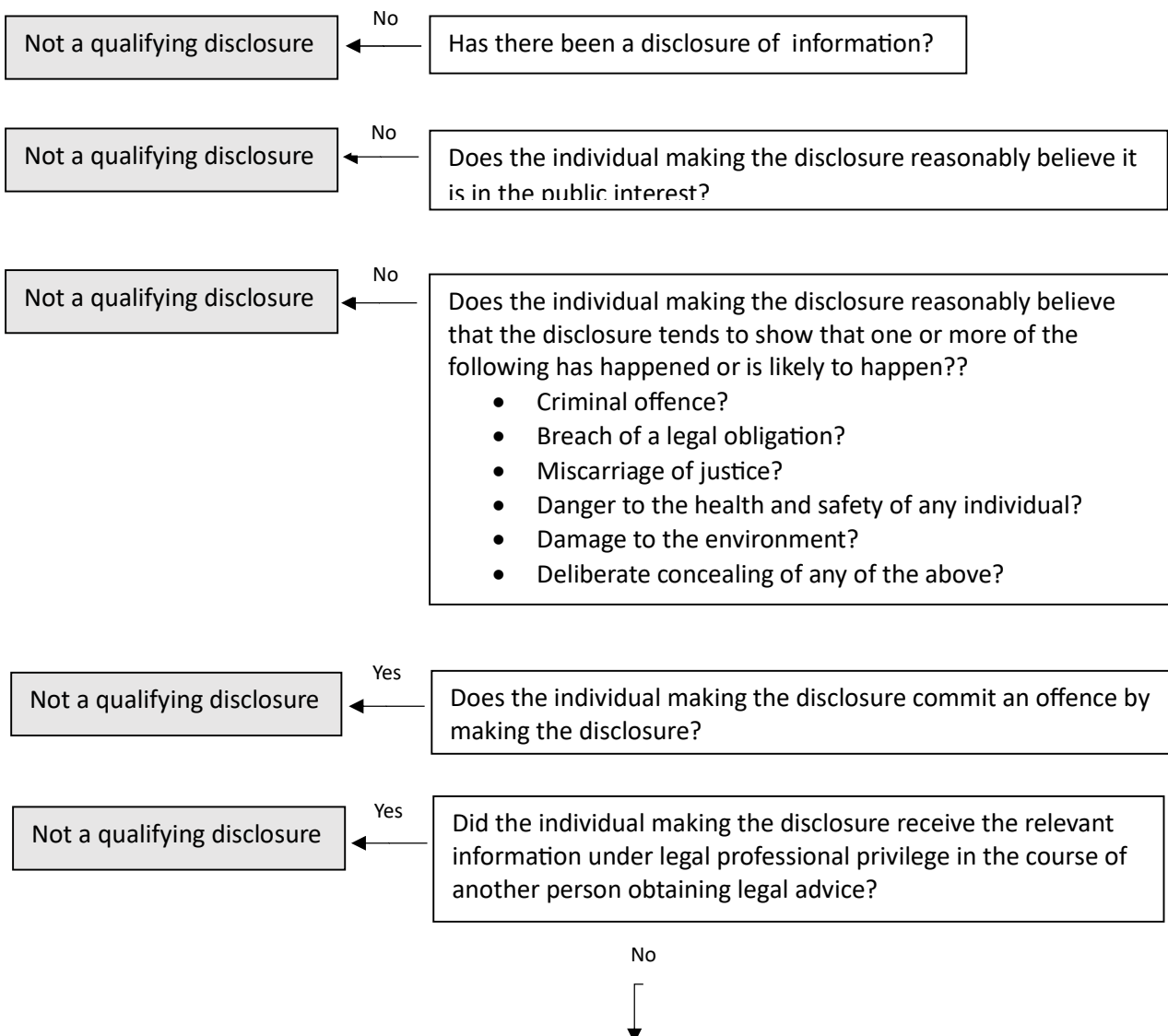
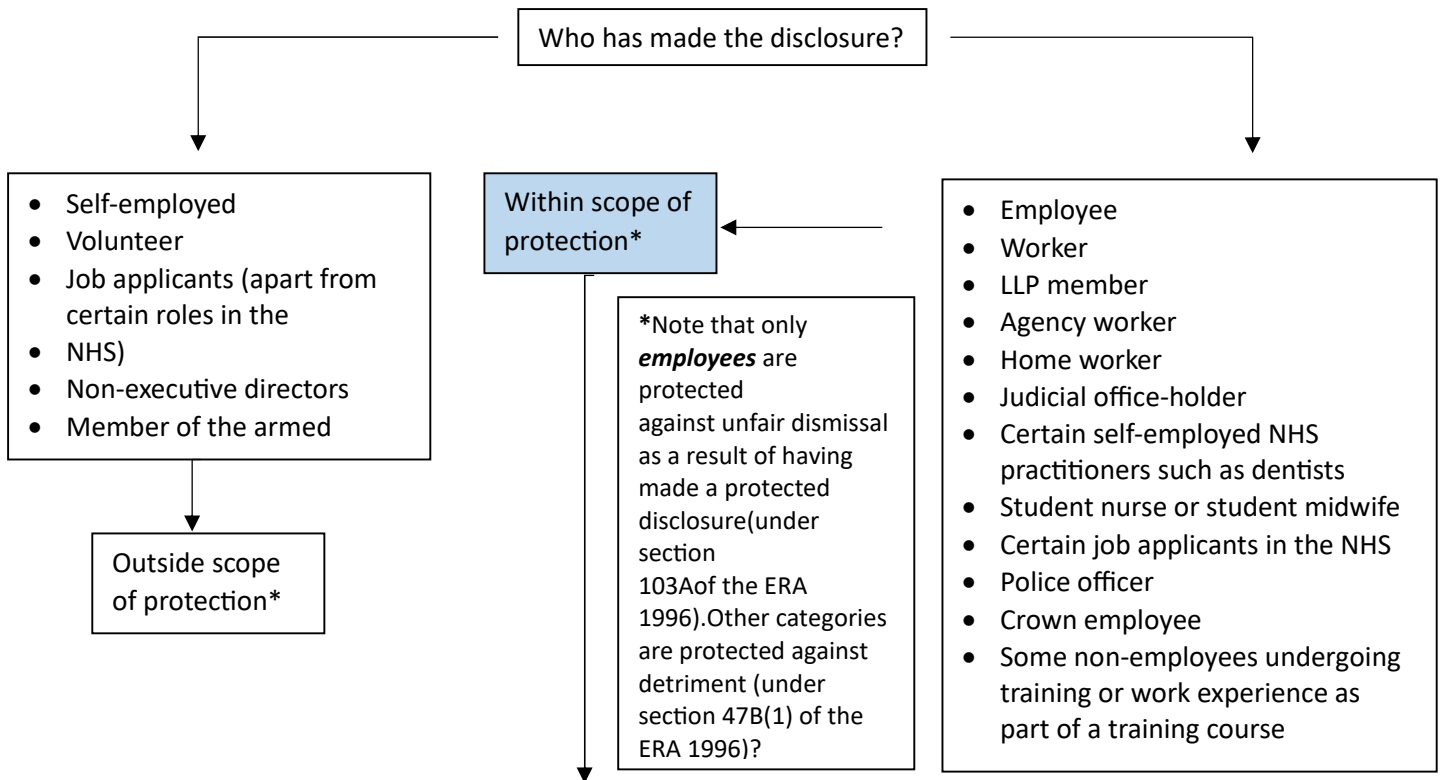
- | The John Graham Centre uses lessons learnt from concerns, without breaching confidentiality, to ensure continuous improvement of the service
- | The wide understanding of the policy is enabled by proactive use of the QCS App
- | The John Graham Centre enables employees to raise concerns by providing support (such as a helpline) from an independent agency in regard to whistleblowing concerns
- | The John Graham Centre has a designated Whistleblowing Champion and evidence of the proactive nature of this role and how it is a success
- | Staff report that The John Graham Centre is extremely open, transparent and actively supports and encourages whistleblowing



Forms

The following forms are included as part of this policy:

Title of form	When would the form be used?	Created by
Whistleblowing Flow Chart - PM11	To outline the process for whistleblowing	QCS



Qualifying disclosure

To whom has the qualifying disclosure been made?

Employer?

- An individual may have two employers for this purpose
- Includes any third party authorised by whistleblowing procedure?

A *third party* where the individual reasonably believes the wrongdoing relates to their conduct or to a matter which is their legal responsibility

Legal adviser in the course of taking legal advice?

Any government minister Or member of the Scottish Government where the individual is employed by an individual or body appointed under any enactment

Prescribed person where the individual reasonably believes:

- The wrongdoing falls within the description of matters for which the person or body has been prescribed?
- The information disclosed and any allegations it contains are substantially true

Wider disclosure to Anyone else, where:

- The individual reasonably believes that the information disclosed and any allegations it contains are substantially true
- The individual does not act for personal gain?
- It is reasonable in all the circumstances to make the disclosure?

Is the wrong doing of an exceptionally serious nature?

Is the disclosure reasonable in all the circumstances, having regard in particular to the identity of the person to whom the disclosure was made?

Not a protected disclosure

Is one or more of the following conditions satisfied?

- The individual has previously disclosed substantially the same information to their employer or a prescribed person?
- The individual reasonably believed they would be subjected to a detriment by their employer if disclosure was made to the employer or prescribed person?
- In the absence of a prescribed person, the individual reasonably believed that disclosure to the employer would result in material evidence being concealed or destroyed?

Protected disclosure

