

Confidentiality clauses in the Scottish university sector

Confidentiality clauses are used within the Scottish university sector for a variety of purposes – for example, in connection with commercially sensitive university research, and with staff leaving universities on voluntary severance terms.

Scottish universities do not use confidentiality clauses to prevent victims of harassment from speaking out. It is critical that all our staff and students are safe and supported, and we would consider any such use of confidentiality clauses to be wholly unacceptable.

Where a confidentiality clause is used, it is typically part of a wider settlement agreement between the individual and the university. The protection granted by such a clause is often just as important to the individual as to the university – it works in both directions.

Importantly, signing a settlement agreement never removes an individual’s legal rights to speaking up, also known as ‘whistleblowing’, under the Public Interest Disclosure Act 1998.

We believe it important that individuals signing settlement agreements are aware of their disclosure rights, and all Scottish universities are committed to the following good practice:

- Confidentiality clauses should always make clear to individuals what their disclosure rights are.
- Individuals signing settlement agreements containing confidentiality clauses should always receive independent legal advice that includes clear advice on what their disclosure rights are.
- Being clear about disclosure rights should always include being explicit that nothing in a settlement agreement prevents an individual from reporting an alleged criminal offence to the police.

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