

Whistleblowing and Public Interest Disclosure Policy and Procedure

Policy and Procedure for Whistleblowing and Public Interest Disclosure

1 Introduction

The University has a responsibility to manage itself legally, efficiently and fairly in the wider public interest and for the benefit of its staff, students, customers and collaborators. This requires a free flow of information about serious shortcomings in any of its activities so that appropriate action may be taken.

The Public Interest Disclosure Act 1998 (the “Act”) gives legal protection to employees against being dismissed or penalised by their employers as a result of disclosing certain serious concerns.

It is fundamental to any employment contract that an employee will be loyal to his or her employer and will not disclose confidential information outside the organisation. However, from time to time, a member of staff might discover information which he or she believes shows wrongdoing or malpractice within the organisation. On such occasions, it must be made possible for the information to be disclosed **without fear of reprisal** and, where appropriate, to someone other than the direct line manager, as set out in this document.

For the purpose of the University’s Policy and Procedure, the protection afforded by the Act should be taken to include all members of the University, including its students and Members of the Board of Governors and the Board’s committees.

2 Policy Statement

The University is committed to the highest standards of honesty, openness and accountability. It aims to ensure that it operates in a responsible manner, taking into account standards set out in, for instance, the reports of the Nolan Committee and the requirements of funding and other bodies. It recognises that members of the University have an important role in helping to achieve this aim.

The Policy is designed to allow staff, students and all members of the University to raise, at a high level, concerns or information which they believe in good faith provides evidence of malpractice or impropriety. Individuals discovering apparent evidence of malpractice, impropriety or wrongdoing within the University should feel able to disclose the information appropriately without fear of reprisal. This Policy and Procedure sets out how such disclosures should be made and how cases will be handled by the University. The procedure is distinct from existing internal procedures for dealing with individual complaints by staff connected with their personal circumstances at work, terms of employment or collective grievances, and from procedures for dealing with complaints or academic appeals by students.

A person making a disclosure in good faith, without malice, and in accordance with this Policy and Procedure, will not be penalised for doing so.

The aims of this procedure are:

- i. to enable all members of the University to raise concerns about suspected wrongdoing within the institution as soon as possible, in the knowledge that their concerns will be taken seriously;

- ii. to provide a process for those concerns to be raised, investigated and where appropriate, acted upon;
- iii. to reassure all members of the University that they can raise genuine concerns without fear of reprisal even if they turn out to be mistaken;
- iv. to act as a deterrent to potential perpetrators of misconduct;
- v. to strengthen the confidence of all interested parties (students, staff, regulators, etc.) that the University maintains the highest standards of conduct.

Individuals are encouraged and expected to use this procedure rather than to air their grievances outside the University. There are possible consequences of not using this procedure, which are set out below.

3 Scope of the Policy and Procedure

- 3.1 The Act applies to individuals raising genuine concerns relating to some actual or potential danger, fraud or other illegal or unethical conduct, but it limits its protection to employees, agency workers and self-employed workers. However, this policy and procedure extends similar protection to members of the Board of Governors and students registered with the University.
- 3.2 The Act provides legal protection to prevent individuals being penalised as a result of making a qualifying disclosure. A qualifying disclosure is one which, in the reasonable belief of the person making the disclosure, is in the public interest. The policy and procedure are concerned with alleged malpractice, impropriety or wrongdoing in the institution which it is in the University's or public interest to disclose. Although it is difficult to provide an exhaustive list, it might include one or more of the following:
 - financial malpractice or impropriety or fraud;
 - failure to comply with a legal obligation or with the rules and regulations of the University;
 - dangers to health and safety or the environment;
 - failure of an individual or individuals to disclose a serious conflict of interest;
 - criminal activity;
 - evidence of academic or professional malpractice, which includes matters such as research misconduct;
 - serious failure to comply with the University's governing Instrument and Articles;
 - evidence of failure to comply with the Modern Slavery Act 2015;
 - improper conduct or unethical behaviour including any offence under the Bribery Act 2010;
 - miscarriage of justice;
 - deliberate covering up or suppression of information relating to any of the above matters.
- 3.4 The procedure is not designed to be used:
 - for issues for which appropriate procedures already exist, such as staff grievances, bullying and harassment ("report and support"), academic appeals, and complaints and feedback relating to other matters. An indicative list of

related procedures and documents is provided as an appendix.

- to reconsider any matters already addressed under other internal procedures; for example: complaints, disciplinary or grievance procedures;
- by individuals to challenge decisions properly taken by the University. As part of its day to day conduct of business the University takes decisions under established and reasonable procedures. It is not intended that this procedure will allow such decisions to be questioned unless on grounds of malpractice, impropriety or wrongdoing.

Individuals in any doubt as to the appropriateness of this procedure to raise a concern should contact the Deputy Clerk to the Board of Governors for advice.

4 Procedure for Making and Investigating a Disclosure

- 4.1 Any relevant disclosure should initially be made to the person designated by the University to receive such disclosures. The 'designated person' is the Clerk to the Board of Governors. If a disclosure involves or implicates the Clerk to the Board of Governors, or the Clerk's involvement would not be appropriate for any other significant reason, then the individual may write to the Vice-Chancellor who may, in turn, refer the matter to the Chair of the Audit, Risk and Assurance Committee of the Board of Governors.
- 4.2 The designated person to whom the disclosure has been made, or any other senior executive identified by the Chair of the Audit, Risk and Assurance Committee, will consider the information disclosed and decide whether the matter falls within the scope of this procedure and, if so, whether there are grounds for proceeding further.
- 4.3 If the matter falls outside this procedure but within another, then the individual making the disclosure will be informed and directed to the appropriate process.
- 4.4 If the designated person decides that there are insufficient grounds on which to proceed, the individual making the disclosure will be informed and will have a right to provide further information and resubmit his or her concerns.
- 4.5 If there are grounds for proceeding, the designated person will decide how the investigation should be undertaken. This will depend on the nature of the matter and may involve:
 - an internal investigation conducted by a sufficiently independent senior member of the University or its internal or external auditor;
 - referring the matter to the police;
 - an independent external inquiry.
- 4.6 The investigation will not be conducted by the designated person or any other person who may have to take a significant decision arising from the findings. It will be conducted as sensitively as possible, and normally be complete within eight weeks of the disclosure being made. The investigation will also take into account concepts of procedural fairness and the need to safeguard individual reputations.
- 4.7 When an allegation concerns a named individual, the person concerned will be informed of the allegation and of the evidence supporting it. They will be invited to respond to the allegation as part of the investigation and/or before any final conclusion is reached. The point at which it is appropriate for the named individual to be informed will depend on the nature of the case.

- 4.8 An individual wishing to make a disclosure orally or to give further details as the matter is investigated may be accompanied by their union representative or by a colleague or friend. Similarly, in any hearing under this procedure, the individual making the disclosure and the person against whom an allegation has been made are both entitled to be accompanied by their union representative or by a colleague or friend.
- 4.9 The findings of any investigation will be reported to the designated person or other identified person who will reach a decision on any further action to be taken.
- 4.10 Following an initial investigation, other internal procedures may be identified as relevant and may be invoked, such as the disciplinary, grievance or report and support procedures (see 3.4). In some cases it may be appropriate to refer a matter outside the University for further investigation.

The designated person will normally inform the individual making the disclosure of the conclusion reached and what action, if any, is to be taken and why. However, there may be circumstances where the outcome must remain confidential. In these circumstances the designated person will keep the individual making the disclosure informed of progress and that a conclusion has been reached.
- 4.11 If the individual making the disclosure is dissatisfied about how an inquiry was carried out, and its resultant outcome, then they may appeal but only on procedural grounds, to the Chair of the Audit, Risk and Assurance Committee, who may order a procedural review and establish its terms of reference. If the initial disclosure was referred to the Chair of the Audit, Risk and Assurance Committee, an appeal may be made to the Chair of the Board of Governors.

5 Reporting

- 5.1 A report summarising all disclosures and inquiries and any subsequent actions taken will be made by the designated person or other person to the Vice-Chancellor and to the Audit, Risk and Assurance Committee and such reports will be retained for a minimum of three years.
- 5.2 The Audit, Risk and Assurance Committee will refer the report on appropriately if necessary, to ensure that any remedial or preventative action is taken and that appropriate communications, training and awareness-raising measures – where applicable – are implemented by the University.

Reporting on the findings of any investigation will depend on the nature of the disclosure as it is not appropriate to be prescriptive as to the correct level of reporting in every case.

6 Safeguards

The University is keen to ensure that the position of both the individual raising concerns and anyone about whom allegations might be made are safeguarded. It will do this through the following measures.

6.1 Protection

The procedure offers protection against dismissal or other penalty by the University to those individuals who disclose any relevant concerns, provided that the disclosure is made:

- i. in good faith; and
- ii. in the reasonable belief that what is disclosed may help identify malpractice, and to the appropriate person.

6.2 Confidentiality

The University will aim to treat all disclosures and information regarding any action taken under this procedure in a confidential and sensitive manner, in particular:

- i. ***Individual making a disclosure***

The identity of the individual making an allegation will remain confidential, unless otherwise agreed with that individual, as long as it does not hinder or frustrate the investigation and is compatible with procedural fairness. However, the investigation process may at some stage need to reveal the source of the information, and the individual making the disclosure may at that stage need to provide an attributable statement as part of the evidence to be presented.

- ii. ***Named individual(s)***

During the course of any investigation the University will, as far as is reasonably possible without prejudicing that investigation, endeavour to maintain confidentiality regarding the names of any person/people named in an allegation.

6.3 Anonymous Disclosures

Individuals are normally expected to put their name to any disclosures or allegations they make since part of this policy is to promote openness and discourage fear of reprisal.

Concerns expressed anonymously will not normally be addressed. However, at its discretion the University may decide to do so after taking into account:

- i. the seriousness of the issues raised; and
- ii. the credibility of any allegations; and
- iii. the likelihood of being able to investigate the matter and substantiate the allegation through attributable sources; and
- iv. fairness to any individual mentioned in the disclosure.

6.4 Unsubstantiated Allegations

No action will be taken against an individual who makes an allegation in good faith even if it is not confirmed by subsequent investigation.

6.5 Malicious Allegations

Individuals making disclosures which are found by subsequent investigation to be false or malicious and/or vexatious, or made persistently, or for personal gain may be subject to disciplinary or other appropriate action. A disclosure may be deemed malicious or vexatious at any stage of the procedure.

6.6 Victimisation

Victimisation of a member of the University who has made a disclosure under this Policy may provide grounds for grievance, disciplinary or other appropriate action.

7 Independent Advice

The University is keen to ensure that the position of both the individual raising concerns and anyone about whom allegations might be made are safeguarded. It will do this through the following measures.

If an individual is not clear whether to use this procedure, or if they want independent advice at any stage, they are advised to contact the following, as appropriate:

- a Students' Union advisor;
- an appropriate employee representative;
- the local Citizens Advice;
- 'Protect' (formerly 'Public Concern at Work') (Advice line: whistle@protect-advice.org.uk)

Advice can also be sought from the Deputy Clerk to the Board of Governors.

- 8** This policy and procedure is designed to clarify for individuals the route through which concerns can be raised and to assure them that such matters will be taken seriously and acted upon within the University. The University takes the view that in the vast majority of cases an internal investigation and decision is likely to be the most appropriate course of action.

If an individual raises matters of concern outside the University, without first using this procedure, they may be in breach of the procedure. That is potentially a disciplinary offence, especially if it causes, or might have caused, unnecessary reputational damage to a member of the University or to the institution.

In such circumstances, an individual may be deemed as having waived their rights under the Public Interest Disclosure Act. In particular, it would not usually be considered appropriate for matters to be raised publicly in the media before an investigation is completed. 'Protect' are able to advise independently on these matters.

- 9** Should you have a query about this policy or its applicability, in the first instance, please contact: Christine Gledhill, Deputy Clerk to the Board of Governors.

10 Review

The implementation of this Policy and Procedure will be formally reviewed every 3 years, unless there are internal or legislative changes that necessitates earlier review.

Last updated and approved by the Audit, Risk and Assurance Committee on behalf of the Board of Governors, 29 June 2022.

Appendix: Related Policies, Procedures and Documents

University guidance relevant to Disclosure include those listed below. This list is indicative and is not exclusive of other University policy, procedures or codes of practice.

1. [Academic Appeals Policy](#)
2. [Anti-Bribery Policy](#)
3. [Policy for Bullying and Harassment of or by Students](#)
4. [Student Conduct Policy](#) and [Student Disciplinary Procedures](#)
5. [Consumer Protection Law](#)
6. [Research Misconduct](#)
7. [Report and Support](#)
8. [Staff Grievance Procedure](#)
9. [Staff Conduct Procedure](#)
10. [Safeguarding Policy](#)
11. [Dignity at Work Policy](#)
12. [Professional Suitability Policy and Procedure](#)
13. [Health and Safety Policy](#)
14. [Equality and Diversity Policy](#)
15. [IT Acceptable Use Policy](#)