

WHISTLEBLOWING POLICY

STATEMENT OF POLICY

Introduction

1. The University seeks to conduct its affairs in a responsible manner, taking into account the requirements of its relevant regulatory bodies and general guidance and legislation on standards in public life, particularly with regard to probity, openness and accountability.
2. The Public Interest Disclosure Act 1998 gives legal protection to workers, (including employees, employment agency workers, and those on work experience, against being dismissed or penalised by employers as a result of disclosing information which, in the reasonable belief of that member of staff, is in the public interest to disclose and tends to show one or more specified types of malpractice, wrongdoing or dangers. The disclosure is commonly known as 'whistleblowing'. Volunteers are not workers and are not covered by PIDA but should also have protection from recrimination if they whistle blow.
3. Where (i) an individual discovers information reasonably believed to relate to malpractice, wrongdoing or dangers, either within the organisation or in conjunction with third parties such as suppliers or contractors; and ii) the individual reasonably believes the information should be disclosed in the public interest, the disclosure should be made without fear of reprisal.
4. This Policy enables disclosures to be made independently of line management, if that is the whistle blower's preference.

Scope of Policy

5. The Policy provides guidance to staff, students, members of Council and other members of the University on the procedure for the disclosure of information. The disclosure can relate to information which is financial or non-financial in nature.
6. This Policy and its associated procedure is separate from other University policies and procedures designed specifically for dealing with matters that may fall under other policies such as:
 - *Dignity and Respect at Leicester Policy*
 - *Discipline Ordinance Policy & Procedure*
 - *Grievances*
 - *Misconduct in Research*
7. Although a disclosure made may, (at least initially), be investigated under the procedure detailed in this document, such investigation may lead to the invocation of other policies and procedures, including those referred to in paragraph 6 above.

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TYPES OF MALPRACTICE, IMPROPRIETY AND DANGERS COVERED

8. This Policy is invoked where the person making the disclosure reasonably believes it is in the public interest to do so, is made in good faith, reasonably believes that the information disclosed and any allegations contained in it are substantially true and tends to show one or more of the following:
 - a. a criminal offence
 - b. a failure to comply with a legal obligation
 - c. a miscarriage of justice
 - d. an act creating a risk to health and safety
 - e. an act causing damage to the environment
 - f. the deliberate concealment of information tending to show any of the above
 - g. unethical conduct.
9. The above should not be viewed as an exhaustive list. All concerns raised will be treated fairly and properly. It is ultimately the responsibility of the University to decide if a formal investigation should be conducted and for determining the nature of any actions which may follow as a result.
10. The Policy is not designed to permit or encourage the questioning of legitimate financial or business decisions properly taken by the University; similarly, it may not be used to bring about the consideration, (or reconsideration), of any matters of private interest to the individual concerned. Such matters may be properly and appropriately addressed under other University procedures such as those referred to in paragraph 6.

SAFEGUARDS

Protection

11. The overall aim of the Policy is to ensure that the whistle blower will not suffer detriment or adverse treatment from the University or University personnel, , as a result of making the disclosure. The individual concerned will be protected if a disclosure is made to the appropriate designated person set out in paragraph 21 below.
12. There may be instances where the disclosure might not qualify for protection under this Policy, e.g. where the whistle blower commits an offence by making the disclosure. An example could be where the information is disclosed in breach of the Official Secrets Act, however, it does not automatically follow that the law would not protect the whistle blower in those circumstances.
13. This Policy provides for whistle blowers to be supported, advised or represented by an individual they nominate, such as a work place colleague or trade union official.
14. All reasonable steps will be taken to protect whistle blowers from bullying, harassment or reprisals. Any University staff member alleged to be involved in such conduct may be subject to disciplinary action in line with the University's *Discipline Ordinance*.

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Confidentiality

15. The University will treat disclosures of information in a confidential and sensitive manner. The identity of whistle blowers may be kept confidential if requested by the individual concerned, so long as that does not potentially hinder or frustrate any investigation, in which event, the University will consult the individual before taking any further action. It should be recognised that the investigation process may, of necessity, reveal the source of the information and as part of the investigation, an individual making a disclosure may need to provide a statement.

Anonymous Allegations

16. Individuals making disclosures under this Policy are encouraged to give their names. The purpose of doing so would be to support any investigation into matters that have been raised and to assist the University in reaching a conclusion. Lack of available evidence may prevent the University from being able to progress cases of whistleblowing. Anonymous disclosures are permissible but by their very nature are not as strong and may therefore prove difficult to investigate, however, they will be considered at the discretion of the University. In exercising this discretion, the factors to be taken into account will include the following:
 - seriousness of the issue(s) raised;
 - credibility of the information disclosed;
 - likelihood of being able to corroborate the information.
17. The University cannot guarantee that colleagues or the people involved in the disclosure will not be able to deduce the identity of the whistle blower. If it is likely colleagues will be able to work out who has raised the concern, the whistle blower should be assured of the protections outlined in paragraphs 11-15 above.

Untrue Allegations

18. If an individual discloses information which shows or suggests malpractice but which is not then confirmed by subsequent investigation, no detrimental or disciplinary action will be taken. Where an individual is found to have made malicious or vexatious allegations, particularly if they persist in doing so, action may be taken in line with the University *Discipline Ordinance*.

PROCEDURE FOR MAKING A DISCLOSURE

Initial Step

19. It is important that individuals disclose information at the earliest opportunity. For the avoidance of doubt, it should be clearly stated by the individual that the disclosure is being made under the Policy. It is not necessary to provide or wait for 'proof' of the suspected malpractice. The disclosure should contain as much detail as possible including, where applicable, the names of individuals and significant dates, locations or events.
20. Where two or more individuals are aware they both have knowledge of the same information, they should each make separate and individual disclosures to the University but should not discuss the matter between them. Submission of joint disclosures may lead to allegations of collusion or of 'manufactured' information.
21. The procedure for making a disclosure is as follows:

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- a. the disclosure can be made verbally, in writing, or by e-mail to the Designated Person, who will normally be the Registrar and Secretary as Secretary to Council, which is the University's governing body. The Registrar and Secretary will immediately inform the President and Vice-Chancellor and the Chair of Council;
- b. if the disclosure is about the Registrar and Secretary, it should be made directly to the President and Vice-Chancellor, who will inform the Chair of Council;
- c. if the disclosure is about the President and Vice-Chancellor, it should be made directly to the Chair of Council;
- d. if for any other reason the person making the disclosure feels it is not appropriate to raise the matter with the Registrar and Secretary or the President and Vice-Chancellor, it may be raised directly with the Chair of Council.

Initial consideration of the information disclosed

22. The Designated Person will undertake an initial consideration of the information and assess the extent to which it provides a *prima facie* indication of malpractice.
23. If, on the basis of the initial consideration, the Designated Person decides that the disclosure either does not provide a *prima facie* indication of malpractice and/or is wholly without substance or merit, no further action will be taken. The individual making the disclosure, (unless made anonymously), will be informed of this decision, with the reasons, within ten working days of the Designated Person first receiving the disclosure.
24. If the Designated Person decides that the disclosure does provide a *prima facie* indication of malpractice but is of a nature which does not fall within the scope of the Policy, the Designated Person will arrange for the matter to be considered and progressed as appropriate under a different policy and/or procedure. The decision of the Designated Person will be notified to the individual making the disclosure, (unless it was made anonymously), with the reasons, within ten working days of the Designated Person first receiving the disclosure.

Process for investigation of disclosures made within the scope of the Whistleblowing Policy

25. If the disclosure provides a *prima facie* indication of malpractice, the Designated Person will decide on the form of investigation to be undertaken. This will be either to:
 - investigate the matter internally;
 - refer the matter to the external auditors;
 - refer the matter directly for external investigation by an appropriate body such as the police, the Health and Safety Executive, the Environment Agency, or the Serious Fraud Office.
26. Where the matter is to be the subject of an internal investigation, the Designated Person will not conduct it but will appoint an investigating officer to do so on the University's behalf.

Investigation

27. The investigating Officer will be appointed internally from inside (or if necessary from outside) the University and the appointment of the investigating officer will be with reference to the knowledge, experience and skills required, based on the nature of the disclosure. The

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investigating officer will play no part in any decisions taken in response to the findings and will have no involvement with, nor responsibility for, any other procedures which may be invoked as an outcome of the investigation.

28. The decision of the Designated Person under paragraph 27 and, where applicable, the identity of the person appointed to conduct the investigation, will be notified to the individual making the disclosure, (unless made anonymously), with the reasons, within ten working days of the Designated Person first receiving the disclosure.
29. The Investigating Officer will determine the scope of the investigation, supported if necessary, by an appropriate member of Human Resources. Investigations will be conducted as sensitively and speedily as possible and with no presumption of guilt, whilst having proper regard to the nature and complexity of the disclosure and the need for thoroughness. A record will be kept of the investigation.
30. The Investigating Officer may interview and/or seek a written statement from the whistle blower and any other individuals considered to be relevant to the investigation. A work place colleague or trade union representative may accompany any individual being interviewed, should they so wish.
31. The individual(s) against whom the disclosure is made will be notified of the investigation after it has commenced and once it is in the initial stage. They will be informed verbally, which will be followed up in writing, of the evidence supporting the disclosure and will be invited to comment before the investigation is concluded or any further action is taken. The person(s) against whom the disclosure is made will be notified in writing of any next steps, by or on behalf of the Designated Person.
32. Where the initial stage of the investigation of the disclosure provides reasonable grounds for suspecting staff of involvement in any of the activities listed in paragraph 8 above, the Investigating Officer will advise the University on how to prevent any further loss, danger, damage or harm, which may require the suspension, on full pay, of the individual(s) against whom the allegations have been made, in line with the University *Discipline Ordinance*. It may be necessary to plan the timing of suspension to prevent the suspects from destroying or removing evidence that may be needed to support disciplinary or criminal action. Before any suspension is considered it should be discussed and agreed with the Director of Human Resources.

Findings and Feedback

33. At the conclusion of the investigation, the Investigating Officer will provide a report to the Designated Person, who will then determine the next steps, which may be to:
 - a. initiate other appropriate University procedures, such as the *Discipline Ordinance*; or
 - b. refer the matter to an external third party, such as the police; or
 - c. take no further action.
34. The Designated Person will, taking into account any need for confidentiality, inform the whistle blower of the outcome of the investigation and what action, if any, has been taken or is to be taken. If no action has been or will be taken the individual who made the disclosure will, subject to issues of confidentiality, be informed in writing of the reasons for the outcome. The

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individual(s) against whom allegations were made will also be informed in writing that no action has been or will be taken.

Right of Review

35. If the whistle blower believes that the University's handling of the disclosure was flawed on the ground(s) that:
- a. the procedures have not been followed properly; and/or
 - b. there is evidence of prejudice or bias in the handling of the case; and/or
 - c. there is further evidence of alleged malpractice that was not available at the time of the original disclosure;

there will be a right of review **on the above grounds only** to the Chair of Council. The request for review must be made within ten working days of the individual being sent details of the outcome of the investigation.

36. The Chair of Council will determine if the request for review meets the ground(s) as set out above.
37. If any ground for review is not made out, the Chair of Council will inform the complainant in writing of this decision with the reasons, within ten working days of making the decision. The Chair's decision shall be final and shall be reported to the President and Vice-Chancellor, the Audit and Assurance Committee and Council.
38. If there is ground(s) for a review, the Chair of Council will appoint 3 lay members of Council who have had no previous involvement in the case to undertake the review. A report of the outcome, with any recommendations, shall be sent to the complainant, the President and Vice-Chancellor, the Audit and Assurance Committee and Council. Council shall decide what further action, if any, shall be taken in response to such recommendations. Its decision in this respect shall be final.

Reporting of Outcomes

39. A summary record of all disclosures and any subsequent actions taken (redacting any personal data) will be retained by the Designated Person for a period of not less than six years. Any correspondence regarding the outcome of the disclosure may be included in the personal file of the individual(s) against whom the disclosure was made.
40. A report of the outcomes of any investigation will be made to the Audit and Assurance Committee - in detail where the issue falls within its purview, and in summary in other cases - as a means of allowing the Committee to monitor the effectiveness of the procedure. An annual report of cases will also be made to the Audit and Assurance Committee.

FRAUD

41. If an individual wishes to report an alleged fraud or other financial impropriety and considers that the Whistleblowing Policy is not relevant or appropriate in the specific instance, the report may be made to the Chief Financial Officer under the framework provided by the University's *Financial Regulations*.

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EXTERNAL ADVICE AND SUPPORT FOR WHISTLEBLOWERS

42. Following the conclusion of all of the procedures set out in this Policy, if the whistle blower believes that the appropriate action has not been taken, they may report the matter to the appropriate external authority. There are a number of bodies to which qualifying disclosures may be made (this is a non-exhaustive list):

- Office for Students (OfS)
- United Kingdom Research and Innovation (UKRI)
- HM Revenue and Customs
- Financial Conduct Authority
- Health and Safety Executive
- Environment Agency
- Independent Office for Police Conduct
- Serious Fraud Office
- Office of Fair Trading
- Director of Public Prosecutions
- Charity Commission
- Action Fraud
- National Crime Agency

43. The independent charity Protect offers free, confidential advice to people concerned about crime, danger or wrongdoing in the workplace. Please see their [website](#) for further information.

REVIEW OF THE WHISTLEBLOWING POLICY

44. This Policy shall be reviewed by the Audit and Assurance Committee at intervals of no longer than three years. The next scheduled review will be due by June 2026, but the Policy may be reviewed in the interim in the event of changes to legislation and to ensure its continued effectiveness.

VERSION HISTORY

Original Publication Date	November 1999
Revisions	May 2009, September 2011, June 2014, June 2017, June 2020
Current Version	Version 7.0 Sept 2023
Future Planned Revisions	Sept 2026 and every 3 years thereafter

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