# 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 (PIDA) 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 worker, it 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 University 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 can be made without fear of reprisal.

4. This Policy enables disclosures to be made to the Designated Person independently of line management, if that is the whistleblower's preference and they do not wish to raise the matter informally (under paragraph 23a)).

5. In applying this Policy, the University will have particular regard to, and place significant weight on, the importance of freedom of speech within the law and academic freedom, and will act in a manner compatible with the University's Code of Practice Concerning Freedom of Speech and Academic Freedom.

### Scope of Policy

6. This Policy provides guidance to University staff, workers and members of Council on the procedure for the disclosure of information. The disclosure can relate to information which is financial or non-financial in nature.

7. This Policy and its associated procedure is separate from other University policies and procedures designed specifically for dealing with matters that fall under those policies, such as:

    - *Dignity and Respect at Leicester Policy*
    - *Discipline Ordinance Policy & Procedure*
    - *Grievances*
    - *Misconduct in Research*

- *Student Complaints Procedure under Senate Regulation 12*

8. Although a disclosure made may (at least initially) be investigated under the procedure detailed in this Policy, such investigation may lead to the invocation of other policies and procedures, including those referred to in paragraph 7 above.

## PROTECTED DISCLOSURES

9. A protected disclosure is made where the person making the disclosure makes it in good faith, reasonably believes it is in the public interest to do so, and reasonably believes that the information disclosed and any allegations contained in it are substantially true and tend to show one or more of the following:

    a. that a criminal offence has been committed, is being committed or is likely to be committed;
    b. that a person has failed, is failing or is likely to fail to comply with a legal obligation to which they are subject;
    c. that a miscarriage of justice has occurred, is occurring or is likely to occur;
    d. that the health and safety of any individual has been or is likely to be endangered;
    e. that sexual harassment has occurred, is occurring or is likely to occur;
    f. that the environment has been, is being or is likely to be damaged; or
    g. that information tending to show any matter falling within any one of the preceding paragraphs has been, or is likely to be deliberately concealed.
    h. Fraud (see paragraph 41)

10. The above should not be viewed as an exhaustive list. All concerns raised will be treated fairly and properly. It is 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.

11. This 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 7.

## SAFEGUARDS

### Protection

12. The overall aim of this 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 23 below.

13. 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.

14. This Policy provides for whistle blowers to be supported, advised or represented by an individual they nominate, such as a workplace colleague or trade union representative.

15. 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*.

## Confidentiality

16. 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.

17. Confidentiality is important to ensure that a disclosure/investigation is dealt with fairly, and anyone involved in an investigation must maintain confidentiality throughout. This includes the person making the disclosure, their nominated representative, the Investigating Officer and anyone else contributing to the process, such as witnesses or note taker.

## Anonymous Allegations

18. 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:

    - the seriousness of the issue(s) raised;
    - the credibility of the information disclosed;
    - the likelihood of being able to corroborate the information.

19. The University cannot guarantee that colleagues or the people involved in a 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 12-15 above.

## Untrue Allegations

20. 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's *Discipline Ordinance*.

# PROCEDURE FOR MAKING A DISCLOSURE

## Initial Step

21. 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 this 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.

22. 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.

23. The procedure for making a disclosure is as follows:

    a. In the first instance, an individual should raise concerns informally with their line manager who may be able to resolve the matter quickly and effectively. However, if the individual feels that an informal report is not appropriate or that an informal report has not adequately addressed the matter, they can make a disclosure as below.

    b. 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.

    c. 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.

    d. If the disclosure is about the President and Vice-Chancellor, it should be made directly to the Chair of Council.

    e. 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

24. 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. When considering whether there is prima facie evidence of malpractice, the Designated Person may seek further information from the individual making the disclosure.

25. 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, normally within ten working days of the Designated Person first receiving the disclosure or, where additional information has been sought, of the date of receipt of such information.

26. 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 this 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, normally within ten working days of the Designated Person first receiving the disclosure or, where additional information has been sought, of the date of receipt of such information.

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

27. 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 University's 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.

28. The Designated Person may seek professional advice (for example legal advice) on any matter arising during the consideration of a disclosure made under this Policy.

29. 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. The appointment will be made as soon as reasonably practicable after the decision to proceed with an investigation.

## Investigation

30. The Investigating Officer may be appointed from inside or outside the University. The Designated Person will decide on the appointment of the Investigating Officer by considering relevant factors which may include the knowledge, experience and skills required to undertake the investigation based on the nature of the disclosure, and any potential conflicts of interest. The 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.

31. The decision of the Designated Person that the matter should be the subject of an investigation and, where appropriate, 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, normally within ten working days of the decision of the Designated Person.

32. The Investigating Officer will determine the scope of the investigation and methodology for conducting 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 confidential record will be kept of the investigation.

33. 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 workplace colleague or trade union representative may accompany any individual being interviewed, should they so wish.

34. Where the initial stage of the investigation of the disclosure provides reasonable grounds for suspecting staff of involvement in any of the matters listed in paragraph 9 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's *Discipline Ordinance*. Before

any suspension is considered it should be discussed and agreed with the Director of Human Resources.

## Findings

35. 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.

36. The Designated Person may, at their discretion and 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.

37. The Designated Person will notify the Chair of Council and the Vice-Chancellor of the outcome of an investigation under this Policy.

36. The Decisions, findings, and determinations made by the Designated Person(s) under this Policy shall be final and shall not be subject to further review or appeal under this Policy.

## 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 this Policy. An annual report of cases will also be made to the Committee.

## FRAUD

41. Concerns about suspected fraud should be reported under the Whistleblowing Policy in the first instance. The Chief Financial Officer will follow the Policy and Procedures on Fraud Response, set out in the Financial Regulations to investigate and manage the allegation once it has been reported.

## EXTERNAL ADVICE AND SUPPORT FOR WHISTLE BLOWERS

42. If the whistle blower believes that the appropriate action has not been taken in response to a disclosure made under this Policy, 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
- Report Fraud (https://www.reportfraud.police.uk/)
- National Crime Agency

43. It is strongly recommended that whistle blowers seek advice before raising a concern with an external authority. 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.

Protect - Speak up stop harm - Whistleblowing Homepage

## REVIEW OF THE WHISTLEBLOWING POLICY

443. 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 2029 but the Policy may be reviewed in the interim in the event of changes to legislation and to ensure its continued effectiveness.

## VERSION HISTORY

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