

UNIVERSITY OF LEICESTER

WHISTLEBLOWING POLICY

STATEMENT OF POLICY

Introduction

1. The University is committed to the maintenance of the highest standards. It seeks to conduct its affairs in a responsible manner, taking into account the requirements of the funding 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 staff (including 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 and tends to show one or more specified types of malpractice, wrongdoing or dangers. This is commonly known as 'whistleblowing'.
3. It is a fundamental principle of employment that an employee will faithfully serve his or her employer and not disclose confidential information about the employer's affairs. However, where an individual discovers information which he or she reasonably believes tends to show one or more types of malpractice, wrongdoing or dangers as specified in this Policy within the organisation (or in conjunction with third parties who are external to the organisation, such as suppliers or contractors), and they reasonably believe that this information should be disclosed in the public interest, then the disclosure should be made without fear of reprisal.
4. This Whistleblowing Policy enables such disclosures within the University to be made independently of line management, if that is the preference of the individual who wishes to make the disclosure, in accordance with the following procedures.

Scope of Policy

5. This Whistleblowing Policy provides guidance to staff, students, members of Council and other members of the University on the procedure for the disclosure of information which, in that person's reasonable belief, is in the public interest and tends to show one or more types of malpractice, impropriety or dangers as specified in the Policy.
6. This Policy and its associated procedure is separate from other University policies and procedures designed specifically for dealing with matters such as:
 - [grievances](#)
 - [discipline](#)
 - [bullying and harassment](#)
 - [misconduct in research](#)
7. Although a disclosure made under the Whistleblowing Policy may (at least initially) be investigated under the procedure detailed in the Policy, such investigation may subsequently lead to the invocation of other policies and procedures as deemed necessary or more appropriate, including those referred to in paragraph 6 above.

TYPES OF MALPRACTICE, IMPROPRIETY AND DANGERS COVERED

8. To be dealt with under this Policy the disclosure of information should, in the reasonable belief of the person making it, be in the public interest and tend to show one or more of the following types of malpractice, impropriety or dangers:
 - 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. unethical conduct; or
 - g. the deliberate concealment of any of the above.
9. It is not possible to provide an exhaustive list of the types of disclosures which are likely to fall within these categories and so be covered by this Policy, but all concerns raised under this Policy will be treated fairly and properly, and with respect. However, it is ultimately the responsibility of the University (rather than the individual making the disclosure) to decide if, or how, a formal investigation should then be conducted, and for determining the nature of any actions which may follow as a result.
10. It should also be emphasised that the Whistleblowing 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, which may be properly and appropriately addressed under other University procedures, such as those referred to in paragraph 6.

SAFEGUARDS

Protection

11. The Whistleblowing Policy is designed to offer protection to staff, students, members of Council and other members of the University who disclose information that they reasonably believe is in the public interest and tends to show one or more of the types of malpractice, impropriety or dangers in the workplace which are referred to in this Policy. Subject to the principles outlined under paragraph 19 below, the overall aim of the Policy is to ensure that no discloser will suffer detriment or adverse treatment from the University as their employer, or from their fellow employees, as a result of making the protected disclosure.
12. The individual concerned will be protected if he/she makes such a disclosure to the appropriate designated person as set out in paragraph 22 below.
13. It should be noted that a disclosure will not necessarily qualify for protection if the person making the disclosure commits an offence by making it, for example, by breaching the Official Secrets Act, or if legal professional privilege applies in respect of information contained in the disclosure.
14. This Policy provides for whistleblowers to request that they be supported, advised or represented in their place by another nominated individual, such as a staff representative or trade union official.

15. All reasonable steps will be taken to protect whistleblowers from suffering bullying, harassment or reprisals from other members of the University. Any employee of the University who is involved in such conduct against a whistleblower may be subject to disciplinary action.

Confidentiality

16. The University will treat disclosures of information made under this Policy in a confidential and sensitive manner. The identity of individuals making allegations may be kept confidential, if requested by the individual(s) concerned, so long as it does not hinder or frustrate any investigation. In this event, the University will consult the individual before it takes any further action which might break the initial confidentiality. It should be recognised, however, 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 as part of the evidence required.

Anonymous Allegations

17. Individuals making disclosures under this Policy are encouraged to give their names. Anonymous disclosures are not as strong and may prove difficult to investigate, but they will be considered at the discretion of the University.
18. In exercising this discretion, the factors to be taken into account will include the:
 - seriousness of the issues raised;
 - credibility of the information disclosed; and
 - likelihood of confirming the information from other sources.

Untrue Allegations

19. If an individual discloses information under this Policy which he or she reasonably believes shows or indicates malpractice and is in the public interest, but which is not then confirmed by subsequent investigation, no detrimental or disciplinary action will be taken against that individual. If, however, an individual is found to have made malicious or vexatious allegations with a view to personal gain and, particularly if he or she persists with making them, action may be taken under the relevant disciplinary procedure.

PROCEDURE FOR MAKING A DISCLOSURE

Initial Step

20. It is important that individuals disclose information in accordance with this Policy at the earliest opportunity and, for the avoidance of doubt, it should be clearly stated by the individual that the disclosure is in fact being made under the Whistleblowing Policy. It is not necessary to provide, or wait for, 'proof' of the particular type of malpractice. The disclosure should, however, contain as much detail as possible of the grounds for concern including, where applicable, the names of individuals and significant dates, locations or events.
21. Where two or more individuals are aware that they have knowledge of the same information that is covered by this Policy, they should each make a separate and individual disclosure to the University and they should not discuss the matter further between themselves. Submission of joint disclosures may lead to counter-allegations of collusion or of 'manufactured' information.

22. The procedure for making a disclosure is as follows:
- a. the individual should make the disclosure orally, in writing, or by e-mail to the Designated Person, who will normally be the Registrar and Chief Operating Officer, Mr David Hall (dave.hall@le.ac.uk, tel. 0116-2522411), as Secretary to Council, the University's governing body. The Registrar and Chief Operating Officer will immediately inform the President and Vice-Chancellor and Chair of Council;
 - b. if the disclosure is about the Registrar and Chief Operating Officer, it should be made directly to the President and Vice-Chancellor, Professor Paul Boyle (paul.boyle@le.ac.uk, tel. 0116-2522322) 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, Dr Bridget Towle (bt82@le.ac.uk, tel. 0150-9212403);
 - d. if for any other reason the person making the disclosure feels that it is not appropriate to raise the matter with the Registrar and Chief Operating Officer, or the President and Vice-Chancellor, it may be raised directly with the Chair of Council.

Initial consideration of the information disclosed

23. The Designated Person to whom the disclosure has been made will undertake an initial consideration of the information made available and assess the extent to which the nature of the disclosure provides a *prima facie* indication of malpractice.
24. If, on the basis of this initial consideration, the Designated Person decides that the disclosure does not contain any information that meets the criteria set out in paragraph 8 above and/or is otherwise wholly without substance or merit, no further action will be taken. The individual making the disclosure (if not made anonymously) will be informed of this decision, with the reasons, within fourteen days of the Designated Person first receiving the disclosure.
25. If it is decided by the Designated Person that the disclosure provides a *prima facie* indication of malpractice, but of a nature which does not fall within the scope of the Whistleblowing Policy, the Designated Person will arrange for the matter to be considered under a different University policy and/or procedure. This will involve the disclosure being referred to the appropriate manager for any further relevant action to be taken.
26. The decision of the Designated Person under paragraph 25 will be notified to the individual making the disclosure (if not made anonymously), with the reasons, within fourteen days of the designated person first receiving the disclosure.

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

27. If it is decided by the Designated Person that the disclosure provides a *prima facie* indication of malpractice which does fall within the scope of, and will therefore be investigated under, the Whistleblowing Policy, the Designated Person will decide on the form of investigation to be undertaken. This will be either to:
- investigate the matter internally; or
 - refer the matter to the External Auditors; or

- 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. Where the matter is to be the subject of an internal investigation, the Designated Person will not personally conduct it. He or she will appoint an Investigating Officer to conduct the investigation on the University's behalf.

Investigation

29. The Investigating Officer will be appointed from inside (or if necessary from outside) the University, by the Designated Person, based on the nature of the disclosure and the consequent need for appropriate knowledge, experience and skills. The Investigating Officer will play no part in any decisions which are taken in response to the findings of the investigation, and will have no involvement with or responsibility for any other procedures which may be invoked as an outcome of the investigation.
30. The decision of the Designated Person under paragraph 27 and, where applicable, the identity of the person appointed under paragraph 29 to conduct an internal investigation, will be notified to the individual making the disclosure (if not made anonymously), with the reasons, within fourteen days of the Designated Person first receiving the disclosure.
31. The Investigating Officer will, at his or her sole discretion, determine the scope of the investigation, supported if necessary by the appropriate HR Business Partner. Investigations will be conducted as sensitively and speedily as possible while having proper regard to the nature and complexity of the disclosure, the need for thoroughness, and with no presumption of guilt. A written record will be kept of all investigations.
32. The Investigating Officer may interview and/or seek a written statement from the individual who made the disclosure and any other individuals who they consider to be relevant to the investigation, including anyone named in the disclosure. Any individual being interviewed under this policy and procedure may be accompanied to an investigatory interview by a colleague or trade union representative. A refusal to participate in an investigatory interview may lead to disciplinary action.
33. The person or persons against whom the disclosure is made will be told of it after the investigation has commenced and is in its initial stage. They will be advised of the evidence supporting the disclosure, and will be allowed to comment before the investigation is concluded or further action is taken.
34. Where the initial stage of the investigation of the disclosure provides reasonable grounds for suspecting the member or members of staff of involvement in any of the activities listed in paragraph 8, the Investigating Officer will advise the University on how to prevent any further loss, danger or damage. This may require the suspension, on full pay, of the suspects. 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.

Findings and Feedback

35. At the conclusion of the investigation the Investigating Officer will provide a report of their findings to the Designated Officer. The Designated Officer will then determine what action will be taken as a result. This may be:
- a. to initiate other appropriate University procedures, such as the disciplinary procedure; or
 - b. to refer the matter to an external third party, such as the police; or
 - c. to take no further action.
36. The Designated Person will then, as far as possible taking into account any need for confidentiality, inform the individual who made the disclosure of the outcome of the investigation and what action, if any, has been or is to be taken. If no action has been or is to be taken the individual concerned will be informed of the reasons for this.

Right of Review

37. If the individual making the disclosure is dissatisfied with the University's handling of the case, after all of the above procedures have been completed, because he/she believes that:
- a. the procedures have not been followed properly; or
 - b. there is evidence of prejudice or bias in the handling of the case; or
 - c. there is further evidence of malpractice which was not available at the time of the original disclosure

then there is a right to seek a review of the case **on the above grounds only** to the Chair of Council.

38. The Chair of Council will determine if the case meets the grounds for review as set out above, and:
- a. if it does not, the Chair of Council will inform the complainant of this decision, with the reasons. This decision shall be final, and shall be reported to the President and Vice-Chancellor, the Audit Committee and Council;
 - b. if it does, the Chair of Council will appoint a lay member of Council with no previous involvement in the case to undertake the Review. A report of the outcome of the Review, with any recommendations which may be made as a result, shall be made to the complainant, the President and Vice-Chancellor, the Audit Committee and Council. Council shall decide what further action, if any, shall be taken in response to such recommendations and its decision in this respect shall be final.

Reporting of Outcomes

39. A record of all disclosures and any subsequent actions taken will be made by the Designated Person, who will retain such material for a period of not less than three years and no more than the relevant legal limitation period.
40. In all cases a report of the outcomes of any investigation will be made to the Audit 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.

FRAUD

41. If an individual wishes to report a fraud or other financial impropriety and considers that the protection offered by the Whistleblowing Policy is not relevant in that specific case, then such a report may be made to the Director of Finance under the framework provided by the University's Policy on Fraud.

EXTERNAL ADVICE AND SUPPORT FOR WHISTLEBLOWERS

42. If on the conclusion of all of the procedures set out in this Policy the individual believes that the appropriate action has not been taken by the University, they may report the matter to the appropriate external authority. Legislation sets out a number of bodies to which qualifying disclosures may be made, including:
- HEFCE, the Office for Students, UKRI and any successor bodies
 - The Quality Assurance Agency or any designated quality body under the Higher Education and Reform Act
 - HM Revenue and Customs
 - Financial Conduct Authority
 - Health and Safety Executive
 - Environment Agency
 - Independent Police Complaints Commission
 - Serious Fraud Office
43. The independent charity Public Concern at Work offers free, confidential advice to people concerned about crime, danger or wrongdoing in the workplace. Please see their website www.pcaw.co.uk for further information.

REVIEW OF THE WHISTLEBLOWING POLICY

44. This Policy and any evidence pertaining to its effectiveness shall be reviewed by the Audit Committee at intervals of no longer than three years. The next scheduled review will be due by June 2020, but the Policy may be reviewed in the interim in the event of changes to legislation and to ensure its continued effectiveness.

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