



## 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 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 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 to disclose and tends to show one or more specified types of malpractice, wrongdoing or dangers. The disclosure is commonly known as 'whistleblowing'.
3. It is a fundamental principle of employment that an employee will be loyal to the employer and not disclose confidential information about the employer's affairs. However, 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 such as:
  - *Dignity and Respect*
  - *Discipline*
  - *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.

## **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 allegation 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, which 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 as the employer, nor from fellow employees, 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 20 below.
12. A disclosure will not necessarily qualify for protection if the whistle blower commits an offence by making it, for example, by breaching the Official Secrets Act.
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*.

### **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 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 not as strong and may prove difficult to investigate but 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 issues raised;
- credibility of the information disclosed;
- likelihood of confirming the information from other sources.

### **Untrue Allegations**

17. 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 s/he persists in doing so, action may be taken in line with the University *Discipline Ordinance*.

## **PROCEDURE FOR MAKING A DISCLOSURE**

### **Initial Step**

18. 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.

19. Where two or more individuals are aware they have knowledge of the same information, they should each make a separate and individual disclosure to the University and they should not discuss the matter between them. Submission of joint disclosures may lead to allegations of collusion or of 'manufactured' information.

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

- a. the disclosure can be made orally, in writing, or by e-mail to the Designated Person, who will normally be the Registrar and Secretary, as Secretary to Council, 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**

21. 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.
22. 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.
23. If the Designated Person decides that the disclosure does provide a *prima facie* indication of malpractice but 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 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**

24. 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.
25. 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**

26. The Investigating Officer will be appointed from inside (or if necessary from outside) the University, and the appointment will be with reference to the appropriate knowledge, experience and skills required based on the nature of the disclosure. The Investigating Officer will play no part in any decisions which are to be 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.
27. The decision of the Designated Person under paragraph 26 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.

28. 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 written record will be kept of the investigation.
29. 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.
30. 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 of any next steps in writing, by or on behalf of the Designated Person.
31. 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, the Investigating Officer will advise the University on how to prevent any further loss, danger, damage or harm. This 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 made it should be discussed and agreed with Human Resources.

### **Findings and Feedback**

32. 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.
33. 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 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**

34. 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.

35. The Chair of Council will determine if the request for review meets the ground(s) as set out above.
36. 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. This decision shall be final and shall be reported to the President and Vice-Chancellor, the Audit Committee and Council.
37. If there is ground(s) for a review, the Chair of Council will appoint a lay member of Council who has 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 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**

38. 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 but no more than the relevant legal limitation period. 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.
39. 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**

40. If an individual wishes to report an alleged fraud or other financial impropriety and considers that the Whistleblowing Policy is not relevant/appropriate in the specific instance, the report may be made to the Director of Finance under the framework provided by the University's *Prevention of Procurement Fraud Policy*.

### **EXTERNAL ADVICE AND SUPPORT FOR WHISTLEBLOWERS**

41. 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, s/he may report the matter to the appropriate external authority. There are a number of bodies to which qualifying disclosures may be made, including:
  - Office for Students (OfS)
  - United Kingdom Research and Innovation (UKRI)
  - The Quality Assurance Agency (QAA) 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 Office for Police Conduct
- Serious Fraud Office
- Office of Fair Trading
- Director of Public Prosecutions

42. The independent charity Protect (formerly known as Public Concern at Work) 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**

43. This Policy shall be reviewed by the Audit Committee at intervals of no longer than three years. The next scheduled review will be due by June 2023, 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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