

Policy and Procedures for Disclosure ('Whistleblowing')

1 Introduction

The Public Interest Disclosure Act 1998, gives legal protection to employees against being dismissed or penalised by their employers as a result of publicly 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.

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 individual members of staff have an important role in helping to achieve this aim.

It is often members of the University who are first to know if someone in the University, or connected with it, appears to be acting illegally or improperly. They may feel apprehensive or anxious about raising their concerns, and their loyalty to the University or to a colleague may prevent them from doing so. They might also be concerned that they will not be taken seriously or about any action against themselves that a disclosure might provoke. However, the University encourages individuals who have knowledge, or reasonable suspicion, of wrongdoing to come forward. The University takes all wrongdoing seriously and believes that any evidence suggesting such behaviour should be investigated thoroughly.

The purpose of this procedure is to assist and enable all members of the University to raise concerns or to disclose information which they believe, in good faith, may indicate malpractice.

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 these procedures, which are set out below.

3 Scope of the Policy and Procedure

The Public Interest Disclosure Act 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.

The policy and procedures 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, these might include the following:

- i. financial malpractice or impropriety or fraud;
- ii. failure to comply with a legal obligation or with the rules and regulations of the University;
- iii. dangers to health and safety or the environment;
- iv. criminal activity;
- v. academic or professional malpractice, which includes matters such as research misconduct, non-application of the University's academic procedures and systems;
- vi. improper conduct or unethical behaviour including any offence under the Bribery Act 2010;
- vii. miscarriage of justice; viii. attempts to conceal any of the above.

It can be difficult to decide whether a particular action falls within the procedures and it may be that, when concerns are investigated, it appears appropriate to address them through other more specific procedures. For instance, the University has policies and procedures in place covering staff grievances, complaints and discipline matters. In such cases, the matter will not normally be considered under the Public Interest Disclosure Procedures.

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

4 Procedure for Making and Investigating a Disclosure

- 4.1** Concerns should normally be expressed in writing to the Vice-Chancellor, who is designated as the person primarily responsible for oversight of this procedure. If, however, an allegation directly concerns the Vice-Chancellor, or his involvement would not be appropriate for any other significant reason, then an individual may write to the Clerk to the Governors who may, in turn, refer the matter to the Chairperson of the Audit Committee of the Board of Governors.
- 4.2** The Vice-Chancellor, or any other senior executive identified by the Chairperson of the Audit 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 with an investigation.
- i) 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.
 - ii) If the Vice-Chancellor or other person identified 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 (see (e) below).
 - iii) If there are grounds for proceeding, the Vice-Chancellor or other person will decide how the investigation should be undertaken. This will depend on the nature of the matter and may involve:
 - i. an internal investigation conducted by a sufficiently independent senior member of the University or its internal or external auditor;
 - ii. referring the matter to the police;
 - iii. an independent external inquiry.
- 4.3** The investigation will not be conducted by the Vice-Chancellor 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 natural justice and the need to safeguard individual reputations.
- When an allegation concerns a named individual, the person concerned will be informed of the allegation and of the evidence supporting it. He/she 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 individual to be informed will depend on the nature of the case.
- In any hearing under these procedures, the individual making the disclosure and the person against whom an allegation has been made are both entitled to be accompanied by his/her union representative or by a colleague or friend.
- 4.4** The findings of any investigation will be reported to the Vice-Chancellor or other identified person who will reach a decision on any further action to be taken.
- Following an initial investigation, other internal procedures may be identified as relevant and may be invoked, such as the disciplinary, grievance or complaints procedures. In some cases it may be appropriate to refer a matter outside the University for further investigation.
- The Vice-Chancellor or other person will inform the individual making the disclosure of the conclusion reached and what action, if any, is to be taken and why.
- 4.5** If the individual making the disclosure is dissatisfied about how an inquiry was carried out, and its resultant outcome, then he/she may appeal but only on procedural grounds, to the Chairperson of the Audit Committee, who may order a procedural review and establish its terms of reference. If the initial disclosure was made to the Chairperson of the Audit Committee, an appeal may be made to the Chairperson of the Board of Governors.
- 4.6** A report summarising all disclosures and inquiries and any subsequent actions taken will be made by the Vice-Chancellor or other person to the Audit Committee and such reports will be retained for a minimum of three years.

5 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.

5.1 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
- iii. to the appropriate person.

5.2 Confidentiality

The University will aim to treat all disclosures and information regarding any action taken under these procedures 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 natural justice. 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

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.

5.3 Anonymous Allegations

Individuals are normally expected to put their name to any disclosures or allegations they make. 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 substantiate the allegation through attributable sources.

5.4 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. If, however, an individual makes what are subsequently determined by the Vice-Chancellor or the Chairperson of the Audit Committee to be malicious or vexatious allegations or made for personal gain, and particularly if he or she persists in making them, disciplinary action may be taken. A disclosure may be deemed malicious or vexatious at any stage of the procedure.

6 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:

- i) a Students' Union advisor;
- ii) an appropriate employee representative;
- iii) the local Citizens Advice Bureau;
- iv) 'Public Concern at Work' (helpline@pcaw.co.uk).

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

7 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, he/she 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. Public Concern at Work are able to advise independently on these matters.

8 Should you have a query about this policy or its applicability, in the first instance, please contact: Alastair Osborn, Deputy Clerk to Governors