

# Policy and Procedure on Disclosures in the Public Interest (Whistle-blowing)

## Introduction

- 1 The university, as a public body, has a duty to conduct its affairs in a responsible way and to take into account the requirements of funding bodies as well as the standards in public life enunciated in Lord Nolan's reports. The university recognises the need to protect the personal confidentiality of those who work within the university and the commercial interests of the university. In addition the university is committed to the principles of academic freedom embodied in its charter and statutes and enshrined in University Statutes. Therefore, the university is committed to permitting staff to speak freely, without being subject to disciplinary sanctions or victimisation, about academic standards and related matters, provided that they do so lawfully, without malice, in the public interest and in a way which respects proper confidentiality.
- 2 The Public Interest Disclosure Act 1998 (the Act) became effective on 1 January 1999 and protects members of staff against dismissal or victimisation resulting from the raising of serious concerns about malpractice at work, provided that those concerns are raised in accordance with the Act. This policy sets out the way in which the university expects members of staff to raise such concerns with it, as their employer. Disclosure of confidential or privileged information outside this policy may lead to the loss of the protection given by the Act.
- 3 In accordance with the university's commitment to openness, probity and accountability, this policy and procedure is intended to guide and assist members of staff who are concerned about malpractice or impropriety and to assist the university in the maintenance of appropriate standards of propriety and good practice.

## Equality

- 4 This procedure has been produced with the aim of supporting the university's overall strategy to embrace diversity and welcome individuals from all backgrounds. When using this procedure, the university expects members of staff to treat all colleagues fairly and with respect and will take action against acts which breach the policy on diversity. A member of staff who for any reason finds this or any other policy difficult to read or to follow should contact their area HR Advisor who will provide help with, or alternative formats of, the procedure.

## Scope of the policy

- 5 Members of the university and those who work within the university are probably the first to know, on the relatively infrequent occasions, when things are going wrong in the university, whether these things concern questions of financial malpractice, the abrogation of appropriate and agreed procedures or departures from the statutory or other requirements for good governance (collectively referred to in this document as a 'concern'). Channels exist through which such concerns can be raised in an informal and relatively low key way. But members of staff often feel, rightly or wrongly, that their own position in the university will be jeopardised if they raise such concerns in this way, and sometimes the usual channels may, indeed, be inappropriate. This document sets out the policy of the university in relation to such concerns. The intention of this policy is to allow the raising and investigation of serious issues which involve university funds or about which there is concern.

- 6 The university requires all its staff and all those who work within the university to conduct themselves in a manner consistent with the high standard required of those with responsibility for public funds. The university seeks the help of all concerned in ensuring that such standards are observed. Failure to observe such standards could be costly to the university in terms of its reputation and revenue.
- 7 Instances of concerns might include
- financial malpractice, fraud or other impropriety
  - failure to comply with legal obligations or the provisions of the Charter Statutes and Ordinances
  - danger to health, safety and the environment
  - professional malpractice
  - improper conduct or unethical behaviour
  - attempts to conceal any of the above
- 8 The university already has in place a number of policies and procedures These include: grievance and complaints; discipline; and harassment procedures. The Policy and Procedure on Disclosures in the Public Interest should not be used where a matter of concern should more appropriately be addressed through other approved university procedures. A concern relating to injustice or discrimination against individuals should normally be dealt with under these established grievance procedures or, if it is a student grievance, through the machinery established by the university for this purpose, and it is expected that a concern relating to these areas will be pursued under the following procedures only if it has not been satisfactorily resolved under the grievance procedures or student charter procedures.

## Protection

- 9 This policy is intended to protect members of staff who make disclosures in the public interest from harassment and victimisation, provided that such disclosures are made
- in the reasonable belief that the disclosures are in the public interest
  - in accordance with this policy and procedure
- 10 If a disclosure is made outside the terms of this policy and procedure, the member of staff making the disclosure may not be protected against possible dismissal. The university recommends that members of staff take advice before making any such disclosure.

## Confidentiality

- 11 All disclosures made in accordance with this policy and procedure will be handled in a confidential and sensitive manner. The identity of a member of staff making a disclosure will be kept confidential to the extent that the maintenance of such confidentiality does not hinder or frustrate any related investigation. However, the course of investigation may inevitably lead to the need for the member of staff making the disclosure to provide a statement as part of the necessary gathering of evidence and this could lead to the identity of the member of staff making the disclosure being revealed. In such a case, the member of staff will be informed in advance that it will be necessary for their identity to be disclosed. They will be reminded, in writing, of the protection given by the policy of equality (see paragraph 4 above).

## Anonymous allegations

- 12 The university does not encourage the making of anonymous allegations, but does encourage members of staff to put their names to any disclosures made. Anonymous disclosures will be considered only at the absolute discretion of the university. In exercising this discretion, factors to be taken into account will include
- the seriousness of the issues raised
  - the credibility of the concern
  - the likelihood of confirming the allegation from attributable sources

## Untrue allegations

- 13 Where investigation reveals that the allegation had no substance, no action will be taken against a member of staff who made an allegation in the reasonable belief that the allegation was substantially true. However, disciplinary action will normally be taken against staff where clear evidence of malice has been established or where a member of staff persists with allegations of a vexatious or frivolous nature.

## How to raise a concern

- 14 This policy is intended to provide staff with a way to raise concerns within the university. Staff should normally raise concerns with their line managers. However, allegations concerning (a) the behaviour of senior management or lay members of Council or (b) the propriety of committee or collective decisions may also be raised with the Vice-Chancellor, the Secretary to the Council, the Chair of Council or the Chair of Audit Committee.
- 15 Staff will be required to write down the background to their concerns, giving names, dates and places where possible, and should state the reasons for their concerns. If staff do not feel able to put these concerns in writing, they can telephone or meet the appropriate officer. This meeting can take place away from the workplace. Concerns relating to anonymity and confidentiality should be discussed with the Director of Human Resources. So far as is consistent with a proper investigation and reasonably practicable, the identity of the member of staff raising the concern will be kept confidential.
- 16 The earlier a concern is expressed, the easier it is to take action to address the concern.
- 17 Although staff are not expected to prove the truth of allegations, they will need to demonstrate that there are sufficient grounds for concern.
- 18 Advice and guidance on how matters of concern may be pursued can be obtained from Human Resources. Alternatively, help can be sought from a trade union or professional association.
- 19 Once a concern has been raised, the line manager will notify the University Registrar and Secretary, who will register the concern and advise as necessary. The action then taken will depend on the nature of the concern. The matters raised may
- be investigated internally
  - be referred to the police
  - be referred to the external auditor
  - form the subject of an independent inquiry

To protect individuals and the university, initial inquiries will be made to decide whether an investigation is appropriate, and if so, what form it should take. Concerns or allegations that fall within the scope of specific procedures (for example, discrimination issues) will normally be considered under those procedures. It may be possible to resolve some concerns by agreed action without the need for further investigation.

20 Within ten working days of a concern being raised, the line manager will write to the member of staff who raised the concern

- acknowledging receipt
- indicating how the university intends to deal with the concern
- estimating how long it will take to provide a final response
- stating whether or not any initial enquiries have been made
- indicating whether or not any further investigations will take place and who will be responsible for them (the Designated Officer)

If there is to be no further investigation, the reasons for that decision will be given to the member of staff. If they are not satisfied with this decision, they may refer the concern directly to the Chair of Council, in writing, and the Chair will have the matter reviewed. The review may or may not result in an investigation, but its outcome will be reported to the member of staff.

21 The amount of contact between those considering the issues and the member of staff will depend on the nature of the matters raised, the potential difficulties involved and the clarity of the information provided. If necessary, further information will be sought from the member of staff.

22 Staff have the right to be accompanied at any meeting by a trade union representative, professional association representative or a work colleague who is not involved in the area of work to which the concern relates. When appropriate, meetings can be held off-site to safeguard confidentiality.

23 The university will try to minimise any difficulties members of staff experience as a result of raising a concern and will take reasonable steps to protect them from reprisals and victimisation. For example, if a member of staff is required to give evidence in criminal or disciplinary proceedings, the university will advise the member of staff about the procedure to be followed, offer guidance and, where appropriate, counselling.

24 The Designated Officer will investigate the concern in the first instance and will make a recommendation to the Vice-Chancellor (or the Chair of Council if the concern involves the Vice-Chancellor) without disclosing the individual's identity, so far as possible. The Vice-Chancellor (or Chair of Council) will then consider the report and recommendation, with a view to taking appropriate action.

25 To reassure the member of staff raising the concern that the matter has been properly addressed, they will be informed of the outcome of any investigation, subject to any legal constraints (for example, caused by data protection issues, or so as not to compromise any investigations). If the outcome of the investigation suggests the university take further action, the member of staff will be updated on progress, subject to the same constraints, within six months of the date of the report to the Vice-Chancellor (or Chair of Council).

- 26 Anyone who exercises undue pressure on other staff to deter them from raising concerns about abuse or malpractice will be subject to the university's disciplinary procedures.
- 27 The university reserves the right to initiate disciplinary proceedings against staff who are deemed to have acted maliciously or vexatiously.

### Taking the matter further

- 28 If a member of staff decides to take a concern outside the university, they must ensure that no confidential or privileged information is disclosed. Disclosure of confidential or privileged information can lead to loss of the protection given by the Public Interest Disclosure Act 1998. Staff are advised to take independent advice (for example, from a solicitor or trade union representative) before making any concerns public.

### Responsibility for this policy

- 29 The University Council has overall responsibility for review of this policy. The Vice-Chancellor, through the University Registrar and Secretary, will maintain a record of concerns raised and their outcomes in a form which does not compromise confidentiality and will report to Council via Audit Committee on an annual basis.

This policy and its operation will be kept under review by the University Council and a full review, including consultation with interested parties, will be undertaken after no more than two years of operation.

Approved by Council: 21 November 2013