**WHISTLEBLOWING PROCEDURES**

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**1. INTRODUCTION**

1.1In line with other public bodies, the University has a duty to conduct its affairs in a responsible way. The University actively encourages and welcomes openness, freedom of speech and the voicing of concerns as a contribution towards maintaining and enhancing quality and ensuring high standards of governance and accountability at the University. We encourage workers[[1]](#footnote-2) to bring concerns to our attention using informal routes as a starting point where relevant. Please refer to paragraph 5 for guidance on the process.

1.2 These procedures have been developed in response to the Public Interest Disclosure Act (PIDA) (the ‘Whistleblowing’ Act), enacted in January 1999; the Enterprise and Regulatory Reform Act 2013 (ERRA) and the recommendations of the Second Report on Standards in Public Life 1996 (the Nolan Committee), which emphasised that institutions of Higher and Further Education should ensure that staff are permitted to speak freely and without being subject to disciplinary sanctions or victimisation provided that they do so lawfully, without malice and in the public interest.

1.3 The procedures are intended to protect:

1. employees who raise genuine and legitimate concerns, in confidence, internally and, in exceptional circumstances, with appropriate external regulatory bodies (where an employee chooses to raise concerns externally, they must meet the criteria specified in paragraphs 6.1 to 6.3);
2. other individuals who perform work for the University (e.g. agency workers, those on work experience and self-employed workers) who raise genuine and legitimate concerns as above; and
3. the University, and other employees and workers, against false, vexatious or malicious accusations.

1.4 For ease of reference these procedures include within them processes relating to suspension and dismissal which are set out in full in the Articles of Association of the Company.

1.5 The Flowchart at Appendix A outlines the various stages of the procedure.

**2. OBJECTIVES OF THE PROCEDURE**

1. To encourage and enable workers to raise genuine and legitimate concerns internally(and also to define clearly the situations in which they may raise the matter externally, see paragraphs 6.1 to 6.3), without being subject to any detriment;
2. To provide an opportunity for those concerns to be investigated and for appropriate action to be taken to ensure that the matter is resolved effectively within the University wherever possible;
3. To deter serious malpractice;
4. To promote accountability throughout the University.
5. **DEFINITIONS**

**3.1 Definition of whistleblowing**

There are specific definitions of whistleblowing, and the protection afforded to whistleblowers in law, which are defined below. Workers with serious concerns about issues in the workplace who are unsure whether their concern falls under these procedures should take advice from one of the individuals/bodies in 4.5 in the first instance.

The legislation protects individuals from detriment, including dismissal, as whistleblowers if they:

1. are a 'worker'
2. reasonably believe that malpractice in the workplace is happening, has happened in the past or is likely to happen in the future
3. are revealing information of the right type (a 'qualifying disclosure')
4. reveal it to the right person,in the right way and in the belief that it is in the public interest (making it a 'protected disclosure').

**3.2 Qualifying and protected disclosures**

Individuals are only protected as whistleblowers if they make a ‘qualifying disclosure’ about particular issues and the disclosure is made in the right way i.e. it is a ‘protected disclosure’.

To make a ‘protected disclosure’, i.e. for the disclosure to be protected by the law, the individual must make it to the right person, in the right way and: reasonably

believe it is in the public interest and tends to show malpractice.

The types of malpractice which are qualifying disclosures in law are:

1. criminal offences (e.g. fraud)
2. failure to comply with a legal obligation (e.g. a serious health and safety breach)
3. miscarriages of justice (e.g. evidence of withholding evidence in a legal case)
4. threats to health and safety (e.g. unsafe buildings)
5. damage to the environment (e.g. breach of legislation on environmental issues)
6. bribery
7. a deliberate attempt to cover up any of the above.

 If a worker has a concern about a serious risk, malpractice or wrongdoing which does not appear to be covered by the list above, please take advice (see Para 4.5 below) and report it to your manager, your Dean or Director, the University Secretary or HR Director.

**3.3 Workers’ rights not to suffer detriment**

A worker will not be disciplined, dismissed or victimised for raising a genuine and legitimate concern, providing that they do so in the belief that it is in the public interest and follows the Whistleblowing Procedures.

An individual considering raising a concern may disclose the information to a Trade Union Adviser in the course of seeking advice about matters of disclosure. A Trade Union Adviser will treat any matters raised in confidence so far as is consistent with legal responsibilities.

Where an individual considers that they have suffered a detriment as a result of whistleblowing, they should raise this informally in the first instance with their line manager or another manager. If matters remain unresolved, the grievance procedure or relevant appeal process (for example the Avoidance of Redundancy Procedure) should be followed.

**4. ARRANGEMENTS AND PRINCIPLES**

**4.1 Scope**

1. These procedures are not intended to replace the existing Grievance or Harassment Procedures nor to provide another mechanism for workers to raise matters relating to their own employment.
2. These procedures are to be applied to all workers irrespective of the nature of their contract.

 **4.2 Confidentiality**

The worker making an allegation will receive a written assurance from the person receiving the complaint that all steps will be taken to maintain confidentiality as far as is consistent with progressing the matter.

If the Vice-Chancellor/Chair of Council believes that a criminal offence has been or may be committed, they normally will inform the police.

**4.3 Investigation**

Any concern raised in accordance with these procedures will be investigated thoroughly and in a timely manner by the University and appropriate corrective action will be pursued. The University has separate Investigation Procedures (see Section 6.5 in this Handbook). The worker making the allegation will be kept informed of progress and, wherever possible and subject to third party rights, will be informed of the resolution.

It may be desirable, if appropriate, to separate the two parties during an investigation and/or make alternative arrangements for communication channels and line management reporting. This will depend on the circumstances of each case.

**4.4 Representation**

Any member of staff who is required to be interviewed, will have the right to be accompanied and/or represented by a trade union representative/official or workplace colleague. As these whistleblowing procedures are essentially internal University processes legal representation of either party at meetings is not appropriate nor allowed.

All associated documentation will be made available to all relevant parties prior to the interview.

**4.5 Support and Advice**

In addition to their Trade Union, individuals can seek support and advice at any stage from the Human Resource Department, Occupational Health, the University’s Employee Assistance Scheme, the University Secretary or other senior members of staff.

If the individual wants independent external support, this can be sought from a number of agencies, including the whistleblowing charity, Public Concern at Work, at: helpline@pcaw.co.uk.

**4.6 Suspension**

If the matter to be investigated is thought potentially to involve gross misconduct, the member of staff who is the subject of the allegation may be suspended immediately from work on full pay, by the Vice-Chancellor/Chair of Council, while the investigation proceeds. Similarly, if during, the course of an investigation the investigating officer is of the view that a serious breach of discipline may have occurred, their findings should be reported immediately to the Vice-Chancellor/Chair of Council who may consider suspending the member of staff pending the outcome of the investigation.

Senior staff appointed by Council, as defined in the Articles of Association of the Company, may be suspended from duty, with pay, by the Chair of Council, or in the absence of the Chair by the Vice-Chair. Any such suspension will be reported to the Council as soon as practicable.

Any decision to suspend will be confirmed in writing as soon as reasonably practicable, and this will be a precautionary, not a disciplinary, suspension pending outcome of the matter. The reason for the suspension will remain confidential to the parties to the suspension.

If a worker under suspension from their post wishes to enter University premises for the purposes of obtaining documents or undertaking other activities associated with the case prior permission must be sought from the Vice-Chancellor, or in the case of Senior staff from the Chair of Council.

**4.7 Anonymous Allegations**

As stated within the procedures below, allegations should be raised in writing (or, in exceptional cases, verbally) and the worker raising the allegation will be protected from victimisation and/or disciplinary action provided that they have acted reasonably under the terms of these procedures.

The University will, however, need to satisfy itself that serious anonymous allegations are investigated thoroughly, as far as is reasonably practicable based upon the facts and the information disclosed anonymously, by an appropriate senior member of staff.

**5. REPORTING CONCERNS**

**5.1 General**

An individual should seek advice in the first instance (see paragraph 4.5). Following this, if they wishto proceed, all concerns under these procedures normally should be reported internally in the first instance. Only when the Internal Procedures (see paragraph 3) have been exhausted should concerns be raised externally. However, under certain conditions a worker may make a disclosure to an external body if they reasonably believe they would be victimised as a result of raising the issue or that relevant evidence would be concealed or destroyed by the University. If the worker chooses to disclose concerns externally, they must meet the criteria outlined in paragraphs 6.1 to 6.3. See also the flowchart at Appendix A.

**5.2 Internal procedures**

It is important for individuals with concerns to seek informal support or advice in the first instance, and this can be obtained internally from the University Secretary, Director of Human Resources, or a trade union representative. External sources of advice are set out at para. 4.5. Seeking advice at this stage is the first step towards addressing and resolving issues and, if the individual wishes to take matters further, ensuring that the correct procedure is used.

Stage 1

Where an individual has a concern about an issue covered in para 3.2 above, and having taken advice as set out above, the University expects that they raise it with their line manager in the first instance, unless the concern is about the line manager’s actions, when they can go to their (the manager’s) manager (see Stage 2 below). This may be done verbally or in writing. The line manager should keep a note of the discussion and write to the individual following the discussion to confirm what action, if any, they intend to take. The line manager may escalate the matter internally or take advice from the University Secretary and the Director of HR.

 Stage 2

If an individual considers that the issue has not been dealt with appropriately at Stage 1, or they does not wish to complain to the line manager (e.g. if the complaint is about the manager or their manager), then they should use Stage 2 of the process, within ten calendar days of concluding Stage 1, if used.

Allegations should normally be raised, in writing, with the University Secretary who will confirm receipt of the allegation in writing, marked ‘Strictly Private and Confidential - open addressee only’. If the complaint is against the University Secretary, the allegations should be submitted to the Director of HR.

The University Secretary will copy all complaints received to the Director of HR and cases will be dealt with jointly.

It is recognised that there may be circumstances in which it may be appropriate to allow a worker to report a concern verbally. In these circumstances, the nominated investigating officer will make a full record of the concern. This, however, will not identify the complainant.

***In cases below the level of Council appointees,*** the University Secretary will consult with the Vice-Chancellor, a member of the Senior Management Group (or an appropriate external organisation, e.g. the University’s Internal Auditors in the case of Financial Misconduct).

***In cases involving Council appointees***, the University Secretary will consult with the Chair or Vice-Chair of Council.

In all cases, an individual will be appointed to carry out a comprehensive internal investigation which will follow the process outlined in the University’s Investigation Procedures (see Section 6.5 of this Handbook). The investigation will commence with a detailed interview with the member of staff making the allegation.

On completion of the investigation the investigating officer will send the final report to the University Secretary, who will forward it to the Vice-Chancellor or Chair/Vice-Chair of Council as appropriate. A copy will also be sent to the member of staff who is the subject of the allegation, and to the individual who raised the concern.

The Vice-Chancellor or Chair/Vice-Chair of Council will consider the balance of probabilities. If they consider that a complaint of misconduct is justified, a disciplinary hearing will be arranged under the Disciplinary Procedures.

Where there is evidence of criminal activity, the police normally will be informed.

**5.3 Information from complainants**

In order to ensure that matters are dealt with quickly and investigated fully, it is vital that the individual making a complaint presents **all** of the evidence available to him/her at the beginning of the investigation.

**5.4 Reporting**

Copies of all completed investigating reports, including those concerning anonymous allegations, under the terms of these procedures will be forwarded to the University Council.

The University Audit Committee will be informed of any allegations which concern improper or unauthorised use of public or other funds, fraud or financial irregularity.

**6. EXTERNAL PROCEDURES**

6.1It is anticipated in all cases that the worker will attempt to raise issues internally in the first instance. However, if the worker making the allegations remains dissatisfied with the outcome of the internal procedures, or where they choose to disclose externally subject to the criteria outlined in paragraph 6.3, they are entitled to raise the issue with an appropriate public body. Any individual contemplating raising the issues externally is strongly advised to take advice from one of the bodies outlined in para 4.5 before doing so, and ensuring that the issues fall within the definition of whistleblowing and constitute qualifying and protected disclosures as set out in para 3.

Appropriate external bodies include but are not limited to:

1. the University’s Internal or External Auditors;
2. the Health and Safety Executive;
3. the Higher Education Funding Council;
4. the Secretary of State for Education;
5. the National Audit Office;
6. the worker’s local Member of Parliament;
7. the Charity Commissioners.

6.2The University would be entitled to consider disciplinary action against the employee raising the allegation in circumstances when;

1. they have been shown to have acted maliciously, vexatiously or frivolously; or
2. they are acting for personal gain;
3. it can be shown that the person has raised concerns that they know are not in the public interest

6.3 The University will not take disciplinary action against an individual who makes a protected disclosure that the individual believes to be in the public interest under the Act and in accordance with this policy, even where the allegation is not substantiated following investigation. However, the University may bring disciplinary action in cases where there is evidence that allegations have been made maliciously, vexatiously; for personal gain, or knowingly not in the public interest.

**7. DISCIPLINARY OUTCOMES**

7.1 If, on completion of the investigation, it is considered that a complaint of misconduct is justified, a disciplinary hearing will be arranged under the Disciplinary Procedures.

Any victimisation of a worker who raises a concern, or attempts to deter them from raising a legitimate concern about malpractice, will be regarded as a serious disciplinary offence and will result in action under the Disciplinary Procedures.

If the investigating officer finds that the individual making the allegation has acted maliciously, for personal gain, or knowingly not in the public interestthey will be subject to the Disciplinary Procedures. Additionally, the Disciplinary Procedures may also be invoked under the circumstances outlined in 6.3. Consideration will be given as appropriate to use of the University’s Investigation Procedures prior to any disciplinary action.

**Appendix A**

Identify concerns

Identify whether or not these fall within the definition of the Public Interest Disclosure Act i.e. they are:

* Qualifying disclosures
* Protected disclosures.

Seek initial support and advice - see paras 4.5 and 5.3

Possible internal escalation by line manager and matter dealt with.

Raise internally with line manager or their manager if the complaint is against them

If unsatisfied or inappropriate to raise with manager/managers’ manager, raise with University Secretary (or Director of HR if the Secretary is being complained about)

Investigation will be conducted and submitted to Council for them to decide if the allegations are substantiated or not.

Possible action taken by Council.

If unsatisfied with the response, recommended that individual seek advice again.

Report externally to bodies set out at para 6.1

Council may take further action – including possible disciplinary action if appropriate.

1. 'Worker' has a special, wide meaning in the case of whistleblowing. As well as employees it includes, agency workers and people who aren't employed but are in training with employers. Some self-employed people may be considered to be workers for the purpose of whistleblowing if they are supervised or work off-site. Worker is used throughout this document where appropriate. [↑](#footnote-ref-2)