Whistleblowing Policy and Procedure

1.0 Background

The University, as a public body, has a duty to conduct its affairs in a responsible and transparent way, and to take into account both the requirements of its funding bodies (especially the Office for Students (OfS)) and the general expectations which society has of public bodies, which are set out in the reports of the Committee on Standards in Public Life (Nolan Committee).

The Committee on Standards in Public Life sets out seven principles of public life (selflessness, integrity, objectivity, accountability, openness, honesty and leadership) which it believes should apply to all in public service. The seven principles of conduct underpin the work of public authorities and form part of the relevant Codes of Conduct (as set out in the Financial Regulations, governors and staff are expected to recognise the importance of the principles and to uphold them at all times.

The Whistleblowing Policy is based on statute and involves raising an issue of concern under specific circumstances, as detailed in section 2 below.

2.0 Purpose

The purpose of the University Whistleblowing Policy (sometimes known as 'making a disclosure in the Public Interest' or 'Public Interest Disclosure Policy') is to assist all staff employed by the University – i.e. contracted staff, voluntary workers, students and those on employment training provisions (work experience, apprentices, interns) – in understanding the procedure through which they may make a disclosure and, crucially, demonstrates the University’s commitment to dealing with an issue. The Whistleblowing policy also applies to workers such as contractors and agency workers who are included in the references throughout the guidance.

Whistleblowing is the process by which an individual in an organisation raises concerns about possible unethical or illegal behaviour, misconduct or wrongdoing, fraud, crime, or other serious risk that could threaten students, staff, the public or the University’s own reputation. It also provides an appropriate method to allow a complaint to be investigated.

The Employment Rights Act 1996 was put in place to ensure a worker is able to "blow the whistle" and still be protected. The legislation provides three main rights:

• it is automatically unfair to dismiss an employee for making a protected disclosure;
• it is unlawful to subject a worker to any detriment for making a protected disclosure;
• any term in the worker’s contract or any other agreement is void in so far as it purports to preclude the worker from making a protected disclosure. It follows that the act of whistleblowing within the terms of the Act will not amount to a breach of contract.
This policy has been developed in accordance with the original legislation as amended by the Public Interest Disclosure Act 1998 and further amended by the Enterprise and Regulatory Reform Act 2013.

3.0 Definition of a Qualifying Disclosure

A 'qualifying disclosure' means any disclosure of information where an individual reasonably believes (and it is in the public interest to report) that one or more of the following matters is either happening, has taken place or is likely to happen in the future:

- **A criminal offence**
- **A miscarriage of justice** – (a failure of a court or judicial system to attain the ends of justice, especially one which results in the conviction of an innocent person).
- **An act creating risk to health and safety** e.g. not reporting damaged equipment.
- **An action causing damage to the environment** e.g. unsafe disposal of toxic waste
- **A breach of any other legal obligation**; e.g. breach of legislation
- **Concealment** of any of the above

It is not necessary for the individual to have proof that such an act is being, has been, or is likely to be, committed – a reasonable belief is sufficient. The individual has no responsibility for investigating the matter – it is the University’s responsibility to ensure that an investigation takes place.

Allegations of injustice or discrimination suffered by an individual should be pursued through the Staff Grievance Procedure or the Student Complaints Procedure.

Please refer to the Financial Regulations for any matters arising which involve, or are thought to involve, irregularities, including fraud, bribery, corruption or any other impropriety.

4.0 Guiding principles

- Everyone should be aware of the importance of preventing and eliminating wrongdoing at work. Individuals should be watchful for illegal or unethical conduct and report anything of that nature that they become aware of.
- Any matter raised under this policy will be investigated thoroughly, promptly and confidentially, and the outcome of the investigation reported back to the individual who raised the issue.
- No individual will be victimised for raising a matter under this procedure. This means that the continued employment and opportunities for future promotion or training of the individual will not be prejudiced because they have raised a legitimate concern.
- Maliciously making a false allegation is a disciplinary offence.
• An instruction to cover up wrongdoing is itself a disciplinary offence. If told not to raise or pursue any concern, even by a person in authority such as a manager, individuals should not agree to remain silent. They should report the matter further to their senior manager.

• An individual may make a qualifying disclosure directly to their employer, or to an appropriate authority (person or body) and will be entitled to protection under the legislation providing they reasonably believe that the information disclosed, and any allegation contained in it, are substantially true and it is reasonable for them to make the disclosure.

5 Procedure for making a disclosure

5.1 Allegations of malpractice, including concerns about misuse of the University’s assets or resources, should normally be made to the Registrar & Secretary or Chair of the Board of Governors, one of whom will investigate the matter (normally conducted by the Director of Internal Audit) and produce a report.

5.2 If the allegation concerns the Registrar and Secretary, the allegation should be made to Vice-Chancellor, or to the Chair of the Board of Governors. If for any reason none of these individuals is deemed to be appropriate, the matter should be raised with the Chair of the Audit Committee.

5.3 On receiving the report, the Registrar & Secretary may:

   i take no further action apart from informing the discloser and, as far as is reasonably possible, providing the reasons for the decision; or
   ii refer the matter to the police in the case of alleged criminal activity; or
   iii refer the matter for action within existing University procedures.

In all cases, the report of the investigation will also be considered by the Audit Committee, which will determine whether appropriate action has been taken, and whether changes to University policies, procedures or controls are required.

5.4 If an allegation or complaint cannot, for any reason, be satisfactorily examined and dealt with through these procedures, the Board of Governors has final responsibility for determining an alternative approach which preserves the spirit of the procedure. This may, for example, involve establishing a special committee of governors, or drawing upon external advice or arbitration.

5.5 The University encourages staff and students who have significant concerns to raise them internally through the relevant procedures. It is committed to act promptly and sensitively to investigate such allegations, and to take any necessary corrective action.

5.6 An annual report shall be made to the Board of Governors of disclosures made under this procedure.
5.7 If, on conclusion of the matter, the individual reasonably believes that the appropriate action has not been taken or the individual believes it not appropriate to discuss their concerns with the named persons above, they should report the matter to the appropriate authority. The legislation sets out a number of bodies to which qualifying disclosures may be made.

These include:

- HM Revenue & Customs;
- the Financial Services Authority;
- the Office of Fair Trading;
- the Health and Safety Executive;
- the Environment Agency;
- the Director of Public Prosecutions; and
- the Serious Fraud Office.

6.0 Confidentiality

6.1 The University encourages staff and students who have significant concerns to raise them internally by using these procedures. The University will treat all such disclosures in a confidential and sensitive manner. This Whistleblowing Procedure encourages individuals to put their name to any disclosures they make.

6.2 The identity of the individual making the allegation may be kept confidential, so long as it does not hinder or frustrate any investigation. However, the investigation process may reveal the source of the information and the individual making the disclosure may need to provide a statement as part of the evidence required. Concerns expressed anonymously are much less powerful, but they will be considered at the discretion of the University.

In exercising this discretion, the factors to be taken into account will include:

- the seriousness of the issues raised;
- the credibility of the concern; and
- the likelihood of confirming the allegation from attributable sources.

6.3 If an individual makes an allegation which is in the public interest and is not confirmed by subsequent investigation, no action will be taken against that individual. If, however, an individual makes malicious or vexatious allegations, and particularly if he or she persists with making them, disciplinary action may be taken against the individual concerned.

6.4 Provided the allegations have been made – internally or externally – lawfully, without malice and in the public interest, the University will seek to ensure that the position of the complainant in the University – as a member of staff or a student – is not disadvantaged as a result of the making of the allegation.
The University will, however, take steps to defend itself and its members against defamatory statements or actions by any individual or group, and will seek appropriate redress.

7.0 Protection

7.1 The University encourages individuals to raise their concerns under this procedure in the first instance. If an individual is not sure about whether or not to raise a concern, they should discuss the issue with their line manager or the HR Department.

Please note that:

- Staff must believe the disclosure of information is in the public interest.
- Staff must believe it to be substantially true.
- Staff must not act maliciously or make false allegations.
- Staff must not seek any personal gain

7.2 A individual who makes such a protected disclosure has the right not to be dismissed, subjected to any other detriment, or victimised, because he/she has made a disclosure.

7.3 Any victimisation of a individual for raising a qualified disclosure would be a disciplinary offence. If misconduct is discovered as a result of any investigation under this procedure the University’s Disciplinary Procedure may be used, in addition to any appropriate external measures.

Policy reviewed by Board of Governors on 21 November 2018

Amendments made in May 2020