

POLICY AND PROCEDURE ON WHISTLEBLOWING (PUBLIC INTEREST DISCLOSURE)

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Policy control

Approved by	Audit and Compliance Committee	
Contact	University Secretary	
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Audience	Internal (Intranet only)	X
	External (Internet)	X

1. Purpose

- 1 The University is committed to being open, honest and accountable in all its business, and to taking account of the requirements of its funding bodies and standards in public life at all times.
- 2 This policy and procedure is designed to allow employees, members of the University and those conducting business with the University to disclose information, which they believe shows malpractice, without being penalised in any way.
- 3 This policy reflects the legal protection given to employees under the Public Interest Disclosure Act. It is a fundamental term of every contract of employment that an employee will faithfully serve his or her employer, and will not disclose confidential information about the employer's affairs. However, where an individual discovers information which they believe shows malpractice or wrongdoing within the organisation, then this information should be disclosed independently of line management, and without fear of reprisal.
- 4 The policy is not designed to help anyone who wishes to question legitimate financial or business decisions which have been taken by the University or who wishes to express disagreement with legitimate line management decisions; nor should it be used to seek reconsideration of matters which have already been addressed under harassment, complaint or disciplinary procedures.
- 5 The policy applies equally to all full-time and part-time employees, visiting lecturers, agency and work-experience staff and those on short or honorary contracts, regardless of seniority or length of service. It also applies to third parties that conduct business with the University.

2. Scope

- 6 A number of policies and procedures are already in place, including policies for grievance, complaints, harassment and discipline. This policy is intended to cover concerns which are in the public interest and may (at least initially) be investigated separately, but might then lead to the invocation of other policies and procedures. These might include:
 - financial impropriety or fraud (for which separate policies also exist – see ‘Policy and procedure on fraud and corruption’ and ‘Fraud response plan’);
 - failure to comply with legislation, the University's Instrument or Articles of Government or its regulations;
 - giving or receiving bribes by employees or individuals or organisations associated with the University, whether in the UK or abroad (for which a separate policy exists – see ‘Policy and Procedure on Bribery and Corruption’);
 - dangers to health, safety or the environment;
 - criminal activity;
 - academic or professional malpractice;
 - improper conduct or unethical behaviour;
 - attempts to conceal any of these.

Safeguards

Protection

- 7 The policy offers protection to those individuals who disclose such concerns, provided the disclosure is made to an appropriate person or body (see below) and that it is made in the reasonable belief that it intends to show malpractice and that the information conveyed is true. Any member of staff will be liable for disciplinary action if they subsequently discriminate against any individual or organisation because they have used this policy to disclose concerns that they believed to be true at the time.

Confidentiality

- 8 The University will treat all such disclosures in a confidential and sensitive manner. 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 individual making the disclosure may need to provide a statement as part of the evidence gathering process, and their identity may be revealed or implied as part of the investigating process.

Anonymous disclosures

- 9 This policy encourages individuals to put their name to any disclosure they make. Concerns expressed anonymously will be considered at the discretion of the University.
- 10 In exercising this discretion, the factors 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.
- 11 If an individual wishes to make an anonymous disclosure then they must endeavour to provide as much detailed evidence as possible of the specific issues that they believe constitute malpractice and of the members of staff that they believe to be involved. Generic and unsubstantiated allegations are less powerful and less easy to investigate and the nature of anonymous disclosures do not make it possible for the University to seek the further clarification or detail that might be necessary to enable an investigation to be initiated.

Untrue allegations

- 12 If an individual makes an allegation that they believe to be true, which is not confirmed by subsequent investigation, no action will be taken against them. If, however, they make allegations that they know to be untrue, and particularly if they persist with making them, then disciplinary or legal action may be taken against the individual concerned.

3. Policy

Procedures for making a disclosure

Initial step

- 13 Before making a disclosure, individuals may wish to seek advice from a trade union representative, or from a solicitor.
- 14 The individual should normally approach the University Secretary, who is the Clerk to the Governors. If this would be inappropriate, or if the disclosure is of a sufficiently serious nature, then they may raise the matter with the Chair of the Audit and Compliance Committee. Details of how to contact these individuals are given at the end of this document.
- 15 The person to whom the disclosure is made (ie. the University Secretary or the Chair of the Audit and Compliance Committee) should immediately inform the Vice Chancellor and the Chair of the Board of Governors, unless requested not to do so, without breaching the confidentiality of the discloser. In cases involving financial malpractice, the person to whom the disclosure was made should act throughout in close consultation with the Vice Chancellor, as the Accountable Officer for the University's public funding.

Process

- 16 The person to whom the disclosure is made will not investigate a disclosure themselves, but will initiate an investigation by a third party in order to establish all relevant facts. In order to decide the form of the investigation to be undertaken, the person to whom the disclosure was made will consider the information which is available, and may initiate
 - an internal investigation by the Internal Audit Service or an independent officer of the University;
 - investigation by the police;
 - an independent enquiry by an external expert or auditor.

If the decision is that investigations should be conducted by more than one of these means, the person to whom the disclosure is made should satisfy themselves that such a course of action is warranted, the possibility of double jeopardy notwithstanding. If it is decided that the matter should be investigated internally, the person to whom the disclosure is made will consider how best to conclude whether there is a *prima facie* case to answer. This consideration will include determining:

- who should undertake the investigation;
 - the procedure to be followed;
 - the scope of the concluding report.
- 17 The person or persons against whom a disclosure is made will be told of it and the evidence supporting it, and will be allowed to respond before any investigation is concluded.
 - 18 Investigations will be conducted as sensitively and as speedily as possible, and findings will be reported to the person to whom the disclosure was made.
 - 19 Upon receiving the results of the investigation, the person to whom the disclosure was made will decide if there is a case to answer, and what procedure to follow. Internal procedures may include:
 - disciplinary;
 - grievance or complaints;
 - harassment and bullying.

If it was investigated internally, the matter may warrant referral to the police or independent enquiry at this stage.

Feedback

- 20 The person to whom the disclosure was made will inform the individual who made the original disclosure of what action, if any, is to be taken. If no further action is to be taken, then the individual concerned should be informed of the reason for this, and given the opportunity to re-make the disclosure to the Chair of the Audit and Compliance Committee (if that was not the person to whom the original allegation was made), or to the Chair of the Board of Governors (see note below). The person receiving the re-made disclosure will consider all the information presented, the procedures that were followed, and the reasons given for not taking further action. The outcome of this may be to confirm that no further action is required, or to request further investigation as outlined above.
- 21 The Secretary to the Audit and Compliance Committee will be informed of disclosures made under this procedure, and the outcomes of investigations into disclosures, in order that they may be reported to the next meeting of the Audit and Compliance Committee. The University will retain full reports of the details of such disclosures, of investigations conducted, and of action taken for three years after the investigation was concluded, and follow-up action initiated.

Further advice

- 22 Independent external advice may be sought from 'Public Concern at Work', a charitable organisation which can provide free confidential telephone advice to people concerned about wrongdoing at work (see website www.pcaw.co.uk).

INDIVIDUALS TO WHOM DISCLOSURES MAY BE MADE:

- 23 Staff wishing to make a disclosure directly to the Chair of the Audit and Compliance Committee, should do so in a sealed envelope marked CONFIDENTIAL: CHAIR OF THE AUDIT AND COMPLIANCE COMMITTEE, and send it to the Secretary of the Audit and Compliance Committee, Governance & Planning, Room A519, Luton who will pass it on without opening it. Staff wishing to re-make disclosures to the Chair of the Audit and Compliance Committee should do so by the same route.
- 24 Staff wishing to re-make a disclosure to the Chair of the Board of Governors should do so in a sealed envelope marked CONFIDENTIAL: CHAIR OF THE BOARD OF GOVERNORS, and send it to the Clerk to the Board of Governors, Governance & Planning, Room A519, Luton, Luton, who will pass it on unopened.

4. Forms/Instructions

None.

5. Links/Dependencies

This policy should be read and its use considered with reference to:

Policy and procedure for the reporting of fraud and corruption
Policy and procedure for the investigation of fraud and corruption
Policy and procedure to prevent money laundering
Anti-Bribery Policy and Procedure
Policy on reporting of serious incidents
Staff code of conduct
Safeguarding policy for children and vulnerable adults

6. Appendices

None.