



# **PUBLIC INTEREST DISCLOSURE POLICY (*Whistleblowing*)**

*University Secretary*

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## **1. Policy**

- 1.1 The University is committed to conducting its affairs in accordance with the highest possible standards of probity and integrity, and to maintaining governance arrangements which are efficient, effective and economic, expeditious and timely, open and transparent, and collegial; which meet relevant legal requirements and obligations; which provide for proper accountability; and which promote integrity and objectivity in the conduct of University business.
- 1.2 In this context, the University is committed to ensuring that it has procedures in place to help to expose any malpractice, misconduct, corruption, maladministration or other impropriety.
- 1.3 Usually, members of staff or students are the first to become aware of suspected malpractice or impropriety. The University recognises that it is by no means an easy task to 'blow the whistle' on such suspicions. It recognises, for example, that a person suspecting malpractice or impropriety might be reluctant to take steps which might lead to action being taken against fellow members of the institution; similarly, it recognises that individuals suspecting malpractice or impropriety might be deterred from reporting it by a fear that they themselves might be victimised. Nonetheless, if the University is to maintain the highest standards of conduct, it must be given the opportunity to investigate any suspected instance of malpractice or impropriety. It might be that an allegation proves to be unfounded, but it is in everyone's interests - and those of the University as a whole - that all allegations are investigated and properly resolved. The University does, however, have a duty to protect its employees from malicious complaints; and appropriate disciplinary action may be taken against anyone found to have acted maliciously in bringing forward an unfounded allegation. Against this background, it should be understood that every member of staff has a role to play in protecting the integrity of the University's activities; and all staff are strongly encouraged to report any suspected malpractice or impropriety.
- 1.4 This document has been drawn up in order to provide staff, students, contractors, third parties and external bodies with the support and guidance they will need if they suspect that malpractice or impropriety has taken place. All such concerns will be taken seriously, and will be handled fairly and in confidence.

## **2. What is whistleblowing?**

- 2.1 Whistleblowing has been defined as:
- the disclosure of confidential information which relates to some danger, fraud, or other illegal or unethical conduct connected with the workplace, be it of the employer or employees.
- 2.2 The Public Interest Disclosure Act 1998 encourages employees to raise such concerns internally in the first instance, and regulates the situations in which they may raise the matter externally (see below). Among other things, the Act defines the type of 'qualifying disclosure' covered by the Act as one which is made:
- in the reasonable belief of the worker making the disclosure in the public interest that the allegation is substantially true, and which has not been made for personal gain
- 2.3. This definition provides one of the underlying assumptions for the policy and procedures set out in this document, in that they are intended not only to provide guidance and protection to those making disclosures, but to ensure that disclosures are made with good reason and not for trivial, vexatious or malicious reasons.

### **3. What type of incident or behaviour is covered?**

3.1. Although this list is not exhaustive, instances of serious malpractice or impropriety might include:

- criminal activity
- financial malpractice or fraud, and non-financial maladministration or other impropriety
- failure to comply with legal obligations, or with those of the University's constitution
- danger to health, safety and the environment
- professional malpractice
- improper conduct or unethical behaviour
- sexual or racial harassment or work-place bullying
- abuse or misuse of University property
- all aspects of research integrity and research conduct and misconduct
- attempts to conceal any of the above

### **4. Principles informing the University's approach**

4.1 The University is committed to investigating disclosures **fully, fairly, quickly, and confidentially**, and to protect those making allegations from victimisation. In the latter connection, the University will take all reasonable steps to ensure that the identity of those raising allegations, and of those against whom such allegations are made, will be kept secret except insofar as disclosure is judged necessary for the purpose of carrying out a full and fair investigation (or for taking appropriate action against anyone found to have acted improperly).

### **5. Anonymous disclosures**

5.1 There may be occasions when members of staff feel that the circumstances of any allegation of malpractice or impropriety are such that they can only make a disclosure anonymously. Unfortunately, it can be difficult, however, to investigate anonymous disclosures properly, and equally difficult to make judgements about the extent to which such a disclosure has been made in the public interest (see paragraph 2.2 above); and there may be instances in which after conducting an investigation, having taken all the information available into account, the University might not pursue anonymous allegations.

### **6. External disclosure**

6.1 As noted in paragraph 2 above, the Public Interest Disclosure Act 1998 regulates the situations in which employees can make external disclosures. The University is confident that the procedure for internal disclosure of allegations of malpractice or impropriety set out in this document is sufficiently robust to ensure that suspicions are properly dealt with. Nonetheless, guidance setting out the criteria in which legal protection is afforded under the Act for external disclosure is attached as Appendix 1.

### **7. Support and advice**

7.1 Within the University, advice and guidance to those contemplating blowing the whistle is available from Staff Unions and the Students' Union.

7.2 Externally, a charity entitled *Public Concern at Work* offers, among other things, help and advice for staff and employers in connection with whistleblowing. Members of staff who wish to do so can contact this organisation either on telephone number 020 74046609 or via website [www.pcaw.org.uk](http://www.pcaw.org.uk).

## 8. Raising concerns

- 8.1. In general, members of the University wishing to 'blow the whistle' on suspected malpractice or impropriety should contact the Vice-Chancellor. If this is inappropriate, perhaps because of the seriousness of the allegations or who is believed to be involved, they should contact directly the Chair of the Audit & Risk Management Committee. If the Vice-Chancellor and the Chair of the Audit & Risk Management Committee are believed to be involved, they should contact directly the President of the University Council. If the Vice-Chancellor, the Chair of the Audit & Risk Management Committee and the President of the University Council are believed to be involved, they should contact directly the University's internal auditors (RSM). Contact details can be found in Appendix 2. Whistleblowers are asked to put their concerns in writing.

## 9. What action will be taken at this stage?

- 9.1 An official, written record will be kept of each stage of the procedure and a timescale given to the whistleblower. Prior to the release of any information the University will undertake a risk assessment.
- 9.2 If the disclosure relates to suspected misconduct in academic malpractice, the matter will be taken forward under the procedures within the University's *Academic Malpractice Procedures and or Research Governance Handbook*. If the disclosure relates to suspected financial misconduct, it will be investigated under the procedures set out in the *Anti-Fraud Policy and Response Plan*. If it relates to harassment or workplace bullying, it will be investigated through the University's *Dignity at Work Policy*. If it relates to other matters, it will normally be dealt with by the Vice-Chancellor or his or her nominee, who will first meet the whistleblower and establish the basis of his or her concern, and then undertake such other enquiries as he or she considers necessary to determine whether or not there are *prima facie* grounds for considering that the concern is well-founded. If the conclusion is reached that there are such *prima facie* grounds, the Vice-Chancellor or his or her nominee may:
- (a) refer the matter to an external authority, for example the Police;
  - (b) initiate an investigation through the University itself.

Details of the process to be followed by the University are highlighted in Appendix 3.

- 9.3 If, on the other hand, the conclusion is reached that there are no *prima facie* grounds for considering that the concerns are well-founded, the whistleblower will be informed. If the whistleblower is not satisfied with the basis of that conclusion he or she may ask that the matter be referred to the Chair of the Audit & Risk Management Committee.
- 9.4 Any investigation by the Chair of the Audit & Risk Management Committee will be carried out in accordance with Appendix 3. The Chair of the Audit & Risk Management Committee may appoint the Internal Auditors to undertake this task. The University will take all reasonable measures to ensure that an investigation is concluded as quickly as possible, and that it is impartial.
- 9.5 On completion of an investigation, the Chair of the Audit & Risk Management Committee will submit a formal report to the Audit & Risk Management Committee and a copy will be made available to the whistleblower. Such a report is considered to be final.
- 9.6 If it is found that the whistleblower acted maliciously then disciplinary action may be taken against him or her.

**10. Reporting**

10.1 An annual report of incidences of whistleblowing will be presented to the Audit & Risk Management Committee.

**11. Associated Policies**

11.1 University Safeguarding Policy

## WHISTLEBLOWING: LEGAL PROTECTION FOR DISCLOSURE

### Introduction

1. The Public Interest Disclosure Act 1998 gives protection to whistleblowers but only if certain conditions are met. First, the disclosure has to be about a particular category of concern (see paragraph 2 below). Second, the disclosure must be made in a certain way (see paragraphs 3-8 below).

### Qualifying disclosures

2. The Act provides protection for a worker only if he/she makes a *qualifying disclosure*, which is the disclosure of any information which in the reasonable belief the worker making the disclosure is made in the public interest and tends to show one or more of the following:
  - a criminal offence
  - a failure to comply with a legal obligation
  - a miscarriage of justice
  - a breach of health and safety regulations
  - damage to the environment
  - attempts to conceal any of the above.

### Protected disclosures

3. When making a *qualifying disclosure* a worker is *protected* under the Act only if he/she makes the disclosure in the public interest, and if he/she uses one of the following specified internal or quasi-internal routes of disclosure (not all of which are necessarily applicable in the university context):
  - to the employer, or to a person who has legal responsibility for the matter or whose conduct relates to it, or some other person in accordance with the employer's procedure
  - to a legal adviser in the course of taking legal advice (a category of disclosure to which the 'good faith' precondition does not apply)
  - to a Minister of the Crown (where the employer is an individual or a body appointed by the Minister)

### Additional statutory requirements for external disclosure

4. There are additional *statutory requirements* where a disclosure is made *externally*. The Act provides for the following three separate situations.

### Qualifying Disclosure to a prescribed person

5. This covers disclosure to a *prescribed person* or regulatory body prescribed by an order made by the Secretary of State for these purposes. In this case, to be covered by the protection afforded by the Act, a worker will have to show that he/she
  - reasonably believes that the allegation falls within the remit of that person or body
  - reasonably believes that the allegation is substantially true.

## General external disclosures

6. If making a *general external disclosure* (e.g. through the press), to be covered by the Act a worker must fulfil the conditions set out in paragraph 5 above, *and in addition* must also show *either* that
  - He/she is not acting for personal gain
  - he/she believes that he/she will be treated to his/her detriment if disclosure is made to the employer internally or to a prescribed person externally;
  - where there is no *prescribed person*, he/she reasonably believes that relevant evidence will be concealed or destroyed if he/she makes the disclosure to the employer;
  - he/she has already made substantially the same disclosure to an employer or prescribed person and in all the circumstances it is reasonable to make the disclosure.
7. In this context, reasonableness will be determined in relation to a variety of considerations including, *inter alia*: the identity of the person to whom the disclosure is made; the seriousness of the transgression and whether or not it is likely to recur; whether, in making a disclosure to an employer, the whistleblower has complied with his/her employer's whistleblowing procedure; and any action which the recipient of any previous disclosure has taken.

## Exceptionally serious breaches

8. While an *exceptionally serious breach* essentially falls into the category of a *general external disclosure*, the gravity of such a disclosure means that the requirements under the Act are different. In such a case, paragraphs 6 and 7 above do not apply, and a worker is protected under the Act provided only that he/she can demonstrate that
  - he/she is acting in good faith
  - he/she reasonably believes that the allegation is substantially true
  - he/she is not acting for personal gain
  - the disclosure is of a very serious nature
  - in all the circumstances of the case, it is reasonable for him/her to make the disclosure.

## Summary

9. The Act provides statutory protection for a worker making a disclosure provided that
  - (a) the disclosure is covered by one or more of the six categories of *qualifying disclosures* set out in paragraph 2 above, *and*
  - (b) the disclosure is *either*
    - (i) an internal or quasi-internal *protected disclosure* as set out in paragraph 3 above; *or*
    - (ii) an external disclosure covered by the *statutory requirements* set out in paragraphs 5-8 above.
10. In essence, to gain protection under the Act, the requirements for external disclosure (other than to a legal adviser) are more stringent than those for internal or quasi-internal disclosure, and the effect of the Act is therefore to encourage whistleblowers so far as possible to raise their concerns internally.



## CONTACT NAMES

TITLE	NAME	TELEPHONE AND EMAIL ADDRESS
President of the University Council	Meredydd David	Contact via the University Secretary, marking correspondence as FAO – President of the University Council
Vice-Chancellor	Eunice Simmons	01244-513455 <a href="mailto:e.simmons@chester.ac.uk">e.simmons@chester.ac.uk</a>
University Secretary	Laura Gittins	01244-512982 <a href="mailto:universitysecretary@chester.ac.uk">universitysecretary@chester.ac.uk</a>
Internal Auditor RSM	Lisa Randall	0844 8797340 <a href="mailto:lisa.randall@rsmuk.com">lisa.randall@rsmuk.com</a>
Chair of the Audit & Risk Management Committee	Angela Seeney	Contact via the University Secretary, marking correspondence as FAO – Chair of the Audit & Risk Management Committee.

# Whistleblowing Procedure

