Public Interest Disclosure (Whistle-blowing) Policy

Audience	Public
Applies to	All Staff
Classification	Corporate Governance
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Policy Document Author	Vice-Principal and University Secretary
Policy Document Sponsor	Vice-Principal and University Secretary

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1. Introduction

The University is committed to conducting its business with honesty and integrity and expects all staff to maintain high standards of conduct. However, all organisations face the risk of things going wrong from time to time, or of unknowingly harbouring illegal or unethical conduct. A culture of openness and accountability is essential to prevent such situations occurring and to address them when they do occur.

The Public Interest Disclosure Act 1998 gives legal protection to employees against being dismissed or penalised by their employers as a result of publicly disclosing certain serious concerns. It is a fundamental term of every contract of employment that an employee will serve their employer and not disclose confidential information about the employer's affairs. However, where an individual discovers information which they believe shows malpractice/wrongdoing within the organisation then this information should be disclosed without fear of reprisal and may be made independently of line management. The University welcomes use by its staff of the policy described below to raise concerns believed to show malpractice.

2. Scope of the Policy

The aims of this policy are:

(i). to encourage staff to report suspected wrongdoing as soon as possible, in the knowledge that their concerns will be taken seriously and investigated as appropriate, and that their confidentiality will be respected.

(ii). to provide staff with guidance as to how to raise those concerns; and

(iii). to reassure staff that they should be able to raise genuine concerns without fear of reprisals, even if they turn out to be mistaken.

Public interest disclosure is the means by which an employee can alert the University to a wider danger or risk; primarily so that the University can assess and take what action is appropriate to remove or reduce danger or risk.

This policy does not apply to circumstances where an individual employee seeks redress or remedy for damage they have suffered personally. If this is the case, the individual employee should use the appropriate alternative procedure such as staff grievance procedure or procedures dealing with allegations of sexual harassment and discrimination.

This policy is not intended to be used to reconsider matters already addressed under harassment, complaint or disciplinary procedures nor is it designed to question financial, or business decisions taken by the University.

This policy applies to all those individuals who are employed by the University; whether full-time or part-time. It also applies to officers, contractors, casual workers, and agency workers. It does not apply to students or visitors unless they are also employees of the University. It does not form part of any employee's contract of employment, and it may be amended from time to time.

This policy is designed to allow employees to raise high level concerns or information which they believe show malpractice and are in the public interest and may warrant an investigation separate from other grievance, harassment, and discipline procedures.

These may include:

- Financial malpractice or impropriety or fraud
- Failure to comply with legal obligations
- Dangers to health and safety or the environment
- Criminal activity
- Academic or professional malpractice

- Improper conduct or unethical behaviour
- A miscarriage of justice
- Attempts to conceal any of the above

These include allegations that any of the above have occurred or are likely to occur. The above list is not exhaustive.

3. Safeguards

3.1 Protection

It is understandable that individuals who disclose their concerns are sometimes worried about possible repercussions. The University aims to encourage openness and will support staff that raise genuine concerns under this policy, even if they turn out to be mistaken.

This policy is designed to offer protection to those employees or other members of the University who disclose reasonable concerns, provided the person disclosing has a reasonable belief that it is in the public interest or that it tends to show malpractice; and that the disclosure is made to an appropriate person (see section 4 below). Persons who make allegations falsely or maliciously will not have the necessary reasonable belief that it is in the public interest to be entitled to protection under this policy.

In all cases, provided that the allegation has been made lawfully, without malice and in the public interest, the employment position, academic standing, or other position within the University of the person making the allegation will not be disadvantaged for reasons of making the allegation, nor will the individual suffer any form of detriment as a result.

Staff members must not threaten or retaliate against a person making an allegation, in any way. Any staff member who is involved in such conduct may be subject to disciplinary action.

3.2 Confidentiality

All disclosures will be treated in a confidential and sensitive manner. The identity of the person making the allegation may be kept confidential after the launch of an enquiry, if requested, as long as it does not hinder a fair investigation or if there is an overriding reason for disclosure (for example, if police involvement is required). However, the investigation process may reveal the source of the information, and the individual making the disclosure may be required to provide a statement as part of the evidence required. As such, confidentiality cannot be guaranteed.

3.3 Anonymous Allegations

The policy encourages individuals making a disclosure to identify themselves as the purpose of the policy is to provide protection to those who disclose concerns. Whilst there is no requirement for the University to investigate concerns expressed anonymously, it may decide to do so depending upon the seriousness of the issues raised; the credibility of the allegations; and the likelihood of confirming the allegation satisfactorily.

3.4 False Allegations

Persons found to have knowingly raised false or malicious allegations may be treated as having committed a serious disciplinary offence.

4. Disclosure Procedure

Allegations should be made in writing - either via email or via internal mail - to the Vice-Principal and University Secretary, who is the principal designated officer for handling disclosures. If the matter involves the Vice-Principal and University Secretary, allegations should be made in writing to the Vice-Chair of Court, who is an independent (lay) member (see section 4.5 for contact information). Written submissions shall be marked "Confidential."

If misuse of public funds is suspected, then the Scottish Funding Council will be informed at an early stage. The Secretary/Vice-Chair will act throughout in close consultation with the Principal and Vice-Chancellor, as the Accounting/Designated Officer for the University's public funding. If the allegation involves the Principal, the Secretary will seek guidance from Court. Allegations may also be sent to the Head of Internal Audit (see section 4.5).

4.1 Process

The designated person to whom the allegation is made will be responsible for acknowledging it immediately, for making a record of its receipt and of the subsequent action, and for reporting the outcome to the person making the allegation.

The designated person will, in consultation with one other senior officer, consider the information available and decide on the form and scope of investigation to be undertaken. The decision may be to investigate the matter internally; to refer the matter to the police; or to call for an independent inquiry. The person making the allegation may be required to meet with the designated person in order to discuss their concerns further, or to provide additional information.

If the matter is to be the subject of an internal inquiry, the designated person will then

consider how to conclude whether there is a *prima facie* case to answer, including who should undertake the investigation, what procedures should be followed, and the scope of the concluding report. In cases alleging the misuse of public funds the Funding Council and the National Audit Office may wish to undertake their own investigation.

4.2 Investigation

The investigation should normally be carried out by a suitable and independent member of staff of the University; or an external independent person; or the Internal Auditor* may be asked to investigate allegations of financial impropriety. The investigator shall report his/her findings to the designated person. In no circumstances should the investigation be carried out by the person who may ultimately have to reach a decision on the matter. As a result of the investigation other internal procedures may be invoked, such as: disciplinary; grievance or complaints; harassment, or it might form the basis of a special investigation.

4.3 Feedback

The designated person will inform the individual making the disclosure of what action, if any, is to be taken. However, in some cases the need for confidentiality may prevent the designated person from giving specific details of the investigation or of any action taken as a result.

If no investigation is to be carried out, such a decision may only be reached by the designated person in consultation and agreement with at least one other senior officer. Thereafter, the person making the allegation shall be informed, given the reason for dismissal of the allegation, and given one further opportunity to repeat the allegation to some other person or authority within the University. For example, if the first designated person was the Vice-Principal and University Secretary, then the further opportunity to repeat the allegation should be made to the Vice-Chair of Court. If the first designated person was the Vice-Chair of Court, then the repeat allegation should be made to the Chair of Court. There will be no such opportunity when an allegation is dismissed after an investigation. The outcome of a repeat allegation will be either to confirm that no further action is required or that further investigation is required in which case the procedures referred to above apply.

In all cases, the person, or persons against whom the allegation is made must be told of the allegation and of the evidence supporting it and be allowed to comment before the investigation is concluded or further action commenced.

4.4 Reporting of Outcomes

The reports shall be retained by the Vice-Principal and University Secretary for not less than three years. In all cases a report of the outcomes of any investigation will be made to the Governance & Nominations Committee in summary to allow the Committee to

monitor the effectiveness of the procedure; and/or will be reported to the Audit and Risk Committee where the issue falls within its purview.

4.5 Contact details

The Vice-Principal and University Secretary and the Vice-Chair of Court can be contacted by telephoning the University on 01382 308000. If sending a written letter, please note the envelope as 'Confidential' and send via internal mail to either 'The Vice-Principal and University Secretary' or 'Vice-Chair of Court'.

The name of the current Vice-Chair of Court appears on the University's website at the section on Court. If you wish to email the Vice-Chair you can find their email address in the University's Outlook address book.

*The University's internal auditor is currently Azets LLP, contactable at:

1st Floor, Quay 2,

139 Fountainbridge,

Edinburgh, Scotland

EH3 9QG

T:0131 473 3500

www.azets.oc.uk

5. Further advice

Advice can be obtained from the Vice-Principal and University Secretary.

Further independent advice is available from the charity 'Public Concern at Work' – see http://www.pcaw.org.uk/ or at Acas – see www.acas.org.uk.