

RESPONSE PLAN UNDER THE ACCOUNTABILITY CODE OF PRACTICE

1. Introduction

This Response Plan sets out a framework to be followed where serious concerns, including allegations of suspected or confirmed fraud, bribery or other forms of corrupt practices, are raised in accordance with the University's Accountability Code of Practice and the associated Procedure for Raising Concerns.

The framework is intended to provide assurances that the University's response to any concerns raised will be consistent, transparent, professional and proportionate, and that the legitimate interests of all parties to that the concern relates to will be respected.

The framework represents a series of general principles to be followed rather than a prescribed sequence of procedures. The form and content of matters to be addressed by the Response Plan require that detailed procedures must be tailored to the specific facts of each case within those principles.

2. Definitions

For the purpose of this Response Plan, the following definitions are used:

- **Lead Witness:** the individual responsible for raising the concern with the University;
- **Designated Person:** an individual with appropriate decision making authority responsible for oversight of investigations and inquiries into the concerns raised.
- **Review Panel:** an advisory panel of independent subject matter experts, formed at the discretion of the Designated Person. Where convened, the Review Panel will be drawn from the University Leadership Team or external advisors to support the Designated Person in their oversight of the investigation. In forming a Review Panel, the Designated Person will take into consideration the need to preserve the protection and confidentiality offered to the Witness.
- **Investigator:** the individual(s) assigned responsibility for the conduct of inquiries into the concerns raised and for recommending actions, based on evidence gathered, to the Designated Person. For matters of a financial nature, the Head of Internal Audit Service will normally act as Investigator, but any independent officer of the University (other than the University Solicitor) may undertake the role under the direction of the Designated Person. In exceptional circumstances, it may be appropriate to appoint an individual external to the University as the Investigator. The University Solicitor will be consulted by the Designated Person and by the Investigator where appropriate.

3. Outline of the Response Plan

The Response Plan adopts the following high level framework of activities:

- Establishing the key responsibilities and accountabilities for key participants in the response;
- Keeping the Lead Witness appropriately informed of the progress and status of the response;

- Conducting a Preliminary Assessment to confirm that it is appropriate for the concern to be investigated under this Response Plan;
- Where appropriate, conducting more detailed Fact Finding Investigation, gathering evidence relating to the concerns or allegations raised;
- Recommending actions based on the findings and conclusions of fact finding investigations.

4. Identification of the Designated Person and the Investigator

The Response Plan is constructed with the expectation that concerns have been communicated in accordance with the Procedure for Raising Concerns and that the University Secretary will be the Designated Person and that the Head of Internal Audit Service will lead any investigation.

Where the concerns have been reported through an alternative reporting channel, the recipient of that report must ensure that a Designated Person and an Investigator is identified.

Where the concerns have been reported to the University Secretary, the University Secretary may determine that it is inappropriate for them to act as the Designated Person and arrange for an alternate to take responsibility for the oversight of investigations.

It is important that both the Designated Person and the Investigator are independent and are able to approach the investigation objectively. Conflicts of interest should be avoided, and no member of the Vice-Chancellor's Executive Group should be required to act as a Designated Person where the concerns relate to staff or activities within their own portfolio of executive responsibilities. Neither the Chancellor nor Principal & Vice-Chancellor should act as the Designated Person for any report.

In exceptional cases, the Chair of Court or the Chair of the Audit & Risk Committee may act as the Designated Person.

5. Acknowledgement of Concerns Raised

The Designated Person will respond to the Lead Witness within 2 working days of the concern being received, acknowledging receipt and confirming who will act in the roles of Designated Person and Investigator. The acknowledgement will reaffirm the University's commitment to respecting the confidentiality of disclosures made and to safeguarding the Lead Witness against any detrimental treatment as a consequence of having made the disclosure. The acknowledgement of a reported concern is for confirmation only that the matter has been received and is being processed, it does not confirm that there is a valid issue.

6. Preliminary Assessment

The Investigator, in consultation with the Designated Person, will review the substance of the concerns raised, including any additional evidence provided by the

Lead Witness, to confirm that it is appropriate for the concerns to be addressed through this framework.

Matters will not be progressed through this framework where the substance of the concern:

- Is an objection to financial or business decisions legitimately taken by or on behalf of the University;
- May be more appropriately addressed through alternative established University policies, protocols and procedures for handling grievances or complaints, or through related appeal processes;
- Reopens matters which have already been properly considered under alternative established University policies, protocols and procedures.

In addition, no further action will be taken in respect of concerns which have previously been raised (whether by the same or another Lead Witness) and already investigated, unless new evidence is available which has not been considered by any previous investigation.

Where the concern is assessed as falling within the scope of this Response Plan, the Investigator's preliminary assessments will evaluate whether:

- The concerns represent an immediate or continuing threat to the University or to others that may result in harm to people, animals, property or the environment, or a failure to prevent criminal activity;
- There is a need to secure evidence needed in subsequent investigations against tampering or destruction;
- There is a need to advise the Principal & Vice-Chancellor, other members of the Vice-Chancellor's Executive Group, or the Chair of Court of the concerns, and if so, the extent of any disclosure;
- There is a need to engage with the University's legal advisors (including the advisability of progressing under the protection of legal privilege);
- There is a need to advise other external stakeholders (including collaborative partners, suppliers, insurers, Scottish Funding Council, other funding partners, OSCR etc.) of the concerns;
- There is a need to suspend members of staff or students implicated by the concerns, pending further investigations;
- There is a need to secure specialist knowledge and expertise to support any investigation.

In cases of significant fraud or other material financial loss, it is a requirement of the Financial Memorandum with Scottish Funding Council that SFC must be informed. There is no specific guidance on materiality in these circumstances; for the purposes of this Response Plan, a threshold of £25,000 is applied.

Consideration must also be given as to whether the concern relates to a matter that may be regarded as a 'Notifiable Event' under guidance published by the Office of the Scottish Charities Regulator.

These assessments may only be made based on the evidence provided by the Lead Witness and the experience and judgement of the Investigator. The Investigator will not initiate further evidence gathering through interviews or requests for information.

Based on these preliminary assessments, the Investigator will make a recommendation to the Designated Person to:

- Refer the Lead Witness to alternative policies, codes of practice and procedures more appropriate to the nature of the concerns raised;
- Take no further action where the matter has already been satisfactorily addressed, or there is no substantive issue to be addressed;
- Refer the concern to a competent authority;
- Initiate further investigations, taking into account any additional recommendations concerning urgent actions or engagement with other parties.

The Designated Person should at this stage consider the need to convene a Review Panel to consider the recommendations or to engage with specialist resources to support or lead the investigations. Where consideration is to be given to the suspension of a member of staff, the Review Panel should include either the Executive Director of People & Organisational Development or their nominee and the suspension would be in accordance with formal disciplinary procedures.

The Designated Person will be responsible for ensuring that any notifications to other members of the University and to third parties are made. The Designated Person may delegate action to members of the Review Panel or to the Investigator.

The Preliminary Assessment should normally be completed within 5 working days of the concern being reported. Any delay in the completion of the Preliminary Assessment should be reported to the Lead Witness.

At the completion of the Preliminary Assessment, the Designated Person should advise the Lead Witness of the outcome and, where possible and appropriate, the timetable for further action.

7. Referring the concern to a competent authority

Where the Preliminary Assessment confirms that there is sufficient and reliable evidence to support the reported concern, it may be appropriate to refer the concern to a competent authority without the need for further evidence gathering. A competent authority may be internal to the University (e.g. People & Organisational Development to initiate disciplinary procedures) or external (e.g. Police Scotland or a regulator).

8. Fact Finding Investigations

The Investigator will conduct appropriate procedures to identify, gather and evaluate evidence relating to the concern. These procedures will be tailored to the specific circumstances of the concerns raised.

Investigations will be undertaken with appropriate diligence and professional scepticism. The objective of the investigation is not to focus only on gathering evidence to corroborate or discount any allegations or concerns raised, but on

forming an objective view based on the available evidence from all lines of enquiry considered to be pertinent.

Investigations will be conducted through review of documentation and other physical evidence and through interviews with relevant members of staff, students and where appropriate, third parties (“witnesses”). Every effort will be made to conduct evidence gathering without disclosing the identity of the Lead Witness. Where, due to the nature of the concerns being raised or the information to be collected, evidence gathering cannot be conducted without either the direct or indirect disclosure of the identity of the Lead Witness, the following safeguarding precautions will be undertaken:

- The Lead Witness will be advised in advance that their identity may be disclosed or discovered and provided with an opportunity to respond;
- Staff who are made aware of, or likely to infer, that the evidence gathering is in relation to a disclosure made by the Lead Witness will be advised of the protection afforded to the Lead Witness and the sanctions that may be applied if the Lead Witness is subject to any detrimental treatment.

Where the original concerns raised, or subsequent investigations, identify evidence that a member of staff may be implicated in conduct that could subsequently lead to disciplinary action against them, the following precautions will be taken:

- The staff member will be advised that an investigation is being conducted into serious concerns in which they are implicated and which, if confirmed, may lead to disciplinary action;
- The staff member will be advised of the nature of the alleged concerns and that any interviews conducted with them in the course of the fact finding investigation, while not part of any formal disciplinary process, may be accessed by any disciplinary investigation if initiated;
- The staff member will be informed of any evidence gathered which supports the alleged concerns and will be invited to comment on that evidence and to provide counter-evidence before the investigation is concluded
- The staff member may be accompanied by a trade union representative or a work colleague to any fact finding interview.

A documentary record will be maintained by the Investigator of all interviews, evidence gathered and evaluations of that evidence. This record will be held securely by the Investigator throughout the investigation and for an appropriate retention period following the investigation.

The Investigator will periodically advise the Designated Person, and the Review Panel if formed, of the progress achieved by the fact finding investigation. The Designated Person may suggest additional lines of enquiry to be pursued.

Throughout the investigation, the Investigator will review and if appropriate, reassess any preliminary assessments, including the need to inform other parties where new evidence indicates that this is necessary.

The Investigator and the Designated Person will act to conclude the fact finding investigation as quickly as possible, but always with proper regard to the need for thoroughness and fairness to all parties.

Following completion of the fact finding investigation, the Investigator will present their findings to the Designated Person and make recommendations for any further action based on those findings.

Recommendations should take into account any need for the Designated Person to:

- Initiate further disciplinary investigations against staff or students;
- Advise Court, senior management or third parties of the outcome of the investigation;
- Refer matters to the Police or other regulatory authorities;
- Advise the University's Senior Risk & Insurance Officer of either the intention to seek recovery of losses through claims against the University's insurance arrangements or for the purposes of ensuring that there is full consideration and necessary disclosure of all relevant risks when reviewing or renewing insurance covers.
- Consider any wider implications arising from the investigation, including remedial actions, and revisions to arrangements for governance, risk management and control.

A recommendation that no further action may be reached where the investigation has established that:

- There is insufficient reliable evidence to demonstrate that any wrongdoing has occurred;
- There is evidence of wrongdoing but insufficient evidence to attribute that wrongdoing to any identifiable individuals;
- The matter has been, or is being, addressed through other channels.

The Designated Person will advise the Lead Witness of the completion of the fact finding investigation, where possible and appropriate will outline the key conclusions and any actions arising, to the fullest extent possible but always subject to a need to protect the legitimate rights of others.

9. Right of Appeal

If the Lead Witness is dissatisfied with the outcome of an investigation, they may request an independent review. A request for an independent review should be made to the Chair of Court who will nominate an independent qualified reviewer. The purpose of the review will be to evaluate whether the concern was adequately addressed within the terms of this Response Plan. It may consider whether the Response Plan was followed, all reasonable lines of enquiry were adequately addressed, the conclusions reached are supported by the evidence gathered and that the evidence does not allow for alternative conclusions. The appeals process will not seek to gather new evidence or re-validate evidence gathered in the original investigation, although it may direct the University to re-open aspects of the original investigation to address any identified procedural or evidential gaps. The outcomes of the independent review will therefore involve one or more of the following:

- To order a further internal investigation or additional investigative procedures to supplement those already performed;
- To order the University to reconsider the investigation findings and conclusions;
- To uphold the original decision.

The Lead Witness will be advised of the outcome of their Appeal, and of any further actions taken.

10. Reporting to the Governing Body

The Audit & Risk Committee has responsibility for the governance oversight for the University's responses to fraud and other impropriety.

The Designated Person will determine whether it is appropriate to advise the Chair of the Audit & Risk Committee of the existence of any reported concern and if so, the extent of any disclosure. The specific details of the concern should not normally be reported. The Chair of the Audit & Risk Committee will be informed if the reported concern may have a significant financial or reputational impact on the University.

The Audit & Risk Committee will be provided with periodic reports, as appropriate, which will advise of the existence of any reported concerns, whether those concerns relate to fraud, bribery, financial irregularity or non-financial matters, and the status of any preliminary assessments or fact finding investigations. Information should be provided as to whether investigations have revealed governance, risk management or control issues and if so, actions taken to address those issues.

The Audit & Risk Committee will receive an annual report summarising all relevant activity over the course of the academic year.

Procedure Author – Head of Internal Audit Service	Procedure Owner – Head of Internal Audit Service
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Version 2 – 21 March 2019	Changes and Reason for Changes – job and department title changes, additional consideration for Designated Person and definition of Investigator changed.