

Public Interest Disclosure (Whistleblowing) Procedure

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Procedure Author – Head of Legal Services

Procedure Owner – Vice Principal (Strategy) and University Secretary

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Public Access or Staff Only Access – Public

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Changes and Reason for Changes – Sexual harassment added in as a protected disclosure in line with new employment rights legislation. Amended to align with revised structures/titles.



PUBLIC INTEREST DISCLOSURE (WHISTLEBLOWING) PROCEDURE

1. INTRODUCTION

The University is committed to carrying out our business in line with our values of integrity, respect, inclusivity and accountability. This means that we will ensure that all members of University staff feel confident about raising concerns about possible malpractice or wrongdoing within the University. It also means that we will make sure individuals who raise concern and those that concerns are raised against are treated with respect when we are carrying out any investigation in line with the safeguards set out in the procedure.

This procedure covers disclosures made by members of University staff (including employees, workers and agency workers) who fall within the scope of the [Public Interest Disclosure Act 1998](#). The protection also extends to former members of University staff. When staff (or former staff) raise such concerns, this is often referred to as whistleblowing.

This procedure does not apply to students or members of the public, who should raise any concerns about the University using our complaints procedure.

2. SCOPE OF PROCEDURE

The Public Interest Disclosure Act 1998 gives legal protection to employees from detrimental treatment or victimisation from their employer if, in the public interest, they blow the whistle on wrongdoing. The concerns covered by the Act are where the subject matter of the disclosure indicates: -

- that a criminal offence has been committed, is being committed or is likely to be committed
- that a person has failed, is failing or is likely to fail to comply with any legal obligation to which they are subject
- that a miscarriage of justice has occurred, is occurring or is likely to occur
- that the health or safety of any individual has been, is being or is likely to be endangered
- that sexual harassment has occurred, is occurring or is likely to occur
- that the environment has been, is being or is likely to be damaged, or
- that information tending to show any matter falling within the above bullet points is being or is likely to be deliberately concealed

This procedure should not be used to question financial or business decisions legitimately taken by or on behalf of the University, nor to re-open matters which have already been properly considered under other University procedures.

The procedure does not cover issues relating to complaints about an employee's individual circumstances, such as the way an employee has been treated at work or matter such as misconduct, malpractice or unethical behaviours. Such matters should be dealt with through grievance or disciplinary procedures.

We have a separate process for dealing with concerns [about Investigating Allegations of Misconduct in Research](#).

3. SAFEGUARDS

Protection

All employees are legally protected against being unfairly dismissed; penalised by their employer; or harassed by colleagues if they make a disclosure about wrongdoing in their organisation if they:

- reasonably believe that a category or wrongdoing, as set out in the law, has happened, is happening or is likely to happen in the future.
- reasonably believe the disclosure is in the public interest.
- raise the concern in a lawful way – either internally by following this procedure or externally to a designated outside body.

This procedure is designed to offer protection to employees who make such a disclosure so employees are encouraged to follow this procedure so that the matter may be dealt with appropriately.

Provided an allegation has been made in the public interest, the employment position of the person will not be disadvantaged for reason of making the allegation. This includes protection against any form of detrimental treatment as a result of the disclosure.

Confidentiality

The University will treat all disclosures made under this procedure in a confidential and sensitive manner. Any employee making an allegation will be given an undertaking that the allegation shall be regarded as confidential to the recipient until a formal investigation is launched. Thereafter the identity of the person making the allegation shall be kept confidential unless this is genuinely incompatible with a fair investigation or if there is an overriding reason for disclosure.

If it is felt that the confidentiality of the person making the allegation should be removed, they will be advised of this in advance of confidentiality being lifted and given the opportunity to respond.

Anonymity

The University encourages individuals to put their name to any disclosures which they make. Where concerns are raised anonymously there is likely to be a limit to the extent of the investigation that can be performed. Such concerns will be considered at the discretion of the University. In exercising this discretion, the factors to be taken into account include:

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

Unsubstantiated Allegations

The University expects that any concerns will be raised in line with our University value of integrity and are made without malice and in good faith. If an employee makes an allegation in good faith, which is not confirmed by subsequent investigation, no action will be taken against that individual. However, if 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.

Disclosure to External Agencies

Staff are expected to act in line with the University value of respect towards colleagues and to use this procedure rather than air their complaints outside the institution. It would not be a breach of this procedure, however, where a disclosure is made to one of the agencies that has been designated as a [prescribed third party](#) to whom public interest disclosures may be made. Wider disclosure, for instance to the media, is not to a prescribed third party and such disclosures, even where made in the public interest, may not be protected under the legislation.

Independent Advice

If an individual has concerns about raising such matters, or if they wish further advice, they should contact the Vice Principal (Strategy) and University Secretary. If they would prefer to speak to someone from outwith the University, confidential, free advice can be provided by an external organisation called [Protect](#).

4. PROCEDURES**Making a Disclosure****Who should Disclosures be Made to?**

Allegations about matters which fall within the scope of this procedure should be made to the Vice Principal (Strategy) and University Secretary who will usually be the Designated Person for the purposes of this procedure. Where, for any reason, the person making the allegation considers it inappropriate to make it to the Vice Principal (Strategy) and University Secretary a report can be made to the Head of Internal Audit or via the confidential e-mail address speak.up@uws.ac.uk.

Where the concerns have been reported to the Vice Principal (Strategy) and University Secretary, they 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 the investigation. No member of the Vice-Chancellor's Executive shall act as the Designated Person where the concerns relate to staff or activities within their own portfolio of responsibility.

Receipt of the disclosure will be acknowledged by the University, in writing, normally within five working days from the date of receipt.

Support to make a disclosure

All employees have the right to equal access to make a disclosure under our whistleblowing procedure. We recognise that some individuals may face barriers to doing this and may need our support to overcome these barriers.

The University is committed to making this support available and individuals can let us know prior to making their disclosure if any additional support is needed to allow them to do so. For example, if we need to meet with you to discuss the concerns you have raised, we can take notes on your behalf if this would be difficult for you to do yourself. We may also be able to offer virtual meetings or allow a representative to accompany you to speak on your behalf, if this would be appropriate.

What Happens Once a Disclosure is Made?

On receipt of a disclosure, the information will be assessed by the Designated Person and consideration will be given to what further action may be appropriate. When making the assessment the Designated Person may take advice from such University staff as they deem appropriate. If no action is to be taken then the individual concerned will be informed of this and provided with reasons for the decision, where possible, for example, where the concern being raised is an attempt to reopen a matter which has already properly been considered under an alternative University procedure.

In cases involving suspected financial malpractice, the Designated Person will act throughout in close consultation with the Principal & Vice-Chancellor, as the Accounting Officer for the University's public funding. Where there are serious concerns about the misuse of public funds, the Designated Person should also inform the Scottish Funding Council and the Chair of the Audit & Risk Committee at an early stage.

If the Designated Person determines there is grounds for proceeding further, then they will decide: -

- (i) Whether an internal investigation should be carried out and, if so, who should lead it and what form it should take (further detail about this is set out below);
- (ii) Whether the matter should be referred to an appropriate external authority e.g. the Police, the Scottish Funding Council; or
- (iii) Whether the matter should be referred directly to an existing policy or procedure within the University.

Internal Investigation

Where it is determined that an internal investigation is the appropriate way forward, the Designated Person shall ask the Head of Internal Audit Services (or another independent Officer of the University) to carry out an investigation to establish the relevant facts and to report their findings. The Designated Person must not personally conduct the investigation.

Where the concerns raised relate to the actions of a member of the senior leadership or a member of Court it may be appropriate for an external investigator to be appointed.

The name of the person nominated to carry out the investigation along with an estimate of how long the investigation will take will be provided to the person making the allegation within ten working days of receipt of the disclosure.

The individual who has made the allegation has five working days to notify the Designated Person, in writing, if they have any reasonable objection to that officer carrying out the investigation.

The person against whom the disclosure is made will be informed of the allegation and provided with any supporting evidence to allow them to comment before any investigation or further action is concluded.

An appropriate written record of the investigation will be made and retained in line with the University records retention schedule.

The timescales for completing the investigation will vary according to the nature and seriousness of the allegation made. However, the University shall aim to complete any investigation within sixty days from the date of receipt of the allegation.

Outcome of Investigation

Once all the facts are established, the Designated Person will decide whether further action should be taken or not. This decision shall be taken in consultation with relevant University colleagues. Such further action may include, but is not limited to, invoking the University's internal grievance, complaints or disciplinary procedures or referring the matter to an appropriate external authority, such as, the Police.

There is no right of appeal against the decision.

Feedback

Where reasonable and possible, on conclusion of the investigation the Designated Person will inform the individual making the allegation, in writing of what action, if any, is to be taken. If no action is to be taken, then the individual concerned should be informed of the reason for this. There may be certain situations where the individual making the allegation may not be informed of the outcome, for example where providing this is not possible due to privacy or it may impact other investigations or actions, such as where the matter has been referred externally.

5. REPORTING OF OUTCOMES

Where an investigation has been carried out under this procedure that relates to serious concerns about the financial, risk management or governance arrangements of the University, the Vice-Principal (Strategy) and University Secretary will be responsible for reporting the outcome of the investigation to the Audit and Risk Committee. The Audit and Risk Committee will be responsible for overseeing that the University has taken any appropriate actions arising from such investigations, and, if necessary, for escalating matters of concern to Court.