

WHISTLEBLOWING POLICY

1. Introduction

- 1.1 The Public Interest Disclosure Act 1998 aims to promote greater openness in the workplace and, by amending the Employment Rights Act 1996, protects 'whistleblowers' from detrimental treatment, i.e. victimisation or dismissal, for raising concerns about matters they reasonably believe to be in the public interest.
- 1.2 The term 'whistleblowing' has no legal definition within EC or UK law; however, it has been used to describe incidents where an employee (which for these purposes includes not only employees but workers and other staff members) reports some alleged wrongdoing within an organisation.
- 1.3 This Policy establishes the University's approach to whistleblowing and provides detailed advice and guidance to staff and students on the scope of the Policy. It explains that staff and students, where they have a reasonable belief that serious malpractice relating to any of the protected matters specified below has occurred or is likely to occur, may raise a concern under this Policy.
- 1.4 The purpose of this Policy is to provide a means by which staff and students are enabled to raise concerns with the appropriate University authorities if they have reasonable grounds for believing serious malpractice has occurred or is likely to occur.
- 1.5 All public interest disclosures will be dealt with:
 - In good faith – this Policy will be applied in a consistent manner without fear or favour; and
 - Confidentially – this Policy will be applied on a need-to-know basis.

2. Scope of the Policy

- 2.1 This Policy is designed to deal with concerns raised in relation to the specific issues which are in the public interest and are detailed in Section 2.2 below; it is not intended to apply to personal grievances concerning an individual's terms and conditions of employment or study, other aspects of the contractual relationship that exists between the University and its employees and students, complaints of bullying and/or harassment or disciplinary matters. Such complaints will be dealt with under the applicable existing procedures.
- 2.2 This Policy may be used to deal with specific concerns which are in the public interest and specifically where staff or students have a reasonable belief that one of the following has occurred or is likely to occur:
 - a criminal offence;
 - a failure to comply with legal obligations;
 - financial or non-financial maladministration or malpractice or impropriety or fraud;
 - academic or professional malpractice;
 - a risk to the health or safety of any individual;
 - environmental damage;
 - a miscarriage of justice; and/or
 - attempts to suppress or conceal any information relating to any of the above.
- 2.3 If, during the course of investigation, any concern raised in relation to the above matters appears to relate more appropriately to another existing procedure, a referral will be made accordingly.

3. Reporting

- 3.1 Any member of staff or any student who has a reasonable belief that there is serious malpractice relating to any of the protected matters specified in Section 2.2 above, may raise a concern under the procedure detailed in paragraph 6 below. The issues raised under the protected list may relate to a member of staff, a group of staff, the disclosing individual's own School or Department, another part of the University or the University as a whole.
- 3.2 The disclosing individual must reasonably believe that the relevant failure or malpractice has occurred or is likely to occur and that matter is in the public interest.
- 3.3 The University will ensure that staff or students who make a disclosure in such circumstances will not be penalised or suffer any adverse treatment for doing so; however, staff or students later found to have made an allegation maliciously or vexatiously without having reasonable grounds for believing that the relevant failure or malpractice has occurred or is likely to occur and that the matter is in the public interest may be subject to disciplinary proceedings.
- 3.4 In view of the protection afforded to individuals raising a concern about matters they reasonably believe to be in the public interest, it is hoped that they will feel able to put their name to any disclosure. The identity of the person raising the matter will be kept confidential, if so requested, for as long as possible provided that this is compatible with a proper investigation. Proper investigation, and establishing the credibility of allegations, may be made more difficult or impossible if further information cannot be obtained from the person raising the complaint.
- 3.5 Anonymous complaints will be investigated and acted upon as the senior officer or officers named in Sections 4.1-4.7 below see fit, having regard to the seriousness of the issue raised, the credibility of the complaint, the prospects of being able to investigate the matter, and fairness to any individual mentioned in the complaint.

4. Triage

- 4.1 In many cases it will be appropriate for the disclosing individual to raise any concerns informally with their Dean¹ or Head of Department in the first instance, either in person or in writing. It may be possible to agree a way of resolving the concern quickly and effectively.
- 4.2 Where the matter is more serious, or the disclosing individual feels that their Dean or Head of Department has not addressed their concern, they should contact either the Registrar & Director of Professional Services, or, in their absence, the Pro Vice-Chancellor and Director of Student Services.
- 4.3 Other than where they are the subject of the disclosure, where a disclosure is made to a member of staff other than the Registrar & Director of Professional Services or Pro Vice-Chancellor & Director of Student Services, the Registrar & Director of Professional Services should be notified (in the case of an informal concern) or the individual referred to them (in the case of a formal concern).
- 4.4 Where the disclosure concerns one of those officers, the disclosing individual should raise the matter with the Vice-Chancellor.

¹ Director of Medical Education in the case of the School of Medicine

- 4.5 Where the disclosure concerns the Vice-Chancellor, the disclosing individual should raise the matter with the Chair of the Risk, Audit and Compliance Committee (RACC). The name of the current Chair of RACC is published in the University's Governance Handbook at <https://www.buckingham.ac.uk/wp-content/uploads/2019/08/3.1-Council-Membership.pdf>
- 4.6 Where the disclosure concerns a member of Council (including the Chair), the disclosing individual should raise the matter with the Chair of RACC.
- 4.7 Where the disclosure concerns the Chair of RACC, the disclosing individual should raise the matter with the Chair of Council. The name of the current Chair of Council is published in the University's Governance Handbook at <https://www.buckingham.ac.uk/wp-content/uploads/2019/08/3.1-Council-Membership.pdf>
- 4.8 Once a disclosure is made, the senior officer or officers named in Sections 4.1-4.7 above will determine whether the matter should be dealt with under this Policy or whether referral as described in Section 2.3 is appropriate. Where this is the case, the individual will be advised as to the next steps that should be taken.
- 4.9 Where it has been determined that this Policy is applicable, the senior officer or officers named in Sections 4.1-4.7 above will normally consider the information and decide whether there is a prima facie case to answer; they will decide whether an investigation should be conducted and, if so, whether the investigation should be undertaken internally or through the appointment of an external investigator.
- 4.10 Where it has been determined that the investigation should be undertaken internally, the appointed investigator will either be drawn from the lay membership of Council or from members of staff of at least Dean² (in the case of an academic-related disclosure) or Director (in the case of an operations-related disclosure) level standing. Where a member of staff is appointed as internal investigator they will be drawn from a School of Study or Department other than that within which the concern has arisen.
- 4.11 Whosoever is appointed should consult with the University's Compliance Manager / in-house Solicitor.
- 4.12 Where it has been determined that there is no cause to proceed with an investigation, the rationale for the decision will be explained as fully as possible to the individual who raised the concern. In all such cases, the rationale shall also be made known to the Registrar & Director of Professional Services (or Chair of RACC where the subject of the disclosure is a member of Council or staff of no less than Dean or Director-level standing).

5. Investigation

- 5.1 All investigations will be conducted sensitively and promptly.
- 5.2 The disclosing individual will be notified of the intended timeframe for the investigation (normally a maximum of 21 calendar days). Where it will not be possible to conclude the investigation within the specified timeframe, the disclosing individual will be provided with an explanation for the delay and a revised timeframe.
- 5.3 The investigator may review such documents and interview such staff and students as they determine is appropriate to establish the relevant facts. Failure to engage with the reasonable requests of an investigator undertaking duties in respect of this Policy will be

² Director of Medical Education in the case of the School of Medicine.

considered a serious disciplinary matter and referred to the Head of Human Resources (in the case of staff) or the Student Conduct Manager (in the case of students).

- 5.4 Where a disclosure is made any person or persons potentially implicated in wrongdoing will be told at an early stage of it and of the evidence supporting it and they will be allowed to respond.
- 5.5 The investigator will report his or her findings to the senior officer or officers named in Sections 4.1-4.7 above who will then decide what additional steps, if any, should be taken. To this end, where an investigation or referral lead the appropriate University authority to conclude there has been a breach of University discipline, the member or members of staff responsible may, in addition to any civil or criminal proceedings, be subject to disciplinary action in accordance with the appropriate procedures.
- 5.6 The disclosing individual making the disclosure will be informed of what action is to be taken where possible although the University's general duty of confidentiality means it may not be possible to share some of the details including, for example, specific information about any disciplinary action taken against a member of staff.
- 5.7 Where a disclosing individual is not happy with the way in which their concern has been handled or the outcome, it is open to the individual to raise this with one of the other senior officers named in Sections 4.1-4.7 above.

6. Support and Protection

- 6.1 The University recognises that making a public-interest disclosure can be a difficult experience for the individual concerned. Where appropriate, the disclosing individual may seek confidential support from either Human Resources (in the case of staff) or Students First (in the case of students); in doing so, disclosing individuals are encouraged to liaise with the applicable senior officer or officers named in Sections 4.1-4.7 above.
- 6.2 Disclosing individuals may also wish to seek independent legal advice.
- 6.3 The University understands that the issues that prompt public-interest disclosures are likely to be complex and, as such, how the individual proceeds with their concern will vary from situation to situation; however, the following advice is offered to individuals considering making a disclosure:
 - make any objections to illegal, unsafe or unethical practices promptly so as to avoid any misinterpretation of the motives for doing so;
 - focus on the issues and proceed in a tactful manner to avoid unnecessary personal antagonism which might distract attention from solving the problem; and
 - be accurate in observations and claims and, if possible, keep formal records documenting relevant events.
- 6.4 The University acknowledges that it has an obligation to ensure that individuals who make a disclosure in accordance with this Policy are protected, regardless of whether or not the concern raised is upheld.
- 6.5 The senior officer or officers named in 4.1-4.7 above will, in conjunction with the investigator and the Compliance Manager / in-house Solicitor, seek to balance the University's duty of care to those individuals raising concerns as well as to those that may be the subject of said concerns. Where complete balance is not possible, the aforementioned staff will assess, on a case-by-case basis, the potential level of risk to the effective conduct of the investigation in addition to that of harm to all parties involved. Any

attendant risk of harm will be discussed with all relevant parties and, where possible, mitigating actions agreed accordingly.

6.6 Disclosing individuals who feel that they have, as a result of their disclosure, suffered adverse treatment, harassment or victimisation should submit a formal complaint to Human Resources (in the case of staff) or Academic Services (in the case of students).

6.7 Where a complaint under 6.6 above is upheld, this will be considered a serious disciplinary matter and referred to the Head of Human Resources (in the case of staff) or the Student Conduct Manager (in the case of students) accordingly.

7. Record Keeping

7.1 A written record will be kept at each stage of the aforementioned process.

7.2 A confidential report of all disclosures and subsequent actions taken will be made by the senior officer or officers named in Sections 4.1-4.7 above. This report should be signed by the investigator as well as the disclosing individual and dated.

7.3 Where appropriate the formal report need not identify the person making the disclosure, but in such a case that person will be required to sign a document confirming that the complaint has been investigated.

7.4 The report will be made to RACC.

7.5 Public-interest disclosure reports and associated records will normally be retained for six years.

8. External Disclosure

8.1 The aim of this Policy is to provide an internal mechanism for reporting, investigating and remedying any wrongdoing within the University.

8.2 In most cases, disclosing individuals should not find it necessary to alert anyone externally; however, the law recognises that in some circumstances it may be appropriate for concerns to be reported to certain external bodies including:

- Such body or person (if any) prescribed by the Secretary of State under Section 43F of the Employment Rights Act 1996, as amended by Section 1 of the Public Interest Disclosure Act 1998 as being a prescribed person to whom the particular type of issue in question can be disclosed (a 'Prescribed Person')³;
- a Government Minister; and/or
- a legal adviser in the course of taking legal advice.

8.3 It will very rarely, if ever, be appropriate to alert the media.

8.4 A member of staff who makes an external disclosure of the kind described in Section 2.2 above to a Prescribed Person who reasonably believes that the information disclosed, and any allegations contained in it, are substantially true, and that the default lies within the remit of the Prescribed Person in question, will be entitled to support and protected against adverse treatment, harassment or victimisation in accordance with Sections 6.1 and 6.7 above.

³ An up-to-date list of Prescribed Persons is available at <https://www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies--2/whistleblowing-list-of-prescribed-people-and-bodies> ;

- 8.5 Wider disclosure to any other person will only be protected if it is not made for personal gain, and the employee making the disclosure:
- has previously disclosed substantially the same information to the University or to a Prescribed Person;
 - reasonably believes, at the time of the disclosure, that they will be subjected to adverse treatment, harassment or victimisation if they make disclosure to the University or a Prescribed Person; and/or
 - reasonably believes (where there is no Prescribed Person) that material evidence will be concealed or destroyed if disclosure is made to the University; and
 - in all circumstances, it is reasonable for them to make the disclosure.
- 8.6 Complaints under this Policy will usually relate to the conduct of University staff, but they may sometimes relate to the actions of a third party. In some circumstances the law will also protect staff who raise the matter with the third party directly; however, the University encourages reporting such concerns internally first.
- 8.7 Staff visiting or on secondment to and students visiting or on placement at other organisations are expected to use their host organisation's Whistleblowing Policy to raise concerns regarding issues within that environment. Having done so, they should also inform their Dean⁴ or Head of Department that they have done so as their concerns may have implications for the University's ongoing assessment of the suitability of the visit/secondment/placement.

9. Audit and Monitoring

- 9.1 RACC will be responsible for monitoring the effective operation of this Policy; Academic Services will be responsible for reviewing and updating the Policy in accordance with statutory requirements and making recommendations for the approval of same to both the Registrar & Director of Professional Services and RACC.

⁴ Director of Medical Education in the case of the School of Medicine