UNIVERSITY OF LEICESTER

WHISTLEBLOWING POLICY

STATEMENT OF POLICY

Introduction

1. The University is committed to the maintenance of the highest standards. It seeks to conduct its affairs in a responsible manner taking into account the requirements of the funding bodies and general guidance and legislation on standards in public life, particularly in regard to probity, openness and accountability.

2. The Public Interest Disclosure Act 1998 gives legal protection to staff (including employment agency supplied workers and those on work experience) against being dismissed or penalised by employers as a result of disclosing information which, in the reasonable belief of that member of staff, is in the public interest and tends to show one or more specified types of malpractice, wrongdoing or dangers. This is commonly known as ‘whistleblowing’.

3. It is a fundamental principle of employment that an employee will faithfully serve his or her employer and not disclose confidential information about the employer's affairs. However, where an individual discovers information which he or she reasonably believes tends to show one or more types of malpractice, wrongdoing or dangers as specified in this policy within the organisation (or in conjunction with third parties who are external to the organisation, such as suppliers or contractors), and they reasonably believe that this information should be disclosed in the public interest, then the disclosure should be made without fear of reprisal.

4. This Whistleblowing Policy enables such disclosures within the University to be made independently of line management, if that is the preference of the individual who wishes to make the disclosure, in accordance with the following procedures.

Scope of Policy

5. This Whistleblowing Policy provides guidance to staff, students, members of Council and other members of the University on the procedure for the disclosure of information which, in that person’s reasonable belief, is in the public interest and tends to show one or more types of malpractice, impropriety or dangers as specified in the Policy.

6. Separate University policies and procedures are in place covering areas such as:
   - grievances
   - discipline
   - bullying and harassment
   - misconduct in research

7. When a disclosure is made under the Whistleblowing Policy it may (at least initially) be investigated under the procedure detailed in the Policy. However, such investigation may subsequently lead to the invocation of such other policies and procedures as deemed necessary, including those referred to in paragraph 6 above.
TYPES OF MALPRACTICE, IMPROPRIETY AND DANGERS COVERED

8. To be dealt with under this Policy the disclosure of information should, in the reasonable belief of the person making it, be in the public interest and tend to show one or more of the following types of malpractice, impropriety or dangers:

   a. criminal activity;
   b. failure to comply with any legal obligation;
   c. miscarriage of justice;
   d. danger to health and safety;
   e. damage to the environment; or
   f. the deliberate concealment of any of the above matters.

9. Examples of disclosures which may fall within these categories and so be covered by this Policy might include:

   • financial malpractice, impropriety, fraud, bribery or corruption
   • matters which require the University to liaise with the Police
   • failure to comply with a requirement of the Charter, Statutes, Ordinances or Regulations of the University
   • academic or professional malpractice, such as the production, citation or other use of fraudulent research data
   • the obstruction or frustration of academic freedom
   • attempts to conceal any of the above.

10. It should be emphasised that the Whistleblowing Policy is not designed to permit or encourage the questioning of legitimate financial or business decisions properly taken by the University. Similarly, it may not be used to bring about the consideration (or reconsideration) of any matters of private interest to the individual concerned, which may be properly and appropriately addressed under other University procedures, such as those referred to in paragraph 6.

SAFEGUARDS

Protection

11. The Whistleblowing Policy is designed to offer protection to staff, students, members of Council and other members of the University who disclose information that they reasonably believe is in the public interest and tends to show one or more of the types of malpractice, impropriety or dangers in the workplace which are referred to in this Policy.

12. The individual concerned will be protected if he/she makes such a disclosure to an appropriate person as set out in paragraph 22 below.

13. It should be noted that a disclosure will not necessarily qualify for protection if the person making the disclosure commits an offence by making it, for example, by breaching the Official Secrets Act, or if legal professional privilege applies in respect of information contained in the disclosure.
14. This Policy provides for whistleblowers to request that they be supported, advised or represented in their place by another nominated individual, such as a staff representative or trades union official.

15. All reasonable steps will be taken to protect whistleblowers from suffering bullying, harassment or reprisals from other members of the University. Any employee of the University who is involved in such conduct against a whistleblower may be subject to disciplinary action.

Confidentiality

16. The University will treat disclosures of information made under this Policy in a confidential and sensitive manner. The identity of individuals making allegations may be kept confidential so long as it does not hinder or frustrate any investigation. In this event, the University will consult the individual before it takes any further action which might break the initial confidentiality. It should be recognised, however, that the investigation process may, of necessity, reveal the source of the information and, as part of the investigation, an individual making a disclosure may need to provide a statement as part of the evidence required.

Anonymous Allegations

17. Individuals making disclosures under this Policy are encouraged to give their names. Anonymous disclosures are not as strong and may prove difficult to investigate, but they will be considered at the discretion of the University.

18. In exercising this discretion, the factors to be taken into account will include the:

- seriousness of the issues raised;
- credibility of the information disclosed; and
- likelihood of confirming the information from other sources.

Untrue Allegations

19. If an individual discloses information under this Policy which is not then confirmed by subsequent investigation, no action will be taken against that individual. If, however, an individual is found to have made malicious or vexatious allegations with a view to personal gain and, particularly if he or she persists with making them, action may be taken under the relevant disciplinary procedure.

PROCEDURE FOR MAKING A DISCLOSURE

Initial Step

20. It is important that individuals disclose information in accordance with this Policy at the earliest opportunity. It is not necessary to provide, or wait for, ‘proof’ of the particular type of malpractice. The disclosure should, however, contain as much detail as possible of the grounds for concern, including the names of individuals and significant dates, locations or events, where applicable.
21. Where two or more individuals are aware that they have knowledge of the same information that is covered by this Policy, they should each make a separate and individual disclosure to the University and they should not discuss the matter further between themselves. Submission of joint disclosures may lead to counter-allegations of collusion or of ‘manufactured’ information.

22. The procedure for making a disclosure is as follows:

   a. the individual should make the disclosure orally, in writing, or by e-mail to the designated person, who will normally be the Registrar and Secretary, Mr David Hall (registrar@le.ac.uk, tel. 0116-2522411), as Secretary to Council, the University’s governing body. The Registrar and Secretary will immediately inform the President and Vice-Chancellor and Chair of Council;

   b. if the disclosure is about the Registrar and Secretary, it should be made directly to the President and Vice-Chancellor, Professor Paul Boyle (vc@le.ac.uk, tel. 0116-2522322) who will inform the Chair of Council;

   c. if the disclosure is about the President and Vice-Chancellor, it should be made directly to the Chair of Council, Dr Bridget Towle (bt82@le.ac.uk, tel. 0150-9212403) or the Chair of the Audit Committee (if the issue falls within the purview of that Committee), Dr Neville Reed (nvr2@le.ac.uk, tel. 0790-5571922). The Chair of Council and the Chair of the Audit Committee are senior lay members of the University’s governing body;

   d. if for any reason the person making the disclosure feels that it is not appropriate to raise the matter with the Registrar and Secretary, or the President and Vice-Chancellor, it may be raised directly with the Chair of Council.

23. The procedure described in paragraph 22 will be complied with unless:

   a. requested not to do so by the discloser, or
   b. if the Chair of Council is likely to be involved at any subsequent appeal.

24. In cases involving financial malpractice, the Registrar and Secretary will act throughout in close consultation with the President and Vice-Chancellor, as the Accounting Officer for the institution’s public funding, except where the President and Vice-Chancellor is the subject of the disclosure.

Initial consideration of the information disclosed

25. The designated person, in consultation with the Chair of Council, will consider the information made available, assess the extent to which the nature of the disclosure falls within the scope of the Whistleblowing Policy as defined in paragraphs 5-10 of this document, and will decide on the form of investigation to be undertaken. This may be to:

   a. investigate the matter under the terms of the Whistleblowing Policy, in which case the process described under paragraph 27 onwards shall apply; or
   b. investigate the matter under the terms of other more appropriate University policies, such as those covering grievance and disciplinary matters, in which case the process described in the other policy shall apply.
26. The designated person will inform the person making the disclosure (unless it was made anonymously) of the nature of the investigation to be undertaken within fourteen days of receiving the disclosure.

Process for investigation of disclosures made within the scope of the Whistleblowing Policy

27. If it is decided by the designated person that the disclosure falls within the scope of and is to be investigated under the Whistleblowing Policy, the designated person will decide on the form of investigation to be undertaken. This may be to:

- investigate the matter internally
- refer the matter to the police
- call for an independent inquiry.

28. If the decision is that investigations should be conducted by more than one of these means, the designated person should be satisfied that such a course of action is warranted by the nature of the information available.

29. Where the matter is to be the subject of an internal inquiry, the designated person will then consider how that investigation should be conducted. This consideration will include determining:

- who should undertake the investigation
- the procedure to be followed
- the point at which the person or persons against whom the disclosure is made, will be informed as to the nature of that disclosure
- the scope of the concluding report.

Investigation

30. The investigation may be undertaken by a person who is independent of the University. Alternatively, an independent person within the University, with appropriate experience and qualifications, may be appointed to conduct the investigation. There may be more than one person involved in the investigation if this is deemed necessary. Investigations will not normally be carried out by the person who will have to reach a decision on the matter. The investigation and its conclusions will normally be reported to another such person for them to then make a decision. Any investigation will be conducted as sensitively and speedily as possible but having proper regard to the need for thoroughness and with no presumption of guilt. A written record will be kept of all investigations.

31. Where a disclosure is made, the person or persons against whom the disclosure is made will be told of it after the initial investigation has been undertaken. They will be advised of the evidence supporting the disclosure, and will be allowed to comment before the investigation is concluded or further action is taken.

32. Where initial investigation provides reasonable grounds for suspecting a member or members of staff of involvement in any of the activities listed in paragraph 8, the Investigating Officer will advise the University on how to prevent any further loss, danger or damage. This may require the suspension, on full pay, of the suspects. It may be necessary to plan the timing of suspension to prevent the suspects from destroying or removing evidence that may be needed to support disciplinary or criminal action.
33. As a result of this investigation other internal procedures may be invoked, such as the University’s grievance and disciplinary policies, or the matter may form the basis of a special investigation.

34. In some instances it may be necessary to refer the matter to an external authority for further investigation.

**Feedback**

35. After the investigation the designated person will, as far as possible taking into account any need for confidentiality, inform the individual who made the disclosure of the outcome of the investigation and what action, if any, has been taken. If no action has been (or is to be) taken then the individual concerned should be informed of the reason for this and allowed the opportunity to make the disclosure again to another appropriate person. For example, if the initial disclosure was made to an officer of the University, then the subsequent disclosure may be made to the Chair of the Audit Committee or Chair of Council. This other person will consider all the information presented, the procedures that were followed and the reasons for not taking any further action. The outcome of this process will be either to confirm that no further action is required or to require a further investigation.

**Reporting of Outcomes**

36. A record of all disclosures and any subsequent actions taken will be made by the designated person, who will retain such material for a period of not less than three years.

37. In all cases a report of the outcomes of any investigation will be made to the Audit Committee - in detail where the issue falls within its purview, and in summary in other cases - as a means of allowing the Committee to monitor the effectiveness of the procedure.

**Independent Review**

38. If the individual making the disclosure is still dissatisfied after all the internal procedures have been exhausted, that person may request an independent review. This review will be carried out by a person nominated by the Chair of the Leicester Law Society. The purpose of the review will be to rule on whether the University’s internal investigation has been adequately handled, and if it was adequately handled, to rule on whether the response to the disclosure was reasonable in all the circumstances.

39. The results of an independent review may be as follows:

   a. ordering a further internal investigation;
   b. ordering the University to reconsider the findings of the investigation;
   c. making non-binding observations relating to the substantive complaint for the University to consider;
   d. ruling, where appropriate, that:
      • the person making the disclosure was motivated by malice, or some other improper motive (and may therefore be subject to the University’s internal disciplinary procedures).
      • the disclosure was without substance or merit.
40. The independent review will not entail oral hearings, but the reviewer will have the power to interview the person making the disclosure, or any other persons the reviewer deems appropriate. New evidence or relevant material will be considered at the discretion of the reviewer.

41. The report of any independent review will be submitted to the President and Vice-Chancellor, the Audit Committee and to Council.

FRAUD

42. If an individual wishes to report a fraud or other financial impropriety and considers that the protection offered by the Whistleblowing Policy is not relevant in that specific case, then such a report may be made to the Director of Finance under the framework provided by the University’s Fraud Response Plan.

REVIEW OF THE WHISTLEBLOWING POLICY

43. This policy and any evidence pertaining to its effectiveness shall be reviewed by the Audit Committee at intervals of not longer than three years. The next review will be due by June 2017.

EXTERNAL ADVICE AND SUPPORT FOR WHISTLEBLOWERS

44. The independent charity Public Concern at Work offers free, confidential advice to people concerned about crime, danger or wrongdoing in the workplace. Please see their website www.pcaw.co.uk for further information.

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