

APPENDIX TO MINUTE 77

CODE OF PRACTICE ON WHISTLEBLOWING

- 1 The University Court of the University of Aberdeen recognises the duty of the University to conduct its affairs in a responsible and transparent way, taking account, not only of the legitimate requirements of the Scottish Higher Education Funding Council and other funding bodies, but also of the standards in public life enunciated in Lord Nolan's Reports on Standards in Public Life. Equally, the Court is committed to upholding within the University the principles of academic freedom as detailed in the Ordinance of the University Commissioners, Statutory Instrument 2794 (1992) viz -

“to ensure that academic staff have freedom within the law to question and test received wisdom, and to put forward new ideas and controversial or unpopular opinions, without placing themselves in jeopardy by losing their jobs or privileges.”

More generally, the Court believes that the raising of legitimate concerns (by all staff, students or lay members of Court) in the interests of the University, its staff or students, or of the general public is a practice which should be encouraged.

- 2 In support of the University's commitment to transparency and propriety in its business practices and procedures, the Court has established official channels through which the concerns of both staff and students may be considered and addressed. These include the whole range of committees with staff and/or student representation, the liaison committees with campus unions (as well as less formal liaison between management and trades union officials), the appeals procedures for students against decisions affecting their academic progress, the staff and student grievance and complaints procedures, and the procedures for dealing with allegations of sexual harassment and racial discrimination. In normal circumstances, these are the arrangements by which staff or students should raise issues of concern, whether these relate to good governance, fulfilment of statutory requirements, faithfulness to agreed procedures, financial propriety, or any other serious matter affecting the University. The code described in this document is not intended to be used to reconsider matters already addressed under complaints or disciplinary procedures.
- 3 The Public Interest Disclosure Act, with effect from 1 January 1999, gives legal protection to employees against being dismissed or penalised by their employers as a result of publicly disclosing certain serious concerns. This policy is designed to allow employees and all other members of the University to raise concerns or to disclose information which, the complainant or informant believes, shows malpractice. It is reasonable to expect members of the University to use it, rather than to air concerns or disclose information outside the University and the Court commends the procedures set out in the following paragraphs to any individual who is satisfied that his or her concern is serious and needs to be formally reported and investigated. Such concerns might include the following: financial malpractice or impropriety or fraud; failure to comply with a legal obligation; dangers to health and safety or the environment; criminal activity; academic or professional malpractice; improper or unethical behaviour; attempts to conceal any of the above.
- 4 Allegations of the above should be made to the University Secretary, or if the allegation concerns the University Secretary, to the Principal. If for any reason neither of these is deemed to be appropriate, the allegation should be made to the Convener of the Audit Committee.
- 5 (a) The 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. He or she should also ensure that the Principal and the Senior Lay Member of Court is informed immediately, unless requested not to do so by the person making the allegation. When the issue concerns financial malpractice, the Secretary should act throughout in close consultation with the Principal, as the Designated Officer for the University's public funding. Where there is concern about the misuse of public funds, the person

to whom the allegation is made will also inform the Funding Council and the Chairman of the Audit Committee at an early stage.

- (b) Any allegation made under this procedure shall normally be the subject of a preliminary investigation either by the person to whom the allegation is made or more usually by a person or persons appointed by him/her. In no circumstances should the investigation be carried out by the person who may ultimately have to reach a decision on the matter. The investigation must be carried out as speedily and sensitively as possible. In cases alleging the misuse of public funds the Funding Council and the National Audit Office may wish to undertake their own investigation.
- (c) Where no investigation is carried out, and the allegation is effectively dismissed, such a decision may only be reached by the person receiving the allegation in consultation and agreement with one other person named in paragraphe 4 above. Thereafter, the person making the allegation shall be informed, given reason for the dismissal, and given one further opportunity to repeat the allegation to some other person or authority within the University who should normally be selected from the Principal, the Secretary, the Convener of the Audit Committee, or Senior Lay Member of Court. There will be no such opportunity when an allegation is dismissed after an investigation.
- (d) 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 and a report made. The results of the investigation shall be reported to the Audit Committee, and the reports retained by the University Secretary for not less than three years. The outcome of any case involving the misuse of public funds will be reported to the Funding Council.
- (e) Following upon such a report, if the allegation is made against a member of academic staff, a decision may be taken to institute Disciplinary Procedures in accordance with the Ordinance of the University Commissioners, Statutory Instrument 2794 (1992). Other consequential action may include invoking the University's internal grievance, complaint and disciplinary procedures, a special internal investigation or independent enquiry, or referring the matter to external authorities, for example, the Police.
- (f) Any person making an allegation will be guaranteed that the allegation shall be regarded as confidential to the receiver until a formal enquiry is launched. Thereafter the identity of the person making the allegation may be kept confidential, if requested, unless this is incompatible with a fair investigation, or if there is an overriding reason for disclosure. Individuals making disclosures or allegations under this procedure are encouraged to identify themselves, since cases made anonymously are much less powerful. Nevertheless, anonymous allegations may be considered at the discretion of the University, depending upon the seriousness of the issues raised, the credibility of the allegations, and the likelihood of confirming the allegations from attributable sources.
- (g) 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.
- (h) Persons found to have been deterring staff or students from raising a serious concern will be treated as having committed a serious disciplinary offence.
- (i) The protection guaranteed at (g) above extends to any person who makes an allegation in good faith which is not confirmed in subsequent investigation. Persons found to have knowingly raised false allegations, however, may be treated as having committed a serious disciplinary offence.

APPENDIX TO MINUTE 84

University of Aberdeen

Complaints Procedure

1. The Framework for Standards in Further and Higher Education.

1.1 At each of the universities and colleges in Scotland, you are entitled to expect high management standards from the time of application to completion of your course of study. The Scottish Office has set out their framework for standards in the publication: *The Further & Higher Education Charter for Scotland*. Copies are available from HMSO, the Scottish Office itself, or you may consult a copy at the University Regent's Office.

1.2 As a student at *this* University, the range of services which have been set in place to support and enhance your education are set out in *The Student Charter*, which is updated annually. Copies are available from the University Registry, the Regent's Office, the Students Representative Council or via the University's web pages: <http://www.abdn.ac.uk>

1.3 Constructive comments and criticism can help to improve standards and, in addition to routine feedback from students, it is important that students are able to communicate negative experiences. If you are not satisfied with the standards of service you receive at the University of Aberdeen, you are entitled to make your views known and, if appropriate to submit a formal complaint.

1.4 The University of Aberdeen will treat a student complaint seriously and with fairness, promptly, consistently and with regard to the principles of natural justice. A complaint may be progressed informally or, if necessary, formally; the matter may be raised within the University without prejudice to a student's, or group of students', rights to seek legal remedies outside the University.

1.5 This document outlines the procedure, and support, which is available to you in the event that you wish to submit a complaint.

2. Making your views known

In addition to the University's Complaints Procedure, you should be aware of other mechanisms which are available to you:

2.1 for academic complaints and appeals: see the University's Code of Practice for Undergraduate Teaching; Code of Practice: Postgraduate Taught Students; Code of Practice: Postgraduate Research Students; or Guidance Note on Academic Appeals.

2.2 for complaints against the SRC, University Union, Athletic Association, or a Junior Common Room in a Hall of Residence: consult the constitution of the appropriate organisation, or the Code of Practice: Education Act, 1994.

2.3 for complaints against the conduct of another student, or a complaint against a decision taken in disciplinary proceedings: see the Code of Practice on Student Discipline.

2.4 for allegations of sexual harassment, or racial discrimination: see the University's Policy for Dealing with Sexual Harassment, Anti-Racist Policy or Policy on Equal Opportunities.

2.5 for complaints against the University Counselling Service: see the Complaints Procedure that has been developed in relation to the British Association of Counsellors : Code of Ethics.

2.6 for complaints against the Student Health Service: see the Complaints Procedure that has been developed in relation to the protocols of the Grampian Health Board.

2.7 Copies of these documents may be consulted via the Student Support entry on the University's web pages: <http://www.abdn.ac.uk>. Alternatively, copies of the text may be obtained via the University Registry, University Regent's Office, or the Students Representative Council.

3. Further Information and Support.

If it is not immediately obvious which procedure best fits your concern, you are welcome to discuss the matter with any of the following:

- 3.1 SRC President (ex 2965);
- 3.2 SRC Welfare Advice Officer (ex 2965);
- 3.3 University Regent (ex 3935);
- 3.4 Your Academic Adviser.

4. The Complaints Procedure.

4.1 Informal Procedure: Stage 1. In the first instance a student is entitled to discuss a concern or complaint with an academic adviser, warden, the University Regent, or the head of the relevant service area. It is entirely possible that matters can be resolved to your satisfaction by informal discussion.

4.2 Informal Procedure: Stage 2. If you remain dissatisfied, or if you consider stage 1 to be inappropriate, you are entitled to set out your complaint or concern in writing, addressed to the relevant Head of Service, requesting an investigation, an explanation and an attempt at an informal resolution.

4.3 Formal Procedure: Stage 1. If you are dissatisfied at the outcome of the Informal Procedures, or if your complaint concerns a head of service, you may proceed to the formal stage. Your complaint or grievance should be stated in writing and addressed to the appropriate Head of Service or, if the matter concerns a Head of Service, to the University Regent or, if the matter concerns the University Regent or if the Regent has been previously involved with the complaint, to the Vice-Principal (Welfare).

4.4 The recipient of your complaint shall (i) acknowledge receipt in writing within three working days; and (ii) advise the member(s) of staff against whom the complaint lies in writing within three working days, and make a copy of the written complaint available to him/her/them; and (iii) consider what support may be offered to any of the parties who may find the procedure stressful.

4.5 The recipient of the complaint shall make the necessary arrangements to consider the evidence of the complaint and, if necessary, hold interviews with the complainant and any other person deemed appropriate to the investigation of the complaint. The substance of the complaint should be investigated timeously.

4.6 The outcome of the investigation shall determine whether or not there is reasonable justification for the complaint. The recipient of the complaint shall propose resolutions for any justifiable complaint and invite the parties involved to accept them within a suitable period of time. If the recommendations are accepted, it shall be his/her responsibility to implement the mutually agreed recommendations, in full, according to the time period. Failure by any party to comply with the implementation of the terms of the agreement may result in disciplinary action.

4.7 The recipient of the complaint shall send a written copy of the conclusions to the complainant, the member(s) of staff involved, with a copy to the University Secretary.

4.8 Formal procedure: Stage 2. If the complainant is not satisfied with the decision or the outcome of the previous stage an appeal may be lodged with the University Secretary. The deadline for submission of an Appeal shall be ten working days from the date of the outcome of stage 1. The grounds of the Appeal shall be clearly stated and accompanied by all papers or other evidence which is material to the Appeal.

4.9 The University Secretary shall (i) acknowledge receipt of the Appeal in writing within three working days; (ii) inform the Principal that an Appeal under this Procedure has been received; and (iii) consider whether there are sufficient grounds to convene a Student Complaints Panel (see Section 5 below) to hear the Appeal.

4.10 The University Secretary may alternatively; (i) enforce the implementation of the recommendations agreed at the conclusion of Stage 1; or (ii) pursue agreement with all parties for an alternative set of recommendations; or (iii) decide to dismiss the case, giving reasons in writing for this decision. In such cases the University Secretary's decision shall be final and not subject to further Appeal within the University. The University Secretary shall communicate his/her decision in writing, without undue delay, to each party.

5. The Student Complaints Panel: Composition and Conduct of Appeals.

5.1 The Student Complaints Panel shall comprise the following: the University Secretary (Convener), a lay member of the University Court, a student representative appointed by the SRC, and a member of the Senate. Apart from the Convener, no member shall have had previous involvement with the case.

5.2 The date, time and place of the Hearing shall be communicated to the student(s), staff member(s) and the Panel, giving at least five working days' notice. A statement of the complaint, a list of those invited to give evidence and copies of any further evidence submitted for consideration shall be enclosed.

5.3 Students and staff members are entitled to be accompanied by a person of their choosing and each party is responsible for inviting their own witness. Since this is an internal procedure of the University, your representative or advisor should be drawn from the University population, for example, the SRC President.

5.4 Each party shall be entitled to be present throughout the hearing of evidence and to question any person giving evidence. All questions shall be through the Convener. Each party shall be invited to summarise their cases at the conclusion of the Hearing.

5.5 At the conclusion of the Hearing the Panel shall again meet in private to consider its findings.

5.6 In the event of illness or other valid cause, the Convener of the Panel may allow a substitute to serve. The Convener is also responsible for the interpretation of these procedures and his/her decision shall be final.

6. The Outcome.

6.1 Unless there are good reasons to the contrary, the Panel shall announce its conclusion within five working days of the date of the Hearing. The decision of the Panel shall be communicated in writing to each party and a copy shall be forwarded to the Principal, who shall consider whether any further actions are necessary or desirable.

6.2 The Panel is empowered by both the Senate and the Court to hear and determine the outcome of appeals in accordance with these foregoing procedures. Consequently the decision of the Panel is final and not subject to further appeal within the University.