

THE UNIVERSITY OF ABERDEEN

POLICY AND PROCEDURE ON PUBLIC INTEREST DISCLOSURE (WHISTLEBLOWING)

1 INTRODUCTION

- 1.1 The University of Aberdeen is committed to the highest standards of corporate governance, openness and accountability across all its activities. In conducting its affairs, it takes account of applicable law and regulation, the requirements of funding bodies, the Values of the University and the Nine Principles of Public Life in Scotland
- 1.2 This Policy reflects the University's recognition that while it seeks the highest standards at all times, there may be events or circumstances where individuals feel the University does not meet these standards. Staff, students, members of Court or the general public are therefore encouraged to use this Policy and procedure, in its proper context, to draw the University's attention to any perceived malpractice, impropriety or wrongdoing, and will be supported in so doing. Indeed, it is hoped that any inappropriate activities will be discouraged by the protection given to those who raise a matter of concern or disclose information when they have a reasonable belief that they are acting in the public interest.
- 1.3 The University has a number of established channels through which concerns of staff or students are considered and addressed. These include via line managers or student advisers, with campus unions, and through University procedures for dealing with complaints, grievances, or allegations of research misconduct, harassment or other unlawful discrimination. Links to these and other relevant procedures can be found at www.abdn.ac.uk/staffnet/governance/policies-and-procedures-134.php. These routine opportunities for management action and other procedures should ideally largely eliminate a need for concerns to be raised through other routes.
- 1.4 This Policy and procedure is not designed to provide a route through which individuals can publicly question financial or business decisions taken by the University. Neither can it be used to obtain a rehearing of matters which have already been addressed under other University policies and procedures, such as the Fraud Policy, Allegations of Misconduct in Research, Grievance or Disciplinary procedures or such other procedures as may be adopted by the University in the future.
- 1.5 The University will take seriously any submissions made under this Policy. Its attitude will be one of accepting that the person expressing a concern genuinely believes a problem exists and that if an individual has bypassed a normal line management structure, that they may have had a good reason to do so.
- 1.6 No detrimental action will be taken against a person within the University raising a concern under this Policy, provided that the person making a submission does so without malice and reasonably believing it to be true. The University will support those concerned and protect individuals from reprisals resulting from their raising a concern.
- 1.7 The following paragraphs set out how a concern or "public interest disclosure" should be submitted to the University and how information disclosed will be handled. Members of staff/students/Court are expected to use the Policy and procedure rather than air any concerns that they may have to bodies outside of the University, through the media or on social media. Similarly, once a disclosure is being dealt with under this policy, individuals are

expected to await the conclusion of any resulting investigation or review before seeking to air their concerns outside the University.

- 1.8 It is recognised, however, that there may be circumstances where matters may be properly reported to certain external bodies. Those external bodies to which matters may be properly reported are known as ‘prescribed persons’. A list of prescribed persons to whom protected disclosures can be made is made available by the UK Government. It can be found at <https://www.gov.uk/whistleblowing/howto-blow-the-whistle>.
- 1.9 In circumstances where an individual decides to raise the matter externally, you will only be protected under this policy, and under employment law, where the disclosure is made in accordance with the relevant public interest disclosure legislation (see section 2.1).

2 SCOPE OF THE POLICY & PROCEDURE

- 2.1 The relevant whistleblowing legislation is the Public Interest Disclosure Act 1998 an insertion to the Employment Rights Act 1996 and as amended by the Enterprise and Regulatory Reform Act 2013, which protects current and former employees and workers who “blow the whistle”. The whistleblowing legislation only covers current and former employees and workers, but the University has extended the protection under this policy to students and members of the University Court. In addition, the Policy applies to individual persons contracted to personally provide services to the University, persons undergoing training or work experience as part of a training course and agency workers. It does not form part of any employee’s contract of employment and it may be amended at any time in accordance with local procedure.
- 2.2 It is not possible to provide a comprehensive list of concerns which might be covered, but these include financial impropriety or fraud, activities which might have the potential to involve bribery or corruption, improper conduct, unethical behaviour, crime, failure to properly safeguard assets or failure to disclose serious conflicts of interest and attempts to conceal the above. Concerns can be raised in relation to matters that have taken place, continue to take place or are likely to take place in the future.

3 CONFIDENTIALITY

- 3.1 The University will treat all submissions made under this Policy in a confidential and sensitive manner. The identity of the individual making a submission will be kept confidential insofar as this is compatible with an effective and fair investigation and with rights under Data Protection legislation.

4 ANONYMOUS DISCLOSURES

- 4.1 Part of the purpose of this Policy and procedure is to promote openness and ameliorate any fear of reprisals. Concerns expressed anonymously are less capable of being addressed satisfactorily. Accordingly, individuals making submissions under this Policy and procedure are encouraged to put their name to any submission they make. To the extent feasible anonymous disclosures will be handled in accordance with the procedure for making a submission.

5 GUIDANCE

- 5.1 Any guidance required on making a submission under this Policy is available from the University Secretary, Secretary's Office, King's College, Aberdeen, AB24 3FX or 01224 272094.

6 MAKING A SUBMISSION

- 6.1 Submissions under this Policy may be raised orally but preferably, should be made in writing, to the University Secretary. A dedicated whistleblowing email account within the Secretary's Office is available at whistleblowing@abdn.ac.uk.
- 6.2 If the submission concerns the University Secretary, it should be directed to the University Principal. Alternatively, submissions may be made to a member of the Senior Management Team, a Head of School or Section, a trade union official, or a member of AUSA each of whom shall then raise the matter with either the University Secretary or the Principal.
- 6.3 If for any reason none of the above are considered appropriate, the submission may be made to the Chair of the Audit and Risk Committee or the Senior Governor.

7 PRELIMINARY CONSIDERATION OF SUBMISSIONS

- 7.1 All submissions shall be subject to preliminary consideration. The preliminary consideration shall be conducted by the University Secretary, the Principal or a person nominated by them or nominated by the Chair of the Audit and Risk Committee or the Senior Governor. The purpose of the preliminary consideration is to determine the manner the submission is appropriately to be handled.
- 7.2 The preliminary consideration shall take account of the seriousness of any issues arising from the submission, the extent to which those issues are capable of investigation and, in the absence of attributable sources of information, the extent to which the submission may reasonably be treated as credible and reliable. It is the responsibility of the 'University Secretary to contact the Police where necessary, for example where the collection of evidence is time-critical.
- 7.3 If the outcome of the preliminary consideration is that no formal steps are to be taken, the person making the submission (if known) shall be notified and may request that a review of the preliminary consideration take place. That review will be conducted by another of those persons listed at paragraph 7.1 who has had no prior involvement in the preliminary consideration. In the case of an anonymous allegation a decision not to proceed will be confirmed by a person listed at paragraph 7.1 who has had no prior involvement in the preliminary consideration. 7.4 Unless it has been decided following preliminary consideration that no formal steps are to be taken, the submission will be subject to investigation.

8 INVESTIGATION

- 8.1 Any investigation under this Policy shall be conducted by a person ("the Nominated Person") appointed by the University Secretary, the University Principal, the Chair of the Audit and Risk Committee or the Senior Governor (referred to in this context as "the Appointing Officer"). When a submission generates concerns relating to financial impropriety or fraud, the Director of Finance should be informed and involved in the appointment of the Nominated Person.

- 8.2 When a submission generates a serious concern about the misuse of public funds, the Appointing Officer shall also inform the Scottish Funding Council and, unless they are already aware of the concern, and the Chair of the Audit and Risk Committee. Any other relevant external bodies may also be informed (e.g. General Medical Council (www.gmc-uk.org)) at the discretion of the Appointing Officer.
- 8.3 When a submission relates to alleged unacceptable Research Conduct the Nominated Person should normally be the Nominated Person as defined in the Research Governance Handbook.
- 8.4 The Nominated Person will be responsible for notifying the person making the submission (if known) that an investigation is to be carried out and for the conduct of the investigation. The investigation will be carried out as speedily and sensitively as feasible.
- 8.5 When the submission concerns financial malpractice, the Nominated Person will act throughout in close consultation with the Principal as the Designated Officer for the University's public funding.
- 8.6 Whenever a submission includes allegations against a named individual, that person will be notified by the Nominated Person of the allegation, and of the evidence supporting it, and will be given an opportunity to respond before the investigation is concluded. When responding that person will be entitled to be accompanied by their Trade Union representative or some other person of their choice. The point at which the individual is informed of allegations is a matter for the discretion of the Nominated Person taking account of the nature of the case and all other considerations considered relevant.
- 8.7 On completion of the investigation the Nominated Person shall report the outcome to the Appointing Officer. The Appointing Officer shall determine what further action is considered appropriate in all the circumstances. Such action may include, but is not limited to, invoking the University's internal grievance, complaint and disciplinary procedures or referring the matter to an appropriate external authority, such as, the Police.
- 8.8 The Appointing Officer shall notify the person making the submission (if known) of the outcome of the investigation and the steps which the Appointing Officer proposes be taken. Those steps, may on the request of the person making the submission, be subject to review by another Appointing Officer but otherwise is not subject to any right of appeal and may not be the subject of any grievance under the University's Grievance Procedure.
- 8.9 In all cases the Appointing Officer shall notify the outcome of the investigation to the Audit and Risk Committee in detail where the issue falls within its overview, and in summary in other cases, allowing the Committee to monitor the effectiveness of this Policy and procedure.
- 8.10 Investigation reports will be 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 Scottish Funding Council or other relevant funding body.

9 PROTECTION OF THOSE MAKING SUBMISSIONS

- 9.1 In all cases, provided that an allegation has been made lawfully, without malice and in the public interest, the employment, prospects, academic standing, or other position within the University of the person making the allegation will not be disadvantaged. Any submission

made by a person having a reasonable belief that they are acting in the public interest, will result in no adverse action being taken against or detriment to that person.

- 9.2 Anyone found to have knowingly deterred a member of staff or a student from making a submission under this Policy will be treated as having committed a serious disciplinary offence.

10 UNSUBSTANTIATED ALLEGATIONS

- 10.1 An individual using a submission as a means of making malicious or vexatious allegations may be subject to disciplinary procedure, particularly if they persist in making allegations which have been declared, after due process, to be unsubstantiated.

11 RESPONSIBILITY

- 11.1 The University Court has overall responsibility for this policy and for reviewing the effectiveness of actions taken in response to submissions. The Audit and Risk Committee has responsibility for maintaining records and annual reporting in respect of disclosures under this policy.
- 11.2 The University Secretary has responsibility for ensuring investigations are properly taken forward and that Appointing Officers and Nominated Persons receive regular and appropriate training.
- 11.3 An anonymised annual report of submissions made under this Policy and any consequential actions taken shall be made by the University Secretary to the Audit and Risk Committee and University Court.

12 TIMESCALES

- 12.1 The timescales necessary to complete the response to submissions shall vary according to the nature and seriousness of the disclosures made. However, the University shall aim to fulfil the requirements of this policy within 90 days of receiving a submission.

13 POLICY REVIEW

- 13.1 This Policy shall be kept under review on a continuing basis by the Audit and Risk Committee and any major changes will be subject to the approval of the University Court

As approved by Court on 18 December 2020

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Author / Creator	Steve Cannon
Owner	University Secretary
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Audience	Staff, students, members of Court or the general public
Related policies	Code of Practice on Conflict of Interest Bribery Act 2010 Public Interest Disclosure Act 1998 Disciplinary Procedure Fraud Policy Statement on Handling Allegations of Unacceptable Research Conduct
Subject / description	To draw to the University's attention any perceived malpractice, impropriety or wrongdoing in the Public Interest and to enhance its reputation as an institution which champions the highest standards of accountability in public life.
Equality Impact Assessment	Not required
Section	University Secretary's Office
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