

UNIVERSITY OF BATH PUBLIC INTEREST DISCLOSURE

Preamble

The Reports of the Committee on Standards in Public Life (the Nolan Committee) and of the Dearing Committee on Higher Education both recommended the introduction of procedures which would permit individuals to raise issues of public concern without threat of reprisal. The Public Interest Disclosure Act 1998 has been introduced as an amendment to the Employment Rights Act 1996 to encourage employees to raise their concerns in a responsible way where there is malpractice within an organisation which threatens the public interest, and, where they do so, to protect those employees from reprisal. The Act defines a qualifying disclosure as one which, in the reasonable belief of the person making the disclosure, tends to show one or more of the following:

- (a) a criminal offence
- (b) failure to comply with a legal obligation
- (c) miscarriage of justice
- (d) endangering of health and safety
- (e) damage to the environment
- (f) deliberate concealment of any of the above

The internal procedures set out in this document apply to serious concerns which are in the public interest, as defined above, and provide a mechanism for staff and students to raise such concerns without fear of reprisal. The procedures are distinct from existing internal procedures for dealing with complaints by staff connected with their terms of employment or with personal grievances, and from procedures for dealing with personal complaints, grievances or academic appeals by students. They may not be used to re-open or review a matter already decided in such procedures.

In addition to providing protection for an individual who discloses a serious concern in the public interest, this procedure gives the University the opportunity to conduct a full internal investigation of such concerns on a confidential basis and to take appropriate action. An individual who chooses to make an external disclosure without regard to this internal procedure, or who is believed to have made a malicious or frivolous allegation, may be subject to disciplinary action.

1. Objectives

- 1.1 The University is committed to the highest standards of openness, probity and accountability. It seeks to conduct its affairs in a responsible manner, taking into account the requirements of the funding bodies and maintaining the high standards required of publicly accountable institutions.

- 1.2 This procedure is intended to assist individuals who believe that malpractice or impropriety has occurred. It is not designed to allow the questioning of financial or business decisions taken by the University nor may it be used to reconsider any matters which have already been addressed under existing internal procedures.
- 1.3 The Public Interest Disclosure Act gives legal protection to employees against being dismissed or penalised by their employer as a result of publicly disclosing certain serious concerns (see section 2.1 below). It is a fundamental term of every contract 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 they have reasonable grounds to believe shows malpractice or impropriety within the organisation, then this information should be disclosed without fear of reprisal, and may be made independently of line management.

2. Scope

- 2.1 Concerns which are in the public interest and are covered by this procedure include:
- financial malpractice or impropriety, or fraud
 - criminal activity
 - dangers to health and safety or the environment
 - failure to comply with a legal obligation including the Statutes, Ordinances and Regulations of the University
 - academic malpractice
 - attempts to conceal any of the above
- 2.2 This procedure applies to all University employees, agency workers and self-employed workers and to all members of the University as defined by Statute 2. It may also be invoked by employees of external agencies which provide goods or services to the University.
- 2.3 This procedure is intended to supplement rather than replace existing internal procedures which shall be invoked if appropriate following an initial investigation of concerns raised under this public interest procedure. Where there is any conflict between this public interest procedure and other internal procedures, this public interest procedure shall prevail.
- 2.4 Existing internal procedures include:
- disciplinary procedures for academic staff (Statutes 24 and 25)
 - disciplinary procedures for staff other than academic staff
 - student disciplinary procedures (Regulations 7 and 8)
 - grievance procedures (Statute 17.21 and Ordinance 21)
 - student complaints procedures
 - procedures for academic reviews (Regulation 17)
 - equal opportunities codes of practice (including harassment and bullying)
 - procedures for reporting suspected fraud (Financial Regulation G14)
 - health and safety procedures (Safety Manual)

3. Safeguards

- 3.1 This procedure is designed to offer protection to employees or other members of the University who disclose such concerns provided that:
- the disclosure is made in good faith and without malice; and
 - the individual making the disclosure believes that it is a matter of public concern (see section 2.1 above); and
 - the disclosure is made to an appropriate person (see section 4.1 below).
- 3.2 The University will treat all such disclosures in a confidential and sensitive manner. Every effort will be made to keep the identity of all parties confidential so long as such confidentiality is compatible with a fair investigation.
- 3.3 If an individual is believed on reasonable grounds to have made a malicious or vexatious allegation, or to have made an unwarranted external disclosure without regard to this internal procedure, disciplinary action may be taken against the individual concerned.
- 3.4 If an individual makes an allegation in good faith, which is not confirmed by the subsequent investigation, no action will be taken against that individual.
- 3.5 Concerns which are expressed anonymously will be considered at the discretion of the University according to:
- the seriousness of the issues concerned
 - the likelihood of confirming the allegation from alternative credible sources

4. Disclosure Procedures

- 4.1 Initial disclosure should be made to a designated person who will normally be the University Secretary in his capacity as Secretary to Council but may alternatively, according to the nature of the matter at issue, be the Vice-Chancellor, the Chair of Council, the Treasurer or the Director of Human Resources. The person making the disclosure decides which of these designated persons to approach and, if the disclosure is made in person, whether to be accompanied by a line manager, a trades union representative, or a representative of the Students' Union.
- 4.2 The designated person to whom disclosure is made will consult as appropriate and will then determine (a) whether there is a *prima facie* case to answer under the terms of this public interest disclosure procedure; and (b) whether an investigation should be conducted and if so what form it should take.
- 4.3 The form of the investigation will depend on the nature of the matter raised. The designated person will determine whether the matter should
- be dealt with under an existing internal procedure (see section 2.4 above)
 - be the subject of a special internal investigation
 - be referred to the police
 - be investigated by an external authority

Except as may be otherwise provided in internal procedures, referral to the police will not prohibit a parallel internal investigation, if considered appropriate.

- 4.4 Where the matter is to be the subject of a special internal investigation, the designated person may request the Internal Auditor or other independent officer of the University to conduct an initial investigation to establish all relevant facts. Investigations should not be conducted by the designated person or by any other person who will have to reach a decision on the matter.
- 4.5 Any investigation will be conducted as sensitively and speedily as possible. In order to seek to protect the identity of the parties concerned, those participating in the investigation will be reminded of the need to maintain strict confidentiality at all stages of the process.
- 4.6 The findings of the investigation will be reported to the designated person who will decide with appropriate consultation what action should be taken and will initiate such action.
- 4.7 In some instances it may be necessary to conduct further internal investigations or to refer the matter to an external authority for further investigation.
- 4.8 The person or persons against whom the disclosure is made will be told of it and of the evidence supporting it and will be given the opportunity to respond before any investigation, or further action, is concluded.
- 4.9 The designated person will inform the individual making the disclosure of what action, if any, is to be taken. This information will be regarded as strictly confidential and may not be disclosed to third parties except with the express consent of the designated person.
- 4.10 If no action is to be taken, the individual concerned will be informed of the reason for this and be allowed a second opportunity to make the disclosure to another designated person or to the Chair of the Audit Committee. The safeguard against malicious or vexatious allegations is detailed in section 3.3 above.
- 4.11 Where the disclosure is made for a second time, to another designated person or to the Chair of Audit Committee, this person will decide on an appropriate course of action based on the information available and will follow the procedures detailed above.
- 4.12 A report of all disclosures made under this procedure, and any subsequent action taken, will be prepared by the designated person who will retain such reports for a period of three years. In all cases, a report of the outcomes of any investigation will be made to the Chair of the Audit Committee who will have sole discretion to make a report to the Audit Committee or to Council in such terms as are deemed appropriate.

5. Appeals

- 5.1 An individual against whom action is proposed, following an investigation under this public interest disclosure procedure, and who wishes to appeal against such action, may invoke the University's existing staff procedures.