

# Public Interest Disclosure Policy

## 1. Introduction

**1.1** Workers (see definition in section 2 below) are often the first to realise that there may be something seriously wrong within an organisation. They may, however, not express their concerns because they fear that speaking up would be disloyal to their colleagues or to the University. They may also fear harassment or victimisation. In these circumstances it may be easier to ignore the concern rather than report what may just be a suspicion of malpractice.

**1.2** The University takes malpractice very seriously. We expect employees, and others, who have genuine and serious concerns about any aspect of the University's operations to come forward and voice these concerns.

**1.3** This policy document makes it clear that staff may do so without fear of victimisation, subsequent discrimination, or disadvantage. This confidential reporting policy is intended to encourage and enable workers to raise serious concerns within the University, rather than ignoring a problem or "blowing the whistle" outside of the University. However, nothing in this policy should be seen to encourage the deliberate lodging of false, vexatious or malicious complaints. It will remain the policy of the University to take appropriate action in such cases.

**1.4** These procedures act in conjunction with other University policies and procedures, e.g. the Individual Grievance Procedure, the Fraud Response Plan. They do not replace them and many concerns outside of this policy should be raised in accordance with those other policies.

## 2. Scope

This policy applies to all "workers" of The University of Bolton in respect of disclosures of matters set out in paragraph 3 below.

Workers are all University employees, a person on work experience at the University (not including work experience as part of a University course) and a person working for a contractor of the University where the University determines his or her work. Workers do not include students (who have other mechanisms to report concerns open to them), members of the Governing Body (unless staff members) or the general public. The University reserves the right to request evidence to confirm that a disclosure under this policy is being made by a worker.

## 3. Disclosures covered by this policy

This policy relates to disclosures relating to the following matters only ("protected disclosures"):

- (i)** That a criminal offence has been or is likely to be committed;
- (ii)** That a person has failed, is failing or is likely to fail to comply with a legal obligation to which she/he is subject;
- (iii)** That a miscarriage of justice has occurred, is occurring, or is likely to occur;

**(iv)** That the health and safety of any individual has been, is being, or is likely to be jeopardised;

**(v)** That the environment has been, is being, or is likely to be damaged; and/or

**(vi)** That information intending to show any matter falling within the above categories has been, is being, or is likely to be deliberately concealed.

It must be in the public interest for the disclosure to be a protected disclosure ( for example seeking through disclosures to advance personal grievances, or action which could be seen as harassing, bullying or discriminating against a person or persons are not permitted and would not be seen as in the public interest).

It is not a protected disclosure if the disclosure is itself an offence.

The University is only able to deal under this policy with protected disclosures which relate to it or to persons in respect of whom the University has a legal responsibility (e.g. its employees). For the avoidance of doubt this policy is not intended to provide a forum to question operational decisions taken by the University in its ordinary course of business or to review decisions taken under other policies and procedures of the University.

## 4. The Public Interest Disclosure Act 1998

**4.1** This policy is made in respect of The Public Interest Disclosure Act 1998 (widely referred to as the Whistleblowers' Act) ("the Act") came into force in 1999. The Act is summarised below. The summary is not intended to be a full summary of all provisions of the Act.

**4.2** The Act is intended to encourage workers to raise their concerns in a responsible way where there is a practice within an organisation which relates to any of the matters listed in section 3 above.

**4.3** If workers do raise such concerns, they will be protected from subsequent victimisation, unfair dismissal, redundancy and detriment as a result of making their protected disclosure, provided that their case falls within the detailed criteria in the Act. These criteria include that the discloser must reasonably believe the disclosure to be true.

**4.4** The intention of the Act is that workers will have the right to raise their concerns internally. If a worker does not want to make a disclosure internally then they may make a disclosure to a legal adviser of their choice, various bodies prescribed for the purposes of the Act (as shown on the attached link <https://www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies--2/whistleblowing-list-of-prescribed-people-and-bodies>)

or Ministers of the Crown and still get the protections of the Act. Disclosures to other persons or organisations do not give the protections of the Act and may be viewed by the University as breach of contract or duty by the discloser.

## 5. Aims of the University Policy

**5.1** This policy aims to:

**(i)** Encourage workers to feel confident in raising concerns and to question and act upon concerns about practice;

**(ii)** Provides avenues for workers to raise those concerns and receive feedback on any action taken; and

**(iii)** Reassure workers that they will be protected from possible reprisals or victimisation if they have a reasonable belief that they have made a protected disclosure.

**5.2** There are existing procedures in place to enable staff to lodge a grievance relating to their own employment or where they feel that they have been unfairly treated. Additionally, the University has recognition agreements with UCU and UNISON. Within these agreements there are procedures for the resolution of collective concerns and disputes. Those disputes and matters should follow those policies and procedures.

## 6. Initial Step

**6.1** If a worker is of the view that all internal informal and formal avenues have been exhausted or that no appropriate avenue exists to address the concern in question, a disclosure shall, subject to clause 6.5 below, be made to the Clerk to the Governors either verbally or in writing. The Clerk to the Governors will invariably advise workers making disclosures of the protection afforded by this policy and will encourage them to submit written statements and to put their names to them.

Concerns expressed verbally and/or anonymously are less powerful but may nevertheless be considered at the discretion of the Clerk to the Governors taking into account:

- (i) the seriousness of the issues raised;
- (ii) the credibility of the concern; and
- (iii) the likelihood of confirming the allegation from alternative sources.

**6.2** The Clerk to the Governors will immediately inform the Vice Chancellor and Chair of Governors unless either is the subject of the disclosure in which case the other only should be informed; or both are subjects of the disclosure in which case the Chair of the Audit committee should be informed.

**6.3** Although a worker making a disclosure will not be expected to prove the truth of any allegation, sufficient information and prima facie evidence should be contained in the disclosure to demonstrate that reasonable grounds for the allegation exist. Unsupported allegations are difficult to investigate and the University is likely to place significantly less credibility on them and even more so if they are made anonymously.

**6.4** In all cases involving financial malpractice or impropriety, the Clerk to the Governors will consider the application of the Fraud Response Procedure and act in close consultation with the Vice Chancellor who is the Executive Officer responsible for the University's public funding (or if the Vice Chancellor is the subject of the relevant disclosure) then the Chair of Governors or if both involved then the Chair of Audit.

**6.5** In any case in which the University's Clerk to the Governors is the subject of a disclosure or wishes to make one, disclosure should be made to the Vice Chancellor. If the latter is also involved disclosure should be made to the Chair of Governors. If both are involved the disclosure should be made to the Chair of the Audit Committee. In such circumstances, the person to whom the disclosure is made shall pursue this procedure acting in the role of Clerk to the Governors as specified.

## 7. Process

**7.1** All concerns will initially be treated confidentially and every effort will be made not to reveal the identity of the discloser who will not be required without his/her written consent to participate in any enquiry or investigation unless there are grounds to believe that s/he may have been involved in misconduct or malpractice. However it must be understood that the success of internal investigations,

disciplinary proceedings and criminal prosecutions may be dependent on the willingness of disclosers to participate. In general the Clerk to the Governors (or other investigating officer under this policy) will not reveal the identity of the discloser without his/her permission unless:

**(i)** s/he is under legal obligation to do so; or

**(ii)** the information is already in the public domain; or

**(iii)** on a strictly confidential basis to his/her administrative assistant in the context of preparation of reports

**(iv)** on a strictly confidential basis to a professionally qualified lawyer for the purpose of obtaining advice

**(v)** s/he forms the opinion that the disclosure is deliberately untrue, vexatious and/or malicious.

**7.2** The Clerk to the Governors (or other investigating officer under this policy) will acknowledge receipt of the disclosure, will consider the information contained within the disclosure and determine whether prima facie the disclosure properly falls for consideration within the terms of this policy and procedure, or whether the matter should more appropriately be considered through other existing approved procedures. In making this determination, the Clerk to the Governors (or other investigating officer under this policy) shall take such advice or consult with senior colleagues and/or external legal advisors and make such preliminary enquiries as may be necessary.

**7.3** Having determined that the matter disclosed is properly a matter for consideration within this policy and procedure, the Clerk to the Governors (or other investigating officer under this policy) shall determine whether to:

**(i)** call for the matter to be investigated internally;

**(ii)** refer the matter to the police; or

**(iii)** call for an independent enquiry.

In some cases a matter disclosed might be dealt with by agreed action and/or preliminary enquiries without the need to instigate an investigation. In determining the above, the Clerk to the Governors (or other investigating officer under this policy) shall take such advice or consult with senior colleagues and/or external legal advisors and make such preliminary enquiries as may be necessary.

**7.4** If a disclosure is to be referred to the police, the University will co-operate fully with the police in the course of police enquiries and any action under these procedures will be suspended pending the completion of the police enquiries.

**7.5** If a disclosure is to be referred to an independent enquiry, internal investigation other than as part of such enquiry will normally be suspended, pending completion of such independent enquiry.

**7.6** If a disclosure is to be the subject of internal investigation, the Clerk to the Governors (or other investigating officer under this policy) will determine who should undertake the investigation and its terms of reference. Internal Audit would normally be instructed to investigate disclosures relating to financial malpractice or impropriety and in all cases of alleged fraud the Fraud Response Plan should replace this procedure unless the Director of Finance is involved. In other cases the investigation should be carried out by a senior member of staff independent of the area in which malpractice or impropriety is alleged to have occurred. In all cases no one having any part to play in reaching a decision on any matter raised through disclosure shall take any part in investigating matters contained in the disclosure.

## 8. Initial Action and Feedback

**8.1** The Clerk to the Governors (or other investigating officer under this policy) will, as soon as is reasonably practicable, inform the worker making the disclosure what action, if any, is to be taken.

**8.2** If no action is to be taken, the Clerk to the Governors (or other investigating officer under this policy) will inform the person making the disclosure of the reason in writing. In such event, the worker making the disclosure may request the Chair of the Governors (or the Chair of the Audit Committee if the subject of the disclosure is financial malpractice or impropriety) to review the disclosure and the reasons given for not taking further action. The Chair of the Governors (or of the Audit Committee, as the case may be), whose decision will be final, will either confirm the decision that no further action be taken, or determine what further action is to be taken and through what process.

**8.3** Where a decision is made to conduct an internal investigation into a disclosure, the person(s) against whom the disclosure is made shall be provided with a copy of the disclosure and any evidence supporting it by the Clerk to the Governors (or other investigating officer under this policy), and shall have the opportunity to make a full response to the disclosure during the course of the investigation. No investigation shall be concluded or action taken without the person against whom the disclosure is made having had a copy of the disclosure and any evidence supporting it, and an opportunity to make a full response to the disclosure. Normal rights of representation will apply to all parties during the course of such internal enquiries. In cases where the person against whom the enquiry is made is at potential risk of criminal prosecution, the right to professional legal representation will apply.

**8.4** In the event of a decision to call for an independent enquiry, the person against whom the allegation is made will be provided with a copy of the disclosure and any evidence supporting it by the Clerk to the Governors (or other investigating officer under this policy).

**8.5** In the event of a decision to refer the matter directly to the police, the provision of a copy of the disclosure and any evidence in support of it to the person against whom the allegation is made, will be at the absolute discretion of the police.

## 9. Subsequent action

Upon completion of an investigation (however conducted), a written report will be submitted by the Clerk to the Governors (or other investigating officer under this policy) to the Vice Chancellor (or if the Vice Chancellor is the subject of the disclosure then to the Chair of Governors or if both are involved to the Chair of Audit) who will determine what action, if any, should be taken in the circumstances. This might include the invoking of other approved University procedures such as disciplinary, grievance or complaint and harassment procedures, or reference to an appropriate external authority.

## 10. Reporting of Outcomes

A report of all disclosures, preserving confidentiality where appropriate, and any subsequent action will be made by the Clerk to the Governors (or other investigating officer under this policy) to the Audit Committee, and, if approved by the Audit Committee, a summary shall be sent to the worker making the protected disclosure. The Audit Committee will have the responsibility for the maintenance of oversight of this policy and procedure.

## 11. Protection of Involved Parties

**11.1** The University recognises that the decision to make a disclosure can be a difficult one. However

if this is done in good faith and is based on genuine belief of malpractice, staff have nothing to fear. In such circumstances the University will neither initiate nor tolerate harassment or victimisation of disclosers and will invoke disciplinary procedures against those who might react in this way.

**11.2** Conversely the University has an obligation to protect its staff and other parties from deliberately untrue, vexatious and/or malicious disclosures. Where there are reasonable grounds to believe that this is the case or where an external disclosure is made in breach of these procedures without reasonable grounds or otherwise than to an appropriate regulatory body, the University reserves the right to initiate disciplinary procedures or other appropriate action.

## 12. Conclusion

The capacity of this policy to provide an effective vehicle for the expression of serious concerns about malpractice within the University will be negated if it is used as a vehicle for the expression of petty, frivolous or vexatious concerns or to address issues which could more effectively be addressed by informal discussion or through formal procedures already in existence or as a means of seeking to instigate an investigation without furnishing appropriate evidence to support those concerns raised. To the extent that the policy exists for their protection, workers are requested to use it in a responsible manner for appropriate concerns.

## 13. Review

This policy will be reviewed regularly by the University. It was last updated in January 2019.

<b>TITLE OF POLICY:</b> Public Interest Disclosure Policy	
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