

# **Policy and Procedure on Public Interest Disclosure (Whistle-blowing)**

## **1. Introduction**

**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, the standards in public life set out in the reports of the Nolan Committee, and the principles of academic freedom embodied in its Statutes.

**1.2** The Public Interest Disclosure Act, which came into effect on 1 January 1999, gives legal protection to workers against being dismissed or penalised by their employers as a result of disclosing in the public interest certain serious concerns. It is a fundamental term of every contract of employment that a worker will faithfully serve his or her employer and not disclose confidential information about the employer's affairs. However, an individual within the organisation should have the right to disclose certain matters of public interest without fear of reprisal. The Enterprise and Regulatory Reform Act 2013 confirmed that the legal framework that gives protection to workers who raise public interest disclosures is intended to apply only to disclosures that are made in the broader public interest, as opposed to issues in which an individual may have a personal interest.

**1.3** This policy and procedure is intended to guide and assist workers and students who wish to make a disclosure, in the public interest, about what they believe to be malpractice or impropriety in order to assist the University in the maintenance of appropriate standards of propriety and good practice. Workers and students are expected to use this policy and procedure in the first instance rather than report their concerns to a third party outside the institution. Whilst the law recognises that in some circumstances it may be appropriate for workers to report their concerns to an external body such as a regulator the University strongly encourages workers and students to seek advice from an appropriate manager or Students' Union Officer before reporting a concern to anyone external.

## **2. Scope of Policy**

**2.1** This policy and procedure provides for workers and students registered at Newcastle University for a period of study who wish to make a disclosure of information which they reasonably believe to be in the public interest and to constitute malpractice or impropriety to bring their concerns to the attention of the appropriate University officer.

**2.2** Instances of malpractice or impropriety might include:

- that a criminal offence has been committed, is being committed or is likely to be committed;
- that financial malpractice is being committed or is likely to be committed;
- that impropriety or fraud has been committed, is being committed or is likely to be committed;
- that a person has failed, is failing or is likely to fail to comply with any legal obligation to which he or she is subject;

- that the health or safety of any individual has been, is being or is likely to be endangered;
- that the environment has been, is being or is likely to be damaged;
- academic or professional malpractice; or
- that information tending to show any matter falling within any one of the above paragraphs has been, is being or is likely to be deliberately concealed.

**2.3** The University already has in place a number of policies and procedures for addressing matters that relate to individual employees or employment-related complaints or student complaints, such as:

- Standards of Behaviour Policy;
- Grievance Policy;
- Disciplinary Policy;
- Complaints Procedure;
- Dignity and Respect Procedure
- Student Complaints Procedure
- MBBS Whistle-blowing policy.

This policy and procedure should not be used where a matter of concern should more appropriately be addressed through one of the above procedures or any other appropriate approved University procedures. However, investigation of matters raised under this policy and procedure may subsequently lead to the invocation of other University procedures (see sections 4 and 6 below).

### **3. Safeguards**

#### **3.1 Protection**

This policy is designed to offer protection to those workers and students who make a disclosure of the kind described in 2.1 above. The University aims to encourage openness and will support individuals who raise concerns under this policy where they have an honest and genuine belief. Individuals must not suffer any detrimental treatment as a result of raising a concern. Detrimental treatment may include disciplinary action up to and including dismissal, threats or other unfavourable treatment connected with raising a concern. If you believe that you have suffered any such treatment, you should inform the Registrar, the nominated appropriate University officer, immediately. Anyone who threatens or retaliates against anyone raising disclosures under this policy may be subject to disciplinary investigation. The University policy on Dignity and Respect also provides reassurance to staff about mechanisms in place to protect staff.

#### **3.2 Confidentiality**

The University will, as far as reasonably practicable, seek to treat all disclosures made in accordance with this policy and procedure in a confidential manner. Every effort will be made to keep the identity of the individual making the disclosure confidential, to the extent that the maintenance of such confidentiality does not hinder or frustrate any related investigation. However, it is foreseeable that an individual making a disclosure may need to provide a statement as part of the evidence required and the investigation process, or any related subsequent process, may lead to the identity of the individual being revealed.

#### **3.3 Anonymous Allegations**

This policy urges workers or students to put their name to any disclosures they make and discourages workers or students to make disclosures anonymously. Proper investigation may be more difficult or impossible if the University cannot obtain further information from the discloser. It is also more difficult to establish whether any allegations are credible and have been made in good faith. Anyone who is concerned about possible reprisals if their identity is revealed should raise their concerns with the Registrar so that appropriate measures can be taken to protect them and to preserve their confidentiality, as far as reasonably possible.

Concerns expressed anonymously will be considered only at the discretion of the appropriate University officer. In the exercise of this discretion, the factors to be taken into account will include:

- the potential seriousness of the issues raised
- the credibility of the concern
- the prima facie evidence
- the likelihood of confirming the allegation from attributable sources.

### **3.4 Untrue Allegations**

A disciplinary investigation may be undertaken where there is clear evidence that an individual has used this policy to make false allegations maliciously or with a view to personal gain or where an individual persists in a vexatious or otherwise unreasonable use of this policy and procedure.

## **4. Procedures for Making a Disclosure**

### **4.1 Initial Step**

The individual should make the disclosure to the Registrar, as Secretary to Council, who will inform the Vice-Chancellor and the Chair of Council unless:

- the Vice-Chancellor or the Chair of Council are potentially implicated in the concerns being disclosed, or
- if the Chair of Council is likely to be involved at any subsequent stage in this process.

In cases involving financial malpractice or impropriety, the Registrar will normally act in close consultation with the Vice-Chancellor, as the Accountable Officer for the University's public funding in line with the University's policy on Fraud, Corruption and Financial Misconduct. If the disclosure is about the Registrar then the disclosure should be made to the Vice-Chancellor.

If the individual does not wish to raise the matter with either the Registrar or the Vice-Chancellor, then he or she may raise it with the Chair of the Audit Committee or with the Chair of Council.

### **4.2 Process**

The Registrar<sup>1</sup> will acknowledge receipt of the disclosure and will consider the information contained within the disclosure. He/she will 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 approved procedures. If the

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<sup>1</sup> If the disclosure has been made to one of the other persons mentioned in paragraph 4.1, then that person will perform the Registrar's functions described in paragraph 4.2 onwards.

Registrar determines that the disclosure is a matter for consideration within this policy and procedure, he/she will decide on the form of investigation to be undertaken. This may be:

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

In some cases, a matter disclosed might be dealt with by agreed action without the need for further investigation. In determining the above the Registrar shall take such advice or undertake such consultation as may be necessary.

**4.3** The Registrar will, as soon as is reasonably practicable, and subject to confidentiality or any other operational or legal constraints, inform the worker or student making the disclosure of the steps that are to be taken under 4.2, above, and the indicative timescale for consideration of the case. The procedure will be implemented as expeditiously as is reasonably practicable.

**4.4** Where the matter is to be the subject of an internal investigation, the Registrar will consider who should undertake the investigation and its terms of reference. Internal Audit will normally be instructed to investigate disclosures but the investigation may 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 will take any part in investigating matters contained in the disclosure. Investigations will be conducted as sensitively and expeditiously as possible.

**4.5** 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. Its own enquires may be suspended pending the outcome of the police investigation but it might be necessary for the University to safeguard its ongoing work and to take actions even before the police enquiries are completed.

**4.6** If a disclosure is to be referred for an independent enquiry, any ongoing internal investigation, other than that being undertaken as part of the independent enquiry, will normally be suspended pending completion of that independent enquiry but it might be necessary for the University to safeguard its ongoing work and to take actions even before the independent enquiry is completed.

## **5. Providing information**

**5.1** The worker or student who made the disclosure will be provided with information about the steps taken to address the issues they have raised. However, sometimes the need for confidentiality, or other operational or legal constraints, may prevent the University from giving specific details of the investigation or any subsequent actions taken as a result. This will be a matter for the University to determine on a case by case basis. Any information that is provided should be treated as confidential.

**5.2** Subject to the above principles, if no action is to be taken, the Registrar will normally inform the worker or student making the disclosure of the reason in writing. In such event, the worker or student will have the opportunity to request the Chair of Council to review this decision and the reasons given for not taking any further action. The Chair of Council will consider the matter and will either confirm the decision that no further action be taken, or determine what further action is to be taken and through what process.

## **6. Subsequent action**

**6.1** Upon completion of an internal investigation, a written report will be made to the Registrar. The outcome of an internal investigation or an independent investigation or referral to the police will determine whether further action should be taken and, if so, the nature of the action, which 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.

## **7. Reporting of Outcomes**

**7.1** A report of all disclosures and any subsequent action will be made by the Registrar to the Chairs of Council and the Audit Committee. The Chair of Council, the Chair of Audit Committee, and the Registrar will have joint responsibility for maintaining and overseeing this policy and procedure and for making appropriate reports to Council. This policy and procedure will be the subject of periodic review and, if necessary, revision in light of experience and in consequence of any further advice which may be issued in the higher education sector.

John Hogan  
Registrar  
9 September 2015

Approved by Executive Board: 15.09.2015  
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