

PUBLIC INTEREST DISCLOSURE POLICY (WHISTLEBLOWING)

Human Resources Service

NB. This policy is available on the University of Cumbria website and it should be noted that any printed copies are uncontrolled and cannot be guaranteed to constitute the current version of the policy.

POLICY SCHEDULE	
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Policy owner	Human Resources Service
Policy lead contact	Human Resources Service
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A. POLICY

1. Policy Statement

- 1.1 The University has a duty to conduct its affairs in a responsible way. It is committed to the highest standards of openness, probity and accountability. It seeks to abide by the principles set out in the reports of the Committee on Standards in Public Life (the Nolan, then Neill Committee), and to ensure that the requirements of its funding bodies are met.
- 1.2 The University will at all times permit its employees to speak freely and without being subject to disciplinary sanctions or victimisation about academic standards and related matters, provided that they do so lawfully, without malice, and in the public interest (this is in accordance with Recommendation 7 of the Second Nolan Report). If an employee has a problem for which this procedure is appropriate, then it is expected that he or she will use it. The procedure is designed to ensure that matters are dealt with through an independent, orderly and systematic process, and can be fully investigated.
- 1.3 Under the Public Interest Disclosure Act 1998, a worker may not be subject to any detriment (including dismissal) for disclosing information to his or her employer (and in certain circumstances to others) to the effect:
- (i) that a criminal offence has been, is being or is likely to be committed;
 - (ii) that a legal obligation has not been or is not being or is not likely to be observed;
 - (iii) that a miscarriage of justice has occurred, is occurring or is likely to occur;
 - (iv) that someone's health and safety has been, is being or is likely to be endangered;
 - (v) that the environment has been, is being or is likely to be endangered;
 - (vi) that any information relating to the above has been, is being or is likely to be deliberately suppressed or concealed.

provided that the employee reasonably believes that the disclosure is in the public interest and reasonably believes to be true and is not made for personal gain. The University is bound by the law in respect of these matters, and the procedure set out below is designed to ensure that the position of employees is protected according to law. The University's policy is to apply the same principles in relation to disclosures made by students and by members of its University Board.

- 1.4 The University's policy also covers issues under the following headings:
- (i) financial or non-financial maladministration and malpractice within the institution;
 - (ii) the exercise of academic freedom within the institution;
 - (iii) failure to comply with legal obligations or with the University's instruments of governance;
 - (iv) academic or professional malpractice;
 - (v) failure to meet professional standards (as defined by an appropriate statutory body);
 - (vi) improper conduct or unethical behaviour;
 - (vii) failure to comply with the University's Policy for Addressing Safeguarding Children & Young People (For guidance on Whistleblowing and Safeguarding Children & Young People in Higher Education refer **Appendix 1**);

- (viii) suppression or concealment of information relating to any of these.
- (ix) failure to comply with obligations under the Bribery Act 2010

Disclosures relating to these matters, whether by employees or by students or members of the University Board, are to be dealt with under the procedure set out below.

- 1.5 The University's policy is that any disclosure under the above headings should be properly considered and investigated, and, if necessary, independently reviewed. An individual wishing to make a disclosure can be assured that any disclosure which the individual reasonably believes to be true and is made in the public interest will not result in dismissal or disciplinary action or any other detriment to him or her. The individual must however have a reasonable belief that the disclosure being made tends to show that malpractice has occurred or will flow from an intended action or omission.

2. Aim and Purpose of the Policy

- 2.1 This Confidential Reporting Policy aims to encourage and enable employees to raise serious concerns within the University rather than overlooking a problem or 'blowing the whistle' outside. This policy document also makes it clear that employees can voice legitimate concerns without fear of victimisation, subsequent discrimination or disadvantage.
- 2.2 This policy has to be robust enough to make employees trust the internal disclosure procedure, rather than going outside to the police, the press or going "public" in some other way. Whatever the rights and wrongs of the case – if employees "go public" first employees will be harming the University, damaging its reputation. This damage might not be deserved; the University is probably not going to be aware of the matter employees want to disclose and ought to have the chance to deal with it before having its reputation damaged by disclosures. So please do not assume that senior management will already know about the issue and are ignoring it.
- 2.3 If employees do "go public" when employees could reasonably have raised their concern using this procedure or via the Audit Commission (see section 10), then employees could be liable for disciplinary action eg if the University's reputation is unfairly damaged.
- 2.4 This policy aims to:
- encourage employees to feel confident in raising serious concerns and to question and act upon concerns about malpractice;
 - provide avenues for employees to raise those concerns and receive feedback on any action taken;
 - ensure that employees receive a response to their concerns and that employees are aware of how to pursue them if employees are not satisfied;
 - reassure employees that employees will be protected from possible reprisals or victimisation if employees have a reasonable belief in the truth of the disclosure and that employees have made any disclosure in good faith.
- 2.5 The overriding concern for the University and employees is that it is in the public interest for the malpractice to be corrected, and sanctions applied where appropriate.

- 2.6 This procedure is not intended to supersede other appropriate University policies and procedures. In particular, a concern relating to injustice or discrimination against individuals should normally be dealt with under the University's grievance procedure and accordingly employees are encouraged to use the grievance procedure where appropriate.

3. Purpose

- 3.1 The purpose of this policy is to provide employees with information about the University's approach to whistleblowing and under what circumstances and how they may raise a genuine concern without fear of reprisal.

4. Scope

- 4.1 The policy applies primarily to all University employees but may also be used by contractors working for the University (eg agency employees, builders, drivers etc as appropriate). It also covers certain suppliers and those providing services under a contract with the University.

5. General Principles

Confidentiality and Anonymous Disclosures

- 5.1 The University will seek to treat disclosures under this policy in a confidential and sensitive manner. If appropriate, every effort will be made to keep the identity of the individual making a disclosure confidential so long as a proper investigation is not thereby hindered or frustrated. If in order to complete a full investigation the point is reached at which the identity of the individual making the original disclosure must become apparent or needs to be made known to other parties, the person in charge of the investigation shall consult the individual before proceeding.
- 5.2 Anonymous disclosures may be reported, investigated or acted upon, at the discretion of the person designated by the University Board, but cannot be regarded as having the same weight as those to which an individual is prepared to put his or her name. In exercising this discretion, account will be taken of the seriousness of the issue raised, the credibility of the disclosure, the prospects of being able to investigate the matter, and fairness to any person named in the disclosure.
- 5.3 In accordance with University policy no action will be taken against any individual making a disclosure in good faith that is not subsequently substantiated provided the individual reasonably believed it to be true and in the public interest. If, however, an individual making a disclosure is considered to have acted maliciously or vexatiously, then the University may consider appropriate disciplinary action.
- 5.4 Employees will have the right to be accompanied by an appropriate trade union official or work colleague at any meeting when they have raised a concern under the Whistleblowing Procedure. There is no entitlement to legal representation or accompaniment by any other outside person, with the exception of a trade union official. It is expected that one individual only will accompany the employee.

6. Equality, Diversity and Inclusion (with particular reference to disability reasonable adjustments) and Equality Impact Assessment Statements

- 6.1 The Equality Act 2010 harmonises, and in some cases, extends discrimination law covering the “protected characteristics” of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief (including lack of belief), sex and sexual orientation. It addresses the impact of recent case law and the ban of “disabled by association” is extended to all protected characteristics. The University has developed a Single Equality Scheme to implement the Equality Act within the University practices and procedures.
- 6.2 Within the Equality Act It remains permissible to treat a disabled person more favourably than a non-disabled person. It remains lawful to make reasonable adjustments in relation to employment, education and services to ensure that there is true equality of opportunity for disabled people, namely:
- Where a manager believes that an employee may be disabled within the meaning of the Act or may nonetheless need additional support, advice must be sought from the Human Resources Service before any action is taken.
- 6.3 This Equality Scheme and its implementation will be monitored in line with relevant legislation for its impact on different equality groups. This process will provide a check on whether there are any differences and allow the University to assess whether these differences have an adverse impact on any particular group such that appropriate action is taken.
- 6.4 These are important issues and further information should be sought from the University’s LiSS Manager (Equality, Diversity and Inclusion Policy) as required.

7. Records Management Statement

- 7.1 The records associated with this policy are controlled by the Human Resources Service and will be created, stored and disposed of in line with the University’s Records Management guidelines and procedures.
- 7.2 The University is committed to complying with the requirements of Data Protection legislation and regulations and any personal data created as part of this policy will be processed in accordance with the University’s Data Protection Act procedures. This includes ensuring that data is held securely, is not disclosed unlawfully and is destroyed when no longer needed.
- 7.3 The University also aims to ensure that users of this policy are aware of Data Protection, Freedom of Information and Records Management issues associated with this policy.

8. Risk Management Statement

- 8.1 Failure to comply with this policy could lead to breaches in employment legislation and may give rise to claims against the University.

9. Contact Details

- 9.1 For procedures to be followed in relation to this policy please consult the Procedural Guidelines in the next section.

To access related HR policies and procedures, please look at the HR Handbook on the University website:

<http://www.cumbria.ac.uk/AboutUs/Services/HR/WorkingForUs/HRHandbook.aspx>
[x](#)

If you require further guidance or information or require this document in another format (eg CD, audio cassette, Braille or large type), please contact the relevant member of the Human Resources Service:

<http://www.cumbria.ac.uk/AboutUs/Services/HR/ContactUs.aspx>

**UNIVERSITY OF CUMBRIA
POLICY DOCUMENT CONTROL SCHEDULE**

All University of Cumbria Policies must include a completed Policy Document Control Schedule consisting of the Policy Schedule (see front cover) and Review Schedule and (see below) which should be completed as appropriate.

REVIEW SCHEDULE				
Version no.	Review interval	Reviewed by	Approved by	Date of Approval
V01	2009/2010	HR	EPC/JNCC	August 2007
V02 – 12/05/11	2012/2013	Andrew Heron	EPC/JNCC	24 June 2011

B. PROCEDURAL GUIDELINES

The normal expectation is that the following procedural guidelines will apply. However, on occasions, and for exceptional / other good reasons, there may be the need to vary the procedures to suit individual cases / circumstances, and accordingly the University reserves the right to amend the procedures. The University will consult with the recognised union(s) regarding any proposal to vary the procedure.

1. Procedure for making and considering a disclosure

- 1.1 The Public Interest Disclosure Act requires the University to have a named person responsible for considering and investigating concerns. Under the Act that designated person at the University is the Secretary to the University Board.
- 1.2 Employees should raise concerns with the most appropriate of the following:
 - Line manager
 - Registrar and Secretary
 - Director of HR
 - Other member of UEG
 - The Head of Internal Audit / Chair of the Audit Committee via whistleblowing@cumbria.ac.uk
- 1.3 Concerns are better if raised in writing, and at the earliest opportunity as it is easier to take action. Employees are invited to set out the background and history of the concern, giving names, dates and places where possible, and the reason why employees are particularly concerned about the situation. If employees do not feel able to put their concern in writing, employees can telephone or meet the officer employees are raising the matter with.
- 1.4 Although employees are not expected to prove beyond doubt the truth of an allegation, employees will need to demonstrate to the person contacted that there are reasonable grounds for their belief and concern.
- 1.5 The Secretary to the University Board (or the Chair of the Audit Committee, who if required to act shall follow exactly the same procedure set out here) shall consider the information disclosed and shall decide whether or not the matter falls to be dealt with under this procedure, or is for any reason inappropriate or of insufficient weight. The Secretary shall then decide, after any appropriate consultation, whether or not there is a *prima facie* case to be answered, and whether a formal investigation should be conducted and if so what form it should take.
- 1.6 If a formal investigation appears to the Secretary to be necessary, it should be undertaken as a matter of urgency. It may take one of the following forms:
 - an internal investigation conducted by an independent senior member of the University nominated by the Secretary to the University Board, or by the University's internal audit service;
 - referral to the police;
 - the establishment of an independent enquiry conducted by an appropriate external person nominated by the Secretary.

The outcome of any formal investigation shall be reported to the Secretary, who shall then decide whether the matter should be further pursued, and if so how.

The Secretary may refer the matter to an external authority (eg a funding body, a professional/statutory body, or the Health and Safety Executive) for further investigation and/or action. Any person conducting a formal investigation will be disqualified from taking subsequent decisions based upon the investigation.

- 1.7 If the Secretary decides that the matter does not fall within the procedure or that a *prima facie* case has not been made, the individual making the disclosure shall be informed of this without delay, and given the reasons. The Secretary shall have discretion to reconsider a decision not to proceed, should additional information become available.
- 1.8 The principles of natural justice shall be applied. Any person or persons against whom a disclosure is made which is considered to represent a *prima facie* case must be informed of the evidence supporting it and must be given the opportunity to respond. Such a person or persons shall normally also be informed of the outcome of any investigation.
- 1.9 A written report concerning any disclosure and the action taken upon it shall be made by the Secretary. It shall be for the Secretary to reassure the University Board that disclosures made under this policy are being dealt with appropriately; wherever appropriate, a report of the outcome of an investigation shall also be made to the University Board or to the Audit Committee.
- 1.10 A written record of action at each stage of the procedure shall be maintained.

2. Appeals

- 2.1 Employees who raise concerns under the whistleblowing policy and are dissatisfied with the outcome, have the right to appeal (post the ending of the internal whistleblowing investigation) directly to a prescribed person as listed on www.gov.uk/whistleblowing or in certain circumstances to [HEFCE](#).