

SWANSEA UNIVERSITY

Public Interest Disclosure - Policy and Procedures

1. Introduction

Swansea 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 the standards in public life set out in the reports of the Nolan Committee.

The Public Interest Disclosure Act 1998, gives legal protection to employees against being dismissed or penalised by their employers as a result of publicly disclosing certain concerns which are both serious and likely to be of wider public interest. 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 he/she believes shows malpractice/wrong-doing within the organisation then this information should be disclosed without fear of reprisal, and may be made independently of line management. The right to freedom of expression is a provision of the Human Rights Act 2000.

In addition to all staff, this policy and procedure may also be used by other members¹ of the University, including the members of Council, the members of Court and students.

This policy is not intended to be used as a substitute for the University's grievance procedure and any concern about an employee's personal employment situation should be raised through the grievance procedure in the normal manner.

Employees should not view this procedure as

- an avenue to challenge or question business or financial decisions taken by the University;
- as an avenue of appeal to challenge decisions previously taken under other procedures of the University;
- or as a way of dealing with malpractice/wrongdoing of students.

2. Scope of Policy

This policy is designed to allow employees and members of the University both to raise concerns and to disclose information in circumstances which the individual believes shows malpractice.

In addition to this policy, the University has a number of other policies and procedures in place including grievance and complaints, harassment and discipline. This policy is intended to cover concerns which are in the public interest and may (in the first instance) be investigated separately but might then lead to the invocation of such procedures. Appropriate concerns to be addressed under this policy might include allegations of :

¹ The members of the University are defined in the Ordinances

- fraud;
- financial malpractice and impropriety (including financial irregularities, corruption, bribery, dishonesty);
- commission of criminal offences;
- failure to comply with a legal obligation or with the Charter, the Statutes, the Ordinances and/or the Regulations of the University;
- miscarriages of justice;
- dangers to health and safety;
- dangers to the environment;
- unethical behaviour and improper conduct;²
- academic, administrative or professional malpractice;
- attempts to conceal any of the above.

This list is not intended to be exhaustive, and members of the University are encouraged to utilise this policy on occasions where they believe they have discovered malpractice or impropriety.

3. Safeguards

3.1 Protection

This policy is designed to offer protection to those employees or other members of the University who disclose such concerns provided the disclosure is made:

- in good faith; and
- in the reasonable belief of the individual making the disclosure that it shows malpractice.

The individual will only be protected if he/she makes the disclosure to an appropriate person/or body in accordance with the procedure set out in this policy. It is important to note that if employees/members of the University fail to utilise this procedure they will not be protected and this could in some circumstances result in their being the subject of disciplinary procedures where appropriate.

3.2 Confidentiality

The University will treat all appropriate disclosures made in accordance with this policy in a confidential and sensitive manner. It will therefore endeavour to keep confidential the identity of the person who has raised the concern. However, it must be appreciated that the investigation process may reveal the source of the information and that a formal statement from the original complainant may be required as part of the investigative process.

² The University has already approved a Protocol for the Investigation of Allegations of Misconduct in Research, and that Protocol would be used if the alleged malpractice related to research.

The University will also take all reasonable steps to ensure that employees/members of the University who have raised concerns under this procedure will not be victimised in any way by fellow employees or other members of the University.

Victimisation or other detrimental treatment of an employee, student or other member of the University, as a result of that person raising concerns under this policy in good faith, will be treated as a serious disciplinary offence under the University's disciplinary procedure.

3.3 *Anonymous Allegations*

This policy is intended to encourage individuals to put their name to any disclosures they make. Concerns expressed anonymously are much less powerful, but they will be considered at the discretion of the University.

In exercising this discretion, the factors to be taken into account will include:

- the seriousness of the issues raised;
- the credibility of the concern; and
- the likelihood of confirming the allegation from attributable sources.

3.4 *Unfounded Allegations*

If an individual makes an allegation in good faith, which is not confirmed by subsequent investigation, no action will be taken against that individual. If, however, an individual makes malicious or vexatious allegations, and particularly if he or she persists with making them, disciplinary action may be taken against the individual concerned.

4. Procedures for making a Disclosure

Step One

(i) The individual should make the disclosure in writing to the designated person, who would normally be the Pro-Vice-Chancellor (Administration). The Pro-Vice-Chancellor (Administration) will keep the Vice-Chancellor informed of any disclosure but in cases involving financial malpractice the Pro-Vice-Chancellor (Administration) will act throughout in close consultation with the Vice-Chancellor, as the Accounting Officer for the University.

(ii) If the disclosure is about the Pro-Vice-Chancellor (Administration) then the disclosure should be made directly to the Vice-Chancellor.

(iii) If the disclosure concerns the Vice-Chancellor then it should be made to the Chair of the Council.

(iv) If the individual does not wish to raise the matter with any of the above then he or she may raise it with the Chair of the Audit Committee, provided the issue falls within those matters ordinarily within the purview of that Committee, or if the matter is not within the purview of the Audit Committee, with the Chair of Council.

Step Two

(i) The designated person will consider the information made available to him/her and decide on the form of investigation to be undertaken. This may be:

- (a) to investigate the matter internally;
- (b) to refer the matter to the police;
- (c) to call for an independent external inquiry.

(ii) If the decision is that investigations should be conducted by more than one of these means, the designated person should satisfy him/herself that such a course of action is warranted, the possibility of double jeopardy notwithstanding.

(iii) Where the matter is to be the subject of an internal inquiry, the designated person will then consider how to conclude whether there is a prima facie case to answer. This consideration will include determining:

- (a) who should undertake the investigation;
- (b) the procedure to be followed;
- (c) the scope of the concluding report.

Step Three

(i) Normally, the Head of the Joint Internal Audit Unit, or when the case is of a non-financial nature, another independent officer of the University (normally a Pro-Vice-Chancellor) will undertake the internal investigation and will report his/her findings to the designated person. The investigation should not be carried out by the person who will have to reach a decision on the matter.

(ii) As a result of this investigation other internal procedures may be invoked by the designated person such as:

- (a) disciplinary;
- (b) grievance or complaints;
- (c) harassment;
- (d) Statutory procedures.

Reference to the police may also be made at this point in the procedure.

(iii) In some instances it might be necessary to refer the matter to an external authority for further investigation, e.g. the Higher Education Funding Council for Wales, or the bodies listed in Public Interest Disclosure Statutory Instrument 1549.

Step Four

(i) The designated person will inform the individual making the disclosure of what action, if any, is to be taken. If no action is to be taken then the individual concerned should be informed of the reason for this and allowed the opportunity to remake the disclosure to another appropriate person in those cases where no initial disclosure was made to the Chair of the Audit Committee or the Chair of the Council. If the initial complaint was made to the Chair of the Audit Committee, any subsequent disclosure should be made to the Treasurer. In the event of an initial disclosure being made to the Chair of Council, any disclosure should be made to the Chancellor. In these cases, the Chair of the Audit Committee or the Chair of Council or the Treasurer or the Chancellor will consider all the information presented, the procedures that were followed and the reasons for not taking any further action. The outcome of this will be either to confirm that no further action is required or that further investigation is required and will follow the procedures referred to in steps 2 and steps 3 above.

(ii) Where a disclosure is made the person or persons against whom the disclosure is made will be told of it, the evidence supporting it and will be allowed to respond before any investigation, or further action, is concluded.

Step Five

(i) A person who remains dissatisfied after all internal mechanisms for dealing with a complaint or concern have been exhausted may consider whether it is appropriate to petition the Visitor. Information on how this may be done is obtainable from the Pro-Vice-Chancellor (Administration)

Reporting of Outcomes

(i) A report of all disclosures and any subsequent actions taken will be made by the designated person who will retain such reports for three years. In all cases a report of the outcomes of any investigation will be made to the Audit Committee, in detail where the issue falls within its purview, and in summary in other cases as a means of allowing the Committee to monitor the effectiveness of the procedure.

5. Abuse of Policy and Procedures

As outlined above, employees and other members of the University will be protected by the University against any victimisation as a result of proper use of the procedures laid out in this policy. However, the University will take abuse of these procedures extremely seriously. If an employee/member of the University abuses these procedures in order to make false or malicious allegations, this will be treated as a serious disciplinary offence under the University's disciplinary regulations, which may result in disciplinary action being taken against the employee up to and including dismissal from employment.

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