



# **Public Interest Disclosure (Whistleblowing) Policy and Procedure**

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## **Public Interest Disclosure (Whistleblowing)**

The University of London believes that if, by whatever means, information which is believed to show significant malpractice or impropriety within the University is discovered, then this information should be disclosed without the person making the disclosure fearing reprisal or victimisation for their action. This Policy & Procedure details how a disclosure can be made and describes the safeguards in place to protect the discloser from reprisal or victimisation.

If you wish to make a public interest disclosure, you must read and follow the procedure detailed in this document.

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## University of London Public Interest Disclosure Policy and Procedure

### 1. POLICY STATEMENT

- 1.1 The University of London believes that if, by whatever means, information which is believed to show significant malpractice or impropriety within the University is discovered, then this information should be disclosed without the person making the disclosure fearing reprisal or victimisation for their action. This Policy & Procedure details how a disclosure can be made and describes the safeguards in place to protect the discloser from reprisal or victimisation.
- 1.2 The purpose of this Policy and Procedure is:
- to enable individuals to raise concerns within the University without fear of victimisation.
  - to assist the University in acting upon and, if necessary, investigating a complaint in relation to any of the matters covered in Section 4. below.
  - to give a clear message that allegations of malpractice and impropriety are taken seriously and so to function as a deterrent to such behaviour; and
  - to demonstrate that the University maintains the highest standards of conduct.
- 1.3 Should employees / workers at the University of London make a public interest disclosure, they are protected against being dismissed or penalized under the *Public Interest Disclosure Act 1998* (hereafter “the Act”) as amended by §17 - §20 of the *Enterprise & Regulatory Reform Act 2013* [ERRA 2013].
- 1.4 The University of London believes that to support its values, equal protection should be afforded to other stakeholders of the University (Section 2 below), who become aware of significant malpractice or impropriety and need to disclose it without fear of victimisation (as defined by the Equality Act 2010) or retribution, including misapplication of the University’s disciplinary procedures.
- 1.5 Although not a requirement of the Act, organisations are strongly recommended to have a published policy on ‘*Whistleblowing*’ by employees and this Policy and Procedural document is produced as a response to this recommendation.

## **2. Who can make a public interest disclosure using this procedure?**

- 2.1 Please note that although this procedure has been extended to include a broad range of stakeholders (2.3 – 2.5) only members of staff (2.2) are formally covered by the *Public Interest Disclosure Act 1998*.
- 2.2 Any member of the University's staff
- 2.3 Any current undergraduate or postgraduate taught student registered with the University.
- 2.4 Any external members of the University's Board of Trustees or of its other committees of the University.
- 2.5 Anyone contractually connected with the University.

## **3. Who cannot make a public interest disclosure using this procedure?**

- 3.1 Members of the public or any person not meaningfully connected with the University.
- 3.2 Students of the Federation Members should use the procedures of the higher education provider they are registered with.

## **4. What is the timeframe for making a public interest disclosure?**

- 4.1 There is no specific timeframe for making a public interest disclosure. However, investigation and action will be more effective if the disclosure is timely. We would normally expect a disclosure to be made as soon as possible, and usually within one month of the matter(s) to be disclosed coming to their notice.

## **5. What can you make a public interest disclosure about?**

- 5.1 Information that qualifies as a disclosure under this procedure and in legislation means any disclosure which, in the reasonable belief of the person making the disclosure, tends to show one or more of the following:
  - a. that a criminal offence has been committed, is being committed or is likely to be committed,
  - b. that there is a failure or likely failure to comply with any legal obligation or with the Statutes, Ordinance and Regulations of the University
  - c. that a miscarriage of justice has occurred, is occurring or is likely to occur,
  - d. that the health or safety of any individual has been, is being or is likely to be endangered,
  - e. that the environment has been, is being or is likely to be damaged, or
  - f. that information tending to show any matter falling within any one of the preceding paragraphs has been, is being or is likely to be deliberately concealed.
- 5.2 Additionally the University considers the following as legitimate areas for disclosure under this procedure:
  - g. Financial or non-financial malpractice or impropriety or fraud;
  - h. Failure to safeguard the University's assets properly.
  - i. Academic or professional malpractice.

## **6. What can you not make a public interest disclosure about?**

- 6.1 Any complaint which falls under other appropriate procedures of the University as defined in the University's complaints policy and procedure or the reconsideration of matters already addressed under other internal procedures.
- 6.2 Any issue that is not covered by 5.1 or 5.2 above.
- 6.3 A disclosure of information when the person making the disclosure commits an offence by making it.
- 6.4 A disclosure of information in respect of which a claim to legal professional privilege could be maintained in legal proceedings is not a qualifying disclosure if it is made by a person to whom the information had been disclosed in the course of obtaining legal advice.

## **7. How do I make a public interest disclosure?**

- 7.1 Disclosures that meet the criteria set out in 5. should be made in writing to a Responsible Person, who for the purposes of this procedure is in the first instance the Vice-Chancellor ([vice-chancellor@london.ac.uk](mailto:vice-chancellor@london.ac.uk)).
- 7.2 However if this channel has been followed and the complainant still has concerns, or feels that the matter is so serious that it cannot be discussed with the Vice-Chancellor, they should contact the University Secretary or the Chair of the Audit and Risk Assurance Committee at the following address: University of London, Senate House, London WC1E 7HU, who will then act as the Responsible Person.
- 7.3 The disclosure should be made as soon as possible, and usually within one month of the matter(s) to be disclosed coming to their notice. Although the Discloser may not be expected to prove the truth of any allegation, sufficient information and evidence should be contained in the disclosure to demonstrate that reasonable grounds for the allegation exist. Disclosures should be made in writing.

## **8. How will my public interest disclosure be handled?**

### **8.1 General points:**

- All qualifying disclosures will be investigated in a fair and proper manner and as sensitively and speedily as possible.
- A person making a disclosure will be made aware of who is handling the matter and will be advised of progress at appropriate stages.
- The right to natural justice (including the right of response to allegations) of those accused of malpractice / impropriety will also be recognised and observed in the application of this procedure.
- No protection (*e.g., from disciplinary action*) can be offered to anyone who fails to act in accordance with the provisions of this Policy and procedure.

## 8.2 Safeguards

8.2.1 **Good faith:** This procedure provides protection to those entitled to make a qualifying disclosure, providing that:

- The disclosure is made without malice.
- The person making the disclosure reasonably believes that it is made in the public interest.
- The disclosure is lawful *i.e., it is made in accordance with the provisions of this procedure and no offence is committed in making the disclosure.*

8.2.2 **Protection from victimisation:** The University will not tolerate the victimisation of or retribution *against* anyone making a genuine disclosure even if they are ultimately shown to be mistaken. **Victimising employees or students or deterring them from raising complaints is a serious disciplinary offence which will be dealt with under the appropriate Disciplinary Procedure.** The Employment Rights Act 1996 as amended by ERRA 2013, makes the University vicariously liable if an employee is subjected to detriment by another employee for making a protected disclosure.

8.2.3 **Confidentiality:**

- During initial consideration of a disclosure, all reasonable steps will be taken neither to breach confidentiality nor to reveal the identity of the Discloser until a formal investigation is begun.
- Thereafter, reasonable steps will be taken to maintain confidentiality in so far as so doing does not hinder or frustrate a fair investigation and is consistent with the rights of the person(s) being investigated to be aware of the nature of the allegations against them.
- Where the investigation process may reveal the source of the information, prior to this occurring the investigator will discuss the issue with the Discloser and the latter, if still concerned about potential repercussions if their identity is revealed, should contact the University Secretary so that appropriate measures to maintain confidentiality can be considered.

8.2.4 **Anonymous Allegations:** Despite the protection offered under this Policy, if a person decides to make an anonymous disclosure, such anonymous allegations may be considered only after the responsible person has given due regard to:

- the seriousness of the issue(s) disclosed.
- the credibility of the concern of the anonymous Discloser.
- the likelihood of confirming the allegation from other credible sources.
- the practicality of conducting a proper investigation.

8.2.5 **Unfounded or False Allegations:**

- **Unfounded allegations:** If a person makes a disclosure but after investigation the allegation proves to be unfounded, no action will be taken against them, and any subsequent victimisation of the person will be considered to be a serious disciplinary offence.
- **False Allegations:** Disciplinary action is likely to be taken against a person if, as revealed by investigation, they have made a disclosure for frivolous, vexatious, or malicious reasons, particularly if they persist in making them. This would include disclosure for personal gain or where internal processes have been unreasonably bypassed.

### 8.2.6 External Disclosures:

- If an individual makes an external disclosure / complaint to any prescribed body or person after having exhausted this procedure, the person will be protected against victimisation or retribution because of the disclosure.
- If a complainant feels this procedure is not appropriate, for instance if the persons to whom he/she may make a complaint are themselves engaged in an improper course of action, then the complainant may at any time refer the matter to an external body.
- However, if disclosure is made externally without good cause for first being raised internally, the Discloser may be liable to disciplinary action whether or not the disclosure is the subject of further investigation.
- Disclosers should normally seek advice before reporting a concern to anyone external to the University. The independent whistleblowing charity PROTECT operates a confidential helpline and has details of prescribed regulators for reporting certain types of concern. Their website is [www.protect-advice.org.uk](http://www.protect-advice.org.uk).

## 8.3 Investigation

8.3.1 Stage 1: The Responsible Person (see 6.1) shall decide whether or not the disclosure is to be investigated. Depending on the nature of the disclosure, the decision of the responsible person will normally be one or more of the following:

- Not to proceed further with the matter.
- To use another more appropriate or required internal University procedure.
- To investigate the matter internally.
- To institute an inquiry involving external third parties.
- To refer the matter directly to a regulatory body (e.g., FSA, H&S Executive)
- To refer the matter to the Police

8.3.2 The Responsible person may seek advice on the matter to inform their decision so long as the advice does not involve anyone implicated in the disclosure.

8.3.3 If, in the opinion of the Responsible Person, the matter is one of a financial nature, the Responsible Person shall report the matter to the Director of Finance, who shall then initiate investigating procedures as set out in the University's Financial regulations and related procedures.

8.3.4 If the Director of Finance is concerned or implicated in the complaint, the Responsible Person shall refer the matter to the Chair of the Audit and Risk Assurance Committee for investigation in accordance with the University's Financial regulations and related procedures.

8.3.5 If the Responsible Person decides that the matter is not to be investigated, the Responsible Person shall report this decision, with the reasons for it, to the complainant, the subject of the complaint and the Board of Trustees.

8.3.6 Stage 2: If the Responsible Person decides that the matter is to be investigated, the Responsible Person shall appoint an Investigating Officer to investigate, under such terms and remit as shall be decided by the Responsible Person.

- 8.3.7 The Investigating Officer shall normally be a senior member of the University who is independent of the subject of the disclosure. In exceptional cases, an independent person, or persons from outside the University may be appointed to be the Investigating Officer.
- 8.3.8 The Investigating Officer shall investigate the matter within the terms set out by the Responsible Person. On completion of the investigation, the Investigating Officer shall report in writing to the Responsible Person.
- 8.3.9 The investigation be undertaken as speedily and sensitively as possible and will not normally take more than 3 calendar months.
- 8.4.0 As soon as possible after disclosure, the Discloser will be informed about what action, if any, is to be taken and will be given the name and contact details of the Designated Person. Periodic updates will be provided by the Responsible Person or their delegee as appropriate.
- 8.4.1 The conduct of an investigation shall not prevent other action being taken, such as suspension or exclusion under other established procedures of the University.

## **9. Outcomes**

- 9.1 On receipt of the report of an investigation, the Responsible Person shall take any action s/he considers appropriate, which may include referral to an outside body.
- 9.2 Within seven days of the decision as to what action, if any, should be taken, the Responsible Person shall report the outcome in writing to the discloser, the subject of the disclosure and the Board of Trustees.

## **10. Appeal**

- 10.1 If the discloser is unhappy with the outcome of the investigation and/ or the actions being taken as a result of the investigation then they may appeal to either the Chair of the Audit and Risk Committee if the responsible person is the Vice Chancellor or University Secretary or the Chair of the Board of Trustees if the Responsible Person is the Chair of the Audit and Risk Committee.
- 10.2 A request for an appeal must be supported by evidence and/ or a reasoned case on one or more of the following grounds:
- Procedural irregularity
  - New evidence that for good reason was not previously available
  - That the outcome was clearly unreasonable
- 10.3 The appeal will be considered by the University Secretary, the Chair of the Audit and Risk Committee, or the Chair of the Board of Trustees and they may seek advice or support as they see fit to make their determination.

## **11. Completion of procedures**

- 11.1 If the discloser accepts the findings at the end of stage 2 or once the stage 3 appeal is completed then the procedures of the University will have been completed.