

Public Interest Disclosure Policy ("Whistleblowing")

Document Title: Public Interest Disclosure Policy ("Whistleblowing")			
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1. Introduction

- 1.1 Teesside University has a duty to conduct its affairs in a responsible and transparent way and to take account of the requirements of its funding bodies for the proper use of public funds and of the standards required in public life (as set out in the reports of the Nolan Committee).¹
- 1.2 The Public Interest Disclosure Act 1998 (which came into effect in July 1999) protects workers against detriment or dismissal for raising concerns about certain matters of public interest and encourages the resolution of problems within the workplace.

2. Purpose and Scope of Document

- 2.1 This Policy covers all employees, students, Governors, consultants, contractors, volunteers, interns, casual workers and agency staff.
- 2.2 The aims of this Policy are:
 - (a) To encourage individuals to report suspected wrongdoing as soon as possible, in the knowledge that their concerns will be taken seriously and investigated as appropriate.
 - (b) To provide individuals with guidance as to how to raise these concerns.
 - (c) To reassure individuals that they should be able to raise concerns without fear of reprisals, even if they turn out to be mistaken.
- 2.3 The University already has in place a number of policies and procedures, including grievance, discipline and student complaints. This Policy should not be used where a matter of concern should more appropriately be addressed through other approved University policies and procedures and in particular should not be used for complaints relating to an individual's own personal circumstances, such as how they have been treated at work.

¹ The seven principles of public life established by the Nolan Committee: selflessness, integrity, objectivity, accountability, openness, honesty and leadership.

3. Personnel responsible for the Policy

- 3.1 The University's Audit Committee has overall responsibility for this Policy and for reviewing the effectiveness of actions taken in response to concerns raised under this Policy.
- 3.2 The University Secretary has day-to-day operational responsibility for this Policy.

4. Public Interest Disclosures (“Whistleblowing”)

- 4.1 Whistleblowing is the disclosure of information, which relates to suspected wrongdoing or dangers. This may include:
 - (a) Financial malpractice, fraud or other impropriety;
 - (b) Criminal offences;
 - (c) Failure to comply with legal obligations or the provision of the Instrument and Articles of Government;
 - (d) Danger to health, safety and the environment;
 - (e) Professional Malpractice;
 - (f) Improper conduct² or unethical behaviour;
 - (g) Miscarriage of justice;
 - (h) Corruption, bribery or blackmail;
 - (i) Research Malpractice;
 - (j) Conduct likely to damage the University's reputation or financial wellbeing;
 - (k) Unauthorised disclosure of confidential information;
 - (l) Attempts to conceal any of the above.
- 4.2 A 'Whistleblower' is a person who raises a genuine concern relating to any of the above. If you have any genuine concerns related to suspected wrongdoing or danger affecting any of the University's activities (a whistleblowing concern) you should report it under this Policy.
- 4.3 This Policy is not designed to be used:
 - (a) To reconsider any matters already addressed under other internal procedures, for example complaints or disciplinary or grievance procedures;
 - (b) By individuals to challenge decisions properly taken by the University.
- 4.4 If you are uncertain whether something is within the scope of this Policy you should seek advice from the University Secretary, whose contact details are at the end of this document.

² Something a reasonable or sensible person would not do.

5. Protection

- 5.1 It is understandable that Whistleblowers are sometimes worried about possible repercussions. The University aims to encourage openness and will support staff and individuals who raise genuine concerns under this Policy, even if they turn out to be mistaken.
- 5.2 Whistleblowers must not suffer any detrimental treatment as a result of raising a concern under this Policy. Detrimental treatment includes dismissal, disciplinary action, threats or other unfavourable treatment connected with raising a concern. If you believe that you have suffered any such treatment, you should inform the University Secretary immediately. .
- 5.3 The University will not tolerate threatening behaviour or retaliation against Whistleblowers in any way. If any member of staff or student is involved in such conduct, they may be subject to disciplinary action. In some cases, the Whistleblower could have a right to sue the individual personally for compensation in an employment tribunal.

6. Confidentiality

- 6.1 The University hopes that individuals will feel able to voice whistleblowing concerns openly under this Policy. In any event, all disclosures made under this policy will be handled in a sensitive manner.
- 6.2 Where an individual wishes to raise a concern confidentially, the identity of the individual will, where possible, be kept confidential to the extent that the maintenance of such confidentiality does not hinder or frustrate any related investigation. If it is necessary for anyone investigating your concern to know your identity, the University will discuss this with you.

7. Anonymous Allegations

- 7.1 The University does not encourage individuals to make disclosures anonymously. Proper investigation may be more difficult or impossible if the University cannot obtain further information from you. It is also more difficult to establish whether any allegations are credible.
- 7.2 The University reserves the right to only consider anonymous disclosures in exceptional circumstances and at its absolute discretion. In exercising this discretion, the University will take into account the seriousness of the issues raised, the credibility of the concern and the likelihood of confirming the allegation from attributable sources. Where an anonymous allegation

is received, the University Secretary will make the determination whether to consider the allegation.

8. Procedure for making a Disclosure

- 8.1 In many cases it will be appropriate for an individual to raise any concerns informally (with, for example, their line manager) in the first instance, either in person or in writing. It may be possible to agree a way of resolving the concern quickly and effectively. However, where the matter is more serious, or the individual feels raising the matter informally has not addressed the concern, or they prefer not to follow that informal step for any reason, they should contact the University Secretary as set out below.
- 8.2 An individual wishing to make a formal disclosure under this Policy should do so in writing to the University Secretary (who will be responsible for keeping the Vice-Chancellor & Chief Executive and Chair of the Audit Committee informed where necessary) unless the disclosure involves the University Secretary, in which case the disclosure should be made to the Vice-Chancellor & Chief Executive. Where the disclosure involves both the Vice-Chancellor & Chief Executive and the University Secretary, the disclosure should be made to the Chair of the University's Audit Committee.
- 8.3 Although an individual making a disclosure will not be expected to prove the truth of any allegations, sufficient information should be contained in the disclosure to demonstrate that the individual has a genuine concern of suspected wrongdoing.
- 8.4 The University Secretary will decide whether the matter should be dealt with under this Policy. If he/she considers that the matter should be dealt with under a different University policy or procedure, he/she will advise the individual as to the appropriate steps which should be taken and/or as appropriate may make a direct referral to another policy or procedure.

9. Process and Investigation

- 9.1 When a disclosure is made, the University Secretary will normally consider the information and decide whether there is a prima facie case to answer. He/she will decide whether an investigation should be conducted and what form it should take. This will depend on the nature of the matter raised and may be:
 - investigated internally;
 - referred to the Internal Auditors;
 - the subject of independent enquiry

Some matters may need to be referred to the relevant outside body, e.g. the Police, HEFCE³. If the University Secretary decides not to proceed with an investigation, the decision will be explained as fully as possible to the individual who raised the concern.

- 9.2 Where an investigation is deemed necessary, it will be conducted sensitively and promptly. The University Secretary may authorise an initial investigation to establish the relevant facts. The investigator will report their findings to the University Secretary, who will then decide if there is a case to answer and what steps, if any, should be taken. This may include setting up a special internal independent investigation or reference to some external authority, such as the Police, for further investigation. The decision may be that the matter would be more appropriately handled under existing policies and procedures for grievance or disciplinary.
- 9.3 Where a disclosure is made any person or persons potentially implicated in wrongdoing will be told at an early stage of it and of the evidence supporting it, and they will be allowed to respond.
- 9.4 Should an investigation or referral conclude there has been a breach of University discipline, the member or members of staff or student(s) responsible may, in addition to any civil or criminal proceedings, be subject to disciplinary action in accordance with the appropriate disciplinary procedures.
- 9.5 The individual making the disclosure will be informed of what action is to be taken where possible although the need for confidentiality means it may not be possible to share some of the details including, for example, specific information about any disciplinary action taken against a member of staff or student.
- 9.6 Individuals should treat any information about the disclosure, the investigation or its outcome as confidential.
- 9.7 Any member of staff wishing to make a disclosure is free to seek the assistance of their trade union and can be accompanied by their trade union representative, or a colleague in any subsequent investigatory meetings. Any other individual wishing to make a disclosure can be accompanied to any subsequent investigatory meetings, so long as no conflict of interest arises as a result of their choice of companion. Similarly, any member of staff implicated following a disclosure is free to seek the

³ The Higher Education Funding Council for England (HEFCE) or as superseded by the Office for Students

assistance of their trade union and can be accompanied in any subsequent investigatory meetings.

10. Outcome

- 10.1 The results of any formal investigation should be reported to the Audit Committee. If disciplinary or other action is taken (following a formal investigation) the feedback to the individual making the disclosure will take account of data protection requirements and may be limited to a statement that action is being taken.
- 10.2 An official written record will be kept of the outcome of any formal investigation under this Policy. Such records will normally be kept for a period of at least five years.

11. Malicious and/ or Vexatious Disclosures

- 11.1 If an individual raises a genuine concern, which is not confirmed by a subsequent investigation, no action will be taken against that individual.
- 11.2 If, however, an individual makes malicious or vexatious disclosure(s), and particularly if they persist in making them, disciplinary action may be taken against the individual in question (in accordance with the relevant staff/student procedure).

12. External Disclosure

- 12.1 The aim of this Policy is to provide an internal mechanism for reporting, investigating and remedying any wrongdoing at the University. In most cases individuals should not find it necessary to alert anyone externally.
- 12.2 The law recognises that in some circumstances it may be appropriate for an individual to report concerns to certain external bodies including:
 - Such body or person (if any) prescribed by the Secretary of State under Section 43F of the Employment Rights Act 1996, as amended by Section 1 of the Public Interest Disclosure Act 1998 as being a prescribed person to whom the particular type of issue in question can be disclosed (a 'Prescribed Person'). An up to date list is available at the following link <https://www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies--2/whistleblowing-list-of-prescribed-people-and-bodies> ;
 - a Government Minister;
 - a legal adviser in the course of taking legal advice.

It will very rarely, if ever, be appropriate to alert the media.

- 12.3 External bodies are likely to ask whether a matter raised has been brought to the University's attention and, if not, why not. The University recommends, therefore, that consideration is had as to whether internal routes have been exhausted or why they are inappropriate. Further, it should be noted that in certain circumstances disclosures to external bodies may not be protected by the Public Interest Disclosure Act.

13. Third Party Complaints

- 13.1 Disclosures made under this Policy usually relate to the conduct of University staff or students, but they may sometimes relate to the actions of a third party, such as a supplier or a service provider. The law allows individuals to raise a concern with a third party directly, where the individual reasonably believes it relates mainly to the third party's conduct or something that is legally their responsibility. However, the University encourages individuals to report such concerns internally first following the procedure set out above.

14. Independent Advice

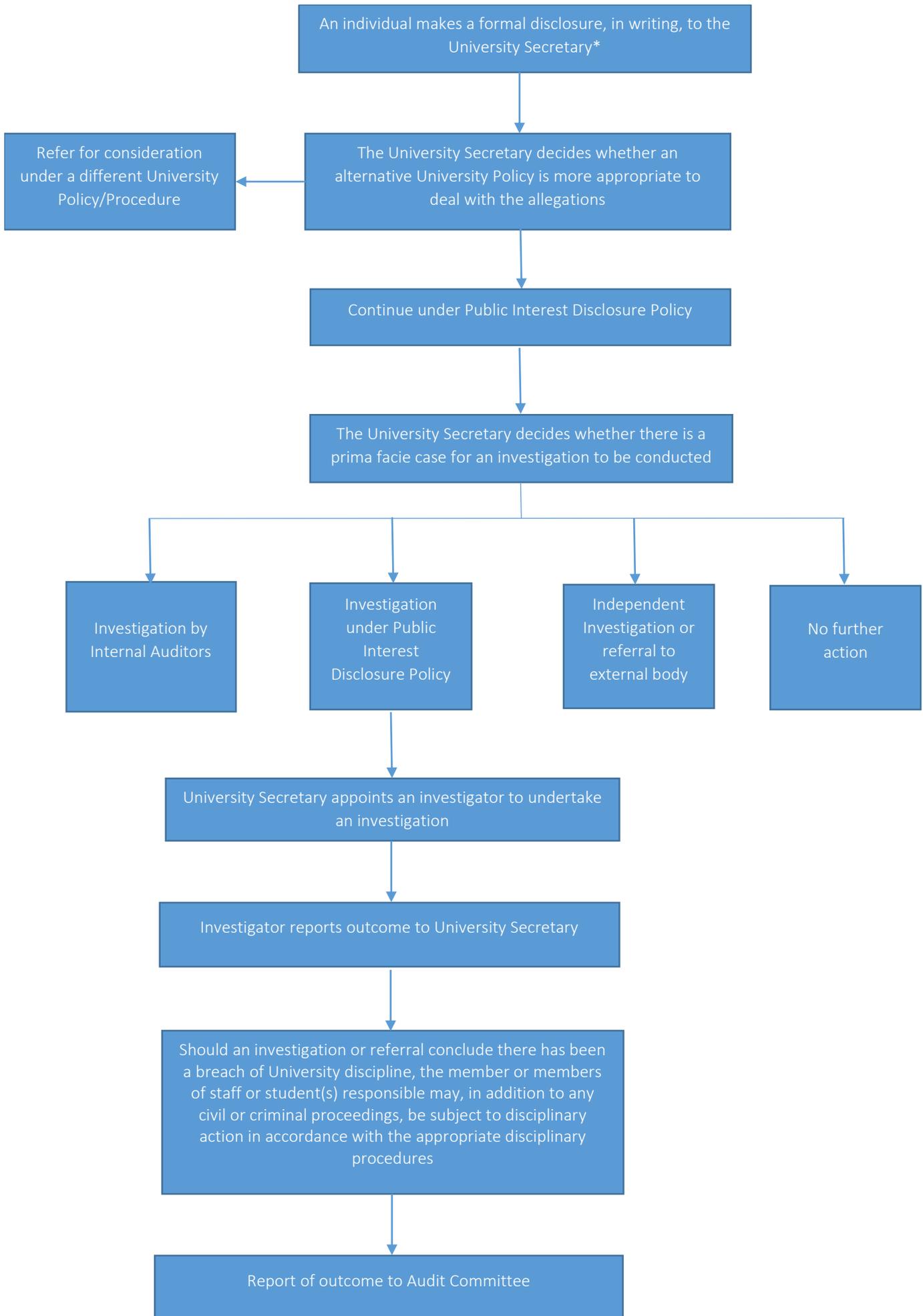
- 14.1 Independent advice regarding whistleblowing is available for members of staff via trade unions or professional bodies (such as the AUA). Alternatively, there is the independent charity Public Concern at Work (PCAW), which can be contacted via its website <http://www.pcaw.org.uk/> or via the telephone number 0207 404 6609. PCAW offers advice on raising a concern about serious malpractice at work and would be able to advise on the circumstances (for example criminal activity) in which actions could be reported directly to an outside body, such as a regulator or to the Police.

15. Contact Details

Any formal disclosure made under this Policy should be submitted, in writing, to the University Secretary:

Mrs Helen Cutting
University Secretary
Legal & Governance Services
Teesside University
TS1 3BX

H.Cutting@tees.ac.uk



*unless the disclosure involves the University Secretary, in which case the disclosure should be made to the Vice-Chancellor & Chief Executive. Where the disclosure involves both the Vice-Chancellor & Chief Executive and the University Secretary, the disclosure should be made to the Chair of the University's Audit Committee