

# Public Interest Disclosure Policy

## 1. Introduction

**1.1** Workers (see definition in section 2 below) are often the first to realise that there may be something seriously wrong within an organisation. They may, however, not express their concerns because they fear that speaking up would be disloyal to their colleagues or to the University. They may also fear harassment or victimisation. In these circumstances it may be easier to ignore the concern rather than report what may just be a suspicion of malpractice.

**1.2** The University takes malpractice very seriously. We expect employees, and others, who have genuine and serious concerns about any aspect of the University's operations to come forward and voice these concerns.

**1.3** This policy document makes it clear that staff may do so without fear of victimisation, subsequent discrimination, or disadvantage, in the knowledge that their concerns will be taken seriously and investigated as appropriate, and that their confidentiality will be respected.

**1.4** This confidential reporting policy is intended to provide staff with guidance as to how to raise concerns and to encourage and enable such workers to raise serious concerns within the University, rather than ignoring a problem or "blowing the whistle" outside of the University. However, nothing in this policy should be seen to encourage the deliberate lodging of false, vexatious or malicious complaints. It will remain the policy of the University to take appropriate action in such cases.

**1.5** These procedures act in conjunction with other University policies and procedures, e.g. the Individual Grievance Procedure and the Fraud Response Plan. They do not replace them and any concerns outside of this policy should be raised in accordance with those other policies.

**1.6** This policy does not form part of any contract of employment or other contract to provide services and the University may amend it at any time.

## 2. Scope

This policy applies to all "workers" of The University of Bolton in respect of disclosures of matters set out in section 3, and in particular paragraph 3.1, below.

Workers include all University employees, officers, consultants, casual workers, agency workers, a person on work experience at the University (not including work experience as part of a University course) and a person working for a contractor of the University where the University determines his or her work. Workers do not include students (who have other mechanisms to report concerns open to them), members of the Governing Body (unless staff members) or the general public. The University reserves the right to request evidence to confirm that a disclosure under this policy is being made by a worker.

## 3. Disclosures covered by this policy

**3.1** This policy relates to disclosures relating to the following matters only ("protected disclosures"):

- (i) That a criminal offence has been or is likely to be committed;
- (ii) That a person has failed, is failing or is likely to fail to comply with a legal obligation to which she/he

is subject;

**(iii)** That a miscarriage of justice has occurred, is occurring, or is likely to occur;

**(iv)** That the health and safety of any individual has been, is being, or is likely to be jeopardised;

**(v)** That the environment has been, is being, or is likely to be damaged; and/or

**(vi)** That information intending to show any matter falling within the above categories has been, is being, or is likely to be deliberately concealed.

**3.2** A whistleblower is a person who raises a genuine concern relating to any of the above in paragraph 3.1. If a member of staff (or other worker) has any genuine concerns related to suspected wrongdoing or danger affecting any of the University's activities as set out at paragraph 3.1 above, they should report it under this policy.

**3.3** It must also be in the public interest for the disclosure to be a protected disclosure (e.g. seeking through disclosures to advance personal grievances, or actions which could be seen as harassing, bullying or discriminating against a person or persons are not permitted and would not be seen as in the public interest). This policy should not be used for complaints relating to members of staff's own personal circumstances such as the way they have been treated at work. In those cases, they should use the University's Grievance Procedure.

**3.4** It is not a protected disclosure if the disclosure is itself an offence.

**3.5** The University is only able to deal under this policy with protected disclosures which relate to it or to persons in respect of whom the University has a legal responsibility (e.g. its employees). For the avoidance of doubt this policy is not intended to provide a forum to question operational decisions taken by the University in its ordinary course of business or to review decisions taken under other policies and procedures of the University.

**3.6** If a complaint relates to a member of staff's personal circumstances but they also have wider concerns regarding one of the areas as set out at paragraph 3.1 above, they should discuss with the University's Clerk to the Governors which route is the most appropriate.

**3.7** If a member of staff (or other worker) is uncertain whether something is within the scope of this policy they should seek advice from the University's Clerk to the Governors, whose contact details are at the end of this policy.

## 4. The Public Interest Disclosure Act 1998

**4.1** This policy is made in respect of The Public Interest Disclosure Act 1998 (widely referred to as the Whistleblowers' Act) ("the Act") which came into force in 1999. The Act is summarised below; this summary is not intended to be a full summary of all provisions of the Act.

**4.2** The Act is intended to encourage 'workers' to raise their concerns in a responsible way where there is a practice within an organisation which relates to any of the matters listed in section 3 above.

**4.3** If workers do raise such concerns, they will be protected from subsequent victimisation, unfair dismissal, redundancy and detriment as a result of making their protected disclosure, provided that their case falls within the detailed criteria in the Act. These criteria include that the discloser must reasonably believe the disclosure to be true.

**4.4** The intention of the Act is that workers will have the right to raise their concerns internally. If a worker does not want to make a disclosure internally then they may make a disclosure to a legal adviser of their choice, various bodies prescribed for the purposes of the Act (as shown on the attached link <https://www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies-2/whistleblowing-list-of-prescribed-people-and-bodies>) or Ministers of the Crown and still get the protections of the Act. Disclosures to other persons or organisations do not give the protections of the Act and may be viewed by the University as breach of contract or duty by the discloser.

## 5. Aims of the University Policy

**5.1** This policy aims to:

**(i)** Encourage staff (or other workers) to feel confident in raising concerns and to question and act upon concerns about practice;

**(ii)** Provide avenues for staff (or other workers) to raise those concerns and receive feedback on any action taken; and

**(iii)** Reassure staff (or other workers) that they will be protected from possible reprisals or victimisation if they have a reasonable belief that they have made a protected disclosure.

**5.2** There are existing procedures in place to enable staff (or other workers) to lodge a grievance relating to their own employment or where they feel that they have been unfairly treated. Additionally, the University has recognition agreements with UCU and UNISON. Within these agreements there are procedures for the resolution of collective concerns and disputes. Those disputes and matters should follow those policies and procedures.

## 6. Initial Step

**6.1** We hope that in many cases staff will be able to raise any concerns with their line manager. Staff may tell them in person or put the matter in writing if they prefer. They may be able to agree a way of resolving their concern quickly and effectively. In some cases, they may refer the matter to the Clerk to the Governors.

**6.2** If a member of staff (or other worker) is of the view that all internal, informal and formal avenues have been exhausted or that no appropriate avenue exists to address the concern in question, a disclosure should, subject to paragraph 6.5 below, be made to the Clerk to the Governors either verbally or in writing. The Clerk to the Governors will invariably advise workers making disclosures of the protection afforded by this policy and will encourage them to submit written statements and to put their names to them.

The University does not encourage staff (or other workers) to make disclosures anonymously. Concerns expressed verbally and/or anonymously are less powerful but may nevertheless be considered at the discretion of the Clerk to the Governors taking into account:

**(i)** the seriousness of the issues raised; and

**(ii)** the credibility of the concern; and

**(iii)** the likelihood of confirming the allegation from alternative sources.

Staff (or other workers) should be aware that proper investigation may be more difficult or impossible if the University is unable to obtain further information from members of staff (or other worker). It is also more difficult to establish whether any allegations are credible. Whistleblowers who are concerned about possible reprisals if their identity is revealed should come forward to the Clerk to the Governors and appropriate measures can be taken to preserve confidentiality. If in doubt, advice is available from Protect, the independent whistleblowing charity, who offer a confidential helpline - see the end of this policy.

**6.3** The Clerk to the Governors may arrange a meeting with the member of staff as soon as is practicable to discuss their concern. The member of staff may bring a colleague or union representative to any meetings under this policy. The member of staff's colleague must respect the confidentiality of the member of staff's disclosure and any subsequent investigation.

**6.4** The Clerk to the Governors will immediately inform the Vice Chancellor and Chair of the Board of Governors unless either is the subject of the disclosure in which case the other only should be informed; or if both are subjects of the disclosure the Chair of the Audit committee should be informed.

**6.5** Although a member of staff (or other worker) making a disclosure will not be expected to prove the truth of any allegation, sufficient information and prima facie evidence should be contained in the disclosure to demonstrate that reasonable grounds for the allegation exist. Unsupported or bare allegations are difficult to investigate and the University is likely to place significantly less credibility on them, and even more so if they are made anonymously.

**6.6** In all cases involving financial malpractice or impropriety, the Clerk to the Governors will consider the application of the Fraud Response Plan and act in close consultation with the Vice Chancellor who is the Executive Officer responsible for the University's public funding (or if the Vice Chancellor is the subject of the relevant disclosure then the Chair of the Board of Governors, or if both are involved then the Chair of Audit).

**6.7** In any case in which the Clerk to the Governors is the subject of a disclosure or wishes to make one, disclosure should be made to the Vice Chancellor. If the latter is also involved disclosure should be made to the Chair of Governors. If both are involved the disclosure should be made to the Chair of the Audit Committee. In such circumstances, the person to whom the disclosure is made shall pursue this procedure acting in the role of Clerk to the Governors as specified.

## 7. Process

**7.1** The University hopes that staff (or other workers) will feel able to voice whistleblowing concerns openly under this policy. All concerns will initially be treated confidentially and every effort will be made not to reveal the identity of the discloser who will not be required without his/her written consent to participate in any enquiry or investigation unless there are grounds to believe that s/he may have been involved in misconduct or malpractice. However, it must be understood that the success of internal investigations, disciplinary proceedings and criminal prosecutions may be dependent on the willingness of disclosers to participate. In general, the Clerk to the Governors (or other investigating officer under this policy) will not reveal the identity of the discloser without his/her permission unless:

**(i)** s/he is under legal obligation to do so; or

**(ii)** the information is already in the public domain; or

**(iii)** on a strictly confidential basis to his/her administrative assistant in the context of preparation of reports;

**(iv)** on a strictly confidential basis to a professionally qualified lawyer for the purpose of obtaining advice;

**(v)** s/he forms the opinion that the disclosure is deliberately untrue, vexatious and/or malicious.

**7.2** The Clerk to the Governors (or other investigating officer under this policy) will acknowledge receipt of the disclosure, will consider the information contained within the disclosure and 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 existing approved procedures. In making this determination, the Clerk to the Governors (or other investigating officer under this policy) may take such advice or consult with senior colleagues and/or external legal advisors and make such preliminary enquiries as may be necessary.

**7.3** Having determined that the matter disclosed is properly a matter for consideration within this policy and procedure, the Clerk to the Governors (or other investigating officer under this policy) shall determine whether to:

**(i)** call for the matter to be investigated internally;

**(ii)** refer the matter to the police; and/or

**(iii)** call for an independent enquiry.

In some cases, a matter disclosed might be dealt with by agreed action and/or preliminary enquiries without the need to instigate an investigation. In determining the above, the Clerk to the Governors (or other investigating officer under this policy) may take such advice or consult with senior colleagues and/or external legal advisors and make such preliminary enquiries as may be necessary.

**7.4** 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 and any action under these procedures will be suspended pending the completion of the police enquiries.

**7.5** If a disclosure is to be referred to an independent enquiry, internal investigation other than as part of such enquiry will normally be suspended, pending completion of such independent enquiry.

**7.6** If a disclosure is to be the subject of internal investigation, the Clerk to the Governors (or other investigating officer under this policy) will determine who should undertake the investigation and its terms of reference. Internal Audit would normally be instructed to investigate disclosures relating to financial malpractice or impropriety and in all cases of alleged fraud the Fraud Response Plan should replace this procedure unless the Director of Finance is involved. In other cases, the investigation should 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 shall take any part in investigating matters contained in the disclosure.

## 8. Initial Action and Feedback

**8.1** The Clerk to the Governors (or other investigating officer under this policy) will, as soon as is reasonably practicable, inform the member staff (or other worker) making the disclosure what action, if any, is to be taken.

**8.2** If no action is to be taken, the Clerk to the Governors (or other investigating officer under this policy) will inform the person making the disclosure of the reason in writing. In such event, the person making the disclosure may request the Chair of the Governors (or the Chair of the Audit Committee if the subject of the disclosure is financial malpractice or impropriety) to review the disclosure and the reasons given for not taking further action. The Chair of the Governors (or of the Audit Committee, as the case may be), whose decision will be final, will either confirm the decision that no further action be taken, or determine what further action is to be taken and through what process.

**8.3** Where a decision is made to conduct an internal investigation into a disclosure, the person(s) against whom the disclosure is made shall be provided with a copy of the disclosure and any evidence supporting it by the Clerk to the Governors (or other investigating officer under this policy), and shall have the opportunity to make a full response to the disclosure during the course of the investigation. No investigation shall be concluded or action taken without the person against whom the disclosure is made having had a copy of the disclosure and any evidence supporting it, and an opportunity to make a full response to the disclosure. Normal rights of representation will apply to all parties during the course of such internal enquiries. In cases where the person against whom the enquiry is made is at potential risk of criminal prosecution, the right to professional legal representation will apply.

**8.4** In the event of a decision to call for an independent enquiry, the person against whom the allegation is made will be provided with a copy of the disclosure and any evidence supporting it by the Clerk to the Governors (or other investigating officer under this policy).

**8.5** In the event of a decision to refer the matter directly to the police, the provision of a copy of the disclosure and any evidence in support of it to the person against whom the allegation is made, will be at the absolute discretion of the police.

**8.6** The University will aim to keep the person making the disclosure informed of the progress of the investigation and its likely timescale. However, sometimes the need for confidentiality may prevent the University from giving the person making the disclosure specific details of the investigation, an outcome or any disciplinary action taken as a result. The person making the disclosure should treat any information about the investigation as confidential.

## 9. Subsequent action

Upon completion of an investigation (however conducted), a written report will be submitted by the Clerk to the Governors (or other investigating officer under this policy) to the Vice Chancellor (or if the Vice Chancellor is the subject of the disclosure then to the Chair of Governors or if both are involved to the Chair of Audit) who will determine what action, if any, should be taken in the circumstances. This 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. While the University cannot always guarantee the outcome that the person making the disclosure is seeking, the University will try to deal with their concern fairly and in an appropriate way. By using this policy, staff can help the University to achieve this. If the person making the disclosure is not happy with the way in which their concern has been handled, they can raise it with one of the other key contacts as set out at the end of this policy. Alternatively, they may contact the Chair of the Audit Committee. Contact details are set out at the end of this policy.

## 10. Reporting of Outcomes

A report of all disclosures, preserving confidentiality where appropriate, and any subsequent action will be made by the Clerk to the Governors (or other investigating officer under this policy) to the Audit Committee, and, if approved by the Audit Committee, a summary shall be sent to the person making the protected disclosure. The Audit Committee will have the responsibility for the maintenance of oversight of this policy and procedure.

## 11. Protection of Involved Parties

**11.1** The University recognises that the decision to make a disclosure can be a difficult one. However, if this is done in good faith and is based on genuine belief of malpractice, staff have nothing to fear. Whistleblowers must not suffer any detrimental treatment as a result of raising a concern. Detrimental treatment includes dismissal, disciplinary action, threats or other unfavorable treatment connected with raising a concern. If a person making a disclosure believes that they have suffered any such treatment, they should inform the Clerk to the Governors or their line manager immediately. If the matter is not remedied the person making a disclosure should raise it formally using the University's Grievance Procedure.

**11.2** Members of staff must not threaten or retaliate against whistleblowers in any way. If a member of staff is involved in such conduct they may be subject to disciplinary action.

**11.3** Conversely the University has an obligation to protect its staff and other parties from deliberately untrue, vexatious and/or malicious disclosures. Where there are reasonable grounds to believe that this is the case or where an external disclosure is made in breach of these procedures without reasonable grounds or otherwise than to an appropriate regulatory body, the University reserves the right to initiate disciplinary procedures or other appropriate action.

## 12. Conclusion

**12.1** The capacity of this policy to provide an effective vehicle for the expression of serious concerns about malpractice within the University will be negated if it is used as a vehicle for the expression of

petty, frivolous or vexatious concerns or to address issues which could more effectively be addressed by informal discussion or through formal procedures already in existence or as a means of seeking to instigate an investigation without furnishing appropriate evidence to support those concerns raised. To the extent that the policy exists for their protection, members of staff (or other workers) are requested to use it in a responsible manner for appropriate concerns.

**12.2** The aim of this policy is to provide an internal mechanism for reporting, investigating and remedying any wrongdoing in the workplace. In most cases members of staff (or other workers) should not find it necessary to alert anyone externally.

**12.3** The law recognises that in some circumstances it may be appropriate for a member of staff (or other worker) to report their concerns to an external body such as a regulator. It will rarely ever be appropriate to alert the media. The University strongly encourages the member of staff (or other worker) to seek advice before reporting a concern to anyone external. The independent whistleblowing charity, Protect, operates a confidential helpline. They also have a list of prescribed regulators for reporting certain types of concern. Their contact details are at the end of this policy.

**12.4** Whistleblowing concerns usually relate to conduct of other staff, but they may sometimes relate to the actions of a third party, such as a service provider. In some circumstances, the law will protect a member of staff (or other worker) if they raise the matter with the third party directly. However, the University encourages members of staff to report such concerns internally first, in line with this policy. Members of staff (or other workers) should contact their line manager or one of the other individuals set out at the end of this policy for guidance.

## 13. Review

**13.1** This policy will be reviewed regularly by the University. This policy was last externally reviewed in 2022.

**13.2** The Audit Committee has overall responsibility for the effective operation of this policy, and for reviewing the effectiveness of actions taken in response to concerns raised under this policy.

**13.3** The University's Clerk to the Governors has day to day operational responsibility for this policy and you should refer any questions about this policy to them in the first instance. The Assistant Registrar must ensure that regular and appropriate training is provided to all managers and other staff who may deal with concerns or investigations under this policy.

**13.4** All staff are responsible for the success of this policy and should ensure that they use it to disclose any suspected danger or wrongdoing. Staff are invited to comment on this policy and suggest ways in which it might be improved. Comments, suggestions and queries should be addressed to the University's Clerk to the Governors who will involve the Audit Committee where appropriate.

<b>TITLE OF POLICY:</b> Public Interest Disclosure Policy	
Policy Ref	VC/01/2019/PID
Version Number	2.0
Version Date	February 2023
Name of Developer/Reviewer	Assistant Registrar External Legal Adviser (Reviewer)
Policy Owner (Group/Centre/Unit)	Vice Chancellor's Office
Person responsible for implementation (postholder)	
Approving Committee/Board	Board of Governors on the recommendation of the Audit Committee
Date Approved	14 February 2023
Effective from	14 February 2023
Dissemination method (e.g. website)	Website
Review Frequency	2 years
Reviewing Committee	Audit Committee

Consultation history (individuals/group consulted and dates)	
Document History (e.g. rationale for and dates of previous amendments)	Replaces previous policy (January 2019)

## 14. Contacts

Registrar & Clerk to the Governors	Dr Sue Duncan <a href="mailto:s.duncan@bolton.ac.uk">s.duncan@bolton.ac.uk</a>
<b>Chair of the Audit Committee</b>	Dr Harni Bharaj Vice Chancellor's Office University of Bolton
<b>Protect</b> (Independent whistleblowing charity)	Helpline: 0203 117 2520 Email: <a href="mailto:info@protect-advice.org.uk">info@protect-advice.org.uk</a> Website: <a href="https://protect-advice.org.uk/contact-protect-advice-line/">https://protect-advice.org.uk/contact-protect-advice-line/</a>