

## Policy Title: Policy on Public Interest Disclosure

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		<b>Title: University Secretary</b>	
<b>Approved by:</b>		<b>Committee\individual: Joint Negotiating Committee</b>	
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## Policy Statement

1. Sheffield Hallam University is committed to promoting openness in the workplace, and encourages employees, workers and former employees (all referred to as 'workers' in this Policy) to raise concerns to the University early and before taking matters further or to an external body.
2. The University will take all reasonable steps to protect those raising concerns from detrimental treatment<sup>1</sup>

## Objectives

3. The objective of the Policy is to ensure that the University complies with the legislation related to public interest disclosure<sup>2</sup> and that it protects the rights of its workers when they make such a disclosure.

## Purpose

4. The purpose of this policy is to specify the University's policy on public interest disclosure, also known as 'making a disclosure in the public interest', for all workers.
5. Public interest disclosures cover the process by which a worker in an organisation raises concerns about possible unethical behaviour, fraud, crime, danger or other serious risk that could threaten students, customers, colleagues, stakeholders, the public or the University's own reputation. Essentially public interest disclosure is the raising of a concern about a danger, risk, malpractice or wrongdoing which affects others so that it may be investigated.
6. This policy has been developed in the context of the following legislation:
  - Employment Rights Act 1996
  - Public Interest Disclosure Act 1998 (PIDA)
  - Bribery Act 2010
  - Enterprise and Regulatory Reform Act 2013

## Scope

7. This Policy is intended for use by workers<sup>3</sup> who have evidence that the University has failed in a legal or regulatory duty and/or concealed such a failure, and who have a reasonable belief that disclosure of the matter is in the public interest.

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<sup>1</sup> See paragraphs 21 to 23

<sup>2</sup> [Employment Rights Act 1996](#); [Public Interest Disclosure Act 1998](#); and [Enterprise and Regulatory Reform Act 2013](#)

<sup>3</sup> See guidance note

8. This Policy does not apply to personal grievances concerning a worker's terms and conditions of employment or other aspects of the working relationship, complaints of bullying or harassment, or disciplinary matters. These should be dealt with under separate procedures<sup>4</sup>.
9. The University also has in place other policies and procedures to address issues which may arise in the workplace, including those relating to concerns about bribery, fraud and corruption. In many instances where there is a suspicion of improper behaviour, it will be more appropriate to follow these specific policies and procedures. Details are set out in the Anti-Bribery Policy, the Anti-Corruption Policy and the Fraud and Corruption Response Plan. The University has a Money Laundering Officer (MLRO) whose responsibilities are set out in the Financial Regulations. The MLRO's responsibilities include receiving reports from staff of their suspicions and deciding whether these should be reported to the Serious Organised Crime.

## Policy Details

10. The Public Interest Disclosure Act 1998 provides 'workers' with legal protection against being dismissed or suffering detriment due to the acts or omissions of their employers or colleagues as a result of making a public interest disclosure.
11. In order to gain protection a disclosure must meet the criteria for a qualifying disclosure and then the criteria for a protected disclosure.

### Protection of workers

12. The University prohibits workers from any act or omission which has the effect of causing a detriment<sup>5</sup> to another worker who had made or intended to make a 'protected disclosure'.
13. As well as the University's liability, the worker may be personally liable to other workers for detriment suffered if they do not abide by paragraph 12 and subject to action under the Problem Resolution Framework.

### Confidentiality of worker making disclosure

14. The University will normally treat disclosures in a confidential manner but there may be cases where this is not possible. For example, the identity of the worker raising the concern will be kept confidential wherever possible so long as it does not hinder or frustrate any investigation and as long as there is no requirement by law to disclose it.

### Disclosure of confidential information by a worker<sup>6</sup>

15. Where a worker is considering making a disclosure of confidential information they should seek advice from the University Secretary, Human Resources and

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<sup>4</sup> See guidance note

<sup>5</sup> See guidance note for examples of detrimental treatment

<sup>6</sup> See guidance note for further details

Organisational Development or their Trade Union or professional body or take independent legal advice.

16. All workers have an implied duty of confidentiality to the University, whether or not there is a specific confidentiality clause within their contract of employment.

17. Disclosure of confidential information may be regarded as a serious breach of discipline unless this falls within the provisions of protected disclosure.

### **Anonymous allegations**

18. Whilst anonymous disclosures are discouraged as they are more difficult to investigate, verify and follow up, concerns expressed anonymously will be considered at the discretion of the University. The factors to be taken into account will include:

- the seriousness of the issues raised
- the credibility of the concern (including any information provided about the discloser's identity or relationship with the University); and
- the likelihood of confirming the allegation from attributable sources.

19. All allegations received will be logged by the University and if the University decides not to proceed with an investigation, the reasons behind this decision will be documented. Feedback will not be able to be given to the worker raising the concern anonymously unless they have provided the University with an appropriate route to provide feedback, for example, an anonymised email address.

20. Workers should note that making a disclosure anonymously means that it can be more difficult for them to qualify for protection.

### **Untrue Allegations**

21. The University recognises that if an investigation concludes that the disclosure was untrue it does not automatically mean that it was raised maliciously by a worker.

22. If an individual makes an allegation, which is not confirmed by subsequent investigation, they will not suffer detriment for having raised a concern and no action will be taken against the individual unless it is later proved that the information provided by the worker was false in their knowledge or that the allegations were malicious or vexatious. [Furthermore, if the matter is heard by an employment tribunal, even if successful at trial the worker may receive up to 25% less compensation if the University can show that bad faith or malice was the predominant motivation for the disclosure.]

### **Roles and Responsibilities**

23. **Worker** raising a concern must comply with policy and procedure.

24. **All staff** must comply with the Policy and are reminded that any detrimental treatment of a worker making a public interest disclosure is unacceptable and can lead to personal liability and/or action under the PRF.

25. **Line managers** will ensure awareness of this Policy to workers at induction. This

will be included in the University Induction Checklist.

26. **Human Resources and Organisational Development** will include information about the Policy to staff through induction.

27. **Governance Services** is the route through which disclosures are submitted and advise workers who are considering making a disclosure.

28. The **University Secretary** or their designated nominee is the designated officer under the Policy.

29. **Vice-Chancellor** will be designated officer where the allegation relates to the University Secretary.

30. **Chair of Audit and Risk Committee** will be designated officer where the allegation relates to the University Secretary and the Vice-Chancellor.

### Associated Documents

- [Anti-Corruption Policy](#)
- [Fraud and Corruption Response Plan](#)
- [Anti-bribery Policy](#)
- [Problem Resolution Framework](#)
- [Principles of Integrity in Research and Procedures for Dealing with Allegations of Research Misconduct](#)
- [Procedure for Reporting Material Adverse Events, Serious Incidents and other significant events to the Office for Students](#)

### References

- Employment Rights Act 1996
- Public Interest Disclosure Act 1998 (PIDA)
- Bribery Act 2010
- Enterprise and Regulatory Reform Act 2013

## Public Interest Disclosure Procedure

### Step 1 - Making a disclosure

1. The worker should make the disclosure in writing to the University Secretary (as the designated officer)<sup>7</sup>. Where the University Secretary is the subject of the disclosure, the disclosure should be made to the Vice-Chancellor in writing. If the concern involves or implicates both these individuals then it should be raised with the Chair of the Audit and Risk Committee<sup>8</sup>.
2. Workers should make a disclosure to the University in the first instance, except where the worker reasonably believes that the information disclosed and any allegation is substantially true in which case they may tell an independent prescribed person or body about the malpractice. It must be the correct prescribed person or body for the issue. A List of prescribed people and bodies is set out in the Public Interest Disclosure (prescribed persons) order 2014). Workers considering making such a disclosure are advised to contact their Trade Union, or professional body or take independent legal advice for advice.
3. It is only in exceptional circumstances that a worker can go to the media without losing their protected rights. Workers considering making such a disclosure are advised to contact their Trade Union, or professional body or take independent legal advice.

### Step 2 - Investigation of the disclosure

4. The University Secretary will issue an acknowledgement of receipt of the disclosure to the individual making the disclosure (where their identity is known).
5. The University Secretary, as the designated person, will decide after appropriate consultation whether the disclosure falls within the scope of this policy or whether it would be more appropriately considered through another policy. The University Secretary will then decide who should investigate.
6. Where a decision is taken not to investigate or take any action the worker will be informed of the reasons why (subject to confidentiality considerations). Where the decision is taken to refer to another policy or procedure the worker will be informed. Where a decision is made not to refer a disclosure for investigation, the worker will be given feedback to explain the decision taken and shall have the right to request a review of the decision. Where the disclosure has been made anonymously the worker may request feedback by using an anonymised email address provided this is done at the time of making the disclosure.
7. If the University Secretary decides that the matter falls within the scope of the public interest disclosure policy and procedures they will nominate a person or persons to conduct the investigation. The person conducting the internal investigation will not be involved in making subsequent decisions based on the outcome of the investigation.

The designated officer may decide to

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<sup>7</sup> [Clerkttboard@shu.ac.uk](mailto:Clerkttboard@shu.ac.uk)

<sup>8</sup> [governance@shu.ac.uk](mailto:governance@shu.ac.uk)

- appoint someone internal to the University to lead an investigation;
  - appoint external expertise if required to lead an investigation; or
  - refer the matter to the police or a prescribed organisation for investigation.
8. Where the matter is to be investigated internally within the University, the investigator will be independent of the area in which the malpractice or impropriety is alleged to have occurred.

### **Step 3 - Outcome of Investigation**

9. Following the investigation the University Secretary will decide, after appropriate consultation, what action (if any) should be taken and will report the outcomes to the worker (subject to confidentiality considerations). Where the disclosure has been made anonymously the worker may request feedback by using an anonymised email address or phonecall (see also paragraph 6 of the procedure). Further investigation may be recommended.
10. A report will be made to the Vice-Chancellor on the action to be taken. A report of the investigation will be made to the Audit and Risk Committee.

### **Step 4 - Independent review/appeal**

11. If the individual remains dissatisfied at the outcome of steps 2 and 3 they may ask the University Secretary to refer the matter to an independent member of the Board of Governors for independent review.
12. The purpose of the independent review will be:
- to decide whether the matter should be investigated further (if the University Secretary has decided not to take the matter further under paragraph 6 above); or
  - to decide whether the step 2 investigation has been adequately handled; and
  - if it is judged that the Step 2 investigation was adequate, to decide whether the response (step 3) was reasonable in all the circumstances;
13. The person or persons conducting the independent review will have the authority to make recommendations as follows:
- recommend a further internal investigation;
  - recommend that the University reconsider the findings of the investigation.
14. The independent reviewer may interview the worker or any other persons including those involved in handling the concern. New evidence or information will be considered at the discretion of the reviewer.

### **Step 5 - Outcome of the Independent Review**

15. Following the investigation the Independent Reviewer will decide, after appropriate consultation, what action (if any) should be taken and will report the outcomes to the worker (subject to confidentiality considerations). Where the disclosure has been made anonymously the worker may request feedback by using an anonymised email address or phonecall (see also paragraph 6 of the procedure). Further investigation may be recommended.

16. A report will be made to the Vice-Chancellor on the action to be taken. A report of the investigation will be made to the Audit and Risk Committee.

### **Points to note**

### **Representation**

1. Workers are entitled to be accompanied by a representative of their Trade Union or a work colleague at any formal meeting to discuss their concerns. In line with the Problem Resolution Framework, workers are not entitled to bring a legal representative to formal meetings convened under the Policy on Public Interest Disclosure.

### **Written records and monitoring disclosures**

2. The University Secretary will retain written records of the concern and investigation. These records will be kept for a minimum of three years.
3. The University Secretary will maintain an anonymous register of all public interest disclosure cases which are investigated by the University. The register will contain the following information:
  - a. the date of disclosure
  - b. the type of allegation made
  - c. the status of the investigation
  - d. outcomes and action taken

### **Annual Report**

4. The University Secretary will submit an annual report on public interest disclosures to the Audit and Risk Committee at its first meeting of each academic year.

### **Timescales**

5. The University will ensure that matters are resolved as quickly as possible, whilst having regard to the nature and complexity of the disclosure.

### **Review of Policy and Procedures**

6. The public interest disclosure policy and procedures will be reviewed within 3 years following its implementation or earlier by joint agreement.

### **Principles of handling a disclosure and conducting an investigation**

7. The following principles apply:
  - All concerns raised by an individual will be treated fairly and properly.
  - Disclosures will be treated in a confidential and sensitive manner and all related material will be stored securely.

- The information produced when handling a disclosure will be kept confidential, limiting access to those people relevant to the investigation. This includes the identity of the individual making a disclosure (where the identity is known).
- Official written records will be kept at each stage of the public interest disclosure investigation process.
- Disclosures will be investigated as sensitively and quickly as possible.
- The University will not tolerate reprisals against, harassment of or victimisation of any individual raising a genuine concern that is in the public interest.

### Sources of guidance

8. The following may provide advice to a worker

- Governance Services<sup>9</sup>
- HROD
- Your TU
- Your professional body
- [ACAS](#)
- [Public Concern at Work](#)
- Independent Legal Advisers

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<sup>9</sup> contact [clerkttboard@shu.ac.uk](mailto:clerkttboard@shu.ac.uk)

Sheffield Hallam University Public Disclosure Policy

