



University of Essex



Whistleblowing policy and procedure

(Disclosure in the public interest)

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1. Overview

The aim of the Whistleblowing Policy and Procedure is to provide an open and transparent way to raise serious concerns that are in the public interest. The raising of such concerns can make a positive difference, alerting the University to serious risks or malpractice that might otherwise take time to come to light. Individuals who make disclosures under the terms of this policy will be protected and supported.

2. Scope and exclusions

2.1 This policy applies to all employees, students, workers, contractors, subcontractors, suppliers, visitors, volunteers and invitees. at the University of Essex. Employees of the University of Essex Campus Services (UECS) or Wivenhoe House Hotel have their own specific policies and procedures. Where there is not a specific UECS policy or procedure the University of Essex policy or procedure will apply.

2.2 'Whistleblowing' means the raising of a concern or making a disclosure that is in the public interest i.e. it is a disclosure of serious wrongdoing that has an impact beyond the individual making the disclosure. Concerns may be raised by employees, workers, students, contractors, visitors and invitees.

2.3 Where concerns are solely of a personal nature, they must be raised under other procedures, such as the [Grievance Procedure](#).

2.4 Although workplace concerns would normally be raised with line managers, it is recognised that the seriousness of some issues may require disclosure under this procedure.

2.5 Disclosure should normally be made to the Registrar and Secretary in the first instance. The next step may then be an investigation. The individual making the disclosure will be kept informed of progress in so far as possible, bearing in mind the need to protect confidentiality of other parties.

3. Policy Statement

3.1 The 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 funding bodies and the principles of public life set out by the Nolan Committee, which are: Selflessness, Integrity, Objectivity, Accountability, Openness, Honesty, and Leadership.

3.2 This policy sets out arrangements for individuals to raise serious concerns, which are in the public interest, at senior levels within the University.

3.3 It meets the legal requirements set out in the Employment Rights Act 1996 but goes further in two aspects. Firstly, it extends the list of concerns where a protected disclosure may be made beyond those identified in the Act. Secondly, it extends protection for disclosure beyond employees to students and to other members of the University.

3.4 Individuals who raise concerns in the public interest under this policy will be taken seriously and treated fairly. They will be protected from detrimental treatment following their disclosure; any victimisation may result in disciplinary action for the individual involved.

3.5 It should be emphasised that this policy is intended to assist individuals who believe they have discovered malpractice or serious wrongdoing provided that they make the disclosure in accordance with the policy. It is not designed to question financial or business decisions taken by the University unless these involve malpractice, nor may it be used to reconsider any personal matters which have already been addressed under disciplinary, capability, or complaints procedures, or student conduct procedures. Individuals who make disclosures where there is no public interest will not be protected under this policy and may not be protected under the Act and the disclosure will not be investigated through this policy.

4. Roles and responsibilities

4.1 Employees are responsible for:

- raising any concerns in the first instance with their line manager or formally with the Registrar and Secretary
- ensuring the concern raised is not of a personal nature and therefore a grievance

4.2 Line managers are responsible for:

- hearing informal disclosures in the first instance
- knowing who to seek advice from if they require assistance

4.3 People & Culture are responsible for:

- sign-posting colleagues to information on making a disclosure
- supporting line managers when hearing informal disclosures
- keeping a top line central record of summary information about each disclosure

4.4 Registrar and Secretary or designated person are responsible for:

- listening to formal disclosures if the disclosure is not related to them
- acknowledging receipt of the formal disclosure in writing within 10 days

- provide feedback within three months of acknowledgement

5. Legal background and protection

5.1 The Employment Rights Act 1996 (amended by the Public Interest Disclosure Act 1998 and the Enterprise and Regulatory Reform Act 2013) gives legal protection to employees from being dismissed or penalised by their employers as a result of publicly disclosing certain serious concerns.

5.2 It is a fundamental term of every contract of employment that an employee will not disclose confidential information about the employer's affairs. However, where an individual discovers information which they believe shows malpractice/wrongdoing within the organisation and there is a public interest at stake, there should be identified procedures to enable the individual to disclose the information without fear of reprisal, and it may be necessary for the disclosures to be made independently of line management.

6. Who can raise concerns?

6.1 This policy is designed to enable employees, students, workers, contractors, subcontractors, suppliers, visitors, volunteers and invitees to raise concerns or disclose information at a senior level where it is believed there is serious malpractice and where disclosure is in the public interest.

6.2 The University encourages individuals to put their name to any disclosures they make. Concerns expressed anonymously will be considered if possible, but it is likely to be more difficult if full information is not provided.

7. What concerns or complaints are covered?

7.1 This policy covers concerns which are in the public interest i.e. serious wrongdoing that has an impact beyond the individual making the disclosure.

This includes concerns:

- that a criminal offence has been committed, is being committed, or is likely to be committed
- that a person has failed, is failing or is likely to fail to comply with any legal obligation to which they are subject
- that a miscarriage of justice has occurred, is occurring or is likely to occur

- that the health or safety of any individual has been, is being, or is likely to be endangered
- that the environment has been, is being, or is likely to be damaged
- academic malpractice
- improper conduct or unethical behaviour
- financial malpractice, impropriety or fraud
- that evidence tending to show any matter falling within any one of the preceding paragraphs has been, is being or is likely to be deliberately concealed or tampered with

7.2 This is not intended to be a comprehensive list and any matters raised in the public interest under this policy will be considered seriously. However, if you are an employee and your concerns are personal and not in the public interest, these must be raised under the [Grievance Procedure](#), or [Complaints of Harassment or Bullying Procedure](#). If you are a student and your concerns are of a personal nature and not in the public interest these must be raised under the [Code of Student Conduct](#), or the [Student Concerns and Complaints Procedure](#) (.pdf). If you are unsure about whether your concerns are best dealt with under the Whistleblowing Policy please contact People & Culture.

8. Confidentiality

8.1 The University will treat all disclosures made in line with this policy in a confidential and sensitive manner. The identity of the individual making the allegation will be kept confidential as far as possible under the terms of the investigation.

9. Protection of those raising concerns

9.1 Employees or other members of the University who disclose such concerns must be supported and taken seriously. They must not suffer any detriment provided the disclosure is made:

- in accordance with these procedures
- in the reasonable belief of the individual making the disclosure that it tends to show malpractice and that disclosure is in the public interest

9.2 Detriment might include disciplinary action, termination of employment, unfavourable treatment, or removal from studies. Anyone making a disclosure may seek advice from People & Culture if they have any concerns.

9.3 All complaints about victimisation because of concerns raised in line with this policy will be taken seriously and may result in an investigation and disciplinary action for the individual involved.

10. Procedures for making a disclosure

10.1 Informal Process

Normally any concern about a workplace situation should be raised in the first instance with the employee's immediate line manager or Head of Department/Section. In the case of students, concerns would normally be raised through the student complaints procedures. However, it is recognised that because of the seriousness and sensitivity of some issues, together with the knowledge of who the employee (or student) thinks may be involved in wrongdoing, this may be difficult or even impossible. In this case, the formal process should be used.

10.2 Formal Process

The individual should make the disclosure to the Registrar and Secretary (the designated officer). If, however, the disclosure is about the Registrar and Secretary, then the disclosure may be made either to the Vice-Chancellor, the Chair of Council, or the Chair of the Audit and Risk Management Committee. Correspondence marked for the attention of the Chair of Council or the Chair of the Audit and Risk Management Committee can be sent via the Vice-Chancellor's Office.

10.3 Disclosures should be made in writing, making clear that this is being done within the terms of this policy. The disclosure should include the nature of the concern and why it is believed to show malpractice and that disclosure is in the public interest. The background and all relevant evidence should be included.

10.4 Following receipt of a disclosure, the designated person will acknowledge the disclosure in writing within 10 working days, and at their discretion will discuss next steps with People and Culture or another senior independent member of staff, dependant on the nature of the disclosure. Next steps might be:

- an investigation under the University's Conducting Investigations Guidance
- an 'ad hoc' investigation depending on the nature of the disclosure
- a referral to the police
- no further action if, on examination, the concern is judged to be without merit

10.5 Where an investigation is undertaken, the outcome will be reported to the designated officer, who will consider what further action to take, if any. This may include referral under the Disciplinary Procedure for the individual involved.

10.6 The individual raising the concern will be kept informed of progress and may be given the opportunity to contribute to any investigation or to comment on a decision not to take action. However, there may be a need to protect the confidentiality of other parties, for example where there has been an investigation and disciplinary action.

10.7 Feedback will be given to the individual within 3 months of acknowledging the disclosure.

10.8 There will be no right of appeal under this procedure.

10.9 A central record containing summary information about each disclosure will be kept by People and Culture. This will include the date, the nature of the disclosure, the department or section that was the subject of the disclosure, the individual who investigated / considered the matter, and the outcome. The name of the individual who made the disclosure must not be recorded. These records will be kept to allow for review of the effectiveness of this policy and to allow for a strategic view on the number, nature and location of disclosures. Detailed notes about any investigation into a disclosure will be retained by whoever undertook the investigation and treated as confidential.

11. External disclosures

11.1 The University recommends that concerns are raised internally in the first instance. This policy and the procedure and protection it provides are intended to support individuals to do so.

11.2 However, there may be occasions where individuals feel they need to report matters outside of the University. To retain whistleblowing legal rights, these disclosures must be made to a prescribed person. Concerns about health and safety can also be raised with the Health and Safety Executive.

11.3 If disclosures are made publicly to the media, in most cases the individual will lose their whistleblowing legal rights.

11.4 Further information is available at GOV.UK. The charity Public Concern at Work provides advice and a confidential helpline. It is also possible for concerned individuals to get legal advice.

12. Whistleblowing policy flowchart

1. Individual has concern about malpractice or serious risk
2. Consider raising with line manager in the first instance

3. Determine whether the issue is of a personal nature i.e. it does not affect anyone else? And follow the steps below.

Yes the issue is of a personal nature	No the issue is not of a personal nature
<ul style="list-style-type: none"> ■ Use <u>Grievance (.pdf)</u> or <u>Complaints Procedures (.pdf)</u> 	<ul style="list-style-type: none"> ■ Is the disclosure of serious wrong doing that has an impact beyond the individual making the disclosure? ■ Make disclosure to the Registrar and Secretary (or alternative set out in the Policy) in writing with background setting out why this is in the public interest ■ Registrar and Secretary (or alternative set out in the Policy) acknowledges the disclosure within 10 days. ■ Next steps may include investigation, referral to the police, or no further action. ■ Individual kept informed to the extent possible given confidentiality. <ul style="list-style-type: none"> – Send brief details (set out in Policy) to People and Culture for central corporate record. ■ No right of appeal but legal advice may be taken or disclosure to prescribed person.

13. Academic freedom and freedom of speech within the law

13.1 We are committed to securing and promoting academic freedom and freedom of speech within the law, which we promote as core values and vital components of being an inclusive community. Academic freedom and freedom of speech are essential parts of academic and University life, and

flourish where there is tolerance of a wide range of ideas and opinions which are lawfully expressed. Promoting the lawful expression of diverse ideas and opinions or the sharing of information by means of speech, writing, images (including in electronic form) or through events that we hold, including the lawful expression of ideas and opinions that some may find objectionable or offensive, is an important part of our responsibility to be inclusive. It enables all members of the University to feel able to express their ideas and opinions within the law and be encouraged to be active members of our university community.

13.2 Our Code of Practice: Academic Freedom and Freedom of Speech affirms our commitment to securing and promoting academic freedom, freedom of speech within Higher Education and inclusion within the law and our founding charter also enshrines academic freedom within the law. The management of complaints or concerns about academic freedom and freedom of speech within the law in relation to action taken or not taken by the University is explained in the University's [Freedom of Speech Complaints Policy](#) (.pdf).

14. Monitoring

14.1 The People, Culture and Inclusion Advisory Group (PCIAG) will monitor the impact of this policy.

15. Equality impact assessment

15.1 The University has conducted an Equality Impact Assessment on this policy and is satisfied that its application should not result in a differential and negative impact on any groups of employees identified under the Equality Act 2010.

16. Related university policies and procedures

- [Equality and Diversity Policy](#) (.pdf)
- [Disciplinary Policy](#) (.pdf)

17. University sources of information

- [Grievance Procedure](#)
- [Code of Student Conduct](#)
- [Student Concerns and Complaints Procedure \(.pdf\)](#)
- [Bullying and Harassment: Our Zero Tolerance Approach](#)
- [Conducting Investigations Guidance](#)
- [Non-disclosure agreements](#)

Document Control Panel

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