

UNIVERSITY OF ULSTER
**WHISTLEBLOWING (PUBLIC INTEREST
DISCLOSURE) POLICY**
2008/2009

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UNIVERSITY OF ULSTER

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1 Introduction

The University of Ulster 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 the funding bodies and the standards in public life set out in the reports of the Nolan Committee.

The Public Interest Disclosure (Northern Ireland) Order 1998 (the Order) (amended July 2004), which came into effect on 1 January 1999 amends the Employment Rights (Northern Ireland) Order 1996. It gives legal protection to employees against being dismissed or penalised by their employers as a result of publicly disclosing certain serious concerns. It is a fundamental term of every contract of employment that an employee will faithfully serve his or her employer and not disclose confidential information about the employer's affairs. However, where an individual discovers information which they believe shows malpractice/wrongdoing within the organisation then this information should be disclosed without fear of reprisal, and may be made independently of line management.

It should be emphasised that this policy is intended to assist individuals who believe they have discovered malpractice or impropriety. It is not designed to question financial or business decisions taken by the Institution; nor may it be used to reconsider any matters which have already been addressed under harassment, complaint or disciplinary procedures. Since this Policy is in place, it is reasonable to expect members of the University to use it rather than to air their complaints outside the Institution.

2 Scope of Policy

This policy is designed to allow employees or other members of the University to raise at a high level concerns and/or disclose information which the individual believes shows malpractice.

A number of policies and procedures are already in place including grievance and complaints; bullying and harassment, discipline and theft, fraud and corruption. This policy is intended to cover concerns which are in the public interest and may (at least initially) be investigated separately but might then lead to the invocation of such procedures. These might include:

- financial malpractice or impropriety or fraud
- failure to comply with a legal obligation or with the Statutes, Ordinances and Regulations of the University
- dangers to health and safety or the environment
- criminal activity

- academic or professional malpractice
- improper conduct or unethical behaviour
- attempts to conceal any of the above.

3 Safeguards

a) Protection

This policy is designed to offer protection to those employees or other members of the University who disclose such concerns provided the disclosure is made:

- i) in good faith, and
- ii) in the reasonable belief of the individual making the disclosure that it tends to show malpractice.

The individual will also be protected if they make the disclosure to an appropriate person/body (see sections 4 and 5 below). It is important to note that no protection from internal disciplinary procedures is offered to those who choose not to use the procedure.

b) Confidentiality

The University will treat all such disclosures in a confidential and sensitive manner. The identity of the individual making the allegation may be kept confidential so long as it does not hinder or frustrate any investigation. However, the investigation process may reveal the source of the information and the individual making the disclosure may need to provide a statement as part of the evidence required.

c) Anonymous Allegations

This policy encourages individuals to put their name to any disclosures they make. Concerns expressed anonymously are much less powerful, but they will be considered at the discretion of the University.

In exercising this discretion, the factors to be taken into account will include:

- the seriousness of the issues raised;
- the credibility of the concern; and
- the likelihood of confirming the allegation from attributable sources.

d) Untrue Allegations

If an individual makes an allegation in good faith, which is not confirmed by subsequent investigation, no action will be taken against that individual. If, however, an individual makes malicious or vexatious allegations, and particularly if he or she persists with making them, disciplinary action may be taken against the individual concerned.

4 Procedures for Making a Disclosure

a) Initial Step

- i) Normally the individual should make their disclosure to the Director of Corporate Planning and Governance in the first instance;
- ii) If the disclosure concerns the Director of Corporate Planning and Governance or an area directly under his/her control, the individual should raise their concern with the Vice-Chancellor. At his/her discretion, the Vice-Chancellor may delegate his/her responsibilities under this Policy to another Senior Officer with no interest in the matter;
- iii) If the disclosure involves the Vice-Chancellor or if the individual does not wish to raise the matter with either the Director of Corporate Planning and Governance or the Vice-Chancellor they may raise the concern with the Chairman of Council. Contact details for the Chairman can be obtained from the Head of Governance Services.
- iv) If the disclosure involves the Chairman of Council the individual should raise their concerns with the Director of Corporate Planning & Governance
- v) Contact details for responsible officers are set out in Appendix 1.

b) Process

- i) The person to whom the disclosure is made will normally consider the information received to determine if there is a *prima facie* case to be answered.
- ii) If the matter disclosed is deemed to relate to suspected financial malpractice, theft, fraud or corruption, it must be notified immediately to a responsible officer as defined in the Theft, Fraud and Corruption Response Plan and dealt with under that procedure.
- iii) If the person to whom the disclosure is made deems that there is no *prima facie* case to answer this decision must be fully explained to the individual who raised the concern. It will be open to the individual if they so wish to raise the disclosure with another officer specified at para 4a) above.
- iv) Where there is deemed to be a *prima facie* case to answer, the person receiving the disclosure will immediately convene a small panel

comprising him/herself, another senior officer with no interest in the matter covered by the disclosure and a lay member of the Council.

- v) The panel will consider the information made available to it and decide on whether or not the matter should be investigated. If it is agreed to investigate the matter it will be necessary to decide on what form the investigation should take. This may be:
- to investigate the matter internally
 - to refer the matter to the police
 - to call for an independent inquiry
 - to refer the matter to another more appropriate procedure.

If the decision is that the investigation should be conducted by more than one of these means, the panel should satisfy itself that such a course of action is warranted, the possibility of double jeopardy notwithstanding.

Where the matter is to be the subject of an internal inquiry, the panel will determine:

- who should undertake the investigation
- the procedure to be followed
- the scope of the concluding report.

- vi) Where the panel determines not to investigate the matter this decision must be fully explained to the individual who raised the concern.

c) Investigation

- i) Any investigation will be conducted as sensitively and speedily as possible. Normally an independent officer of the University or if necessary the Internal Auditor will undertake this investigation and will report his/her findings to the panel. Investigations should not be carried out by any person who will have to reach a decision on the matter.
- ii) The person making the disclosure will be informed of the intended investigation and the indicative timetable.
- iii) The person(s) against whom the disclosure is made will be informed, at an early stage, of the nature of the disclosure and the evidence supporting it and will be allowed to respond.
- iv) As a result of this investigation other internal procedures may be invoked, such as
- disciplinary
 - grievance or complaints
 - harassment

or it might form the basis of a special investigation.

- v) In some instances it might be necessary to refer the matter to an external authority for further investigation.

d) Feedback

- i) The panel will be informed of the outcome of the investigation and will determine what action, if any, is to be taken.
- ii) The person to whom the disclosure was made will inform the individual making the disclosure of what action, if any, is to be taken.
- iii) The person(s) against whom the disclosure is made will be informed of the outcome of the investigation and of any further procedures that are to be invoked as a result (such as at 4c) iv) or v)).

e) Reporting on Outcomes

A report of all disclosures and any subsequent actions taken will be made by the designated person who will retain such reports for a specified period of six years. In all cases a report of the outcomes of any investigation will be made to the Resources Committee who will refer it to the Audit Committee if the issue falls within its area of responsibility.

5 External Disclosure

After having exhausted this internal procedure, a member of staff who remains dissatisfied with the University's response and continues to reasonably believe that the information and allegations disclosed are substantially true, then he/she is entitled to take the matter further referring it to certain prescribed bodies or individuals such as:

- The Department for Employment and Learning.
- A legal adviser,
- A Government Minister or
- Another person prescribed by the Order

Any member of staff who makes such a referral is to be protected under the Order from adverse treatment including bullying, harassment and victimisation.

6 Other Policies and Further Information

For other related policies and useful sources of further information see Appendix 2.

APPENDIX 2

**CONTACTS
May 2009**

Director of Corporate Planning and Governance

Mrs Irene Aston,

Phone: (028) 7032 4533

e-mail: ii.aston@ulster.ac.uk

Vice-Chancellor

Professor Richard Barnett

Phone: (028) 7032 4329

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Head of Governance and Legal Services
(for contact details for Chair of Council)

Mr Eamon Mullan

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APPENDIX 2

1 OTHER RELATED POLICIES:

University of Ulster Charter, Statutes and Ordinances

<http://plangov.ulster.ac.uk/governance/council/pdfs/charter+statutes-2008-09.pdf>

Code of Ethics

<http://plangov.ulster.ac.uk/governance/council/pdfs/codeofethics.pdf>

Financial Regulations, Policies and Procedures

<http://www.ulster.ac.uk/finance/regulations/>

Theft, Fraud and Corruption Policy

http://www.ulster.ac.uk/finance/pdfs/theft_fraud_corruption.pdf

Human Resources Policies and Procedures

http://www.ulster.ac.uk/hr/policies_and_procedures/

Bullying and Harassment Policy

<http://www.equality.ulster.ac.uk/pdf/bullyingandharassmentpolicy.pdf>

Health and Safety Policy

http://www.ulster.ac.uk/hr/healthandsafety/policy_audit/index.html

2 FURTHER RELEVANT INFORMATION IS AVAILABLE AT:

The Public Interest Disclosure (Northern Ireland) Order 1998

<http://www.opsi.gov.uk/si/si1998/19981763.htm>

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Public Interest Disclosure (Prescribed Persons) (Amendment) Order (Northern Ireland) 2004

<http://www.opsi.gov.uk/Sr/sr2004/20040261.htm>

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Department for Employment and Learning Guide:

<http://www.delni.gov.uk/acf1ad3.pdf>