

WHISTLEBLOWING POLICY (PUBLIC INTEREST DISCLOSURE)

1.1 Introduction

- 1.1** 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 the funding bodies and the standards in public life set out in, for example, the reports of the Nolan Committee. The University wishes to ensure that anyone who discloses wrongdoing at work can do so without fear of sanction.
- 1.2** The Public Interest Disclosure Act, which came into effect on 1 January 1999, 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 their employer and not disclose confidential information about the employer's affairs. However, where an individual discovers information which they believe shows wrongdoing within the organisation then this information should be disclosed without fear of reprisal and may be made independently of line management. However, individuals must believe that they are acting in the "public interest" to have their concerns qualify as a public interest disclosure.
- 1.3** It should be emphasised that this policy is intended to assist individuals who believe they have discovered wrongdoing in the University. It is not designed to question financial or business decisions taken by the University; nor may it be used to reconsider any matters which have already been addressed under dignity and respect at work, grievance or disciplinary procedures. The policy is intended to supplement the provisions of the Act. Nothing in it is intended to affect any individual's rights under the Act. However, the additional protection it offers to a 'whistleblower' will only apply to those who comply with this Policy and the underpinning legislation. It is reasonable to expect members of the University to use the procedures set out in this policy rather than air their complaints outside the University. The qualifying disclosure may only be made under this policy to the University, a legal representative or appropriate person or body.

2.0 Scope of Policy

- 2.1** This policy is designed to allow employees, students and contractors of the University to raise concerns at a high level and/or to disclose information which they believe shows wrongdoing relating to the University. The concerns should be raised within three months of the issue first arising or, with multiple related concerns, within one month of the last act or omission complained of.
- 2.2** A number of policies and procedures are already in place including Grievance, Dignity and Respect at Work and Discipline. This policy is intended to cover concerns which are in the public interest that may (at least initially) be investigated separately and 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 malpractice;
- improper conduct or unethical behaviour;
- miscarriages of justice;
- attempts to conceal any of the above;
- unlawful or unethical employment practices

For the avoidance of doubt, any concerns raised which relate to the treatment of an individual by other members of staff, will normally be dealt with in accordance with the University's Grievance procedure or Dignity and Respect at Work policy.

3.0 Protection

This policy is designed to offer protection from dismissal and other detrimental treatment to those covered by it, who make a "qualifying disclosure" to an appropriate person or body provided the individual reasonably believes that the disclosure is both "made in the public interest" and fits into of the categories set out in the legislation (e.g. a criminal offence, a breach of a legal obligation, a miscarriage of justice etc.).

Aberystwyth University expects its employees to raise concerns about wrongdoing internally in the first instance and will not tolerate any harassment or victimisation of a whistleblower. Where allegations of harassment and victimisation are substantiated they may be dealt with under the relevant Disciplinary Policy and Procedure.

4.0 Confidentiality

The University will treat all "qualifying disclosures" in a confidential and sensitive manner. The identity of the individual making the allegation shall be kept confidential so long as it does not hinder or frustrate any investigation. In the event that it is deemed necessary to reveal the identity of the individual making the disclosure, the individual will be consulted prior to the release of their identity. The investigation process may require that the source of the information and the individual making the disclosure provide a statement as part of the evidence required or assist in further investigations. All reasonable steps to ensure that the 'whistleblower' suffers no detriment as a result of their identity becoming known will be taken. Where the person wishing to make the disclosure is an employee of the University, it is recognised that they may wish to discuss the matter in confidence with their legal advisor.

5.0 Malicious or Vexatious Allegations

If an employee makes malicious or vexatious allegations, and particularly if they persist with making them, the University's disciplinary procedure may be instigated against the employee concerned.

7.1 Making a Public Interest Disclosure

The individual should, in the first instance, make the disclosure in person and/or in writing in Welsh or English to the designated person, normally the Director of Finance and Corporate Services , who will immediately inform the Vice-Chancellor and Director of Human Resources and Organisational Development.

In cases involving alleged financial malpractice, the Director of Finance and Corporate Services should act throughout in close consultation with the Vice-Chancellor, as the Accounting Officer for the University's public funding.

If the disclosure is about the Director of Finance and Corporate Services then the disclosure should be made directly to the Vice-Chancellor. If the disclosure is about the Vice-Chancellor the Director of Finance and Corporate Services will immediately inform the Chair of Council.

If the individual does not wish to raise the matter with either the Director of Finance and Corporate Services or the Vice-Chancellor, they may then raise it with the Chair of the Audit and Risk Committee, who are independent members of Council, or directly with the Chair of Council via the University Secretary.

7.2 Process

The designated person will consider the information made available to them and decide on the form of the investigation to be undertaken. This may include but is not limited to investigating the matter internally, referral of the matter to the Police or calling for an independent inquiry.

If the decision is that investigations should be conducted by more than one of these means, the designated person should satisfy them self that such a course of action is warranted, the possibility of double jeopardy notwithstanding. The designated person may decide in the case of any investigation to cease or suspend that investigation to allow further police or independent inquiry.

Where the matter is to be the subject of a potential internal investigation, the designated person will exercise their discretion to consider how to determine whether there is a prima facie case to answer. This consideration will include but will not be limited to determining who should undertake the investigation, the procedure to be followed and the scope of the report arising out of those investigations.

7.3 Investigation

Normally, an independent officer of the University will undertake this investigation and will report their findings to the designated person. Investigations should not be carried out by the person who will have to reach a decision on the matter. Any investigation will be conducted as sensitively and speedily as possible.

As a result of this investigation, other internal procedures may be invoked, such as

- the disciplinary procedure
- the grievance or
- the complaints procedures
- the Dignity and Respect at Work policy

Or it might form the basis of a 'special' investigation.

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

7.4 Feedback

Except in exceptional circumstances, the designated person will inform the individual making the disclosure of what action, if any, is to be taken. If no action is to be taken then the individual concerned should be informed of the reason for this. The 'whistleblower' shall be entitled to request that an initial decision to take no action be reviewed by another appropriate person, to be determined by the University; for example, if the initial

disclosure had been made to an officer of the University then the subsequent review might be referred to the Chair of the Audit Committee or the Chancellor.

This other person will consider all the information presented, the procedures that were followed and the reasons for not taking any further action. The outcome of this will be either to confirm that no further action is required or that further investigation is required and will follow the procedures referred to in paragraph 3 above.

Where a "qualifying" disclosure is made, the person or persons against whom the disclosure is made will normally be told of it and the evidence supporting it, they will be allowed to comment in Welsh or English before any investigation, or further action, is concluded. However, where disclosure would jeopardise the ability of the University, the police or an independent investigator to conduct a proper inquiry, in such cases the persons against whom disclosures are made may not be told prior to an initial investigatory stage.

7.5 Reporting of 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 time (e.g. three years). In all cases a report of the outcomes of any investigation will be made to the Audit and Risk Committee in detail where the issue falls within its purview, and in summary in other cases, as a means of allowing the Committee to monitor the effectiveness of the procedure.

8.0 Policy Review

Human Resources will co-ordinate a review of this policy in order to maintain compliance with legislation and good practice. The review will be undertaken in liaison with the recognised trade unions and any proposed amendments will be submitted to the appropriate relevant committee, University Executive and Council if required.

9.0 Equality Impact Assessment

The University is committed to embedding the Equality Scheme into its policies, procedures and practices. The policy has been equality impact assessed in accordance with this scheme.

10. Welsh Language – Employee Rights

In accordance with the Welsh Language Standards that came into effect on 1 April 2018 employees have the right to use the Welsh language to

- (a) make a complaint
- (b) respond to a complaint or allegation

and employees also have the right to use the Welsh language in meetings where they are the subject of

- (c) complaints and allegations (or have made the complaint)
- (d) disciplinary proceedings
- (e) effective contribution scheme discussions
- (f) individual consultation meetings

A simultaneous translation service from Welsh to English will be provided at the meeting when the meeting cannot be conducted solely in Welsh.