

Whistleblowing (Public Interest Disclosure) and Third-Party Concerns Policy and Procedures



1. Purpose

- 1.1 The University is committed to conducting its business with honesty and integrity and it expects all staff to maintain high standards. However, all organisations face the risk of things going wrong from time to time, or of unknowingly harbouring illegal or unethical conduct. A culture of openness and accountability is essential to prevent such situations occurring and to address them if they do occur.
- 1.2 This Policy sets out how the University will ensure compliance with the Public Interest Disclosure Act 1998 (as amended) and how it will ensure that other third-party concerns in the public interest raised with the University are appropriately considered.
- 1.3 If you have a concern we encourage you to speak out and are committed to ensuring that you are fully supported and do not suffer detriment by doing so.

2. Principles

- 2.1 The aims of this Policy are:
 - To encourage the reporting of suspected wrongdoing;
 - To provide individuals with guidance as to how to raise concerns, and how they are protected by law;
 - To set out the University's commitment to protect individuals who raise serious concerns from the risk of reprisals, even if they turn out to be mistaken;
 - To balance the need to protect individuals who raise genuine concerns against the need to protect individuals and the University against false allegations that are made maliciously and can cause serious difficulties for innocent individuals;
 - This Policy is considered with the Public Interest Disclosure Act 1998 (as amended);
 - The University recognises that it may also receive reports of concerns from third parties who do not have statutory protection. To ensure the highest standards of ethical conduct, regulatory compliance and public interest governance the University will also consider these reports carefully to determine whether further investigation under this or another Policy is required.

3. Scope

- 3.1 Any individual can report a concern to the University if they believe they have a 'qualifying disclosure' (e.g. a criminal offence, a breach of legal obligation,

miscarriage of justice, or danger to health and safety or the environment) and/or that their disclosure is in the public interest.

- 3.2 Some disclosures from individuals in specific categories are protected by law including disclosures from employees, agency workers, apprentices and casual and freelance workers (as set out in the Public Interest Disclosure Act 1998).
- 3.3 However, the University will also consider disclosures from other individuals (e.g. students, governors, employees of educational partners and other third parties) to determine whether they meet the threshold for further investigation under the scope of this and/or another policy (such as the Prevention of Fraud, Bribery and Corruption Policy and Procedures or the Academic Integrity Policy).
- 3.4 We would encourage individuals employed by partners of the University to raise their concerns directly with their employer in the first instance wherever possible to ensure they benefit from the appropriate protections under the law. Where they feel this would not be possible, or they have raised the concerns and they have not been addressed, such concerns can be raised with the University under this Policy. The University will determine whether they meet the threshold for further investigation.
- 3.5 This Policy does not form part of any employee's contract of employment and may be amended at any time.
- 3.6 We encourage all individuals making disclosures to confirm their identity. This ensures that the University can make sure that the disclosure is protected by law where applicable and supports our capacity to investigate claims fairly and thoroughly. If you have a genuine concern that confirming your identity as part of this process might put you at risk of reprisal, you should discuss this with the Whistleblowing Officer (usually the University Secretary). The University will endeavour wherever possible to protect the identity of whistleblowers in undertaking investigations of allegations made. However, raising a concern anonymously potentially makes it more difficult to investigate it properly. If a reporting individual is concerned about possible reprisals if their identity were to be revealed, they should still report their concern to the Whistleblowing Officer who will consider whether it can be appropriately considered and investigated anonymously.

4. Policy

4.1 What is Whistleblowing?

Whistleblowing is the disclosure of information (also referred to as raising a concern) in the public interest which relates to suspected wrongdoing or dangers at work. This may include:

- Criminal activity
- Failure to comply with any legal obligation
- Miscarriages of justice
- Danger to health and safety
- Damage to the environment
- Bribery
- Financial fraud or mismanagement
- Negligence
- Conduct likely to damage the University's reputation
- Unauthorised disclosure of confidential information
- The deliberate concealment of any of the above matters.

4.2 Concerns that do not meet the threshold of a qualifying disclosure or are not of a public interest nature will not be investigated under this Policy. For example, making a complaint or raising a grievance relating to the personal circumstances of a member of staff or a student will not be covered by this Policy and should be considered under the Staff Grievance Policy or the Student Complaints Procedure.

4.3 Thresholds

The Whistleblowing Officer (usually the University Secretary) will determine whether concerns meet the threshold for consideration under this Policy (i.e. whether they constitute a qualifying disclosure and/or are in the public interest). Concerns determined not to meet this threshold may be referred by the Whistleblowing Officer for consideration under another Policy where relevant. A full list of University policies is available on the [website](#).

4.4 In determining whether a concern raised meets the threshold for consideration under this Policy, the following factors will be considered:

- Whether the concern raised meets the requirements for a qualifying disclosure set out in law;
- Whether the concerns raised are in the public interest;
- Whether there is likely to be access to sufficient evidence to enable further investigation into the claims;
- Whether the concern has been raised previously with the University or with any other organisation and what the findings were of any previous review or investigation; and
- Whether the University has sufficient cause to believe the claims may be legitimate and have not been made vexatiously or maliciously.

- 4.5 If individuals are uncertain whether something is within the scope of this Policy, or to whom this Policy applies, they should seek advice from the University Secretary by email to governance@bathspa.ac.uk.

4.6 Raising a whistleblowing concern

University employees and workers

- 4.7 A University employee or worker (see Section 3.2 for a list of qualifying individuals) covered by this Policy may raise any concerns with their line manager. The line manager may be able to agree a way of resolving the concern quickly and effectively or advise on the appropriate Policy under which to report the matter. The line manager may also refer the matter to the University Secretary for advice. If you are not sure who to tell or which Policy may apply, you can email governance@bathspa.ac.uk.
- 4.8 Where the matter is more serious, the individual feels that their line manager has not addressed the concern, or they are unable to raise it with their line manager for any reason, they should contact the University Secretary, who will act as the Whistleblowing Officer for the University. If the concern relates to the University Secretary it should be reported to the Chair of the Audit and Risk Assurance Committee of the Board of Governors who will act as, or appoint another individual as, the appropriate Whistleblowing Officer for the case. The Whistleblowing Officer will also notify the Vice-Chancellor of any such concern, unless the concern relates to the Vice-Chancellor.
- 4.9 The Whistleblowing Officer will determine whether any concern raised with them meets the threshold for consideration and/or investigation under this Policy (see section 4.3).
- 4.10 Where a concern raised by an employee or worker of the University is determined to meet the threshold for consideration under this Policy, a meeting will be arranged as soon as possible to discuss the concern raised. Whistleblowers may bring a colleague or union representative to any meetings under this Policy. The companion must respect the confidentiality of the disclosure and any subsequent investigation. A written summary of the concern will be made and a copy provided to the whistleblower after the meeting. The University will also aim to provide an indication of how it proposes to deal with the matter normally within 14 days.

Other Individuals

- 4.11 For other individuals raising disclosures (see section 3.3 for a list of relevant individuals), concerns should be raised with the University Secretary by emailing governance@bathspa.ac.uk (or the Chair of the Audit and Risk Assurance Committee where the concerns relate to the University Secretary –

see section 4.8 above). The Whistleblowing Officer (usually the University Secretary) will determine whether any concern raised with them meets the threshold for consideration and/or investigation under this Policy and may contact the disclosing individual for more information.

5. Investigation and Outcome

- 5.1 As soon as practicable after the meeting (or after the initial disclosure if no meeting takes place), the Whistleblowing Officer will determine what further steps should be taken. Such recommendations may include one or more of the following:
- That the matter should be investigated internally by the University and/or by the University's external or internal auditors or other investigators appointed by the University;
 - That the University's disciplinary procedures should be invoked;
 - That a member of staff or a student should be given the opportunity to seek redress through the University's grievance or complaints procedures;
 - That the matter should be reported to the police;
 - That the matter should be reported to the Office for Students (OfS); the Department for Education; the National Audit Office; or other appropriate public authority;
 - Other appropriate actions should be taken.
- 5.2 If the matter is subject to internal investigation as per paragraph 5.1 above, then the whistleblower (if they are an employee or worker of the University) will be kept informed of progress and its likely timescale. However, sometimes the need for confidentiality may prevent the University giving the whistleblower specific details of the investigation or any disciplinary action taken as a result. Where the individual reporting the concern is a third party not protected by legislation it may not be appropriate to share further details of the investigation (see 5.7 below) however, this does not mean that the University does not take third party concerns seriously. The whistleblower must treat any information about the investigation as confidential. Following any investigation, further recommendations may be made.
- 5.3 Any recommendations will be made by the Whistleblowing Officer to the Vice-Chancellor, unless it is alleged that the Vice-Chancellor is involved in the alleged malpractice or unless there are other reasonable grounds for not doing so, in which case the recommendations will be made to the Chair of the Audit and Risk Assurance Committee of the Board of Governors. The

recommendations will be made without revealing the identity of the person making the disclosure save as provided below.

- 5.4 The recipient of the recommendations will, where possible, take all reasonable steps within their power to ensure that they are implemented. If any such steps are not implemented, then that decision will be notified in writing to the Chair of the Audit and Risk Assurance Committee of the Board of Governors as soon as practicable, together with the reasons for it.
- 5.5 Once the Vice-Chancellor or other recipient has decided what further steps (if any) should be taken, the Whistleblowing Officer will inform the person making the disclosure of the decision (if they are an employee or worker of the University). If no further steps by the University are proposed, the Whistleblowing Officer will give the reasons for this.
- 5.6 As a matter of natural justice all those implicated in a whistleblowing allegation must be given the opportunity to answer all allegations. While acknowledging that the identity of whistleblowers may need to be protected (see below), all those implicated should normally be given access to all information made available during the process and encouraged to put their own case to the Whistleblowing Officer.
- 5.7 The University will not provide updates on ongoing or completed investigations into allegations made under this Policy to external third parties unless there is a clear justification for doing so. It will be at the discretion of the Whistleblowing Officer whether external reporting may be appropriate or necessary, and they will clearly articulate why this is the case.
- 5.8 All whistleblowing incidents will be reported to the Audit and Risk Assurance Committee of the Board. The University Secretary will inform the Committee of the total number of possible incidents raised in year to date, including (a) those not meeting the whistleblowing tests and (b) those investigated further and the outcomes of investigations. If there is any reason why the Whistleblowing Officer feels unable to report an incident to the Committee (for example, because concerns raised relate to a member of that Committee), they will determine an appropriate alternative reporting method to the Board of Governors.

6 Confidentiality

- 6.1 The University intends that individuals should be able to voice whistleblowing concerns openly under this Policy and encourages any individual raising a concern under this Policy to confirm their identity.

- 6.2 However, if individuals wish to raise concerns confidentially, the University will make all reasonable efforts not to disclose their identity. If it is necessary for anyone investigating or anyone implicated or being interviewed as part of the investigation to know the identity of the whistleblower, this will be discussed with the whistleblower first (where their identity is known and they have statutory protection).
- 6.3 As noted above, proper investigation may be more difficult if further information cannot be obtained from the whistleblower. Whistleblowers who are concerned about possible reprisals if their identity is revealed should come forward to the University Secretary and appropriate measures can then be taken to preserve confidentiality. In the event of any doubt members of staff can seek advice from Protect, the independent whistleblowing charity, which offers a confidential helpline. Their contact details are at the end of this Policy.

7 If You Are Not Satisfied

- 7.1 The University cannot guarantee the outcome a whistleblower may be seeking, but it will try to deal with the concern fairly and in an appropriate way. If a whistleblower is not happy with the way in which a concern has been handled, they may contact the Chair of the Board of Governors who will decide whether the matter has been dealt with appropriately in accordance with this Policy and can take advice from the University's auditors and solicitors as required. Contact details are at the end of this Policy.

8 External Disclosures

- 8.1 A person reporting a concern must not disclose the matter to an external person or body until the procedures in this Policy have been exhausted, except where the person has reasonable grounds to believe that all the individuals to whom the matter could have been referred under this Policy were involved in the alleged wrongdoing or some other reason recognised by the Public Interest Disclosure Act 1998 applies.
- 8.2 The law recognises that in some circumstances it may be appropriate to report concerns to an external body such as a regulator. It will very rarely, if ever, be appropriate to alert the media. Staff are strongly encouraged to seek advice before raising a concern externally. The independent whistleblowing charity, Protect, operates a confidential helpline and has a list of prescribed regulators for reporting certain types of concern.
- 8.3 The person making the disclosure may at any time disclose the matter on a confidential basis to a qualified lawyer or their recognised trade union adviser for the purpose of taking legal advice.

9 Protection and Support for Those Concerned in the Whistleblowing Allegations

- 9.1 The University has a duty to all those involved in whistleblowing allegations. It is understandable that whistleblowers may be worried about possible repercussions. The University encourages openness and will support staff who raise genuine concerns under this Policy, even if they turn out to be mistaken. At the same time the University has the obligation to protect those accused.
- 9.2 Members of staff must not threaten or retaliate against whistleblowers in any way or treat them detrimentally for whistleblowing. If staff are involved in such conduct, they may be subject to disciplinary action. Equally, when a whistleblowing allegation is unfounded, there should be no retaliation against those wrongly accused.
- 9.3 No disciplinary action will be taken against anyone for making a disclosure in accordance with this Policy except where there are reasonable grounds to believe that a disclosure has been made maliciously or vexatiously or where an external disclosure is made in breach of this Policy without reasonable grounds or otherwise than to an appropriate public authority. In these circumstances, the University is not prevented from taking disciplinary action.

10 Responsibility for the Policy

- 10.1 The Audit and Risk Assurance Committee of the Board of Governors has overall responsibility for this Policy, and for reviewing the effectiveness of actions taken in response to concerns raised under the Policy.

11. Contacts

Whistleblowing Officer: David Newman, University Secretary

Email: governance@bathspa.ac.uk

Vice-Chancellor: Professor Georgina Andrews

Email: vice-chancellor@bathspa.ac.uk

Chair of the Board of Governors: Jonathan Glasspool

Email: j.glasspool@bathspa.ac.uk

Chair of Audit and Risk Assurance Committee: Antony Durbacz

Email: a.durbacz@bathspa.ac.uk

The Charity Protect: <https://protect-advice.org.uk/> provides help and advice in relation to whistleblowing to individuals and organisations.

The government website GOV.UK has information at:
<http://www.gov.uk/whistleblowing>

Union representatives (trade unions and the students' union) provide support for members wishing to raise a complaint or grievance.

Document Details

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Related Policies and Procedures:

Supersedes: v1 Whistleblowing Policy

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