

## PUBLIC INTEREST DISCLOSURE (WHISTLE BLOWING) PROCEDURE FOR THE UNIVERSITY OF SOUTH WALES GROUP

### 1. INTRODUCTION

- 1.1 The University of South Wales Group (the University, RWCMD Ltd and Merthyr Tydfil College Ltd) 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, the standards in public life set out in the reports of the Nolan Committee, and the principles of academic freedom embodied in the Articles of Government.
- 1.2 **The *Public Interest Disclosure Act*, which came into effect on 1 January 1999, gives legal protection to workers against being dismissed or penalised as a result of 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, by whatever means, information which they believe shows malpractice/impropriety within the organisation, then this information should be disclosed without fear of reprisal. Any individual who makes such a disclosure of this nature and using the procedure set out in this document, will be protected against victimisation through application of the University, RWCMD and Merthyr Tydfil College disciplinary procedures.**
- 1.3 It is in the interests of the University of South Wales Group that workers raise concerns internally rather than disclose them to the press or other external body. The purpose of this procedure is to promote greater openness between the University of South Wales Group and its workers, and in particular to assist individuals who believe they have discovered malpractice or impropriety covered by the Public Interest Disclosure Act. It is not designed to question financial or business decisions taken by the University of South Wales Group.
- 1.4 The *Bribery Act 2010* came into force on 1 July 2011 and in order to provide evidence of the University's compliance with the Act, an Anti Bribery Policy has been established, which was approved by the Board of Governors on 14 November 2011. The Anti Bribery Policy states that "... any known or perceived breach of the policy or Act should be reported immediately to the University Secretary and Clerk to the Governors under the procedures outlined in the University Group Public Interest Disclosure (Whistle Blowing) Procedure." The Anti Bribery Policy can be accessed at this link: <http://directoratesouthwales.ac.uk/financedocuments/>.
- 1.5 Employees may find helpful guidance on the Public Concern web site [www.pcaaw.co.uk](http://www.pcaaw.co.uk).

### 2. SCOPE

- 2.1 This procedure covers all employees, officers, consultants, individual contractors, casual workers and agency workers engaged by the University of South Wales Group.

2.3 The scope of this procedure covers the investigation of the serious concerns covered by the Public Interest Disclosure Act, namely:

- criminal activity
- failure to comply with a legal obligation
- miscarriage of justice
- danger to health and safety
- damage to the environment
- attempts to conceal any of the above

The University of South Wales Group also reserves the right to use the procedure investigate other concerns that may be raised to it, although it is not obliged to do so. Such concerns might include:

- financial malpractice or impropriety or fraud
- academic malpractice
- attempts to conceal any of the above.

2.4 This policy should not be used for complaints relating to your own personal circumstances, such as the way you have been treated at work. In those cases you should use the appropriate HR policy.

2.5 Any evidence that becomes available as a result of investigations under this Procedure may be referred for action as detailed below:

- i) disclosures involving an allegation of misconduct by a member of staff (*Staff Disciplinary Procedures or relevant College procedures*);
- ii) disclosures involving an allegation of harassment by a student or member of staff (*Dignity at Work Policy or relevant College Policy*);
- iii) disclosures involving an allegation of misconduct by a student (*Regulations Governing Student Conduct or relevant College regulations*).

### **3. PRINCIPLES**

#### **3.1 Protection**

This procedure is designed to offer protection to workers of the University of South Wales Group who disclose information in accordance with this procedure:

3.1.1 which in their reasonable belief is true; and

3.1.2 which is made in the public interest.

#### **3.2 Confidentiality**

The University of South Wales Group 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.

### 3.3 ***Anonymous Allegations***

Individuals are encouraged to put their name to any disclosures they make. Concerns expressed anonymously will only be considered if the University of South Wales Group decides to do so because of:

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

All anonymous allegations will be passed to the University Secretary<sup>1</sup> for consideration, in consultation with others as appropriate.

### 3.4 ***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, slanderous or vexatious allegations, disciplinary action may be taken against the individual concerned.

### 3.5 ***Trade Unions***

This procedure is not intended to preclude matters of concern being raised by the recognised Trade Unions through the agreed joint consultation procedures.

## 4. **PROCEDURE**

### 4.1 ***Initiating the Procedure***

4.1.1 In order to make a protected disclosure a worker should submit their disclosure in writing to the University Secretary<sup>1</sup>.

4.1.2 Where the disclosure relates to the University Secretary<sup>1</sup> or an Executive member<sup>2</sup>, it should be raised directly with the Vice-Chancellor<sup>3</sup>. If the disclosure relates to the Vice-Chancellor<sup>3</sup> or to a governor<sup>4</sup>, it should be raised directly with the Chairman of the Board of Governors<sup>5</sup>. If the disclosure involves the Chairman<sup>5</sup> personally, it should be referred to the Chairman of the Audit Committee.

4.1.3 The University Secretary<sup>1</sup> (or Vice-Chancellor<sup>3</sup> or Chairman of Governors<sup>5</sup> or Chairman of Audit) will consider the information made available and, in consultation with others as appropriate, decide if there is a *prima facie* case to answer. In so doing he/she will decide whether an investigation should be conducted and if so what form it should take. This will depend on the nature of the matter raised and may involve:

- an internal investigation

- the appointment of an external independent party to conduct an investigation
- referral to the Police or another external body

4.1.4 The University Secretary<sup>1</sup>, (or Vice-Chancellor<sup>3</sup> or Chairman of Governors<sup>5</sup> or Chairman of Audit) shall be entitled to ask the worker to provide documentary evidence to support the substance of the disclosure. This should normally be provided within 20 working days and should be indexed and paginated.

4.1.5 The University Secretary<sup>1</sup>, (or Vice-Chancellor<sup>3</sup> or Chairman of Governors<sup>5</sup> or Chairman of Audit) will, normally within 20 working days of receipt of the original disclosure (or the documentary evidence if provided later), inform the worker in writing what action, if any, is to be taken giving reasons for this decision.

## 4.2 **No Action**

4.2.1 If the decision of the University Secretary<sup>1</sup>, (or Vice-Chancellor<sup>3</sup> or Chairman of Governors<sup>5</sup> or Chairman of Audit) is that no action is to be taken, then the worker may remake the disclosure to the Vice-Chancellor<sup>3</sup> (or Chairman of Governors<sup>5</sup> or Chairman of Audit Committee) within 20 working days of receiving the letter referred to in paragraph 4.1.5 above.

4.2.2 The Vice-Chancellor<sup>3</sup> (or Chairman of Governors<sup>5</sup> or Chairman of Audit) shall review the decision and may wish to ask the worker for additional information and or documentation to assist with the review. The Vice-Chancellor<sup>3</sup> (or Chairman of Governors<sup>5</sup> or Chairman of Audit) will, inform the worker in writing, normally within 20 working days, of the outcome of the review.

4.2.3 If the earlier decision to take no action is upheld that will be the end of the matter.

## 4.3 **Investigation**

4.3.1 Where the decision is to undertake an investigation, the University Secretary<sup>1</sup>, (or Vice-Chancellor<sup>3</sup> or Chairman of Governors<sup>5</sup> or Chairman of Audit) will be responsible for appointing the investigator and for setting the terms of reference of the investigation, although these are subject to discussion and agreement with the investigator.

4.3.2 When considering the appointment of the investigator the University Secretary<sup>1</sup>, (or Vice-Chancellor<sup>3</sup> or Chairman of Governors<sup>5</sup> or Chairman of Audit) should consider:

- The nature of the matter raised
- Any particular expertise needed
- The level of seniority of the investigator
- The ability of the investigator to approach the matter without actual or potential bias

4.3.3 The investigation will be conducted as sensitively and speedily as possible. The investigator will collate (and index and paginate) relevant documentation and conduct relevant interviews with possible witnesses as appropriate. This will include the worker that made the original disclosure.

4.3.4 Any person or persons accused of wrongdoing in the disclosure information will usually be informed of this and invited to be interviewed. They will also usually be given access to the appropriate documents.

4.3.4 Written notes of all interviews will be prepared and the interviewee shall be given an opportunity to review the notes for accuracy before they are finalised.

4.3.5 The investigator will prepare a report outlining:

- the terms of reference of the investigation
- the methodology adopted and the reasons why
- confirming any findings of fact made, including the evidence considered, the investigators view of its cogency and the standard of proof applied
- any recommendations for action as may be appropriate – this may include initiating another procedure such as the disciplinary procedure

Relevant documentation will be appended to the investigation report.

4.3.6 The investigator will consider whether the report can be shared with the worker than made the original disclosure and any person or persons accused of wrongdoing in the disclosure information. This will depend on the contents of the report which may contain confidential information and personal data. If possible, a redacted report or summary will be provided to the worker that made the original disclosure.

## **7. REPORTING**

7.1 Reports on the outcome of investigations made under these procedures including any recommendations for action will be made to the relevant University Committees, including Committees of the Board of Governors<sup>6</sup>.

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<sup>1</sup> or Company Secretary of the College

<sup>2</sup> or appropriate member of the college executive

<sup>3</sup> or Principal of RWCMD or the College Merthyr Tydfil

<sup>4</sup> of the University, or Director of the College Board

<sup>5</sup> of the University, or Chairman of the College Board

<sup>6</sup> or Board of Directors