

## CODE OF PRACTICE ON PUBLIC INTEREST DISCLOSURE (WHISTLEBLOWING)

### 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 the reports of the Nolan Committee.
- 1.2 The Public Interest Disclosure Act 1998, which came into effect on 1 January 1999 ('the Act'), gives legal protection to workers against being dismissed or penalised by their employers as a result of disclosing, in appropriate circumstances, certain concerns which are in the public interest. It also protects them against bullying and harassment by colleagues either through acts or omissions as result of making a disclosure.

### 2. Scope of Code of Practice

- 2.1 Protection under the Act does not extend to students and other non-employees. However Cardiff University is committed to the protection of all those who raise concerns in the public interest. This Code of Practice provides protection for staff, students, lay members of University Council and Committees, and those who have contractual arrangements with the University who raise such concerns (hereafter referred to as "disclosers"). Furthermore, protection is afforded against harassment and bullying by members of these additional groups.
- 2.2 This code is designed to offer protection to those individuals who make disclosures as defined in paragraph 3.1 below, provided the disclosure is made:
- in the public interest;
  - to an appropriate person/body.

In the reasonable belief of the discloser that the disclosure is factually accurate.

- 2.3 It also provides the University with an opportunity to conduct a full internal investigation of such concerns and to take appropriate action.
- 2.4 It is reasonable to expect disclosers to use this Code of Practice wherever possible rather than air their concerns outside the University.
- 2.5 Those who make a protected disclosure in accordance with this Code will not be subject to disciplinary proceedings or other detriment/penalty as a result of the disclosure. However if disclosures under this Code are made frivolously, vexatiously or maliciously, the disclosure may be dismissed and the University may take action against the discloser.

### 3. What kind of concerns should be reported under the Code?

- 3.1 Concerns which are in the public interest and covered by this Code of Practice include the following (hereafter referred to as 'qualifying disclosures'):
- Financial and non-financial maladministration or impropriety, fraud
  - Bribery (giving or receiving of bribes)

- Criminal activity
- Breach of a legal obligation
- A miscarriage of justice
- Endangerment of health and safety
- Damage to the environment
- Obstruction of academic freedom
- Failure to comply with the statutes, ordinances and regulations of the University
- Academic or professional malpractice
- Failure to disclose a serious conflict of interest
- Abuse or misuse of University property
- Improper conduct or unethical behaviour
- Aiding, abetting or condoning any of the qualifying disclosures
- Attempts to conceal any of the above.

3.2 For the purpose of this Code, the University shall also consider that disclosure of other activities that would bring the good name and standing of Cardiff University into disrepute shall be treated as a 'qualifying disclosure.'

#### 4. What concerns should not be reported under this Code?

4.1 Issues for which appropriate University procedures already exist include:

- Staff Disciplinary Procedures
- Grievance Procedures
- Students Complaints Procedure
- Academic Research Misconduct Procedure (staff)
- Academic Appeals
- Student Disciplinary
- Harassment (Dignity at Work and Study Policy).

This code should NOT be used to re-open a review of a matter already considered and concluded upon under such procedures.

#### 5. Confidentiality

5.1 Confidentiality shall be maintained by the person to whom a disclosure is made, as far as possible within this Code. Where a formal investigation is necessary, disclosures that give 'cause for concern' (as defined by Section III

paragraph 5.1 of Ordinance 12) about an academic member of staff shall be referred in confidence to the relevant Head of School/Professional Service , together with the identity of the person making the disclosure ('the discloser'), where this is known.

- 5.2 Whilst every effort will be made to maintain confidentiality, it may not always be possible to guarantee the anonymity of the discloser particularly if disciplinary or other action is taken as a result of the investigation.
- 5.3 The identity of the discloser shall not be made known to the person who is the subject of the disclosure without the discloser being previously informed. A discloser wishing to remain known only to those investigating the disclosure shall have the option of withdrawing the disclosure if the continuation of the investigation would necessarily lead to their identification to the person(s) who are the subject of the disclosure.

## **6. Anonymous Disclosures**

- 6.1 This Code of Practice encourages disclosers to put their names to any disclosures they make. Disclosures expressed anonymously are much less powerful but they will be considered at the discretion of the University. A discloser who makes an anonymous disclosure in accordance with this Code and then subsequently declares their identity shall still be afforded protection in accordance with this Code.

## **7. Disclosure Procedure**

- 7.1 The following procedure shall be followed by those who wish to make a disclosure as defined in paragraph 6 above. (Please see also paragraph 14 below regarding external disclosure.)

## **8. To whom should a disclosure be made?**

- 8.1 In the first instance, a disclosure should be made to the Chief Operating Officer and Secretary to Council. If it is considered for any reason that this is inappropriate, the disclosure should be made to the Chair of the Audit Committee.
- 8.2 The person to whom the disclosure is made shall be referred to hereafter as the 'recorder'.
- 8.3 Any member of staff who receives a qualifying disclosure as defined in Section 3 above should refer it to the Chief Operating Officer or the Chair of the Audit Committee in line with section 8.1 above.

## **9. Informal Stage**

- 9.1 Once a disclosure has been made, the recorder shall:
- (a) make a record of its receipt and what subsequent action is taken;
  - (b) undertake a preliminary review of the disclosure with a view to establishing whether there is any substance to it, or appoint a person or persons to do so on their behalf;
  - (c) report back to the discloser indicating whether:

- i. the disclosure will be investigated further;
- ii. the disclosure has been investigated and relevant action taken;
- iii. the disclosure has been drawn to the attention of a named person(s) who has(have) authority to act on the matter;
- iv. the disclosure has been dismissed as having no grounds for investigation. If the disclosure is dismissed without investigation, the discloser shall be so informed (including the reasons why the disclosure has been dismissed). They shall be given the opportunity to repeat the disclosure on one further occasion to another appropriate person as defined in paragraph 8.

## **10. Academic Staff**

- 10.1 Where the recorder considers that the disclosure gives 'cause for concern', as defined by Section III, paragraph 5.1 of Ordinance 12, about an academic member of staff they shall refer the disclosure to the relevant Head of School/Professional Service, who shall consider it in accordance with those procedures.

## **11. Other Procedures/Policies**

- 11.1 Where the recorder considers that the disclosure raises concerns that would fall under the remit of any other University disciplinary procedure, then they shall refer the matter to the appropriate Head of School/Professional Service for consideration under those procedures. Where there are existing procedures for the investigation of certain allegations, e.g. Bribery Policy/Investigation of Financial Irregularities, the recorder will refer the disclosure to the relevant person(s)/body under those procedures.
- 11.2 Where the disclosure has been referred to another person(s)/body the discloser shall be informed of whether any further action is being taken.

## **12. Formal Investigation**

- 12.1 Where a disclosure is made about an individual that does not fall under the provisions specified in paragraph 11 above and a formal investigation is required, the following shall apply:
- .1 The recorder shall inform the person or persons who are the subject of the disclosure of the substance of the disclosure and any evidence supporting it;
  - .2 The recorder shall offer to interview the person or persons who are the subject of the disclosure, who may be accompanied by a trade union representative or work colleague;
  - .3 Following the interview the recorder shall draw up a report of their findings including recommendations as to what further steps, if any, need to be taken. Any recommendation will be referred to the appropriate officers/department for action (this may include remedial actions/disciplinary action).

### **13. Reporting of Outcomes**

- 13.1 In all cases a report of the outcome of any investigation will be made by the person responsible for the investigation to the Audit Committee. This report will be made in detail where the issue falls within the Committee's purview, and in summary in other cases as a means of allowing the Committee to monitor the effectiveness of the procedure.
- 13.2 Once a discloser has made a disclosure under this procedure, on no account should they communicate the information provided, or matters arising from the investigation, to any person or persons external to the University, except as specified in paragraph 14 below.

### **14. External Disclosure**

- 14.1 A discloser who wishes to make a qualifying disclosure to an external body may make such a disclosure to the appropriate body, governmental department or agency, provided that they have, in the first instance, sought to follow the above procedure, but has either:
- .1 received no response on any action taken within a reasonable period of initiating this procedure. (What is to be regarded as a reasonable period may vary according to the potential or actual seriousness or complexity of the disclosure but it should be normally no longer than one month from the time that the disclosure was initially made);
  - or
  - .2 remains dissatisfied following the conclusion of this procedure and feels that the matter is so serious that a disclosure to an appropriate external body is necessary.
- 14.2 Where the disclosure concerns a matter of such extreme seriousness and/or urgency that an external disclosure to the police or the appropriate body, governmental agency or department should be made immediately, the discloser may so proceed.
- 14.3 Nothing within this Code of Practice removes the right of any individual to report a suspected crime to the police, nor is anything within this Code of Practice intended to remove, or shall have the effect of removing, any right given under the Act.

### **15. Application**

- 15.1 The University reserves the right to substitute any officers within the procedure as necessary.
- 15.2 Further information is available from the Assurance Services team, Department of Strategic Planning and Governance.