

WHISTLEBLOWING POLICY (Disclosure under the Public Interest Disclosure Act 1998)

Responsibility for Policy:	University Secretary & General Counsel
Relevant to:	LJMU Staff, Governors, contractors and suppliers
Approved by:	ELT, 30 March 2021
Responsibility for Document	University Secretary & General Counsel
Review:	
Date introduced:	June 1999
Date(s) modified:	September 2012, June 2013, December 2016, June 2017, July 2019, March 2021
Next Review Date:	March 2024

RELEVANT DOCUMENTS

- Anti-Bribery Policy
- Code of Conduct for Staff
- Disciplinary Procedure
- Grievance Procedure
- Dignity at Work Policy
- Financial Regulations
- Gifts & Hospitality Policy

RELATED POLICIES & DOCUMENTS

- Employment Rights Act 1996
- Public Interest Disclosure Act 1998
- FOIA 2000
- Bribery Act 2010
- Enterprise and Regulatory Reform Act 2013
- Modern Slavery Act 2015
- DPA 2018
- CUC Higher Education Code of Governance 2020

1. Statement of the University's commitments by the Chair of the Board of Governors

- 1.1 Liverpool John Moores University values its reputation and is committed to the highest standards of honesty, openness and accountability in the pursuit of its strategic aims and ambitions. It seeks to conduct its activities in a responsible way, taking into account the proper use of public funds, the requirements of funding bodies and the standards required in public life.
- 1.2 The Board of Governors expects that all staff, agency workers and contractors will raise any genuine concerns that they may have about the conduct of others in the University or the way in which University business is conducted and would expect that this is done through the usual channels of communication and reporting in the first instance.
- 1.3 The University encourages individuals who are aware or have reasonable suspicion of any fraud, misconduct or wrongdoing by members of staff of the University to raise such concerns.
- 1.4 In accordance with the CUC Higher Education Code of Governance 2020, this Policy sets out the procedure by which individuals can report their concerns about suspicions of serious issues of malpractice to the University if the normal channels of reporting have failed to address the issue or concern. This Policy seeks to reassure individuals that it is acceptable and safe for them to raise such concerns without fear or detriment and to provide a clear procedure for doing so.
- 1.5 Findings of malpractice will be acted upon quickly to remedy the situation, including reporting the matter to an appropriate Government or Regulating Agency if necessary.
- 1.6 It should be noted that this University Policy is concerned specifically with matters arising as qualifying disclosures, of malpractice, impropriety or wrongdoing in the workplace. It is not designed to provide individuals with a channel of enquiry or comment on the financial or business operations of the University, or on matters that have already been dealt with under other University procedures.
- 1.7 Maliciously – or vexatiously – raising an untrue allegation is a serious disciplinary offence and would be dealt with under the University's disciplinary procedures.

2. What is Whistleblowing?

- 2.1 This Policy sets out the University's commitments to support those who speak up about serious concerns at work, also known as "raising concerns" or "whistleblowing" and the way to do so responsibly and effectively. These terms are used to describe the raising of concerns to an organisation about misconduct, malpractice, bribery, fraud or corruption in the workplace.
- 2.2 This Policy incorporates the requirements of the Public Interest Disclosure Act 1998, which was introduced to provide a route by which workers who raise legitimate

concerns or 'qualifying disclosures' within an organisation are protected from dismissal or any other detriment because of making such a disclosure. 'Workers' include those who are directly employed by the organisation and also agency workers and contractors.

2.3 The Public Interest Disclosure Act 1998 provides protection for members of staff who raise legitimate concerns about specified matters which are known as 'qualifying disclosures'. The wrongdoing disclosed must be in the public interest. This means it must affect others, for example, the general public. A qualifying disclosure is one made in the public interest by a member of staff who has a reasonable belief that any of the following are taking place:

- A criminal offence
- An act creating a risk to health and safety
- A miscarriage of justice
- An act that causes harm to the environment
- A breach of any other legal obligation
- Actions which are intended to conceal any of the above

2.4 Managers should take the issue of whistleblowing very seriously and this Policy can increase the University's chances of detecting any wrongdoing before it becomes more serious.

2.5 Any individual who makes a disclosure in the public interest has the right not to be dismissed or subjected to any detriment as a result of so doing and will be afforded protection against victimisation and bullying and harassment from another worker. The whistleblower's identity will so far as possible be kept confidential.

2.6 Anyone who victimises a whistleblower or subjects him/her to bullying and/or harassment will be subject to the University's disciplinary procedures.

3. Scope of this Policy

3.1 This Policy applies to all members of staff and Governors and those who are engaged to work in the University, including apprentices, interns, casual and temporary staff, agency workers, self-employed workers, contractors and suppliers, those with honorary contracts, work placements and visiting researchers.

3.2 Individuals making a disclosure are expected to put their name to any concerns raised. Disclosures made anonymously can be significantly more difficult to address, they may carry less weight and it may not be possible to establish whether they are credible. The University, at its discretion, may investigate anonymous disclosures depending on the seriousness of the issue, the credibility of the concern and the likelihood of being able to investigate the matter and confirm the allegation from alternative sources.

3.4 This Policy is distinct from other internal policies and procedures specifically for dealing with complaints by staff connected with their terms of employment. Personal grievances (for example: bullying, harassment, discrimination) are not covered by

whistleblowing law, unless the particular case is in the public interest. Personal grievances should be reported through the University's Grievance Procedure or the University's Dignity At Work Policy, as appropriate. This Policy is not intended to be used to re-open or review a matter already dealt with under other policies or procedures or to question or reconsider financial or business decisions taken by the University. The purpose of this Policy is to assist individuals who believe they have discovered serious wrongdoing in the University.

4. Procedure for Making a Disclosure

- 4.1 If an individual has a concern and wishes to make a disclosure they should inform the University Secretary & General Counsel. In the event of a disclosure concerning the University Secretary & General Counsel, the disclosure should be made to the Vice-Chancellor.
- 4.2 Concerns are best raised in writing, setting out the relevant background and history, giving names, dates and places and the reason why the individual is concerned about the situation. However, an individual who does not feel able to put their concerns in writing may do so in person. If the disclosure is made verbally, the University Secretary & General Counsel will make a file note of it. Sufficient information and detail should be provided to enable the concern to be meaningfully considered by the University Secretary & General Counsel.
- 4.3 It is possible that a disclosure could be received in another way – such as through the post, or as part of a process under other University procedures. In this instance, the person receiving the disclosure should notify the University Secretary & General Counsel as soon as possible.
- 4.4 Initial enquiries will take place to decide whether an investigation is necessary. The University Secretary & General Counsel may conduct those preliminary enquiries personally, or may appoint an investigator to do so (“the Investigating Officer”). The University may need to make a preliminary report to the OfS if initial enquiries point to a reportable event having occurred or being likely to occur. The University Secretary & General Counsel will raise this with the Vice Chancellor and a note will be kept of the decision.
- 4.5 If suspension of a member of staff is required to enable an effective investigation to take place, or the allegation made is so serious, this should be invoked in line with the process set out in the Staff Disciplinary Procedure.
- 4.6 Within 14 working days of a concern being raised, the University Secretary & General Counsel will endeavour to write to the individual who raised the issues:
 - 4.6.1 Acknowledging that a concern has been raised;
 - 4.6.2 Indicating how it is proposed to deal with the matter, including whether any further investigations will take place, and whether those will be under this procedure or a different University policy/procedure; and
 - 4.6.3 Giving an estimate of the predicted timeframe for any investigation, if possible.

5 **Investigation and Outcome**

- 5.1 Having undertaken initial enquiries, if further investigation is necessary under this procedure, the University Secretary & General Counsel will appoint an appropriate Investigating Officer to carry out a full investigation of the matter, if this has not already happened (see 4.3).
- 5.6 This Policy and the investigation procedure are confidential to enable the University to detect and address wrongdoing promptly and effectively. As such, it is distinct from other University procedures (which are staff-facing and in which an individual who has raised a complaint may play an active role). The way in which a concern is investigated and addressed under this Policy is a matter for the University to determine, appropriate to the circumstances of each disclosure.
- 5.7 The individual who raised the concerns may be required to attend an additional meeting or meetings in order to provide further information but will not have active involvement in the process. A refusal to participate in an investigatory interview may lead to disciplinary action. When any meeting is arranged, employees may bring a colleague or union representative. Any companion must respect the confidentiality of any disclosure and any subsequent investigation.
- 5.8 Investigations will be conducted as sensitively and speedily as possible, while having regard to the nature and complexity of the disclosure.
- 5.9 Whilst the University Secretary & General Counsel may be able to inform the individual who raised the complaint of the outcome of the investigation, in many cases the need for confidentiality will prevent the University from giving specific details of any investigation or its outcome. The University Secretary & General Counsel will, however, normally endeavour to notify the individual when the process has concluded, even if the outcome cannot be shared.
- 5.10 If the individual is dissatisfied with the way in which a concern has been handled, the individual should raise the matter in writing with the University Secretary & General Counsel within 14 calendar days of receiving notification that the investigation has concluded. The matter will be referred to a senior manager of the University (“the Reviewer”) to review and consider if the investigation has been properly handled. In some circumstances, it may be appropriate to refer the matter to an independent member of the Board of Governors to conduct the review. This process is not a review of the substance of the outcome or the recommendations. The University Secretary & General Counsel will notify the complainant when the review has completed.

6 **Disclosure to appropriate external authorities/prescribed persons**

- 6.1 The aim of this Policy is to provide an internal mechanism for reporting, investigating and remedying possible wrongdoing in the workplace. Contacting an external body without initially going through this internal procedure is inadvisable without a compelling reason.

- 6.2 If, having followed the processes at section 4 and 5.10 above, the individual believes that appropriate action has not been taken, they should report the matter to the proper authority. There are certain statutory bodies, or people within them, who have the authority to receive disclosures relevant to the role of that particular body. A list of these is available at <https://www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies--2>
- 6.3 It will very rarely, if ever, be appropriate to contact the media. For the avoidance of doubt, employees should not bypass the procedure set down in this Policy or air concerns externally especially on social media such as Facebook, Twitter, Whatsapp, YouTube etc.
- 6.4 The University strongly encourages employees to seek advice before reporting a concern to anyone external. The independent whistleblowing charity, Protect, operates a confidential hotline. Their contact details are 020 3117 2520 and <https://protect-advice.org.uk/>

7. Reporting, Referring on and Record-Keeping

- 7.1 Upon receipt of a concern, the University Secretary & General Counsel will, if appropriate, notify the Vice-Chancellor that a concern has been raised as a disclosure.
- 7.2 When an investigation has taken place, the Investigating Officer will report back to the University Secretary & General Counsel who will consider the report and make any recommended referrals (for example, into disciplinary procedures if the concerns relate to employee wrongdoing, or to the police or another enforcement agency).
- 7.3 If the University Secretary & General Counsel considers that there may be a disciplinary case for any individual(s) to answer, they will discuss this with the Executive Director of Human Resources. Depending on the circumstances, the matter may proceed straight to a disciplinary hearing, on the basis of information collected as part of this investigation, or further investigation may take place first, if necessary. For expediency in this later situation, the Investigating Officer may be asked to continue in that role and to conduct the disciplinary investigation.
- 7.4 The University Secretary & General Counsel will also report the findings to the Vice Chancellor and, where appropriate, any recommendations/referrals made will be reported to ELT.
- 7.5 The University Secretary & General Counsel will ensure that a record of the matter is made and of any decisions and/or subsequent actions, with the reasons for such decisions/actions. These records will be retained in accordance with the University's Records Retention Schedule.

- 7.6 On an annual basis, the University Secretary & General Counsel will report to Audit Committee for its information the number of complaints received and investigated under this Policy.
- 7.7 Any report compiled under this investigation procedure is confidential to the University and will only be shared to the extent necessary with the Investigating Officer, University Secretary & General Counsel, Executive Director of Human Resources (when necessary to instigate the Staff Disciplinary Procedure), staff involved in managing complaints under this Policy and (where relevant) the Vice Chancellor, the Audit Committee and any external regulatory bodies that need to be notified. Where any disciplinary procedure is initiated as a result of an investigation under this Policy, the person subject to that procedure may be provided with relevant extracts of the report to the extent that these are relevant to the disciplinary proceedings being undertaken. A copy of the full report will not be provided. Outcomes of any subsequent disciplinary procedures would not normally be shared with an individual raising concerns.

8. Respecting Confidentiality and Protecting those who Speak Up

- 8.1 The University hopes that individuals will feel able to voice serious concerns openly under this Policy. However, if they wish to do so confidentially, every effort will be made to keep their identity confidential for as long as possible.
- 8.2 All disclosures will be treated in a confidential manner in any event. The identity of the individual making the disclosure will not be disclosed unless the University is required to do so in order to comply with its legal or regulatory obligations. For example, if a disciplinary hearing ultimately takes place, the member of staff accused will need full details of the allegations against them. This may reveal the identity of the individual who raised the concerns. However, this would not be done without the individual's prior knowledge. The University is committed to doing as much as possible to ensure that well-being at work does not suffer as a result of the tensions that may result from the making or investigation of such complaints.
- 8.3 The University will protect any person who raises a genuine concern from being at risk of losing their role or suffering any form of reprisal as a result. The University will take appropriate action against any person found to be:
- Victimising another person for using this procedure;
 - Deterring any person from reporting genuine concerns under this procedure.
- 8.4 For employees, this action may involve the University taking disciplinary action, up to and including dismissal.
- 8.5 The ability to protect against detriment will depend on the University knowing the identity of the individual making a disclosure.

9. Monitoring and Review

The Policy Lead will action a review of this Policy statement and related policies every three years. Any changes needed to ensure effectiveness will be drawn to the attention of ELT.

10. Key Contacts

- Policy Owners: the Board of Governors of the University.
- Policy Lead: University Secretary & General Counsel
- First point of contact for reporting suspected breaches: University Secretary & General Counsel