



# Whistleblowing Policy

## Purpose of Policy

The University is committed to the highest standards of professional practice and good governance and will treat reports of suspected misconduct seriously.

## Overview

This policy takes account of the provisions of the Public Interest Disclosure Act 1998 (the “Act”), the Scottish Code of Good Higher Education Governance and more recent legal developments. The Act protects workers from detrimental treatment or victimisation from their employer if, in the public interest, they blow the whistle on wrongdoing. The Policy reflects the University’s commitment to openness in its affairs and is based on the premise that individuals must feel able to draw attention to suspected misconduct and be supported in so doing. Staff also have a duty to report suspected misconduct and are strongly encouraged to do so in line with this policy.

As part of this commitment, no detrimental action of any kind will be tolerated against a University staff member raising a concern under this policy, and the University will support staff members concerned and seek to protect them from reprisals. Legal protections are also provided to staff by the Act under certain circumstances, and this policy reflects the spirit as well as the letter of the Act, while seeking to offer protection in wider circumstances than are provided for by the Act.

This policy is not intended to cover matters concerning harassment, grievances and / or staff discipline, which should be raised in accordance with the existing University policies, procedures or codes of practice relating to such matters. The University also recognises that its willingness to receive reports under this policy raises the risk of vexatious or malicious reports being made. The deliberate submission of a false report, or a report made in an attempt to cover up wrong-doing, will be regarded as a breach of discipline.

## Scope

This policy exists for the protection of members of staff and the University and applies to all:

- a) employees and any other member of staff of the University and its subsidiary companies (and references to the University in this policy shall be deemed to include reference to its subsidiary companies where applicable), including any temporary or agency staff or unpaid members of staff and voluntary workers; and
- b) activities of the University, whether related to its research, teaching, commercial or other activities.

It does not apply to students, who should raise any concerns about the University via the University complaints procedure.



# Whistleblowing Policy

The aims of this Policy are to:

- a) encourage staff to report suspected misconduct as soon as possible, in the knowledge that their concerns will be taken seriously and investigated as appropriate, and that their confidentiality will be respected;
- b) provide staff with guidance as to how to raise those concerns; and
- c) reassure staff that they should be able to raise genuine concerns without fear of reprisals, even if they turn out to be mistaken.

The University also expects any person or organisation performing services for it or on its behalf (including agents and others who represent the University, suppliers, consultants and private sector partners) to report any suspected misconduct to their University contact or to the Head of College or the senior manager in the relevant administrative area (for example the Director of Human Resources, Director of Health and Safety Services, the University Security Officer).

## Concerns Outside the Scope of this Policy

This policy does not cover concerns about an individual's or collective terms of employment, nor does it provide a route to re-examine the findings of other formal procedures, such as disciplinary or grievance proceedings.

It is not possible to give definitive guidance on whether a particular matter should be pursued under this policy or through the disciplinary, capability, grievance or harassment procedures or some other similar procedure. This will depend on the particular circumstances. Senior staff, including in particular the Director of Human Resources, will always be willing to give guidance on this question, in confidence if necessary and where possible.

However, as a general guide

- this policy would be applicable where an individual has a concern about a danger or illegality that has a public interest aspect to it, for example because it threatens students, third parties or the public generally; and
- a grievance is a complaint that generally relates to an individual's own employment position or personal circumstances at work, which would fall outside the scope of this policy.

## Disclosure or Grievance?

When you make a disclosure under this whistleblowing policy you should believe that you are acting in the public interest. Personal grievances and complaints are not usually covered by whistleblowing law.

Personal grievances (for example bullying, harassment, discrimination) are not covered by whistleblowing law, unless your particular case is in the public interest.

To verify the position that a personal grievance is not generally regarded as a protected disclosure you can refer to the Government's guidance for whistleblowers <https://www.gov.uk/whistleblowing>. You can also contact the Advisory, Conciliation and Arbitration Service (Acas) for guidance on whistleblowing and grievances. Useful information can be found at: [www.acas.org.uk/grievances](http://www.acas.org.uk/grievances).



# Whistleblowing Policy

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# Whistleblowing Procedure

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# Whistleblowing Procedure

## What Areas Does This Procedure Cover?

This procedure is intended to promote the disclosure of information which relates to suspected misconduct or dangers to the University. This may include:

- that a criminal offence has been committed, is being committed or is likely to be committed;
- a failure to comply with a legal obligation, or to comply with the Universities (Scotland) Acts or Ordinances made under those Acts;
- a miscarriage of justice;
- danger to health or safety of any individual;
- damage to the environment;
- financial or non-financial maladministration and misconduct;
- obstruction or frustration of the exercise of academic freedom;
- academic or professional misconduct of a serious nature\*;
- improper conduct or unethical behaviour of a serious nature;
- unauthorised disclosure of confidential information;
- breach of the University's internal policies and procedures; or
- the deliberate concealment of information relating to any of the above matters,

The above list is not exhaustive. These types of misconduct may relate to the University itself, any of its staff or an individual or organisation performing services for it or on its behalf.

\* <https://www.ed.ac.uk/research-office/research-integrity/research-misconduct>

A **whistleblower** is a person who raises a genuine concern relating to any of the above. It is not necessary for a whistleblower to have proof misconduct is being, has been, or is likely to be committed – a reasonable belief, suspicion or concern is sufficient. Staff are not responsible for investigating a suspicion or concern – it is for the University to carry out an investigation once it has received a report (see Investigation of Reports of Misconduct below).



# Whistleblowing Procedure

## Reporting Misconduct and Raising Concerns

Two important principles underlie this procedure:

- as far as possible, concerns should be raised and resolved at the lowest appropriate level in the organisational and management structure of the University; nevertheless
- staff may draw a serious matter to the attention of a senior officer without working through the normal line- management structure.

This means that, as far as possible, formal processes and existing communication and management channels should be used for reporting misconduct. Where processes for specific types of misconduct are defined by another code of practice or University policy (for example, the reporting mechanisms set out in the University's Anti-Bribery and Corruption Policy or the University's Fraud Policy), those processes should be followed for raising concerns relating to that alleged misconduct. If separate codes or policies do not apply to the misconduct, then the matter causing concern should normally be raised as set out in table 1 below.

Matters causing concern may be raised under this procedure in circumstances where:

- misconduct is believed to have occurred / be occurring which, whilst apparently wrong, is not explicitly covered by existing procedures;
- procedures do exist to cope with the matter, but attempts to use them appear to have been ignored or frustrated;
- there appears, for reasons of expediency, to be institutional tolerance of misconduct; or
- the person believed to be indulging in misconduct, or turning a blind eye to misconduct, is in some position of authority or seniority over the member of staff making the report.

A concern can be raised by telephone, in person or (preferably) in writing (including email).

Although staff are not expected to prove the truth of their concern or provide evidence, they will generally need to provide the following information as a minimum:

- the nature of the concern and why it is believed to be true; and
- the background and history of the concern (giving relevant dates where possible).

The University does not encourage individuals to raise matters anonymously. Whilst evidence presented anonymously will be treated seriously and investigated as far as is practicable and as seems warranted by the information provided, anonymous reports are not encouraged because it will usually be very difficult to investigate them effectively. Wholly anonymous allegations unsupported by any evidence will not normally be pursued. Similarly, if the details provided are vague or unclear it may hinder the University's ability to carry out an investigation into the concerns raised. Staff who are concerned about possible reprisals if their identity is revealed should raise this at the time at which the complaint is made. Further information on confidentiality is set out below.



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The approach which should be taken will depend on whether the matter of concern relates to financial matters or to other matters.

<b>Table 1</b>	
<b>Route</b>	<b>Description</b>
<b>1 Non-Financial Matters</b>	Concerns about non-financial issues should be raised, as the person expressing a concern deems appropriate, with the Head of College or the senior manager in the relevant administrative area (for example the Director of Human Resources, Director of Health and Safety Services, Director of Procurement, the University Security Officer).
<b>2 Financial matters</b>	The Director of Finance is responsible for the proper conduct of the financial affairs of the University and concerns about the financial conduct of an individual should normally be made to him or her.
Fraud	In cases of fraud the Fraud Policy and Procedures must be followed.
Bribery and corruption	Please refer to the Anti-Bribery and Corruption Policy which explains in detail what you should do when you suspect bribery or corruption.
Procurement	The Director of Procurement may be appropriate for first level scrutiny and reporting re procurement non-compliance/pressure on individuals from commercial bidders. See also the Procurement Policy (Scottish Procurement Policy Handbook).
Other Policies	This policy also covers issues related to the following other policies and Codes of the University, where reference should be made for guidance on procedures: <ul style="list-style-type: none"> <li>• Disciplinary Policy</li> <li>• Policy on Conflict of Interest</li> <li>• Code of Practice for Staff on the Receipt of Gifts, Hospitality and Other Benefit</li> <li>• Criminal Finances Act 2017 Statement</li> <li>• Anti-Money Laundering Policy</li> </ul>
Internal audit	Although the person expressing a concern might feel that they should approach the Internal Audit service direct, this will not normally be appropriate. This is because it would not normally be possible for the Internal Audit service to investigate a matter without first referring to the relevant senior manager for guidance, and informing the Director of Finance if he/she is not the relevant manager.

In particularly serious cases (whether relating to financial or non-financial matters), the person expressing a concern may feel he or she has to bring a matter directly to the attention of a very senior officer such as the Principal or the University Secretary to the University. The University is clear, and supports the view, that staff have a right to contact senior officers directly if they think it appropriate. In exceptional cases, where the matter involves the Principal directly, the concern could be raised with the Senior Lay Member or the Convener of the Audit and Risk Committee.





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## Other Channels

There may be circumstances in which the individual considers it necessary to bring a matter to the attention of a designated lay member of the University Court, rather than through the routes described above. Such a lay member will be appointed by the Court for a period of three years. He or she will be bound by the guidance on confidentiality set out in this procedure and will be free to investigate the problem as he or she sees fit, including contacting any relevant senior University staff in order to obtain information. Alternatively, he or she will have discretion to refer the problem through either of the two routes described above, or direct to the Principal or University Secretary. If it is impossible for the lay member to act because of existing commitments, or inappropriate because of possible conflict of interests, he or she is empowered to pass the matter to another lay member of Court to be dealt with accordingly. The lay member can be contacted by emailing [Court@ed.ac.uk](mailto:Court@ed.ac.uk)

## Investigation of Reports of Misconduct

Individuals should feel confident that a report of misconduct will be taken seriously and properly investigated, and that they will not suffer any criticism or disadvantage for raising concerns genuinely held, even if they prove to be unfounded.

### Conduct of Investigations

A member of staff who reports under this procedure (for example by stating at the time of raising their concern that they are doing so under the Whistleblowing Policy and Procedures or applicable legislation such as the Act) will initiate a formal investigation by the University. The manner in which a complaint is pursued and investigated will be at the discretion of the University and not the reporting staff member, although the staff member's views and personal position will be taken into account by the University when determining the most appropriate course of action.

Concerns reported under this procedure will be taken seriously and investigated. Investigations will be undertaken as quickly as practicable following a report to ensure that the quality or depth of the investigation is not affected. The seriousness and complexity of a reported concern will have an impact on the time needed to carry out and conclude an investigation, and in some instances it may be necessary to refer a matter to an external advisor. Some matters may require immediate referral to an outside body for consideration and investigation (see section on external reports below) but usually a preliminary internal investigation will first be undertaken.

In cases relating to claims of financial misconduct, the Director of Finance will arrange an investigation by him/herself, his/her professional staff or the Internal Audit service, as appropriate. In other cases, the recipient of the expression of concern should determine who should carry out the investigation. This would normally be delegated to a Vice-Principal, a Deputy Secretary, a Head of College or to the appropriate professional officer, according to the nature of the report. In all cases consideration of the action to be taken will need to take account of the University's disciplinary procedures and the roles of senior officers in initiating the various stages of those procedures.

In cases where the recipient of the report, or the person who would typically have to reach a decision on the matter, believes that he or she is best placed to investigate the matter raised, rather than the investigation being delegated, then he or she should inform a senior officer (normally the University Secretary or the Principal) of the complaint and the intention to investigate it, and should request that senior officer to be prepared to reach a decision in the light of the investigation.





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Recipients of reports of misconduct under this procedure will take them seriously, and be seen so to do. Their attitude will be one of initially accepting, on the face of matters, that the person expressing a concern genuinely believes that a problem exists, and that, if the individual has bypassed the normal line management structure, they may have had good reason to do so. This will require the recipient to record both the receipt of an expression of concern and what subsequent action was taken. In the usual course the recipient will, after investigation, prepare a report on the action taken for the Audit and Risk Committee, or the University Secretary or Principal according to the nature of the concern raised. Legal Services should be contacted if legal advice is required (including where external legal advice is sought) and/or if the investigator wishes to discuss whether the investigation report should be subject to legal professional privilege.

Staff expressing a concern may want assurance that the concern is being investigated and details of the outcome. Subject to legal restraints, the University will provide the person raising the concern with reasonable information about the outcome of any investigation.

## Confidentiality

Every effort will be made to respect the confidentiality of staff reporting misconduct if sought. However, there are certain situations where confidentiality cannot be guaranteed, for example: where evidence is available to demonstrate that the reporting staff member is part of the wrongdoing; the investigation reveals behaviour of a potentially criminal nature and the matter is reported to the relevant authorities; and / or the University is required by law to disclose the reporting staff member's identity.

The University is fully committed to observing the principles of natural justice in its handling of matters. This applies equally to those about whose actions concerns are expressed as well as those expressing a concern. For this reason, whatever the circumstances, there may come a point in the investigation of an allegation where the person, or persons, about whom concern has been expressed is told of the nature of the allegation, shown the evidence supporting it and allowed to comment before the investigation is completed and a report made. It will be a matter of the University's judgement at what point this is necessary.

In cases where financial misconduct is alleged, the results of the investigation, and where relevant the action taken, will be reported by the Director of Finance to the Convener of the Audit and Risk Committee and to the Principal as Accounting Officer. Subject to the findings of the investigation they may also be reported to the Audit and Risk Committee and then to the Court. They may also be reported to the Scottish Funding Council to the extent that it so requires in its Financial Memorandum with the University, or to any other external agency where the University is required so to do.

If the University's investigation concludes that a whistleblower has made false allegations maliciously, the whistleblower may be subject to disciplinary action

## Academic Matters and Judgements

Ordinance 208 and section 26 of the Further and Higher Education (Scotland) Act 2005 (as amended by the Higher Education Governance (Scotland) Act 2016) underpins the freedom of <sup>1</sup>academic staff

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<sup>1</sup> "Academic staff" means any person holding a contract of employment with the University Court as a Professor, Reader, Senior Lecturer or Lecturer of the University and any other person holding a contract of employment with the University Court engaged in teaching, the provision of learning or research in the University.



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to hold and express opinion, to question and test received wisdom, and to present controversial or unpopular points of view, without placing in jeopardy the appointments they hold or any entitlement or privileges, and places an obligation on the University to uphold (so far as it considers reasonable) the academic freedom of all relevant persons.

In a University community, disagreements on matters of academic judgement are not uncommon, and on occasion these can manifest themselves as deep divisions between colleagues who strongly hold opposing views. In implementing this procedure, the University will take care to ensure that it is not abused by one or more parties to a disagreement on a matter of academic judgement: the holding of academic views contrary to those of another individual is not malpractice. Any such views must be articulated in a fully professional manner and in accordance with the University's Dignity and Respect Policy.

The University encourages staff to speak freely, and without being subject to disciplinary action, about academic standards and related matters, provided that they do so lawfully, without malice, in the public interest, and with due regard to the accepted need for confidentiality in respect of individuals in an academic environment.



# Whistleblowing Procedure

## External Reports of Misconduct

The aim of this procedure is to provide an internal mechanism for reporting, investigating and remedying any wrongdoing in the University. In most cases staff should not find it necessary to alert anyone externally. However, in some circumstances it may be appropriate for staff to report their concerns to an external body such as a regulator or the police. The University strongly encourages staff to seek advice before reporting a concern to anyone external and, other than in exceptional circumstances, all concerns should be raised internally in the first instance. If an individual believes that they have no choice but to raise a matter externally, he or she should exercise caution and responsibility in so doing. The avenues open include:

- the Scottish Funding Council (<http://www.sfc.ac.uk/>);
- a Member of the Scottish Parliament (<https://www.parliament.scot/index.aspx>);
- Single Point of Enquiry for Procurement(SPOE) [SPOEprocurement@gov.scot](mailto:SPOEprocurement@gov.scot)
- the police (<http://www.scotland.police.uk>);
- The Quality Assurance Agency for Higher Education (<http://www.qaa.ac.uk/>);
- Audit Scotland (<http://www.audit-scotland.gov.uk/>);
- the person expressing a concern's Trade Union or professional body; or
- such office-holders or bodies designated under the Act (<https://www.gov.uk/government/publications/the-public-interest-disclosure-act/the-public-interest-disclosure-act>).

Staff are advised that external bodies receiving a report may ask whether a matter being brought to them had been raised internally, and if not, why not. Therefore, if a report of misconduct is to be made externally, for the University would advise that the person expressing a concern prepares an explanation of why internal routes have been exhausted or are not appropriate. It should be noted that in certain circumstances disclosures to some or all of the external agencies mentioned in this section 8 may not be protected by the Act.

**28 September 2020**



# Whistleblowing Procedure

## Document control

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<b>Signature of approver</b>	
<b>Date approved</b>	28 September 2020
<b>Section responsible for policy maintenance review</b>	Counter Fraud Group

## Change control record

<b>Approval date</b>	<b>Amendment made</b>	<b>Approved by</b>
20 Jan 2022	Link to Research misconduct web page added	Rachael Robertson