

**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 employees against being dismissed or penalised by their employers as a result of publicly 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. Individuals who have made such a disclosure 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 staff 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 employees, and in particular to assist individuals who believe they have discovered malpractice or impropriety in the conduct or management of the University of South Wales Group, including those serious concerns 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.

2. SCOPE

2.1 This procedure is designed to allow any member of staff employed by the University of South Wales Group to raise concerns/disclose information, which the individual believes shows malpractice.

2.2 Other individuals performing functions in relation to the University of South Wales Group, such as agency workers and contractors are encouraged to use this procedure.

2.3 The scope of this procedure covers the investigation of those serious concerns covered by the Public Interest Disclosure Act, i.e.

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

It also covers the investigation of concerns about the following where not already covered by the above:

- financial malpractice or impropriety or fraud
- failure to comply with the Instrument and Articles of Government or Regulations of the University or the Articles and Memorandum or Regulations of the colleges
- academic malpractice
- improper conduct or unethical behaviour
- attempts to conceal any of the above.

2.4 The procedure does not apply to grievances or disputes affecting individuals as employees, to which the grievance procedure applies.

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 those employees of the University of South Wales Group who disclose such concerns provided the disclosure is made:

- i) in good faith; and
- ii) in the reasonable belief of the individual making the disclosure that it tends to show malpractice.

The individual will also be protected if they make the disclosure to an appropriate person/body as defined below.

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 Secretary¹ 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. **DEFINITION**

4.1 **Disclosure:** any matter falling within the scope of this procedure, which is the subject of a disclosure by a member of staff about the management or conduct of the University of South Wales Group.

4.2 **Dean or Corporate Head of Department²**: the head of the academic unit or support service, which is responsible for the matter which, is the subject of the disclosure.

5. PROCEDURE

5.1 *Introduction*

5.1.1 In the case of a cause for disclosure falling within the scope of this procedure, the member of staff should, wherever possible and appropriate, seek to resolve it informally with the appropriate persons(s) responsible for the matter which is the subject of disclosure. However, if the disclosure cannot be resolved by this approach or if such an approach is not appropriate because of the nature of the disclosure, then the member of staff has the right to use the procedure described below.

5.1.2 **With the agreement of those concerned, or where a disclosure is not resolved within a reasonable timescale or where the complainant believes that the matter is of sufficient gravity or urgency, Stage 1 of the procedures may be omitted. In all cases where the disclosure relates to a serious concern covered by the Public Interest Disclosure Act (see 2.2 above), the disclosure must be referred to the University Secretary¹ (or higher authority) under Stage 2 of the procedures.**

5.1.3 The member of staff making the disclosure will be allowed reasonable time to seek advice for any meeting which forms part of the process and to be accompanied by a friend or representative of his/her choice.

5.1.4 **The whistle blowing procedure should normally be conducted within the timescales laid down in this document. However, if there is a valid reason to do so, timescales can be varied. If this is initiated by management, the employee should be given an explanation if this occurs and informed when a response or meeting can be expected. Delays should not normally exceed 10 working days.**

5.1.5 **Where the complainant is unsatisfied with the outcome of an investigation at Stages 1 – 3, then he/she may refer the disclosure to the next Stage of the process. This should normally be done within twenty (20) working days but, if there is a valid reason to do so, timescales can be varied. The complainant should seek advice from the relevant person as detailed at each Stage, as soon as practicable if this is the case.**

5.2 *Stage 1 – Dean of Faculty or Corporate Head of Department²*

5.2.1 If a member of staff wishes to raise a disclosure falling within this procedure, then he/she may raise the disclosure formally with the relevant Dean or Corporate Head² in writing. The Dean or Corporate Head² will determine whether the appropriate Executive member³ should be consulted or informed of the disclosure. In the case of suspected fraud, financial malpractice or impropriety, the appropriate Executive member³ must be informed and the matter referred

to the Deputy Vice Chancellor (Strategic Resources) who will take such steps as he/she considers necessary by way of investigation and involvement of internal audit.

5.2.2 When the disclosure is against the Dean or Corporate Head², the disclosure should be raised under Stage 2 of the procedure.

5.2.3 The Dean or Corporate Head² will consider the information made available and 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.

5.2.4 The Dean or Corporate Head² will inform the complainant what action, if any, is to be taken.

5.2.5 If the disclosure is not resolved within **twenty (20)** working days or subject to further investigation in a way which is unsatisfactory to the complainant, the disclosure may be referred to Stage 2.

5.3 **Stage 2 – University Secretary¹**

5.3.1 The member of staff making the disclosure should submit their disclosure in writing to the University Secretary¹ who will consider it on the Vice-Chancellor's⁴ behalf in consultation with appropriate Executive members¹.

5.3.2 Where the disclosure relates to the University Secretary¹ or an Executive member³, it should be raised directly with the Vice-Chancellor⁴. If the disclosure relates to the Vice-Chancellor⁴ or to a governor⁵, it should be raised directly with the Chairman of the Board of Governors⁶. If the disclosure involves the Chairman⁶ personally, it should be referred to the Chairman of the Audit Committee who will determine, in consultation with the Governor members of the Audit Committee (and/or the Deputy Chairman⁷), the nature and form of investigation to be undertaken, the outcome of which will be considered by a panel of the Board of Governors or Board of Directors as appropriate.

5.3.3 The University Secretary¹ (or Vice-Chancellor⁴ or Chairman of Governors⁶ 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
- referral to the Police
- an independent inquiry

5.3.4 The University Secretary¹, (or Vice-Chancellor⁴ or Chairman of Governors⁶ or Chairman of Audit) will inform the complainant what action, if any, is to be taken. If no action is to be taken, or the disclosure is not resolved **within twenty (20) working days or subject to further investigation** in a way that is satisfactory to the complainant, then the complainant should be allowed the opportunity to

remake the disclosure to the Vice-Chancellor⁴ (or Chairman of Board⁶ or Chairman of Audit Committee) under stage 3.

5.4 **Stage 3 - Vice-Chancellor⁴**

5.4.1 If the matter has not been resolved by the above stages, the member of staff may refer the disclosure to the Vice-Chancellor⁴.

5.4.2 If the disclosure relates to the Vice-Chancellor⁴ or to a Governor⁵, it should be referred directly to the Chairman of the Board of Governors⁶. If the disclosure involves the Chairman⁶ personally, it should be referred to the Chairman of the Audit Committee.

5.4.3 The Vice-Chancellor⁴ (or Chairman of Governors⁶ or Chairman of Audit Committee) will convene a hearing involving such staff or other individuals with no previous connection with the case as deemed necessary. The proceedings and outcome will be minuted by the Director of Human Resources or nominee.

5.4.4 The Vice-Chancellor⁴ (or Chairman of Governors⁶ or Chairman of Audit Committee) will inform the complainant what action, if any, is to be taken. If the matter has not been resolved **within twenty (20) working days or subject to further investigation** in a way that is satisfactory to the complainant, it may, with the agreement of the Chairman of Governors⁶ (or Chairman of Audit Committee), be referred to an independent External Reviewer appointed by the Board of Governors⁸.

5.5 **Stage 4 – External Reviewer**

5.5.1 Where the disclosure is referred to an independent External Reviewer appointed by the Board of Governors⁸, full details of all the previous steps will be made available in writing. The External Reviewer will consider the written evidence only with a view to making a report and recommendations to the Board of Governors⁸ **within twenty (20) working days**. The External Reviewer may recommend that additional investigations be held, before he concludes his consideration of the matter.

5.5.2 The report and recommendations of the External Reviewer will be made to a Committee of the Board of Governors⁸ specifically constituted for the purpose, including no individual who has had any previous connection with the case. The Committee will consider the External Reviewer's recommendations and determine what action, if any, is to be taken on behalf of the Board.

5.5.3 The complainant will be informed of the External Reviewer's recommendations and the action, if any, to be taken.

6. PROCEDURES FOR INVESTIGATING DISCLOSURES

6.1 An initial investigation to establish all relevant facts may be conducted by the Internal Auditor or other independent officer of the institution who will report his/her findings to the appropriate person as defined in the above procedures. This will be conducted as sensitively and speedily as possible.

6.2 Investigations should not be carried out by the person who will have to reach a decision on the matter.

6.3 Using this information the appropriate person as defined in the procedures will decide if there is a case to answer and what procedure to follow. The internal procedures, which may be followed, include those listed in section 2.3 or it might form the basis of a special investigation. In some instances it might be necessary to refer the matter to an external authority for further investigation.

6.4 The person or persons against whom a disclosure is made will be informed of it, including the evidence supporting it, and will be allowed to comment before any investigation or further action, is concluded.

7. REPORTING

7.1 Reports on the outcome of investigations made under these procedures will be made to the relevant University Committees, including Committees of the Board of Governors⁸.

¹ or Company Secretary of the College

² of the University, or relevant Head of Department at the College

³ or appropriate member of the college executive

⁴ or Principal of RWCMD or the College Merthyr Tydfil

⁵ of the University, or Director of the College Board ⁶

of the University, or Chairman of the College Board

⁷ of the Board of Governors, or Deputy Chair of the College Board

⁸ or Board of Directors