

Whistleblowing Procedure



**Harper Adams
University**

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HARPER ADAMS UNIVERSITY

Speaking Up: The Whistleblowing Procedure

The Procedure

Introduction

1. Harper Adams University (the 'University') is committed to ensuring that it, and the people working for it, comply with the highest standards of openness, honesty and accountability.
2. This procedure is designed to assist the University in investigating and, where appropriate, acting upon a disclosure of information or allegation of serious wrongdoing made by a person, or persons, within the University which is in the public interest,
3. Where an employee, contractor or agency worker (together being a 'Worker') or a student is aware of any serious wrongdoing committed by or related to the actions of any University employees, contractors, agency staff, suppliers, consultants or office holders in the course of their work for the University, and reports it, the University will investigate any such allegation and where appropriate, take action.
4. Whilst Whistleblowing legislation offers protection to Workers, the University considers that any allegations of serious wrongdoing should be investigated whether they are made by Workers or students.
5. The University is committed to treating all disclosures made under this procedure fairly and consistently and to training staff in this procedure appropriately.

The purpose of the procedure

6. This procedure seeks to:
 - (a) Encourage Workers and students to report concerns and allegations which are in the public interest about suspected serious wrongdoing without fear of reprisal or victimisation even where the concern or allegations are not subsequently confirmed by the investigation.
 - (b) Give a clear message that allegations of serious wrongdoing or impropriety are taken seriously
 - (c) Ensure that any serious wrongdoing which is found is dealt with and appropriate persons held accountable
 - (d) Set out what the procedure is for making a disclosure of information
 - (e) Confirm what can be expected in terms of confidentiality and protection for a Worker or student making a disclosure
 - (f) Set out the support available for Workers (and students) making a disclosure
7. This procedure is not designed to be used:
 - (a) For raising or reconsideration of matters that have been dealt with under other existing University procedures (ie disciplinary/complaints procedures etc)
 - (b) As an appeal process from any complaint or grievance handles under any other University procedure
 - (c) For raising matters which are personal grievances.
Where a report is made which falls outside the scope of this procedure, the University will advise the person making the disclosure of this and discuss appropriate alternative routes of taking the matter further.

What is a Disclosure?

8. A Disclosure under the Public Interest Disclosure Act 1998 and for the purposes of this procedure is a disclosure of information which, in the reasonable belief of the person making the disclosure is in the public interest and tends to show one or more of the following:
 - (a) that a criminal offence has been committed, is being committed or is likely to be committed,
 - (b) that a person has failed, is failing or is likely to fail to comply with any legal obligation to which he is subject,
 - (c) that a miscarriage of justice has occurred, is occurring or is likely to occur,
 - (d) that the health or safety of any individual has been, is being or is likely to be endangered,
 - (e) that the environment has been, is being or is likely to be damaged, or
 - (f) that information tending to show any matter falling within any one of the preceding paragraphs has been, or is likely to be deliberately concealed.
9. The person making any Disclosure does not have to be directly or personally affected by the allegation of wrongdoing, but the Disclosure must be made in the public interest.
10. An employee, contractor or agency worker making a Disclosure in the public interest in accordance with this procedure is legally protected from being subjected to a detriment of any kind as a result of making the Disclosure.
11. Any employee who victimises a person making a Disclosure under this procedure could be subject to disciplinary action including potential dismissal and/or face a civil claim in their personal capacity.
12. Where an employee making a Disclosure enters into any settlement agreement with the University, provisions for confidentiality within those agreements will not prevent that person from making a Disclosure in the public interest.

Confidentiality

13. The University, where possible, will seek to keep the identity of the person making any Disclosure under this procedure confidential if requested to do so. However, there are situations where, due to the circumstances of the alleged wrongdoing, it may be impossible to avoid disclosing information which identifies the person who made the Disclosure. In these circumstances, the University will consult with the person making the Disclosure prior to identifying information being disclosed.
14. There may also be situations where the University may be obliged to disclose information which identifies the person who made a Disclosure for legal reasons, in conjunction with legal proceedings or to third parties for the purposes of investigations (eg. the Police). In these circumstances, the University will discuss the issues with the person making the Disclosure and where appropriate explore support arrangements.
15. Anonymous Disclosures will be considered by the University, but depending on the information given and the credibility of any evidence available, there may not be enough information for the University to properly pursue an investigation. In these circumstances, the University may decide not to investigate further or may be limited in the investigations which can be carried out.

Procedure for making a Disclosure

16. The Board of Governors has designated the Audit and Risk Management Committee (ARMC) as the body with responsibility to direct that an investigation should take place further to a Disclosure and to ensure that internal procedures for its investigation are being properly applied. A separate body may be established by the Governing Body for dealing with Disclosures which are of a non-financial nature, called the Public Interest Disclosure Committee, in which case the following steps would apply equally to it. In the event that all members of the ARMC are the subject of the Disclosure, the Disclosure should be made to the Chairman of the Board who will take on the roles usually undertaken by the ARMC.
17. Investigations will be conducted as speedily as possible, having regard to the nature and complexity of the Disclosure.
18. Anyone making a Disclosure under this procedure may be accompanied at any meetings they may attend concerning the Disclosure by a friend or representative if they so choose.
19. The University will endeavour to keep the person making a Disclosure under this procedure informed about the steps that are being taken and where possible will provide feedback. Where anonymous Disclosures are made, the University will not normally be able to provide feedback or details of what action has been taken. Wherever possible, the University will seek to advise the person making a disclosure of the outcome of any investigation, however, the University is bound by the Data Protection Act and the Human Rights Act in respect of allegations relating to individuals and may not be able to disclose information where legal proceedings are contemplated or pending.

Step 1

A person who wishes to make a Disclosure should contact the Clerk to the Board of Governors (who is the University Secretary), either by e-mail, post or telephone. The University Secretary can be contacted by post at the following address: University Secretary, Harper Adams University, Edgmond, Newport, Shropshire TF10 8NB. If the University Secretary is temporarily unavailable and the matter is urgent, the person may contact the Vice-Chancellor or Chairman (as detailed below) at the same postal address. The Board of Governors has designated the Clerk to the Board of Governors as the person to whom a Disclosure should normally be made in the first instance. If the Disclosure is about, or implicates, this officer, then it should be made to the Vice-Chancellor. If the person making the Disclosure does not wish to raise it with either, or the Disclosure implicates both, then it should be made to the Chairman of the Board of Governors. The University will endeavour to acknowledge receipt of the Disclosure information within 10 working days.

Step 2

The designated person to whom the Disclosure has been addressed will ensure, that appropriate consultation with ARMC, and where necessary the University's legal advisers, takes place. The designated person will ask the ARMC to confirm whether or not it agrees that the matter falls under the remit of this procedure and to direct whether it is to be further investigated and if so, by whom. In cases of a financial nature this would normally be the Internal Auditor and may require early notification to the Board of Governors and the Funding Council. Some Disclosures may require immediate referral to an outside body for consideration and investigation (e.g. the police, Health and Safety Executive, National Audit Office, Funding Council), but usually a preliminary internal investigation will first be necessary. The use of this procedure does not automatically amount to an acceptance by the University that the information disclosed amounts to a Disclosure. The University will, where possible, inform the person making the Disclosure whether this procedure will be invoked within 10 working days of Step 1 above. If a decision not to investigate further is made by ARMC and the person making the disclosure is not satisfied with any reasons provided for this decision, he/she may make representations to the Chairman of the Board or Vice-Chairman who will consider the matter and determine whether an investigation is required or not. The person conducting any internal investigation will be disqualified from taking subsequent decisions based on the investigation. In exceptional cases, the University, acting on the direction of ARMC may wish to entrust the investigation to an independent person or persons from outside the University. A Disclosure made to

the Chairman of the Board of Governors may be referred to the Clerk to the Governing Body, the Vice-Chancellor, (provided in doing so, there is no conflict with step 1) or to the Audit Committee for such further action as is judged appropriate.

Step 3

- i) Where the matter will be investigated under this procedure, the recipient of the Disclosure will decide, after appropriate consultation with ARMC, what action should be taken and will liaise where possible with the person making the Disclosure to advise them who will conduct the investigation, of the arrangements for confidentiality, to provide an estimate of the likely time frame for investigations to take place, and advise what contribution (if any) will be required of the person making the Disclosure to those investigations. Details of the right to be accompanied to any meeting will also be provided.
- ii) As outlined above, where possible the outcome of investigations will be reported to the person making the Disclosure. The outcome will also be reported to the ARMC and (if appropriate) to the Vice-Chancellor.
- iii) Some matters, following investigation, may need to be referred to the relevant outside body, e.g. Funding Council/Police etc.

Step 4

External Review

- i) If the above steps have been exhausted but the person making the disclosure is dissatisfied with the outcome or the University is of the view that the Disclosure would merit external investigation, the matter may be referred to the Clerk to the Governing Body with a request for the matter to be referred for independent review. Such a request should be made in writing within 14 days of the date of the notification of any outcome.
- ii) Where a request under (i) above is made, the Clerk to the Governing Body will, where possible, agree with the person making the Disclosure, who will be appointed to carry out the independent review.

The purpose of the independent review will be:

- iii) to rule on whether the University's internal investigation has been adequately handled;
- iv) where it is judged that the investigation **was** adequately handled, to rule on whether the response to the Disclosure was reasonable in all the circumstances.

The powers of the person or persons conducting the independent review will include making binding recommendations of the following nature:

- v) ordering a further internal investigation;
- vi) ordering the University to reconsider the findings of the investigation.
Additionally, there shall be power to:
- vii) make non-binding observations relating to the substantive Disclosure for the University to consider;
- viii) the independent review will likely not entail oral hearings, but the reviewer will have the power to interview the person making the Disclosure, or any other persons, including those who had been involved in the handling of the Disclosure;
- ix) the report of the independent review will, where appropriate, be submitted to the Vice-Chancellor, to the Audit Committee and to the Board of Governors.

Revision and termination of this Procedure

The operation of this procedure will be periodically reviewed. Any amendment to it and the date when the change will come into effect will be advised to the Workers and students to whom it relates.

Advice and Support for persons making a Disclosure

People who wish to make a Disclosure under this procedure may wish to consult the UK Government Guidance on what constitutes a Disclosure which is available at www.gov.uk. Workers can also contact the Advisory, Conciliation and Arbitration Service (ACAS) for guidance on whistleblowing and grievances as well as any relevant Union to which they belong. Access to counselling and advice is also available through the University and can be accessed by contacting Human Resources on 01952 815401.

Disclosure to prescribed bodies

Workers and students are strongly encouraged to use this procedure to raise concerns of a public interest nature within the University so that there is the opportunity for the University to be aware of and, where necessary, address those concerns. The Public Interest Disclosure Act (1998) includes an individual's right to raise their concerns with an external person or body and to this end there is a list of 'Prescribed Persons' to which a Disclosure can be made published by the UK Government. The following link will take you to the current list of Prescribed Persons;

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/404330/bis-15-43-blowing-the-whistle-to-a-prescribed-person-list-of-prescribed.pdf

Records

The University will maintain a list of matters referred to it under this procedure. Inclusion in this list however will not amount to an acceptance by the University that the information amounts to a Disclosure for the purposes of the Public Interest Disclosure Act 1998 or under this procedure.

If preparing information for the purposes of identifying areas of concern relating to matters referred to it under this procedure, the University will anonymise the identity of the person making the disclosure. All information recorded for the purposes of this procedure will be maintained in accordance with the Data Protection Act 1998.

Dr C E Baxter,
University Secretary
July 2015 approved by Board
Changes proposed by Audit and Risk Management Committee in June 2016
Approved by Board in July 2016