

## **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.
  - (d) 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 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.

**If anyone considering making a Disclosure is in any doubt about confidentiality arrangements, they can seek advice from Protect, the independent whistleblowing charity, who offer a**

**confidential helpline. Their contact details are at the end of this Procedure. Procedure for making a Disclosure**

16. The Board of Governors has designated the Audit and Risk Management Committee (ARMC) as the body with responsibility for this Procedure, for ensuring that investigations are being properly carried out in accordance with the Procedure and for reviewing the effectiveness of actions taken in response to concerns raised through it. The ARMC will also be responsible for approving or amending any recommendations made by the investigator further to a Disclosure. . A separate body may be established by the Governing Body for dealing with decision making on 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 – Report the issue**

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 of the ARMC (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 ARMC. The University will endeavour to acknowledge receipt of the Disclosure information within 10 working days.

**Step 2 – Agree the use of this Procedure and appoint an independent investigator**

The designated person to whom the Disclosure has been addressed will ensure, that an independent investigator is appointed and where necessary, consultation with 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.. In cases of a financial nature the appropriate investigator would normally be the Internal Auditor and matters of this nature 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 deal with the issue under this procedure 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 this Procedure will be followed.

The person conducting any internal investigation will be independent and will make recommendations to ARMC or the Public Interest Disclosure Committee as appropriate. The investigator 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 ARMC for such further action as is judged appropriate.

### **Step 3 - Investigation**

- i) Where the matter will be investigated under this procedure, the recipient of the Disclosure 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.
- iii) Some matters, following investigation, may need to be referred to a relevant outside body, e.g. Funding Council/Police etc.

### **Step 4 - Review**

#### External Review

- i) If the above steps have been exhausted but the person making the Disclosure is dissatisfied with the outcome or the deciding committee is of the view that the Disclosure would merit further 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:
  - (a) to decide whether the University's internal investigation has been adequately handled;
  - (b) where it is judged that the investigation **was** adequately handled, to decide 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 to ARMC or the Public Interest Disclosure Committee of the following nature:

- v) requiring further internal investigations;
- vi) requiring reconsideration of 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;

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;

The report of the independent review will, where appropriate, be submitted to the Vice-Chancellor, to ARMC and to the Board of Governors.

## **Protection and Support for those making a Disclosure**

It is understandable that those making a Disclosure are sometimes worried about possible repercussions. The University aims to encourage openness and will support those who raise genuine concerns under this Procedure, even if they turn out to be mistaken.

No one must suffer any detrimental treatment as a result of raising a concern. Detrimental treatment includes dismissal, disciplinary action, threats or other unfavourable treatment connected with raising a concern. If a person making a Disclosure believes that they have suffered any such treatment, they should inform the Clerk to the Governing Body immediately.

## **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](http://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.

The contact details for Protect (Independent whistleblowing charity) can be found at; <https://protect-advice.org.uk/contact-protect-advice-line/>

## **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/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies-2/whistleblowing-list-of-prescribed-people-and-bodies>

## **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.

Mrs K S Baker  
Deputy University Secretary  
July 2015 approved by Board  
Changes proposed by Audit and Risk Management Committee in June 2016

Approved by Board in July 2016

Changes proposed by Audit and Risk Management Committee in June 2021

Approved by Board in July 2021

## Appendix A: Whistleblowing Process

