

PART 6 SECTION S

CHAPTER S37 - PUBLIC INTEREST DISCLOSURE PROCEDURE

1. **Scope of Procedure**

- 1.1 The University of Wales, Newport is a publicly-funded educational establishment that aims to operate to the highest standards of probity. Individuals who advance the business of the University are responsible for acting with the qualities of: selflessness; integrity; objectivity; accountability; openness; honesty; and leadership. The University has a number of policies in place for dealing with staff and student complaints and disciplinary issues. In addition, and in accordance with the Public Interest Disclosure Act 1998 (PIDA), the University has put in place a public interest disclosure procedure and it encourages any individual with a reasonable basis for concern to use this procedure. The Public Interest Disclosure Act 1998, which mainly takes the form of amendments to the Employment Rights Act 1996 (ERA), gives legal protection to employees against being dismissed or suffering any other form of detriment as a result of disclosing information which is considered to be in the public interest. This procedure sets out how any such issues should be dealt with within the University.
- 1.2 This Procedure applies to employees, agency contract workers employed or engaged by the University who have grounds to believe that malpractice or illegal practice has occurred, is occurring or is likely to occur in connection with the University (whether on the part of another employee, a member of the Corporation, a student or any other person or persons). In addition, and as with other UK Universities, this procedure is extended to cover students, or third parties/external bodies who are providers of goods and services to the University.
- 1.3 A person making a disclosure under this Procedure is described as a “Discloser”. A Discloser may make a disclosure whether or not he/she is personally affected by the alleged malpractice.
- 1.4 This Procedure should be read in conjunction with the University’s Fraud Policy, Fraud Response Plan, Financial Regulations, and Anti-Money Laundering Policy which may be accessed on the website of the Finance Office (<http://finance.newport.ac.uk/staff.htm>).

2. **Purpose of Procedure**

- 2.1 This procedure provides support for any individual who is concerned that malpractice or illegal practice may be occurring on, or being undertaken by, the University. In order to assess whether this procedure should be utilised, or whether the matter should be progressed through existing procedures (such as the Dignity at Work policy provided for staff or the Framework for Amicable Issues Resolution provided for students) individuals may obtain independent advice from the charity “Public Concern at Work” (<http://www.pcaw.co.uk/individuals/individuals.htm>).
- 2.2 Members of staff or students may be the first to realise that there may be something seriously wrong within a university. However, they may not express their concerns because they feel that speaking up would be disloyal to their colleagues or to the University. They may also fear harassment or

victimisation. In these circumstances, it may be easier to ignore the concern rather than report what may just be a suspicion of malpractice.

- 2.3 The University encourages members of staff or students to raise genuine concerns about malpractice at the earliest practicable stage rather than wait for proof. Malpractice within the University is taken very seriously.
- 2.4 This procedure is, accordingly, intended to provide safeguards to enable members of staff or students to raise concerns about malpractice in connection with the University. The aim is to provide a rapid mechanism under which genuine concerns can be raised internally, and, if necessary, externally without fear of adverse repercussions to the individual. It is also intended to promote throughout the University a culture of openness and a shared sense of integrity by inviting all who belong to the University to act responsibly in order to uphold its reputation and maintain public confidence.
- 2.5 This procedure also seeks to balance the need to provide safeguards for members of staff or students who raise genuine concerns about malpractice against the need to protect other members of staff, members of the Corporation, students and the University against uninformed or vexatious allegations which can cause serious difficulty to innocent individuals (see also section 11 below).

3. **Malpractice**

- 3.1 The types of matters regarded as “malpractice” for the purposes of this procedure are as follows:-
- Fraud or financial irregularity
 - Corruption, bribery or blackmail
 - Criminal offences or likely criminal activity
 - Failure to comply with a legal or regulatory obligation
 - Academic malpractice by staff (such as lack of integrity in producing research outcomes or plagiarism), noting students are subject to academic regulations
 - Miscarriage of justice
 - Endangering the health or safety of any individual
 - Endangering the environment
 - Serious financial maladministration arising from the deliberate commission of improper conduct
 - Abuse of authority for illegal or unethical purposes
 - Deliberate concealment of information regarding any of the above
- 3.2 This procedure is not intended to cover complaints for which there are existing procedures, such as:-
- matters of individual discipline
 - staff and student grievances, including standards of teaching and tuition
 - bullying or harassment on grounds of gender, race, religion, sex, sexual orientation and age
 - equal opportunity complaints
- 3.3 The University values any concerns reported in good faith under this Procedure. If individuals are uncertain whether the matters concerning them are within the scope of this Procedure (e.g. they are suspicious but unsure

as to whether the law has been broken) they are encouraged to report concerns to a Designated Assessor in accordance with the Procedure set out below.

4. **Designated Assessors**

4.1 The Vice-Chancellor of the University will ensure that at least three but not more than five members of staff of appropriate experience and standing within the University (and who are trained to deal with disclosures) are designated at any time for the purposes of this procedure as designated assessors (“Designated Assessors”) and that one of the members shall be designated as lead designated assessor (“the Lead Assessor”). An individual who is concerned that malpractice or illegal practice may be occurring at, or being undertaken by, the University may contact any one of these assessors. At the date of the adoption of this procedure the Designated Assessors will be:-

- Karen Turnbull (Lead Assessor), Deputy Director, Research and Enterprise Department (ext 2406); karen.turnbull@newport.ac.uk
- Sharon Rees, Principal Lecturer, School of Art, Media and Design (ext 2634); sharon.rees@newport.ac.uk
- Gurvinder Singh-Baicher, Senior Lecturer, Newport Business School, (ext 2419); gurvinder.singh-baicher@newport.ac.uk

The Vice Chancellor has also designated the following assessor to whom students, in particular, may wish to refer their concern.

- Paul Thompson, General Manager, Students’ Union, (2273); paul.thompson@newport.ac.uk

4.2 The Vice-Chancellor may revoke any such designation from time to time and appoint new Designated Assessors. The Vice-Chancellor will report any such revocation to the next meeting of the Corporation, together with brief reasons for the revocation. Where a revocation arises from the termination of a Designated Assessor’s employment (whether by the University or by the officer) brief reasons for the termination will be given to the Corporation.

4.3 The Lead Assessor will co-ordinate the training of the Designated Assessors in the use of this procedure and will produce an annual report to the Corporation on the number of occasions when this procedure has been formally invoked and their outcome.

4.4 Designated Assessors need to be aware that at times they may deal with highly sensitive and upsetting incidents that Disclosers have experienced. In this instance, it is important that Designated Assessors are aware that they are able to make use of the Occupational Health Adviser in the Human Resources Department for support.

5. **The Disclosure**

5.1 The Discloser should disclose in confidence the grounds for the belief of malpractice to one of the Designated Assessors. The choice of Designated Assessor will be for the Discloser, but a Designated Assessor may decline to become involved on reasonable grounds, including possible previous

involvement or interest in the matter concerned, incapacity or unavailability or if a Designated Assessor is satisfied, after consulting the Lead Assessor, that some other Designated Assessor would be more appropriate to consider the matter in accordance with this procedure.

- 5.2 Any disclosure to a Designated Assessor under this procedure shall either be made in writing, or orally. The Discloser should provide as much supporting written evidence as possible about the disclosure and the grounds for the belief of malpractice.
- 5.3 The Designated Assessor shall be the point of contact for the Discloser throughout the Procedure.

6. **Steps to be taken by the Designated Assessor**

- 6.1 On receipt of the disclosure, the Designated Assessor may consult the Lead Assessor (or if unavailable another Designated Assessor) for advice or support provided the latter individual is not named in the Disclosure and no conflict of interest exists.
- 6.2 Depending upon the information contained in the disclosure, the Designated Assessor may conduct an investigation into the disclosure. In this event, the Designated Assessor will wherever possible update the Discloser on the course of events. The University aims to investigate disclosures fully, fairly, quickly and confidentially where circumstances permit. However, the length and scope of the investigation will depend on the subject matter of the disclosure. Whilst it is not appropriate to set a specific timescale for completion of investigations in advance due to the diverse nature of the disclosures contemplated, the University aims to deal with all disclosures in a timely manner with due regard to the rights of all individuals involved.
- 6.3 The Designated Assessor will usually interview the Discloser in confidence, such interview to take place as soon as practicable after the initial disclosure. The purpose of the interview will be for the Designated Assessor to obtain as much information as possible from the Discloser about the grounds of the belief of malpractice and to consult with the Discloser about further steps which could be taken.
- 6.4 The Designated Assessor may also interview the subject/s of the disclosure, who may be accompanied by a local trade union representative or work colleague at the interview and will maintain strict confidentiality about the substance of the disclosure and the identity of all parties involved.
- 6.5 The Discloser may be accompanied by a local trade union representative or work colleague at the interview. Any such representative or colleague will be asked to respect the confidentiality of the disclosure and any subsequent investigation. The Designated Assessor may also be accompanied by a fellow Assessor or an Administrative Officer from the University's Secretary's Office who will similarly maintain this strict confidentiality.

7. **Further Steps**

- 7.1 As soon as practicable after the investigation (if any) the Designated Assessor will submit his/her findings to the Vice Chancellor unless it is alleged that the Vice-Chancellor is involved in the alleged malpractice, or

there are other reasonable grounds for not doing so, in which case the recommendations will be made to the Chair or the Vice-Chair of the Corporation via the University Secretary and Clerk to the Board of Governors. The recommendations will be submitted in writing and include an account of the Designated Assessor's reasoning as to what action should or should not be taken. In any case the recommendations will be made without revealing the identity of the Discloser save as provided in paragraph 10 below.

7.2 The recipient of the recommendations will take all steps within his or her power to ensure that they are implemented except to the extent that in the view of the recipient there are good reasons for not doing so. If the Vice-Chancellor (or other recipient, where the allegation involves the Vice-Chancellor) decides not to implement fully any such recommendations that decision will be notified in writing to the Chair of the Corporation as soon as practicable, together with the reasons for it.

7.3 Such recommendations may (without limitation) include one or more of the following:-

- that the matter should be reported to the police;
- that the matter should be reported to the Higher Education Funding Council for Wales, the Welsh Assembly Government, the Department for Innovation, Universities and Skills, the National Audit Office or other appropriate public authority;
- that the matter should be investigated either internally by the University or by the Audit Committee or some other committee of the Corporation and/or by external or internal auditors or investigators appointed by the University;
- that a member of staff should be given the opportunity to seek redress through the University's grievance or complaints procedures or through an appeal under the University's disciplinary procedures relating to staff (a route map through corporate policy is provided for the Designated Assessor as a point of reference that may be of assistance).

7.4 Once the Vice-Chancellor (or other recipient) has decided what further steps (if any) should be taken, the Designated Assessor will inform the Discloser of the decision. If no further steps by the University are proposed, the Designated Assessor will communicate the reasons of the Vice-Chancellor (or other recipient) for this.

7.5 The Designated Assessor should lodge with the Lead Assessor as soon as practical following the final communication with the Discloser a summary of the outcomes of the case, in which the anonymity of the Discloser should be preserved, so that the Lead Assessor is able to monitor any subsequent action and able to produce the annual report submitted to the Board of Governors via the University Secretary. The Designated Assessor should transfer all materials associated with the case under conditions that maintain anonymity to the University Secretary's Office where they shall be held in archive for 7 years.

8. **Appeal**

- 8.1 The Discloser and/or subject(s) of the disclosure may appeal to the Chair of the Governing Body against the decision of the Vice-Chancellor (or other recipient, other than the Chair of the Governing Body, where the allegation involves the Vice-Chancellor). An appeal must be made in writing and be received by the Chair of the Governing Body within 10 working days of the designated assessors conveying the decision to each party involved in the disclosure. Alternatively, if the Chair of the Governing Body is implicated in the disclosure then the University Secretary will consider referring the complaint to an independent external reviewer, who will be a person with sufficient experience and skill and be wholly independent of the matter.
- 8.2 An appeal may be for one or more of the following grounds:-
- significant material defect or material irregularity;
 - submission of new evidence previously not available or omitted for significant reason;
 - other extenuating factors.
- 8.3 The Chair of the Governing Body or external reviewer shall either:-
- adjudicate an appeal him or herself;
 - convene a group of Governors not previously aware of the matter to advise him/her (maintaining confidentiality wherever possible); or
 - consult the Governing Body about the best way to proceed.
- 8.4 The appeal to the Chairman of the Governing Body or the external reviewer shall be the last stage of the University's Public Interest Disclosure Procedure, and the decision on the appeal shall be final.

9. **External Disclosure**

- 9.1 If, having followed this procedure, the Discloser is not satisfied with the further steps (if any) decided upon or the outcome of any such steps, the Discloser may raise the matter concerned on a confidential basis directly with an appropriate external person or body such as the police, the Higher Education Funding Council for Wales, the Welsh Assembly Government, the Department for Innovation, Universities and Skills, the National Audit Office, a Member of Parliament or other appropriate public authority as set out in Section 43F of the ERA. Before taking any such action, the Discloser will inform the Designated Assessor and may wish to take advice from the charity "Public Concern at Work" (<http://www.pcaw.co.uk/individuals/individuals.htm>).
- 9.2 The Discloser may also raise the matter in accordance with the clause above if the Discloser has reasonable grounds for believing that there are no parties internally to whom the matter might be referred, such as where the Chair and Deputy Chair of the Corporation, all of the available Designated Assessors, the Vice-Chancellor and the University Secretary and Clerk to the Board of Governors are or were involved in the alleged malpractice or that the Discloser will be subjected to a detriment as a result of making the disclosure internally. The Discloser will need to satisfy the conditions set out in Section 43G of the ERA in order to benefit from the protection provided by the PIDA. The Discloser may therefore wish to take advice from "Public Concern at Work" in this case.

9.3 The Discloser may at any time disclose the matter on a confidential basis to a professionally qualified lawyer for the purpose of taking legal advice.

10. **Safeguards**

10.1 Every effort will be made to keep the identity of the discloser confidential. In order not to jeopardise the investigation into the alleged malpractice, the discloser will also be expected to keep confidential the fact that he or she has raised a concern, the nature of the concern and the identity of those involved. There may, however, be circumstances in which, because of the nature of the investigation or disclosure, it will be necessary to disclose the identity of the Discloser. This may occur in connection with associated disciplinary or legal investigations or proceedings. If such circumstances exist, the Designated Assessor will make efforts to inform the discloser that his/her identity is likely to be disclosed. If it is necessary for the discloser to participate in an investigation, the fact that he or she made the original disclosure will as far as is reasonably practicable be kept confidential and all reasonable steps will be taken to protect the Discloser from any victimisation or detriment as a result of having made a disclosure.

10.2 Any documentation (including computer files and discs) kept by the Designated Assessor relating to the matter will be kept secure, so that as far as practicable only the Designated Assessor and his or her companion (a fellow Assessor or an Administrative Officer from the University's Secretary's Office, as outlined in paragraph 6.5) shall have access to it. As far as practicable, any documentation prepared by the Designated Assessor will not reveal the identity of the individual as the Discloser of information under this procedure.

10.3 Where the Discloser involves a local trade union representative or work colleague in this procedure, the Discloser will be under an obligation to use all reasonable endeavours to ensure that the representative or work colleague keeps this matter strictly confidential save, as permitted under this procedure, as required by law or until such time as it comes into the public domain.

10.4 The Discloser may withdraw a disclosure at any point during the investigation, provided the request is submitted in writing to the Designated Assessor and explains the reasons behind the request. The University reserves the right to proceed with an investigation and take action in the light of its findings even if the Discloser does not wish to proceed further.

10.5 Subject to the section on 'Protection Against Disciplinary Action', the University will not (and it will use all reasonable endeavours to ensure that its employees do not) subject the Discloser to any detriment, on the grounds of the Discloser's disclosure of information under this procedure. The Discloser should report any complaints of such treatment to a Designated Assessor. If the Discloser wishes the Designated Assessor to take action in relation to such complaints, the Discloser may be asked to consent in writing to the Designated Assessor revealing the Discloser's identity for the purposes of any such action.

11. **Protection Against Disciplinary Action**

11.1 No disciplinary action will be taken against a Discloser on the grounds of a disclosure made in accordance with this procedure. This will not prevent the University from instituting the agreed Disciplinary Procedures (where appropriate) in cases where there exists a prima facie case that a disclosure has been made maliciously or vexatiously or where an external disclosure is made in breach of this procedure without reasonable grounds or otherwise than to an appropriate public authority. Any such action will be taken in accordance with the University's disciplinary procedure applicable to the position of the Discloser.

12. **Anonymity**

12.1 The University recognises that disclosures made under this Procedure may involve highly confidential and sensitive matters and that the Discloser may prefer to make an anonymous disclosure. However, the University cannot guarantee to investigate all anonymous allegations. Proper investigation may prove impossible without further information from the Discloser, or without the ability to ascertain whether the complaint is made in good faith. It is preferable for individuals to make their identity known to the Designated Assessor so that appropriate steps can be taken to preserve confidentiality as far as is possible.

13. **Amendments/Review**

13.1 This procedure may be amended by the Corporation from time to time.

13.2 This procedure will be reviewed after 12 months. Any comments or suggestions about the procedure should be referred to a Designated Assessor.

Adopted by the Corporation on 29th September 2008; last revised 1st July 2008.

Appendix A: Route Map: A rough guide for staff on navigating institutional policy. Take each case as it comes, there being no hard and fast rules, but consider how the issue might best be directed by reference to the following look-up table.

	what sort of issue is it?	main characteristic	where first?	where then?	completion of procedure
1	delivery issue: timetabling; use of class time; use of group work; content coverage; supervisory arrangements; enrolment problems; car parking	impact is directly on the student, and there is still time to provide a remedy ¹	FAIR=, either PMC (or other such body in the School) or direct discussion with tutor	FAIR Arbitration , thence Remediation , thence Adjudication	University Secretary.
2	assessment issue: method of assessment or other issues around validated document and what is actually required of the student; loss of student work	impact is directly on the student, and there is still time to provide a remedy	FAIR early remedy , either PMC (or other such body in the School) or direct discussion with tutor	FAIR Arbitration , thence Remediation , thence Adjudication	University Secretary.
3	assessment issue: conduct of assessment, including late grade penalties	issue can only be addressed after the examination board has met or Student Affairs Panel has made a decision	academic appeals procedure , operated by Quality Assurance and Enhancement Department (QAED)	OIA if straight forward academic appeal. If messy, with delivery issues in addition to matters around conduct of assessment, FAIR Arbitration simultaneous to appeal, thence Remediation , thence Adjudication	DQAE if straight forward appeal, University Secretary if messy (appeal and complaint elements).
4	admission to course	student fails to get on a course and believes the admissions process is unfair	appeals procedure , operated by QAED	ends at QAED, FAIR is for students not applicants and OIA has no jurisdiction relating to applications	DQAE
5	accusation of damage to property	facts have yet to be established, but its alleged a student or member of staff has caused damage	FAIR early remedy to establish the facts, student or staff disciplinary if facts suggest the need for action	appeal to Vice-Chancellor	No Completion of Procedure Letter (as per OIA) but letter of outcome from School at first stage or University Secretary after appeal to Vice-Chancellor
6	personality clash	on the face of it, no rules broken, but a student still feels there is an issue to address (so it's the impact, rather than intent, of the action that gives rise to the issue	FAIR early remedy , either PMC (or other such body in the School) or direct discussion with tutor	FAIR Arbitration , thence Remediation , thence Adjudication	University Secretary
7	believed illegal activity,	the person raising	Public Interest	formal complaint to	No Completion

¹ Remedy is distinct from compensation: it's an act that addresses in real time an issue that is then put back on track.

	including criminal damage	the issue is not directly affected by the activity but is concerned that the law has been broken or the institution may suffer loss of reputation	Disclosure policy operated by the University Secretary's network of assessors	the Vice-Chancellor	of Procedure Letter (as per OIA) but letter of outcome from University Secretary after appeal to Vice-Chancellor
8	unhappy at disclosure from FoIA request or DPA subject access request	the person raising the issue has not received all information believed to exist, has suffered late service, or has received data belonging to others that should not have been disclosed	DPA/FoIA review procedure operated by University Secretary's Office	Information Commissioner's Office	No Completion of Procedure Letter (as per OIA) but letter of outcome from University Secretary following review