

**Policy and Procedure
On Disclosures in the Public Interest
(Whistleblowing)**

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| Approved by | Board of Governors | | |
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POLICY AND PROCEDURE ON DISCLOSURES IN THE PUBLIC INTEREST (WHISTLEBLOWING)

Preamble

Robert Gordon University recognises that from time to time employees, students or members of the public may have concerns about serious malpractice that they believe to be a matter of *public interest* which should be investigated.

This policy and procedure has therefore been designed to be used by individuals wishing to make serious disclosures in the public interest regarding, but not necessarily limited to:

- Breach of financial regulations;
- Fraud or theft;
- Corruption, bribery or blackmail;
- Criminal activities;
- Failure to comply with legal or regulatory obligations;
- Endangering the health and safety of an individual;
- Deliberate concealment of any of the above.

Individuals are encouraged to raise genuine issues covered by this policy at the earliest opportunity and in an appropriate way.

This policy and procedure does not cover issues relating to personal grievances, nor does it act as an appeals mechanism for matters that have been previously considered through other procedures. Allegations of injustice or discrimination suffered by an individual should be pursued through one of the following mechanisms:

- the Staff Grievance Procedure (for staff);
- the Student Appeals and/or Complaints Handling Procedure (for students);
- the Complaints Handling Procedure (for other individuals).

Principles

All disclosures – from whoever and wherever they originate – will be acted upon promptly, sensitively, fairly and properly. The university is committed to take any necessary corrective action.

The university will not tolerate the wilful harassment or victimisation of anyone making a genuine disclosure. Any such harassment or victimisation, whether formal or informal, will be considered a serious disciplinary offence and, if shown to have occurred, will be subject to action under the university's disciplinary procedures. Furthermore, the university will ensure that no-one will be at risk of suffering some form of penalty or other disadvantage solely as a result of raising a concern in good faith that is not confirmed in subsequent investigation.

Nevertheless, the university recognises that the decision to make a disclosure may be a difficult one. Employees may wish to make use of the Employee Support Helpline, which will be able to (in confidence) provide free advice on how to go about making a disclosure. Employees may also wish to use the support mechanisms that their trade union may provide in this regard. Students and other individuals who wish to discuss making a disclosure might consider discussing this with an advice and information charity such as the Citizen's Advice Bureau.

Any individual making a disclosure may, if they so wish, retain their anonymity. The university will take every possible step to ensure that the name of the individual making the disclosure remains confidential. Paragraphs 2.9 and 4.8 draws attention to the possible difficulties of investigating anonymous disclosures.

If an individual making a disclosure is found by the Investigation Panel (see later), through the process of investigating the disclosure, to have acted maliciously in making the disclosure, the university reserves the right to take action.

Procedures on Disclosures in the Public Interest

1. Making a disclosure

- 1.1 If any individual believes reasonably and in good faith that serious malpractice (as described previously) exists within the workplace, then they should, in writing, report this immediately to one of the following:
 - the Principal or another member of the Senior Management Group
 - Secretary to the Board
 - the University Solicitor;
 - the Chair of the Board of Governors; or
 - the Convenor of the Audit Committee.
- 1.2 In the event that those against whom an allegation is made include the Principal, the disclosure may be made to the Chair of the Board of Governors. Such disclosures made to the Chair of the Board of Governors shall be investigated under the procedure outlined under section 4 of this policy.

2. Investigating a disclosure

- 2.1 The individual to whom the disclosure is made (see paragraph 1.1) will timeously refer the matter to the Principal. The Principal will timeously inform the Audit Committee through the Convenor that a disclosure has been received by the university and acknowledge receipt of the disclosure to the individual who has made it.
- 2.2 The Principal will establish an Investigation Panel to meet normally within 15 working days of the acknowledgement of the receipt of the disclosure by the Principal. The Principal will report that the Panel has been established to the Convenor of the Audit Committee.
- 2.3 The Investigation Panel will comprise four individuals normally drawn from a group consisting of:
 - the Senior Management Group;
 - the Heads of School and Heads of Professional Support Departments; and
 - Members of the Board of Governors.
- 2.4 One of these members will be designated as Convener of the Investigation Panel by the Principal. In deciding the Panel membership, particular consideration should be given to any actual and/or potential conflicts of interest that prospective Panel members may have, including any business, work, professional, personal or other relationships that may exist.

Depending upon the nature of the disclosure it may be deemed necessary by the Principal to include other internal or independent external members on the Investigation Panel as the fourth member of the panel. In the case of any independent external members, the Principal may designate one of them as Convenor of the investigation panel. Any external member appointed to the Investigation Panel should not be a current member of the Board of Governors or a member of a university governance committee.

2.5 Where the disclosures relate, or may relate, to suspected or actual fraud the Investigation Panel shall consist of the Director of Finance, the Director of Information Communication Technology and the Director of Human Resources as well as one other individual named at paragraph 2.3 above. Such investigations shall be undertaken with due regard to the university's Fraud Policy as well as this policy and procedure.

2.6 The Investigation Panel will have a remit to:

- Establish whether or not there is a prima facie case to investigate.
- Investigate disclosures where a prima facie case has been established.
- Seek expert advice where appropriate.
- Draw up a report on the disclosure as specified in paragraph 2.10 below.

2.7 At the first meeting of the investigation panel, a prima facie case for investigation must be established in order to take the investigation forward. If the panel do not find a prima facie case the Convener of the panel must write to the Principal to inform them of the reasons why a prima facie case has not been established. This should then be monitored by the Audit Committee.

2.8 Any person who is called to provide information or evidence may, if they wish, be accompanied. The person accompanying is not in the role of representative and may not speak on behalf of the person concerned. He/she may however attend and provide emotional and moral support but may not participate. To achieve specified timescales it is not always necessary that all members of the panel are present during these meetings so long as the Convener is present.

2.9 If the Investigation Panel concludes in the process of investigation that a criminal offence may have or has been committed, the Convener shall inform the Principal at the earliest opportunity.

2.10 If a prima facie case is established, any person implicated in the disclosure will be informed of the substance of the disclosure and the evidence supporting it, at the earliest appropriate opportunity, and will be given the opportunity to respond. In so doing care will need to be taken not to compromise any future potential disciplinary investigation or action that might arise.

2.11 As outlined in the Policy, individuals may make disclosures anonymously. It should be noted that in some cases the nature of the disclosure or evidence may give an indication as to the source. It should be noted that an anonymous disclosure may inhibit the investigation or, in some cases, be impossible to investigate without disclosing the identity of the individual who has made the disclosure. A person accused of impropriety or malpractice is entitled to be made fully aware of the disclosure and any evidence submitted in support of it.

2.12 The Investigation Panel will submit its report to the Principal. If the Principal is unable to, or chooses to remove themselves from the process of deciding the outcome, the report may be submitted to an appropriate deputy. The report of the Investigation Panel will contain:

- a determination on whether the disclosure is upheld or not, in whole or in part, and the rationale for the Panel's decision in this regard;
- an account of any associated observations that the panel may wish to make.

2.13 The Investigation Panel will normally conclude its investigations and submit its report to the Principal within 30 working days of its first meeting. Where this is not possible the Convener of the Investigation Panel will inform the Principal. The Principal, having informed the Convener of the Audit Committee, will agree an appropriate timeframe for the conclusion of the investigation. This revised and agreed timescale will then be notified to the individual making the

disclosure and those against whom an allegation may have been made in the disclosure. The Panel appointed to conduct any investigation must give the highest priority of time to their investigation so that the time taken to complete it is minimised. The expectation is that only essential university commitments would take precedence and that, for example, outside commitments would be deferred or cancelled to allow the investigation to be completed in a timely fashion

- 2.14 On receipt of the report, the Principal will determine and record what actions the university will take in light of the findings of the Panel. This record will constitute the outcomes of the investigation. In drawing up this record the Principal may draw upon specialist advice. This should normally be completed within 30 working days of receipt of the report from the Investigation Panel.

3. Feedback on a disclosure

- 3.1 The Principal will submit the outcomes of the investigation along with a copy of the report of the Investigation Panel to an extraordinary meeting of the Audit Committee. This will normally be convened within 20 working days of receipt of the outcomes.
- 3.2 The Audit Committee will meet to assure itself that the policy and procedure has been followed in respect of the investigation and outcomes and that the proposed outcomes are reasonable. Where the Audit Committee does not consider that the proposed outcome is appropriate, they may refer it back to the investigation panel for re-consideration. Once the Audit Committee has assured itself of this, where the disclosure is not anonymous the Principal shall inform the individual who made the disclosure of the determination as to whether the disclosure was upheld or not.
- 3.3 The Principal shall also inform those named in the disclosure against whom an allegation was made of the determination as to whether the disclosure was upheld or not.
- 3.4 The Audit Committee will be kept informed by the Principal of the progress in respect of the implementation of any actions he/she has determined necessary.
- 3.5 The University Solicitor will keep a record of all disclosures, whether the disclosure was upheld or not and what subsequent actions were taken. This record will be retained for three years.
- 3.6 Any outcomes or recommendations made following the conclusion of an investigation will be monitored by the Audit Committee.

4. Presentation of a disclosure to the Chair of the Board of Governors

- 4.1 Where a disclosure may involve the Principal (as outlined in paragraph 1.2 above) then the process outlined in this section shall be followed.
- 4.2 The Chair of the Board of Governors will timeously inform the Board of Governors that a disclosure involving the Principal has been received and acknowledge receipt of the disclosure to the individual who has made it. The Chair, usually assisted by the university's internal auditors, will then establish an Investigation Panel to meet normally within 15 working days of the acknowledgement of the receipt of the disclosure by the Chair.
- 4.3 The Investigation Panel will comprise four individuals, convened by the Convener of the Audit Committee, and three other members of the Board of Governors. If the Convenor

of the Audit Committee is unavailable, the Chair of the Board may nominate an independent external member as Convener of the Investigation Panel. In deciding the panel membership, particular consideration should be given to any actual and/or potential conflicts of interest that prospective panel members may have, including any business, work, professional, personal or other relationships that may exist.

Depending upon the nature of the disclosure, it may be deemed necessary by the Convenor of the Audit Committee to include external members on the Investigation Panel as part of the group of four individuals. If an independent external member is included on the investigation panel or selected as the Convener, they should not be a member of the Board of Governors, or a member of a university governance committee.

4.4 The Investigation Panel will have a remit to:

- Establish whether or not there is a prima facie case to investigate.
- Investigate disclosures where a prima facie case has been established.
- Seek expert advice where appropriate.
- Draw up a report on the disclosure as specified in paragraph 4.10 below.

4.5 At the first meeting of the investigation panel, a prima facie case for investigation must be established in order to take the investigation forward. If the panel do not find a prima facie case the Convener of the panel must write to the Chair of the Board of Governors to inform them of the reasons why a prima facie case has not been established. This should then be monitored by the Audit Committee.

4.6 Any person who is called to provide information or evidence may, if they wish, be accompanied. The person accompanying is not in the role of representative and may not speak on behalf of the person concerning. He/she may however attend and provide emotional and moral support but may not participate. To achieve specified timescales it is not always necessary that all members of the panel are present during these meetings so long as the Convener is present.

4.7 If the Investigation Panel concludes in the process of investigation that a criminal offence may have or has been committed, the Convener shall inform the Chair of the Board of Governors at the earliest opportunity.

4.8 If a prima facie case is established any person implicated in the disclosure will be informed of the substance of the disclosure and the evidence supporting it, at the earliest appropriate opportunity, and will be given the opportunity to respond. In so doing care will need to be taken not to compromise any future potential disciplinary investigation or action that might arise.

4.9 As outlined in the Policy, individuals may make disclosures anonymously. It should be noted that in some cases the nature of the disclosure or evidence may give an indication as to the source. It should be noted that an anonymous disclosure may inhibit the investigation or, in some cases, be impossible to investigate without disclosing the identity of the individual who has made the disclosure. A person accused of impropriety or malpractice is entitled to be made fully aware of the disclosure and any evidence submitted in support of it.

4.10 The Investigation Panel will submit its report to the Chair of the Board of Governors. If the Chair of the Board is unable to, or chooses to remove themselves from the process of deciding the outcome, the report may be submitted to an appropriate deputy. The report of the Investigation Panel will contain:

- a determination on whether the disclosure is upheld or not, in whole or in part, and the rationale for the Panel's decision in this regard;
- an account of any associated observations that the Panel may wish to make.

- 4.11 The Investigation Panel will normally conclude its investigations and submit its report to the Chair of the Board of Governors within 30 working days of its first meeting. Where this is not possible the Convener of the Investigation Panel will inform the Chair of the Board of Governors and an appropriate timeframe for the conclusion of the investigation will be agreed. This revised and agreed timescale will then be notified to the individual making the disclosure and those against whom an allegation may have been made in the disclosure. The Panel appointed to conduct any investigation must give the highest priority of time to their investigation so that the time taken to complete it is minimised.
- 4.12 On receipt of the report of the Investigation Panel, the Chair of the Board of Governors will determine and record what actions the university will take in light of the findings of the panel. This record will constitute the outcomes of the investigation. In drawing up this record the Chair of the Board of Governors may draw upon specialist advice. This process should normally be completed within 30 working days of receipt of the report from the Investigation Panel.
- 4.13 The Chair will submit the outcomes of the investigation along with a copy of the report of the Investigation Panel to an extraordinary meeting of the Board of Governors. This will normally be convened within 20 working days of receipt of the outcomes.
- 4.14 The Board of Governors will meet to assure itself that the policy and procedure has been followed in respect of the investigation and outcomes and that the proposed outcomes are an appropriate response to any recommendations arising from the investigation. Where the Board of Governors do not consider that the proposed outcome is appropriate they may refer it back to the investigation panel for re-consideration. Once the Board of Governors has assured itself of this, where the disclosure is not anonymous the Chair of the Board shall inform the individual who made the disclosure of the determination as to whether the disclosure was upheld or not.
- 4.15 The Chair of the Board of Governors shall also inform the Principal and any others named in the disclosure against whom an allegation was made of the determination as to whether the disclosure was upheld or not.
- 4.16 The Audit Committee will be kept informed by the Chair of the progress in respect of the implementation of any actions he/she has determined as necessary.
- 4.17 The University Solicitor will keep a record of all disclosures, whether the disclosure was upheld or not and what subsequent actions were taken. This record will be retained for three years.
- 4.18 Any outcomes or recommendations made following the conclusion of an investigation will be monitored by the Audit Committee.

Disclosures in the Public Interest (Whistleblowing) Policy and Procedure Flowchart

