



Whistleblowing Policy

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1. Introduction

- 1.1. USP College has introduced this policy in response to the Public Interest Disclosure Act 1998 that has been introduced to protect workers from detrimental treatment following disclosure of their employer's illegal activities. Such disclosures must meet qualifying criteria as set out within the policy. The Enterprise and Regulatory Reform Act 2013 amends the Employment Rights Act 1996 to ensure that individuals only make whistleblowing claims on matters of public interest rather than for personal interests. Under the revised rules, a disclosure will not be protected unless the employee reasonably believes it is made in the public interest
- 1.2. The Act protects employees, most self-employed people working under a contract for services and agency workers.
- 1.3. For the purposes of the policy, the definition of whistleblowing.
 - a. An individual who informs on a person or organisation regarded as engaging in an unlawful or immoral activity.
 - b. An individual can report things that aren't right or are illegal or if anyone at work is neglecting their duties.

2. Statement of Intent

- 2.1. The college will follow up on all disclosures in relevance to point 3 below and will also use legislative and college policies linked to the disclosure complaint.
- 2.2. The college is committed to operating in an ethical and principled way. The aim of this policy is to provide employees with a means for raising genuine concerns of suspected bribery, breaches of the law and other serious wrongdoings.

3. Introduction and Purpose

- 3.1. A disclosure will only be protected if, in the reasonable belief of the employee (the whistleblower) the disclosure shows a criminal offence, a failure to comply with legal obligations, a miscarriage of justice, danger to the health and safety of employees, damage to the environment, or the hiding of information which would show any of the above actions.
- 3.2. Any employee who follows the official procedure to report a concern of malpractice, will have the matter treated confidentially and will not have their name disclosed to the alleged perpetrator of malpractice without the complainant's prior approval.

4. Legal background or Relevant Legislation and Guidance

- a. Police Reform Act 2002
- b. Public Interest Disclosure Act 1998 (PIDA)
- c. The Employment Act 2008
- d. The Employment Tribunals (Constitution and Rules of Procedure) (Amendment) Regulations 2008
- e. The Bribery Act 2010
- f. Equality Act 2010 (Specific Duties) Regulations 2011
- g. GDPR Policy

5. Responsibilities – Nominated Persons

- 5.1. A minimum of two investigation officers will be assigned to the investigation and will consist of a minimum of one senior manager plus one manager or a member of the Human Resources (HR) Department.
- 5.2. The college encourages employees to raise genuine concerns about suspected wrongdoing at the earliest practicable stage. This policy is intended to provide safeguards to enable employees to raise concerns about malpractice in connection with the college. Employees should in the first instance be clear that the matter is of a whistleblowing nature.
- 5.3. This policy also aims to encourage individuals to raise genuine concerns through internal college procedures first before raising the concern with an external body, without fear of adverse repercussions being taken against them. The law allows employees to raise such concerns externally and this policy informs individuals how they can do so. However, a failure to raise a concern under this procedure may result in a disclosure losing its protected status under the law.
- 5.4. This policy also seeks to balance the need to allow a culture of openness against the need to protect other employees against vexatious allegations or allegations which are not well-founded.
- 5.5. The principles of openness and accountability which underpin legislation protecting whistleblowers are reflected in this policy. The college is also committed to ensuring compliance with the Bribery Act 2010.
- 5.6. Examples under the Public Interest Disclosure Act may include:
 - a. Malpractice or ill treatment of a student/stakeholder/customer by a member of staff;
 - b. Repeated ill treatment of a student/client/customer, despite a complaint being made;
 - c. A criminal offence has been committed, is being committed or is likely to be committed; e.g., suspected fraud;
 - d. Disregard for legislation, including, but not restricted to, health and safety at work;
 - e. The environment has been, or is likely to be, damaged;
 - f. Breach of the Financial Regulations;
 - g. Showing undue favour over a contractual matter or to a job applicant;
 - h. A breach of staff or Governors' code of conduct;
 - i. Information on any of the above that has been, is being, or is likely to be concealed.

This is not an exhaustive list.

6. Applicability of this policy and procedure

- 6.1. This policy applies to all employees of the college. This also applies to apprentices, casual individuals, subcontractors and agency individuals engaged by the college.
- 6.2. Individuals might be unsure whether it is appropriate to raise their concern under this policy or whether it is a personal grievance, which is more appropriate to raise under the college's grievance procedure. Any individual in this situation is encouraged to approach the Deputy Principal Corporate and Student Services, Head of HR, Head of Student Services, or the Clerk to the Corporation in confidence for advice.

7. Protected disclosures

- 7.1. The law protects individuals who, out of a sense of public duty, want to reveal suspected wrongdoing or malpractice.

7.2. The law allows individuals to raise what it defines as a 'protected disclosure'. In order to be a protected disclosure, a disclosure must relate to a specific subject matter (See Section 8 below) and the disclosure must also be made in an appropriate way (See Section 9). A 'protected disclosure' must, in the reasonable belief of the individual making it, also be made in the public interest. A protected disclosure must consist of information and not merely be allegations of suspected malpractice

8. Specific subject matter

8.1. If, in the course of employment, an individual becomes aware of information which they reasonably believe tends to show one or more of the following, they must use this policy:

- a. That a criminal offence has been committed, is being committed or is likely to be committed;
- b. That an individual has failed, is failing or is likely to fail to comply with any legal obligation to which they are subject; that a miscarriage of justice has occurred, is occurring, or is likely to occur.
- c. That the health or safety of any individual has been, is being, or is likely to be, endangered.
- d. That the environment has been, is being, or is likely to be, damaged.
- e. That information tending to show any of the above is being, or is likely to be, deliberately concealed.

9. Procedure for making a disclosure

9.1. Information which an individual reasonably believes tends to show one or more of the situations given in Section 8 should promptly be disclosed to their line manager so that any appropriate action can be taken.

9.2. If it is inappropriate to make such a disclosure to their line manager, an individual can raise the issue directly with the Clerk to the Corporation who will appoint a designated officer to investigate the disclosure. The designated officers in the college are the Deputy Principal of Corporate and Student Services and/or the Head of HR.

9.3. A designated officer may, however, decline to become involved on reasonable grounds, including possible previous involvement or interest in the matter concerned or unavailability to undertake an investigation within any agreed timescales. Another appropriate officer may then be asked to investigate the matter.

9.4. In the event that the disclosure relates to the Clerk to the Corporation, an individual can raise the issue with the Chair of the Board of Governors.

9.5. Individuals are encouraged to identify themselves when making a disclosure. If an anonymous disclosure is made, the college will acknowledge receipt of the disclosure however it would not be in a position to notify the individual making the disclosure of the outcome of action taken by the college. Anonymity also means that the college will have difficulty in investigating such a concern. The college reserves the right to determine whether to apply this procedure in respect of an anonymised disclosure in light of the following considerations:

- a. The seriousness of the issues raised in the disclosure;
- b. The credibility of the concern; and how likely it is that the concern can be confirmed from attributable sources.

9.6. In exceptional circumstances only and with the agreement of the Clerk to the Corporation a union representative can whistleblow on behalf of the individual providing there are sufficient safeguards around confidentiality for all parties concerned.

9.7. For further guidance in relation to this policy, or concerning the use of the disclosure procedure generally, employees should speak in confidence to the Head of HR.

10. Procedure for investigation of a disclosure

10.1 Individuals should make a disclosure in the first instance to their line manager who should refer the disclosure to the Clerk to the Corporation as soon as is practicable. The Clerk to the Corporation will acknowledge its receipt, in writing, within 5 working days of receiving disclosure, and appoint a designated officer.

10.2 The designated officer will then determine whether or not they believe that the disclosure is wholly without substance or merit. If the designated officer considers that the disclosure does not have sufficient merit to warrant further action, the individual will be notified in writing by the Clerk to the Corporation of the reasons for the college's decision and advised that no further action will be taken by the college under this policy. Considerations to be taken into account when making this determination may include the following: if the Clerk to the Corporation is satisfied that an individual does not have a reasonable belief that suspected malpractice is occurring; or

- a. If the matter is already the subject of legal proceedings or appropriate action by an external body; or
- b. If the matter is already subject to another, appropriate college procedure.

10.3 When an individual makes a disclosure which has sufficient substance or merit warranting further action, the college will take action it deems appropriate (including action under any other applicable college policy or procedure). Possible actions could include internal investigation; referral to the college's auditors; or referral to relevant external bodies such as the police, OFSTED, Health and Safety Executive or the Information Commissioner's Office.

10.4 Any recommendations for further action made by bodies identified in 10.3 having discussed will be addressed via the Clerk to the Corporation to the Principal and CEO. The Principal and CEO will take all steps within their power to ensure the recommendations are implemented unless there are good reasons for not doing so. However, in the event that the disclosure relates to the Principal and CEO, the Chair of the Corporation will take all steps within their power to ensure the recommendations are implemented unless there are good reasons for not doing so.

10.5 The individual making the disclosure will be notified of the outcome of any action taken by the college under this policy within 10 working days. If the individual is not satisfied that their concern has been appropriately addressed, they can appeal against the outcome by raising the issue with the Chair of the Corporation within 5 working days. The Chair of the Corporation will make a final decision on action to be taken and notify the individual making the disclosure. If the concern is about the Chair individuals can raise a disclosure to a relevant external body as outlined in 10.3.

10.6 All communications with the individual making the disclosure should be in writing and sent to the individual's home address (or personal email address) rather than through the college's internal mail. If investigations into the concern are prolonged, the Clerk to the Corporation will keep the individual concerned updated as to the progress of the investigation and an estimated timeframe for its conclusion.

11 Safeguards for individuals making a disclosure

11.1 An individual making a disclosure under this procedure can expect their matter to be treated confidentially by the college and, where applicable, their name will not be disclosed to anyone implicated in the suspected wrongdoing, without their prior approval.

- 11.2** The college will take all reasonable steps to ensure that any report of recommendations, or other relevant documentation, arising from the disclosure does not identify the individual making the disclosure without their written consent, or unless the college is legally obliged to do so, or for the purposes of seeking legal advice.
- 11.3** No formal disciplinary action will be taken against an individual on the grounds of making a disclosure made under this policy. This does not prevent the college from bringing disciplinary action against an individual where the college has grounds to believe that a disclosure was made maliciously or vexatiously, or where a disclosure is made outside the college without reasonable grounds.
- 11.4** An individual will not suffer dismissal or any detrimental action or omission of any type (including informal pressure or any form of victimisation) by the college for making a disclosure in accordance with this policy. Equally, where an individual is threatened, bullied, pressurised or victimised by a colleague for making a disclosure, disciplinary action will be taken by the college against the colleague in question.

12 Disclosure to external bodies

- 12.1** This policy has been implemented to allow individuals to raise disclosures internally within the college. An individual has the right to make a disclosure outside of the college where there are reasonable grounds to do so i.e. If the disclosure involves the Chair of the Corporation and in accordance with the law.
- 12.2** Individuals may make a disclosure to an appropriate external body prescribed by the law. This list of 'prescribed' organisations and bodies can be found in information on the GOV.UK website.
- 12.3** Individuals can also make disclosures on a confidential basis to a practicing solicitor or barrister.
- 12.4** If an individual seeks advice outside of the college, they must be careful not to breach any confidentiality obligations or damage the college's reputation in so doing.

13 Accountability

- 13.1** The college will keep a record of all concerns raised under this policy and procedure (including cases where the college deems that there is no case to answer and therefore that no action should be taken) and will report to the corporation on an annual basis as appropriate.

14 Further assistance for individuals

- 14.1** The college will not tolerate any harassment or victimisation of individuals who make disclosures. If, at any stage of this procedure an individual feels that they are being subject to informal pressures, bullying or harassment due to making a disclosure, they should raise this matter, in writing, the Head of HR.

Equality and Diversity Statement & Impact Assessment

USP College is committed to equality of opportunity. The aim is to create an environment in which people treat each other with mutual respect, regardless of: age, disability, family responsibility, marital status, race, colour, ethnicity, nationality, religion or belief, gender, gender identity, transgender, sexual orientation, trade union activity or unrelated criminal convictions.

This form should be used by managers and policy owners within their area of responsibility to carry out Equality and Diversity Impact Assessments (EDIAs) in relation to protected characteristics including, but not limited to: Age, Disability, Gender reassignment, Marriage and civil partnership, Pregnancy and maternity, Race, Religion and belief, Sex, Sexual orientation. The word 'policy' is taken to include strategies, policies, procedures and guidance notes; both formal and informal, internal and external.

1. Name of Policy

Whistleblowing Policy

2. Which of the following groups could be affected by this policy?

(Tick all that apply)

Students	
Staff	√
Wider Community	

3. Complaints

Have complaints been received from anyone with one or more protected characteristic about the service provided?
If yes then please give details.

4. The Impact

Four possible impacts should be considered as part of the assessment:

- a. **Positive Impact** - Where the policy might have a positive impact on a particular protected characteristic.
- b. **None or Little Impact** – Where you think a policy does not disadvantage any of the protected characteristics
- c. **Some Impact** – Where a policy might disadvantage any of the protected characteristics groups to some extent. This disadvantage may be also differential in the sense that where the negative impact on one particular group of individuals with protected characteristic is likely to be greater than on another.
- d. **Substantial Impact** – Where you think that the policy could have a negative impact on any or all of the protected characteristics. This disadvantage may be also differential in the sense that the negative impact on one particular protected characteristic is likely to be greater than on another.

Thought-provoking questions, which might help come to a decision about the impact of a policy on individuals with protected characteristics:

- e. Does policy outcomes and service take up differ between people with different protected characteristics?
- f. What key information do we have? Does data or engagement with people with protected characteristics give insights into areas of disadvantage, which relate to the policy area?
- g. If the policy is likely to have a negative impact on individuals, sharing particular characteristics what steps can be taken to mitigate these effects?
- h. Will the policy deliver practical benefits for certain groups?
- i. Does the policy miss opportunities to advance equality of opportunity and foster good understanding/relationships between groups?
- j. Do other policies need to change to make this policy more effective?
- k. Is there any elements of the policy that could be unlawful under the Equality Act 2010?

Use the guidance provided above and complete the following table: **(Please Tick √)**

Gender/Age	Positive Impact	No or Little Impact	Some Adverse Impact	Substantial Adverse Impact

Gender		√		
Age		√		
Disability	Positive Impact	No or Little Impact	Some Adverse Impact	Substantial Adverse Impact
Visually Impaired		√		
Hearing impaired		√		
Physical Disability		√		
Specific Learning Difficulties		√		
Global Learning Difficulties		√		
Autistic Spectrum Disorder		√		
Any other disability – Various		√		
Other Factors	Positive Impact	No or Little Impact	Some Adverse Impact	Substantial Adverse Impact
Race		√		
Culture		√		
Religious Belief		√		
Sexual Orientation		√		
Gender Reassignment		√		
Marriage/Civil Partnership		√		
Pregnancy /Maternity /Paternity		√		

Please comment on any areas where some or substantial impact is indicated. Any resulting actions must be added to the below action plan.

5. Is there anything that cannot be changed?

What cannot be changed?	Can this be justified?	If so, how?
Not applicable		
E.g., Disabled people can be treated more favorably under the Disability Discrimination Act 2005. If a policy appears to treat disabled people more favorably than other equality groups, the disadvantage may be justifiable		

Please list the main actions that you plan to take as a result of this assessment in your area of responsibility. (Continue on separate sheets as necessary)

Action Plan:
