

PW8. Policy for Staff Misconduct: malpractice, impropriety or wrongdoing

Please note this policy is currently under review to stay in line with the University of York review of the same policy.

1. Introduction

CITY ULE has a duty to conduct its affairs in a responsible and transparent way.

This policy is designed to allow staff, students and all members of CITY ULE bodies (e.g. Committees and Boards) to raise, at a high level, concerns or information that they believe in good faith provides evidence of malpractice or impropriety. Individuals discovering apparent evidence of malpractice, impropriety or wrongdoing within the CITY ULE should feel able to disclose the information appropriately, without fear of reprisal. This Policy and Procedure sets out how such disclosures should be made, and how cases will be handled by CITY ULE.

A person making a disclosure in good faith, without malice, and in line with this Policy will not be penalised for doing so.

This Policy is intended to be used to raise matters of general concern in the public interest. It is hoped that staff feel able to raise the majority of concerns with their line manager in the first instance. A number of policies and procedures are already available to staff and students, through which individuals may raise and resolve many issues of concern, for example Grievance and Disciplinary procedures and Personal Harassment.

2. External disclosures

To avoid possible prejudice to any internal investigation process, a disclosure should not normally be made to external bodies before it is raised through the internal mechanisms set out in this Policy.

3. Purpose of the Policy

The purpose of this policy is to:

- Enable individuals to raise concerns within the institution without fear of reprisals/victimisation.
- Provide a process for concerns to be raised, investigated and where appropriate acted upon.
- Give a clear message that allegations of malpractice/ impropriety are taken seriously within the CITY ULE.
- Act as a deterrent to potential perpetrators of misconduct.
- Strengthen the confidence of all interested parties (students, members of staff etc.) that the CITY ULE maintains the highest standards of conduct.

4. Matters covered

This policy is designed to be used to raise serious concerns that are in the public interest. Examples of serious misconduct, impropriety or malpractice that may prompt such a disclosure, are:

- Criminal activity.
- Failure to comply with a legal obligation.
- Miscarriage of justice.
- Endangering of health or safety.
- Damage to the environment.
- Financial or nonfinancial maladministration, malpractice or fraud.
- The exercise of academic freedom being obstructed or frustrated
- Serious failure to comply with the Regulations of the University of York and CITY ULE.
- Evidence of academic or professional malpractice.
- Failure of an individual/s to disclose a serious conflict of interest.
- Attempts to suppress or conceal information relating to any of the above.

Academic freedom is defined as: "*.... freedom within the law to question and test received wisdom, and to put forward new ideas and controversial or unpopular opinions, without placing themselves in jeopardy of losing their jobs or privileges*".

This procedure is **not** designed to be used:

- to reconsider any matters already addressed under other internal procedures for example, complaints or disciplinary and grievance procedures
- by individuals to challenge financial and business decisions properly taken by the CITY ULE.

5. Confidentiality

All disclosures under this Policy will be treated in a confidential and sensitive manner. If required, the identity of the person raising the matter will be kept confidential for as long as possible provided that this is compatible with an effective investigation. The investigation process may however at some stage have to reveal the source of the information and the individual making the disclosure may need to make a statement as part of the evidence required.

6. Anonymous disclosures

Individuals are encouraged to put their name to any disclosure they make since part of the purpose of this policy is to promote openness and discourage a fear of reprisals. Disclosures raised anonymously are far less capable of being addressed effectively but may be considered after taking into account the seriousness of the issue, the credibility of the disclosure, the likelihood of being able to investigate the matter and confirm the allegation from alternative sources, and fairness to any individual mentioned in the disclosure.

Any individual wishing to make a disclosure verbally or to give further details as the matter is investigated may be accompanied by another person of his or her choice.

7. Procedure for making a disclosure

Any relevant disclosure should initially be made to the persons designated by the University of York to receive such disclosures. These "designated persons" are the CITY ULE Vice-President &

Principal (CEO) or a Vice-Provost. If a disclosure involves or implicates the Vice-President & Principal (CEO) or a Vice-Provost then it should be made to the CITY ULE Executive Board.

The designated person to whom the disclosure has been made will consider the matters disclosed, and, if there are grounds for proceeding further, will:

- decide whether an investigation should be conducted;
- determine what form the investigation should take;
- appoint a relevant person to carry out the investigation.

If the designated person decides that there are no grounds for proceeding further, the person making the disclosure will be informed.

As the person conducting the investigation must not be the person who would ultimately take decisions based on the outcomes, the designated person to whom the disclosure has been made will not personally conduct the investigation and will remain separate from it.

When the matter has been investigated the person to whom the disclosure was made will decide whether the matter should be taken further and if so, how it should be handled.

Reporting of the findings of any investigation will depend on the nature of the disclosure as it is not appropriate to be prescriptive as to the correct level of reporting in every case.

This Policy does not remove the right of individuals to invoke the relevant statutory procedures.

8. Individuals named in a disclosure

When an allegation is made against a "named individual", they will be informed of the allegation and supporting evidence. The point at which this occurs will depend on the specific nature of the case. The individual will be given an opportunity to respond either in writing or verbally and, if interviewed about the matter, will be given an opportunity to be accompanied by a person of their choice.

9. Unfounded disclosures

A disclosure made in good faith that is not confirmed by subsequent investigation will not lead to any action against the person making the disclosure. Individuals making disclosures that are found by subsequent investigation to be malicious and/or vexatious may be subject to disciplinary or other appropriate action.

10. Victimisation

Victimisation of a member of the CITY ULE who has made a disclosure under this policy, may provide grounds for grievance, disciplinary or other appropriate action.

11. Timescales

Investigations will be conducted as speedily as possible, whilst having regard to the nature and complexity of the disclosure.

12. Feedback throughout the process

The person making the disclosure will be kept informed as to the handling of the matter and of decisions taken throughout the process.

13. Records

All concerns raised and action taken in response to disclosures will be recorded, and reports on all disclosures and investigations will be retained by the "designated person" for 5 years.

An official written record will be kept of each stage of the procedure.