PUBLIC INTEREST DISCLOSURE (WHISTLEBLOWING) PROCEDURE

1. Introduction

1.1 The University of Bath is committed to maintaining the highest standards of honesty, openness and accountability and to conducting its business in a responsible way, meeting the requirements of the funding bodies and reflecting the standards in public life as set out in the reports of the Nolan Committee.

1.2 The Public Interest Disclosure Act 1998 was introduced to encourage employees to raise their concerns in a responsible way where there is malpractice (that is, illegal, improper or negligent behaviour) or wrongdoing within an organisation and, where they do so, to protect those employees from reprisal.

1.3 The University recognises that, from time to time, genuine concerns may be raised about serious malpractice. It acknowledges that members of staff have an important role to play and are likely to be the first to know if someone inside or connected with the University is acting illegally or improperly. The University reassures individuals that it is acceptable and safe for them to raise such concerns without fear of sanction. The University will take action in all instances of wrongdoing. All disclosures (that is, the sharing of information related to potential wrongdoing) will be acted upon promptly, sensitively, fairly and properly.

1.4 The term ‘whistleblowing’ has no legal definition within EC or UK law; however, it has been used in this policy to describe incidents where an individual publicly discloses some alleged wrongdoing within the organisation.

2. What is public disclosure or whistleblowing?

2.1 The Public Interest Disclosure Act applies to individuals raising genuine concerns relating to some actual or potential danger, fraud or other illegal or unethical conduct. The Act provides legal protection to prevent persons being penalised as a result of making a qualifying disclosure, that is one which, in the reasonable belief of the person making the disclosure, tends to show one or more of the following:

(a) a criminal offence

(b) failure to comply with a legal obligation

(c) miscarriage of justice

(d) endangering of health and safety

(e) damage to the environment

(f) deliberate concealment of any of the above.

2.2 The Act applies whether or not the information is confidential and whether the malpractice is occurring in the UK or overseas.

3. Scope of this policy

3.1 This policy applies to genuine concerns which are in the public interest, as defined above, and provides a mechanism for such concerns to be raised without fear of reprisal. The Act affords protection more widely than other employment legislation and includes not just ‘employees’ and ‘workers’ as defined by the Employment Rights Act 1996. The procedure set out in this document will apply to all University employees, including casual and temporary staff and those working for
the University in other territories, agency workers and self-employed workers, contractors and suppliers, as well as members of the University as defined in Statute 2.

3.2 The procedure is distinct from existing internal procedures for dealing with complaints by staff connected with their terms of employment or with grievances, and from procedures for dealing with complaints or academic appeals by students. It is not intended to be used to re-open or review a matter already decided in such procedures or to question or reconsider financial or business decisions taken by the University. The purpose of this procedure is to assist individuals who believe that they have discovered serious wrongdoing in the University.

3.3 It is expected that an employee, student or other person associated with the University will be loyal to it and not disclose confidential information about its affairs; where an individual discovers evidence of wrongdoing, the University will ensure that they may speak freely to a designated officer to report the matter and will treat all concerns raised fairly and properly. This procedure enables individuals to bring such issues to the attention of a senior member of the University and it is reasonable to expect the procedure to be followed rather than for concerns to be raised outside the University. It may be noted that the Act makes it relatively easy for a worker to disclose information to their employer and gain protection from dismissal or detriment, but more difficult for a worker to disclose information to a third party and gain protection.

3.4 There are informal systems in place which allow an individual to bring any issues to the attention of management and permit swift, appropriate action to be taken without the need to invoke these formal procedures. The University would normally expect individuals to consider whether an informal route would be sufficient to prevent malpractice or alleviate any concerns. This document sets out a formal procedure which can be used if required by the circumstances.

3.5 Concerns which are in the public interest and are covered by this procedure include:

- maladministration or malpractice or impropriety or fraud
- criminal activity
- dangers to health and safety or the environment
- failure to comply with a legal or regulatory obligation including the Statutes, Ordinances and Regulations of the University
- academic or professional malpractice
- a miscarriage of justice
- improper conduct or unethical behaviour
- attempts to suppress or conceal any information relating to any of the above.

3.6 This procedure is intended to supplement rather than replace existing internal procedures which shall be invoked if appropriate following an initial investigation of concerns raised under this public interest procedure. Where it is unclear in any set of circumstances which is the appropriate procedure to apply, the decision of the designated officer will be final. Where there is any conflict between this public interest procedure and other internal procedures, this public interest procedure shall prevail.

3.7 Existing internal procedures include:

- disciplinary procedures for academic staff (Statute 25)
- disciplinary policy and procedures for staff other than academic staff
- student disciplinary procedures (Regulations 7 and 8)
- student complaints procedures (Appendix 1 to the Regulations)
- procedures for student academic reviews (Regulation 17)
- grievance procedures
- Equality and Diversity policies
- procedures for reporting suspected fraud (Financial Regulation G14)
- Anti-Bribery Policy
- health and safety procedures.
4. Safeguards

4.1 This procedure is designed to offer protection to employees or other members of the University (see section 3.1 above) who disclose such concerns provided that

- the individual making the disclosure reasonably believes that it is a matter of public interest (see section 2.1 above); and
- the disclosure is made to an appropriate person (see section 5.1 below).

4.2 Similarly a contractor or supplier of the University who raises a concern will not be subject to sanctions or discrimination against their business.

4.3 The University encourages everyone to report any concerns they may have about serious wrongdoing. This is a key part of the University's commitment to ethical and legal compliance as well as protecting its reputation. The University will treat all disclosures in a confidential and sensitive manner.

4.4 The University aims to promote a culture in which individuals feel confident to raise their concerns appropriately. Consequently anyone reporting a disclosure is encouraged to identify him/herself.

4.5 Concerns which are expressed anonymously will be considered at the discretion of the University according to

- the seriousness of the issues concerned
- the likelihood of confirming the allegation from alternative credible sources.

4.6 In the event that it is deemed necessary to reveal the identity of the individual making the disclosure, s/he will be advised prior to the release of their identity. The investigation process may require that the source of the information and the individual making the disclosure provide a statement as part of the evidence required or to assist in further investigations. All reasonable steps will be taken to ensure that the 'whistleblower' suffers no detriment as a result of their identity becoming known.

4.7 If an individual is believed on reasonable grounds to have made a malicious or vexatious allegation and particularly where they persist in making them, disciplinary action may be taken against the individual concerned.

4.8 If an individual makes an allegation which is not confirmed by the subsequent investigation, no action will be taken against that individual.

4.9 Employees may be personally liable if they subject a worker to any kind of detriment on the grounds that s/he has made a protected disclosure and the University will take all reasonable steps to protect employees from any form of harassment for making a disclosure.

5. Making a Public Interest Disclosure

5.1 Initial disclosure should be made to a designated person who will normally be the University Secretary in his/her capacity as Secretary to Council except where his/her Office is involved and in which case the individual making the disclosure should advise the Director of Human Resources. The individual making the disclosure may talk in confidence and seek support from, as appropriate, the Head of Student Services, the Head of Procurement or other senior member of staff and, where they make the disclosure in person, may be accompanied by a line manager, a colleague who is a University employee, a Trades Union representative, or a representative of the Students' Union. Information on how to contact the designated officers is appended to this procedure.

5.2 The designated person to whom disclosure is made will consult as appropriate and will then determine (a) whether there is a prima facie case to answer under the terms of this public interest
disclosure procedure (meaning that, on initial consideration of the facts, there is sufficient basis to indicate that a case to answer exists); and (b) whether an investigation should be conducted and if so what form it should take.

6. **Investigation**

6.1 The form of the investigation will depend on the nature of the matter raised. The designated person will determine whether the matter should

- be dealt with under an existing internal procedure (see section 3.7 above)
- be the subject of an internal investigation
- be referred to the police
- be investigated by an external authority.

Except as may be otherwise provided in internal procedures, referral to the police will not prohibit a parallel internal investigation, if considered appropriate.

6.2 Where the matter is to be the subject of an internal investigation, the designated officer may request the Head of Internal Audit or other appropriate individual to conduct an initial investigation to establish all relevant facts. Investigations should not be conducted by the designated person or by any other person who will have to reach a decision on the matter.

6.3 Any investigation will be conducted as sensitively and speedily as possible. The intended timetable for the investigation will be notified to the individual making the disclosure. In order to seek to protect the identity of the parties concerned, those participating in the investigation will be reminded of the need to maintain strict confidentiality in appropriate cases at all stages of the process.

6.4 The findings of the initial investigation will be reported to the designated officer who will decide with appropriate consultation what action should be taken and will initiate such action.

6.5 In some instances it may be necessary to conduct further internal investigations or to refer the matter to an external authority for further investigation (eg Police, Funding Council, Financial Services Authority, Health and Safety Executive).

6.6 The person or persons against whom the disclosure is made will normally be told of it and of the evidence supporting it and will be given the opportunity to respond before any investigation, or further action, is concluded. However, where such disclosure would jeopardise the ability of the University, the police or other independent investigator to conduct a proper investigation, the person or persons against whom the disclosure is made may not be told prior to an initial investigation.

6.7 The designated officer will inform the individual making the disclosure of what action, if any, is to be taken. This information will be regarded as strictly confidential and may not be disclosed to third parties except with the express consent of the designated officer.

7. **Disclosure to the Chair of Audit Committee**

7.1 If either the designated officer determines that there is no *prima facie* case to answer or an investigation is carried out as a result of which the designated officer determines that no action is to be taken, this decision will be explained as fully as possible to the individual making the disclosure who will be allowed an opportunity to refer the disclosure to the Chair of Audit Committee (who is on the list of designated officers appended to this procedure). The safeguard against malicious or vexatious allegations is detailed in section 4.7 above.

7.2 Where the disclosure is made to the Chair of Audit Committee, this person will decide on an appropriate course of action to review the decision based on the information available. In determining the procedure, the Chair of Audit Committee may consult members of Audit Committee and will agree a timetable for action. S/he will normally allow the person(s) against
whom the disclosure is made an opportunity to respond (see paragraph 6.6 above). The Chair of Audit Committee will inform members of Audit Committee and the person making the disclosure of the outcome.

8. Reports

8.1 A report of all disclosures made under this procedure, and any subsequent action taken, will be prepared by the designated officer who will retain such reports for a period of three years. In all cases, a report of the outcomes of any investigation will be made to the Chair of Audit Committee who will make a report to the Audit Committee and/or to Council in such terms as are deemed appropriate.

9. Appeals

9.1 An individual against whom action is proposed, following an investigation under this public interest disclosure procedure, and who wishes to appeal against such action, may submit an appeal unless the staff or student disciplinary procedure is to be involved (which themselves provide for appeals). Any appeal must be submitted in writing within 14 days to the University Secretary (or the Director of Human Resources where the disclosure involves the Office of the University Secretary) who will arrange for it to be heard by an appropriate senior member of staff, eg the Deputy Vice-Chancellor or a Pro-Vice-Chancellor.

Updated July 2013
Public Interest Disclosures may be submitted in writing, and/or by meeting, to a Designated Officer of the University:

Correspondence should be clearly addressed and marked ‘Confidential’

University Secretary
Mr Mark Humphriss
(E-mail: universitysec@bath.ac.uk or telephone: 01225 386080)
4 West 3.9, University of Bath
Bath BA2 7AY

Or, where the disclosure involves the Office of the University Secretary, to:
Director of Human Resources
Mr Ian Cheetham
(E-mail: i.c.cheetham@bath.ac.uk or telephone 01225 386702)
Wessex House 3.20
Bath BA2 7AY

Or, where it is not deemed that a case exists or is not proven in an initial investigation, the disclosure may be referred to:
Chair of Audit Committee
Mrs Ruth Foreman
c/o Office of the University Secretary
4 West 3.10
University of Bath
Bath BA2 7AY