DE MONTFORT UNIVERSITY LEICESTER

Human Resources

People and Organisational Development

Raising serious concerns: Whistleblowing Policy

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1 Introduction and purpose

1.1 The university is committed to conducting its business with honesty and integrity, and expects all staff and governors to maintain the highest standards of ethical behaviour and professional conduct in accordance with the university's policies and procedures, regulations and codes of conduct (see Appendix B). However, all organisations face the risk of things going wrong from time to time, or of unknowingly harbouring illegal or unethical conduct ('malpractice').

1.2 We recognise that it is often individual staff members who are the first to notice potential malpractice taking place within the university. We know that our staff are a valuable source of information and can be effective in helping us build assurance that we are meeting the high standards of ethical and professional conduct we expect of all staff and governors. Therefore, this policy aims to:

1.2.1 Encourage and support staff to report concerns (sometimes referred to as a "disclosure" or "blowing the whistle") as soon as possible, in the knowledge that they will be taken seriously and their concerns investigated as appropriate.

1.2.2 Provide staff with a mechanism to raise concerns in confidence within the university.

1.2.3 Reassure staff that they should be able to raise genuine concerns without fear of reprisals, even if they turn out to be mistaken.

1.2.4 Balance the need to protect those who raise concerns against the need to protect staff and governors against untrue allegations that are made in bad faith and which can cause serious difficulties for innocent people.

1.3 The policy has been implemented following consultation with the recognised unions. This policy does not form part of any employee's contract of employment and the university may amend it at any time.

2 Scope

2.1 This policy applies to all employees of the university together with other categories of worker at the university such as agency workers (including Unitemps), consultants, contractors, casual and freelance workers. It also applies to volunteers including members of the Board of Governors.

2.2 This policy should be used to disclose information which relates to suspected malpractice or risks / dangers at work. Such concerns will normally be about matters that are in the public or collective student interest. This might include the following:

- Criminal offences that have been, are being, or are likely to be committed (including but not limited to financial irregularity, fraud, serious financial malpractice, bribery, blackmail or corruption);

- Unauthorised disclosure of confidential information including any breach of data protection requirements;
- Failure to comply with a statutory duty or regulatory or professional obligation or with the university's codes, procedures or regulations (see Appendix B: Relevant policies, procedures and regulations);
- Failure to report a 'reportable event' as defined by the Office for Students' (OfS) regulatory framework;
- Endangering health and safety; which has occurred, is occurring or is likely to occur;
- Safeguarding concerns including but not limited to concerns about harm or risk of harm to children, vulnerable adults or to animals;
- Concerns about slavery or human trafficking;
- Endangering the environment, which has occurred, is occurring or is likely to occur;
- Miscarriage of justice, which has occurred, is occurring or is likely to occur;
- Conduct likely to damage the university's reputation or financial wellbeing;
- Attempts to conceal information relating to any of the above.

2.3 The above list is not intended to be exhaustive. Individuals are encouraged to raise any concerns about matters which they consider are potentially damaging to the university or harmful to individuals, even if those concerns do not clearly fit within one of the identified categories. If in doubt, it is better to raise your concern. The university would rather be aware of the matter you are concerned about and be able to act upon it as appropriate, than have a potentially serious matter going unreported because of uncertainty about whether it was 'in scope' of this policy. If you are unsure whether your concern is appropriate for this policy, you may seek advice from your line manager or from one of the identified Recipients at 7.6 in this policy.

2.4 The policy is not designed to allow individuals to:

2.4.1 question legitimate financial, business or managerial decisions taken by the university;

2.4.2 seek reconsideration of any matters that have already been addressed under the grievance or disciplinary procedures; or

2.4.3 raise concerns relating to their own personal circumstances.

2.5 Where an individual raises a concern under another university policy (e.g. the **Grievance Procedure**) which highlights wider concerns that would fall within the scope of this policy e.g. concerns about health and safety breaches, the university reserves the right to investigate and, where necessary, take appropriate action in accordance with the policy under which the issue was first raised.

2.6 Where an individual raises a concern under this policy but the nature of the concern is within the scope of another university policy, the university reserves the right to investigate and, where necessary, take appropriate action in accordance with that other policy. For example, a concern about suspected misconduct in research may be considered under the **Misconduct in research – investigation procedure** and a concern about potential fraud may be considered in accordance with the **Policy on Countering Fraud, Bribery and Money Laundering**.

2.7 Employees raising concerns which are within the scope of this policy will still be afforded the protection of this policy even if they have not been specifically raised as whistleblowing matters under this policy, or where the university has taken the decision to deal with the matter in accordance with another appropriate university policy.

3 Responsibility for the policy

3.1 The Board of Governors has overall responsibility for this policy, and for reviewing the effectiveness of actions taken in response to concerns raised under this, or another appropriate, policy.

4 Confidentiality

4.1 Confidentiality is an important part of this policy and the university will use all reasonable endeavours to protect the identity of staff who raise concerns in accordance with this policy. Details of concerns raised and the names of any individuals involved will only be disclosed where it is absolutely necessary and/or lawful to do so, and in particular where required for any investigation or to remedy any issue related to the safety of individuals. (See also: Data protection).

4.2 The university encourages staff to raise concerns openly under this policy. However, if you have concerns about possible reprisals if your identity is revealed you should approach one of the named Recipients at 7.6 and such measures as are appropriate or possible may then be taken to protect your identity so long as this does not hinder or frustrate any investigation.

4.3 While the university will do all it can to protect individuals, the university cannot guarantee that your identity will remain secret for example in the following circumstances:

- Disclosure of your identity is a legal obligation.
- Your identity as discloser is already in the public domain.
- Disclosure is to a professionally qualified lawyer for the purposes of obtaining legal advice.
- Disclosure is necessary for any investigation.
- Your identity as the discloser can be deduced from the information provided.

4.4 If the investigation process may itself reveal you as the source of the information, or it is difficult to properly investigate without revealing you as the source, this will be discussed with you and you will be informed as to the degree of protection afforded to you under this policy and/or the law. This will not however hinder or frustrate any investigation.

4.5 Subject to section 12 of this policy, no public statements should be made by any party about the concern raised without the prior approval of the university.

4.6 Any breach of confidentiality may lead to disciplinary action up to and including dismissal.

5 Data protection

5.1 A disclosure made under this policy is likely to identify an individual or individuals, or may lead to an investigation in which it is necessary to identify individuals. It will therefore involve the processing of personal data under the Data Protection Act 2018 (DPA) and General Data Protection Regulation 2016 (GDPR). Depending on the nature of the allegations or information disclosed it may also involve the processing of special category personal data[1] and/or personal data relating to criminal offences and convictions.

5.2 The university's lawful basis for processing personal data in response to a disclosure made under this policy including special category data is set out in our **Privacy Notice**.

5.3 Individuals named in a disclosure will normally be told of the allegations and the identity of anyone who will receive personal data about them during the investigation of the matter, unless there is a substantial risk that this will prejudice the investigation or it would otherwise be unlawful.

5.4 All personal data collected during receipt and investigation of a concern raised under this policy will be processed fairly and lawfully in accordance with the GDPR and DPA. From the information gathered, the retention and processing of personal data will be restricted to what is necessary for the purpose of investigating and responding to the concern raised. Personal data may need to be shared with relevant third parties in the course of investigating or responding to a concern raised; this will only happen where it is fair, lawful and necessary (to the extent such steps are required by applicable data protection laws) for the proper investigation and resolution of the matter. Where it is necessary to share information with third parties, this will be restricted to information which is needed for the investigation and the university will redact or anonymise personal data where it is possible to do so without compromising the purpose of the investigation.

5.5 Personal data gathered will be kept until the end of the investigation or any subsequent legal, regulatory or disciplinary proceedings and any necessary data will be retained securely for seven years after the close of the case or in accordance with the university's **Records Retention Schedule**. After the retention period has lapsed any personal data will be securely destroyed in accordance with the **Information Handling Policy**.

5.6 The Recipient will ensure that a data protection impact assessment (DPIA) is carried out before the processing of personal data when the processing is likely to result in a high risk to the rights and freedoms of individuals.

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[1] Data concerning an individual's racial or ethnic origin, political opinions, religious or philosophical beliefs, trade union membership, genetic data, biometric data (for the purpose of uniquely identifying a natural person), physical or mental health data or data concerning a person's sex life or sexual orientation). While criminal convictions and allegations are not within the definition, they are treated in a similar manner in the UK.

6 Anonymous disclosures

6.1 Anonymous disclosures are not encouraged. Concerns expressed anonymously are much less powerful, but they may be considered at the discretion of the university. In exercising this discretion, the university will consider:

- the seriousness of the issues raised including but not limited to whether it amounts to criminal misconduct or a breach of a statutory duty;
- any information or evidence presented in support of the disclosure;
- data protection considerations e.g. the duty to process data fairly in the context of allegations about a named individual from an unknown informant; and
- the likelihood of confirming the information from attributable sources.

The university reserves the right to take such action in response to anonymous disclosures as it considers appropriate.

6.2 If you are raising a concern anonymously you should be aware of the following:

- Proper investigation may be more difficult or impossible if further information cannot be obtained from you.
- It is more difficult to establish whether the information is credible.
- It will not be possible to provide feedback to you in relation to the concerns raised.
- Legal protection as a 'whistle-blower' will only be available where there is evidence which links you to the disclosure of information.

7 Raising a concern

7.1 Any concerns should be raised at the earliest opportunity so the matter can be considered without delay and, where necessary, appropriate action taken.

7.2 If you are reporting a concern under this policy you are not required to have 'proof' that malpractice has occurred and you are not expected (or encouraged) to gather evidence before raising the matter. It is sufficient for you to have a reasonable suspicion about the matter of concern you are raising, even if it turns out that you are mistaken. You should provide factual information which explains the basis of your concern.

7.3 The university will be able to look into the matter once a concern is raised.

7.4 Any matter raised under this policy should, where possible, be in writing but concerns may be raised in person.

7.5 You can raise concerns with your immediate line manager. They may be able to agree a way of resolving your concern quickly and effectively. They may also be able to seek initial advice on the matter from one of the named Recipients below if they are unsure of how to respond to the concern raised with them.

7.6 You may also raise concerns with one of the university's identified "Recipients". The first identified Recipient is the Executive Director of People and Organisational

Development and they should be the first point of contact wherever possible. If, for any reason, it is not possible or appropriate to approach the Executive Director of People and Organisational Development in respect of your particular concern, then you should contact the second identified Recipient, the Chief Finance Officer.

7.7 If the disclosure is about both of the Recipients named in this policy then you may raise your concern directly with the Vice-Chancellor. If the disclosure is about the Vice-Chancellor then you may raise your concern directly with the Chair of the Board of Governors or, if the disclosure concerns alleged financial malpractice, with the Chair of the Audit Committee.

7.8 When a concern is raised, the Recipient will acknowledge receipt of the disclosure in writing, normally within five working days.

7.9 The Recipient will arrange a meeting with you as soon as possible to discuss your concern. You may bring a colleague or trade union representative to any meetings under this policy. Your companion must respect the confidentiality of your disclosure and any subsequent investigation.

7.10 You should provide as much supporting information as possible about your concern. Again, you do not need to provide 'proof' but your concern must be a disclosure of 'information', as distinct from 'opinion'. For example, saying "health and safety requirements are not being complied with" is not disclosing information whereas providing specific examples of concerns which you believe to be health and safety failures is.

7.11 The Recipient will take down a written summary of your concern and provide you with a copy after the meeting.

7.12 Whistleblowing concerns may sometimes relate to the actions of a third party, such as a partner organisation, a supplier or service provider. In some circumstances the law will protect you if you raise the matter with the third party directly. However, you are encouraged to report such concerns internally within the university first.

8 Investigation

8.1 Once you have raised a concern, the Recipient will carry out an initial assessment of the information made available to them in consultation with appropriate colleagues (for example HR, Finance or a Governor) to determine if the matter is appropriate for this policy (see 8.3 below) and the scope of any investigation required. The Recipient may seek additional information from you at this stage.

8.2 Following their initial assessment, the Recipient will inform you of the outcome e.g. if there is no further action required or if there is a need to act such as to investigate the matter internally or refer the matter to the police or other external body. Where a disclosure is not pursued under this policy – see section 11.

8.3 The nature and scope of any investigation required will depend on the nature of the concern raised; however, the Recipient will ensure in each instance that the investigation is reasonable and fair, impartial and sufficiently documented. In some

instances, the Recipient, together with other colleagues, may decide to refer the matter to another university procedure e.g. the grievance or disciplinary procedure or the research misconduct procedure (see also 2.5 - 2.7).

8.4 In some cases, the university may appoint an impartial investigator or team of investigators, including staff, with relevant experience of investigations or specialist knowledge of the subject matter. The investigator(s) will be required to act in accordance with sections 4 and 5 of this policy.

8.5 The Recipient will aim to keep you informed of the progress of the investigation and its likely timescale and you may be required to attend additional meetings to provide further information. However, sometimes the need for confidentiality may prevent the university giving you specific details of the investigation or any disciplinary action taken as a result. You should treat any information about the investigation as confidential (see Confidentiality).

9 Conclusion of investigation and outcomes

9.1 At the conclusion of the investigation, the person carrying out the investigation will make a report to the Recipient.

9.2 The report may make recommendations for actions to be taken which may include:

- Reviewing and making recommendations for changes to internal procedures, risk assessments, risk management procedures, action plans, training, management and governance oversight to minimise future risks.
- Recommending the instigation of disciplinary proceedings against DMU employees.
- Notifying/reporting to any external body or regulator e.g. OfS, the Health and Safety Executive (HSE), Financial Conduct Authority (FCA), General Medical Council (GMC), Information Commissioner's Office (ICO), or making a referral to the Disclosure and Barring Service (DBS).

9.3 Once the Recipient has reached a decision, they will inform you of this, if possible within 10 working days, including any detail of further actions to be taken.

9.4 Confidentiality requirements may prevent the university from giving you specific details of the investigation or any disciplinary or other action taken as a result. Any information provided must be treated as confidential.

9.5 The university will notify the OfS of "reportable events" in accordance with the Regulatory Framework for Higher Education (as amended from time to time), including issues that are suspected or alleged, shortly after such issues come to the attention of the university.

9.6 Depending on the nature of the event there may be a separate duty to report it to the police or other appropriate authority - for example, if criminality is suspected.

9.7 If the university concludes that untrue allegations have been made in bad faith or maliciously and with a view to personal gain, you may be subject to disciplinary action or other sanctions. See Malicious allegations and breaches of the policy.

10 If you are not satisfied

10.1 The university cannot guarantee any particular outcome to any concern raised, but will try to deal with concerns raised under this policy fairly and appropriately.

10.2 If you are not happy with the way in which your concern has been handled, you can raise it with the other Recipient (see 7.6). They will consider all the information presented, the procedures that were followed and the reasons for the action taken or the reasons for taking no action. The outcome of this will be either to confirm that no further action is required or that further investigation is required and will follow the procedures referred to in section 8.

11 Disclosures not pursued under this policy

11.1 A decision not to pursue a disclosure may be taken before investigation if the Recipient decides that the concern disclosed does not fall within the remit of this policy. In such cases, they may refer you to other internal procedures, for example, the university's Grievance Procedure if the concern relates to your personal circumstances rather than malpractice within the university.

11.2 A decision not to pursue a disclosure may be taken before or after investigation if the Recipient is:

- Aware that the matter is already subject to legal proceedings, or has already been referred to the police or relevant bodies.
- Aware that the matter is already, or has been, the subject of proceedings under one of the university's other procedures, and/or
- Satisfied that the discloser does not have reasonable grounds to believe that malpractice within the meaning of this policy has occurred, is occurring, or is likely to occur.

12 External disclosures

12.1 The aim of this policy is to provide an internal mechanism for reporting, investigating and remedying any suspected malpractice occurring or likely to occur within the university. In most cases you should not find it necessary to alert anyone externally.

12.2 If, having followed this policy, you are not satisfied with the steps taken, you may raise the matter confidentially with the police, the OfS, the Department for Education and Skills, a Member of Parliament or other appropriate public authority (the government publish a list of 'prescribed persons' to whom disclosures may be made – see Appendix A: Contacts and Information). Before taking any such action, you should inform the Recipient or another member of the university.

12.3 You may also raise the matter externally, as set out in 12.2 if you have reasonable grounds for believing that the Recipients or the investigators referred to in this policy are or were involved in the alleged malpractice.

12.4 The law recognises that in some circumstances it may be appropriate for you to report your concerns to an external body such as a regulator. It will very rarely, if ever, be appropriate to alert the media. We strongly encourage you to seek advice before reporting a concern to anyone external.

12.5 You may, at any time, disclose the matter to a professionally qualified lawyer for the purpose of taking legal advice.

13 Protection and support for disclosers

13.1 It is understandable that disclosers (or "whistleblowers") are sometimes worried about possible repercussions. The university encourages openness and will support staff who raise genuine concerns under this policy, even if they turn out to be mistaken.

13.2 In accordance with the Public Interest Disclosure Act, disclosers must not suffer any detrimental treatment as a result of raising a genuine concern (even if the concern is unfounded). Detrimental treatment includes dismissal, disciplinary action, threats or any other unfavourable treatment connected with raising a concern. The university will not tolerate the victimisation of individuals who raise genuine concerns under this policy and a person who threatens or retaliates against a discloser in any way may be subject to disciplinary action up to and including dismissal.

13.3 If you have raised a concern under this policy and feel that you have suffered detrimental treatment as a result, you may have recourse to the Grievance Procedure.

13.4 If you are a DMU employee, you are able to access the confidential Employee Assistance Programme free of charge.

13.5 You may be supported by a trade union representative or a colleague at any meetings held under this policy.

13.6 You can seek advice from Protect (formerly 'Public Concern at Work'), the independent whistleblowing charity, who offer a confidential helpline.

See Appendix A: Contacts and Information.

14 Malicious allegations and breaches of the policy

Where the university has grounds to believe that an allegation has been made maliciously or in bad faith without reasonable belief in its truth; or where an external disclosure is made in breach of this policy without reasonable grounds; or where a disclosure is made to an external body other than those set out in section 12 without reasonable grounds, disciplinary action may be taken against you, up to and including dismissal.

15 Monitoring and reporting on the operation of this policy

15.1 The Head of Legal Services will keep a confidential record of all disclosures and any subsequent actions taken and will retain such reports for seven years. The information will be used to report to the Audit Committee the outcomes of any investigation, in detail where the issue falls within its terms of reference, and in summary in other cases as a means of allowing the Committee to monitor the effectiveness of the policy.

15.2 The Audit Committee will report annually to the Board of Governors on the operation of this policy.

Appendix A: Contacts and further information

Protect (formerly Public Concern at Work) - the whistleblowing charity
http://www.pcaw.org.uk

Whistleblowing Advice Line: 020 3117 2520

UK advice line: whistle@protect-advice.org.uk

Acas (Advisory, Conciliation and Arbitration Service)

http://www.acas.org.uk/

Gov.uk

https://www.gov.uk/whistleblowing/what-is-a-whistleblower

List of prescribed persons: https://www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies--2

Employee Assistance Programme

24-hour Counselling and Information Services.

This benefit is available to all staff and their dependants. The EAP offers you immediate access to 24-hour telephone counselling and legal and financial information services, provided by an independent health and wellbeing provider, Health Assured, and thereby extends the support that we are able to offer.

Office for Students

Regulatory advice 16: Reportable events

DMU's policies and procedures for staff can be found on the intranet. Should you have any difficulty in locating a particular policy/document, please contact your HR Adviser for assistance.

Appendix B: Relevant policies, procedures and regulations

The relevant legislation in relation to this policy is the Public Interest Disclosure Act 1998, which protects disclosers ("whistleblowers") from detrimental treatment or victimisation.

The standards of conduct and behaviour expected of staff and governors at DMU are set out in the university's policies, procedures, regulations and codes of conduct. The following are particularly relevant to the types of concern that might be raised under this policy, in addition to the provisions contained within employees' contracts of employment:

- Code of Conduct for Staff and Governors at DMU
- Policy on Countering Fraud, Bribery and Money Laundering
- Financial Regulations
- Health and safety policies and procedures
- Safeguarding policy and procedure
- Equality and diversity policies