

Whistleblowing (Reporting Corruption and Other Serious Wrongdoing) Policy

Section 1 - Purpose and Context

- (1) This Policy establishes a framework for reporting and managing reports of serious wrongdoing including corruption, often referred to as 'whistleblowing'.
- (2) The University has an unequivocal commitment to ensuring that all reports of alleged serious wrongdoing are identified, investigated and managed appropriately and that staff and students who report serious wrongdoing are supported and protected.
- (3) Where a report is made about behaviour that falls outside the definition of serious wrongdoing in this Policy, it will be referred for assessment under another process, such as the [Complaint Management Policy](#).
- (4) This Policy is to be read in conjunction with the [Whistleblowing \(Reporting Corruption and Other Serious Wrongdoing\) Procedures](#) (Procedures) and other policies and processes, as set out under the "Associated Information" tab on the University's policy document development system ("Policy DDS").

Section 2 - Application

- (5) This Policy applies to all public officials of the University and University controlled entities.
- (6) University controlled entities are treated as authorities for the purposes of the [Government Sector Audit Act 1983 \(NSW\)](#) and are therefore subject to the [Public Interest Disclosures Act 2022 \(NSW\)](#).

Section 3 - Definitions

- (7) The following definitions apply for the purposes of this Policy:
- a. Act means the [Public Interest Disclosures Act 2022 \(NSW\)](#)
 - b. Corrupt conduct means
 - i. the dishonest or partial exercise of official functions by a public official
 - ii. the improper use of knowledge, power or position by a public official for personal gain or the advantage of others
 - iii. any conduct by a public official that is a breach of public trust
 - iv. any conduct of any person that adversely affects, or could adversely affect, the honest and impartial exercise of any official functions of a public official or the University, including for example, accepting bribes or other incentives for a favourable decision or outcome, theft, fraud, embezzlement and blackmail.
 - c. Detrimental action means any action or omission that causes, compromises, involves or encourages any of the following, or the threat of any of the following, in relation to a person who reports serious wrongdoing, excluding any actions expressly stated not to be detrimental under the Act:

- i. injury, damage or loss
 - ii. damage to their property
 - iii. damage to their reputation
 - iv. intimidation, bullying or harassment
 - v. discrimination, prejudice or adverse treatment in relation to employment or otherwise
 - vi. unfavourable treatment in career, employment, profession or trade
 - vii. disciplinary proceedings or disciplinary action.
- d. Disclosure means any report of actual or suspected serious wrongdoing within the University, and includes a public interest disclosure
- e. Disclosure Officer means any person listed in the Procedures authorised by the University to receive public interest disclosures
- f. Disclosure Coordinator means any person listed in the Procedures authorised by the University to accept public interest disclosures
- g. Government information contravention means a failure, other than a trivial failure, to exercise functions under the [Government Information \(Public Access\) Act 2009 \(GIPA Act\)](#) or [State Records Act 1998 \(NSW\)](#) such as acting improperly or making decisions contrary to those Acts. This could include:
- i. destroying, concealing or altering records to prevent them being released
 - ii. knowingly making decisions that are contrary to the legislation
 - iii. directing another person to make a decision that is contrary to the legislation
- h. Investigating authority means any one or more of the investigating authorities recognised under the Act including the:
- i. [NSW Independent Commission Against Corruption](#)
 - ii. [NSW Ombudsman](#)
 - iii. [NSW Auditor General](#)
 - iv. [Privacy Commissioner](#)
 - v. Information Commissioner
- i. Officer means a person who holds office with the University or one of its controlled entities, but is not an employee. It includes members of the Board of Trustees and its committees, directors and other office holders of a University controlled entity
- j. Privacy contravention means a failure, other than a trivial failure, by the University or a public official to exercise functions in accordance with the [Privacy and Personal Information Protection Act 1998 \(NSW\)](#) or the [Health Records and Information Privacy Act 2002 \(NSW\)](#)
- k. Public interest disclosure means a public interest disclosure that satisfies the criteria in Part 2 of the Act
- l. Public official has the meaning given to it in section 14 of the Act, and in the case of the University or a University controlled entity means:
- i. a staff member
 - ii. an individual who exercises functions or acts in an official capacity for the University or a University controlled entity (including an officer) and whose conduct and activities can be investigated by an investigating authority
 - iii. an employee, (business) partner or officer of an entity that, under a contract, subcontract or other arrangement, is engaged to provide services or exercise functions on behalf of the University or a University controlled entity
 - iv. a statutory officer.
- m. Recipient Manager means a manager or supervisor who is not a Disclosure Officer who receives a voluntary public interest disclosure
- n. Report means the initial information and/or circumstances a public official draws to the attention of a Disclosure

Officer or Recipient Manager for consideration as a public interest disclosure

- o. Reporter means a person who has made a report or disclosure
- p. Serious and substantial waste of public money means the uneconomical, inefficient use of resources that could result in losing or wasting University money and could include:
 - i. failure to follow policies (such as the [Procurement Policy](#) or [Commercial Activities Guidelines](#)) or
 - ii. failure to implement appropriate systems of reporting and control.
- q. Serious Maladministration means conduct, other than conduct of a trivial nature, by the University or a public official relating to a matter of administration that is:
 - i. unlawful or
 - ii. unreasonable, unjust, oppressive or improperly discriminatory or
 - iii. based on wholly or partly improper motives.
- r. Serious wrongdoing means any one or more of:
 - i. corrupt conduct
 - ii. serious maladministration
 - iii. a serious or substantial waste of public money
 - iv. a privacy contravention
 - v. a government information contravention.
- s. Staff member means a person employed as an academic or professional member of staff (including on a casual basis) by the University or one of its controlled entities, and includes persons who hold clinical, adjunct, visiting, honorary, conjoint or other forms of appointment or employment
- t. Student means a person who is currently admitted to a program of study at the University or a University controlled entity, regardless of whether they are currently enrolled.

Section 4 - Policy Statement

(8) As a public institution, the University is committed to undertaking its activities with the highest standards of honest and ethical behaviour. This is reflected in the University's values of integrity, fairness, boldness and excellence.

(9) The conduct of officers and staff members is critical to these values. The University strongly encourages early reporting of suspected serious wrongdoing because this helps to promote integrity, accountability and good management.

(10) The University is committed to providing support and protecting the identity of those who report serious wrongdoing by completing a risk assessment to identify potential risks ensuring these are managed in an appropriate way.

(11) The University will treat all reports of serious wrongdoing as confidential, and will not disclose information that might identify or tend to identify the person making the report unless:

- a. they first give written consent
- b. it is generally known that the person has made the report by having voluntarily identified themselves (other than by making the report itself) as the person who made it
- c. it is necessary that the identity of the reporter be revealed to a person whose interests are affected by a disclosure
- d. after consulting with the person, the University reasonably considers it necessary to disclose the identifying information to protect a person from detriment
- e. the identifying information has previously been lawfully published

- f. it is to a medical practitioner or psychologist for the purposes of the practitioner providing medical or psychiatric care, treatment or counselling to the individual disclosing the information
- g. the disclosure of the identifying information is necessary to investigate the matter effectively, or it is otherwise in the public interest to do so
- h. the University is required to disclose it in order to comply with the law, or an order made by a court or a tribunal or it is for the purpose of proceedings before a court or tribunal.

(12) The University maintains confidentiality through a range of steps including: limiting the number of people who are aware of the reporter's identity or information that could identify them; ensuring that any person who does know the identity of the reporter is reminded that they have a legal obligation to keep their identity confidential; and ensuring that only authorised persons have access to emails, files or other documentation that contain information about the identity of the reporter (including by ensuring appropriate security/access levels are applied to documents).

Section 5 - Who can Report Serious Wrongdoing and When is it a Public Interest Disclosure?

Who can Report?

(13) Anyone (including students and members of the public) can report suspected serious wrongdoing.

(14) The University will accept and act on anonymous reports to the extent possible. However, it is preferable if the reporter identifies themselves, as this allows the University to ensure they are supported and risks of detrimental action are identified.

When is a Report a Public Interest Disclosure?

(15) There are three types of public interest disclosures. They are:

- a. voluntary public interest disclosures (or a deemed public interest disclosure)
- b. mandatory public interest disclosures - this is a disclosure about serious wrongdoing made by a public official while meeting the ordinary requirements of their role or under a statutory or other legal duty, for example, mandatory reporting of children at risk of harm under the [Children and Young Persons \(Care and Protection\) Act 1998 \(NSW\)](#)
- c. witness public interest disclosures - this is a disclosure of information in an investigation into serious wrongdoing in response to a request or requirement to provide the information.

(16) To qualify as a voluntary public interest disclosure, and attract protection under the Act:

- a. the report must be made by someone who is, at the time the report is made, a public official
- b. the person who reports alleged serious wrongdoing must hold an honest belief and on reasonable grounds, that the report shows or tends to show serious wrongdoing
- c. the report must be made to a person who is authorised by the Act to be a recipient of voluntary public interest disclosures, as set out in the procedures.

(17) A disclosure may also be deemed a voluntary public interest disclosure, even if it does not meet the requirements. Refer to the information set out in the Procedures.

(18) A disclosure will not be a public interest disclosure to the extent the reporter wilfully makes a false statement to, or misleads or attempts to mislead the University, a Disclosure Officer or the Recipient Manager.

(19) A report of serious wrongdoing cannot be based on a mere allegation unsupported by any facts, circumstances or evidence. While the reporter does not have to prove that the alleged serious wrongdoing occurred, there must be some information to support that allegation, for instance, direct observation of a specific instance of serious wrongdoing and/or documentary evidence or knowledge thereof.

(20) The reporters of mandatory public interest disclosures and witness public interest disclosure receive protection from detriment (refer to the Procedures) but the Procedures do not otherwise apply to these types of disclosers.

(21) The reporter does not have to characterise the matter as a public interest disclosure, or have specifically sought protection, for the report to receive protection under the Act as a public interest disclosure and be accepted under this Policy.

When is a Report not a Public Interest Disclosure?

(22) Not all reports of suspected serious wrongdoing qualify as public interest disclosures for the purposes of the Act. For instance, reports by students or members of the public do not qualify as voluntary public interest disclosures because those persons are not “public officials”. However, the University will, to the extent that it can reasonably do so:

- a. follow the same procedures for investigating reports of serious wrongdoing in accordance with any Procedures under this Policy
- b. undertake a risk assessment and put in place appropriate management strategies to protect and support students against detrimental action.

(23) A report is not a voluntary public interest disclosure if it concerns a grievance relating to the employment of a current or former staff member and either:

- a. does not have significant implications beyond matters personally affecting or tending to personally affect the individual or
- b. relates to a disagreement with the taking or proposed taking of reasonable management action

(24) The University cannot provide any protection or support to members of the public against detrimental action because of its limited jurisdiction. However, it will cooperate with inquiries made by the police or an investigating authority.

Section 6 - Responsibilities

(25) The University will:

- a. undertake activities to promote awareness about serious wrongdoing
- b. implement and maintain appropriate internal systems of control and reporting to minimise risks of serious wrongdoing and improve detection methods
- c. through its Disclosure Coordinator, decide whether individual reports of serious wrongdoing will be accepted under this Policy, or referred to another process for investigation, including an external investigative authority such as the [Independent Commission Against Corruption](#)
- d. comply with any statutory obligations it has to report alleged serious wrongdoing
- e. undertake a thorough risk analysis to identify risks that may impact on the reporter, any other staff members, or the operations of the University and put appropriate protection mechanisms in place

- f. take prompt action to address any reports of detrimental action in relation to a report made and/or accepted under this Policy, including referring evidence of detrimental action to the Commissioner of Police and Independent Commission Against Corruption
- g. arrange for training for the Vice-Chancellor and President, Disclosure Officers and Recipient Managers in relation to their responsibilities under the Act, this Policy and Procedures, including refresher training.

(26) The Vice-Chancellor and President is responsible for:

- a. ensuring the University complies with the Act and this Policy
- b. receiving disclosures from public officials
- c. ensuring there are appropriate systems in place for assessing disclosures
- d. supporting public officials who make disclosures including minimising the risk of detrimental action
- e. implementing corrective action if serious wrongdoing is found to have occurred
- f. complying with reporting obligations regarding allegations or findings of detrimental action and complying with yearly reporting obligations to the [NSW Ombudsman](#)
- g. making determinations about deemed voluntary public interest disclosures, as required, or delegating this function.

(27) Disclosure Officers are responsible for:

- a. receiving reports from public officials
- b. receiving reports when they are passed on to them by a Recipient Manager
- c. ensuring reports are dealt with appropriately, including by referring the matter to the Disclosure Coordinator
- d. ensuring that any oral reports that have been received are recorded in writing.

(28) All officers and staff members of the University and University controlled entities are expected to:

- a. report known or suspected serious wrongdoing within the University or a controlled entity
- b. actively assist with any investigation into that report
- c. maintain strict confidentiality throughout the whole process
- d. protect the identity of the reporter and provide support where practical and appropriate.

(29) Officers and staff members must not:

- a. disclose the identity of the reporter without first obtaining their permission, unless required by law or as permitted under this Policy, including to properly carry out a function under this Policy
- b. speculate over or discuss the possible identity of the reporter, in regard to any report made under this Policy
- c. victimise, harass or take any form of detrimental action against a person who makes, or who is suspected to have made, a report
- d. make any report of alleged serious wrongdoing that is false, misleading or motivated by malice.

(30) Supervisors are required to:

- a. cultivate a workplace culture that does not tolerate serious wrongdoing, encourages reports of serious wrongdoing, and takes those reports seriously
- b. ensure staff under their supervision are familiar with this Policy and implement local strategies, in consultation with the Disclosure Coordinator, to encourage reporting and minimise detrimental action or workplace conflict when a disclosure is made
- c. if they are a Recipient Manager, communicate any voluntary interest public disclosure in accordance with the

Procedures to this Policy. If the report is oral or otherwise, communicate in writing to the Disclosure Coordinator (or another Disclosure Officer) as soon as reasonably practicable in accordance with the Procedures

- d. support and assist staff members who are reporters
- e. notify the Disclosure Coordinator or the relevant authorised Disclosure Officer if they know or suspect a staff member is the subject of any detrimental action or other detriment following a disclosure. This type of action will be investigated internally under the relevant misconduct/serious misconduct provision at the time to the extent required. It may also constitute a criminal offence under section 33 of the Act
- f. attend training in relation to their responsibilities under the Act, this Policy and the Procedures, including refresher training.

(31) Any reporter of suspected serious wrongdoing is required to:

- a. have an honest belief that the report they make is true
- b. maintain confidentiality and not discuss the report with anyone other than those involved in managing and investigating the report
- c. clearly identify the issues of concern and provide all information and supporting evidence available to them at the time of making their report, or soon after
- d. comply with any arrangements put in place by the University to protect them and/or minimise the risk of detrimental action
- e. treat all those involved in managing the report with courtesy and respect.

Section 7 - Procedures

(32) The Vice-Chancellor and President may establish procedures for the implementation of this Policy.

(33) The procedures for making a report of serious wrongdoing under this Policy are set out in the [Whistleblowing \(Reporting Corruption and Other Serious Wrongdoing\) Procedures](#), published on the University's [Policy DDS](#).

(34) The Procedures are incorporated into and form part of this Policy to the extent necessary for the purposes of section 43 of the Act.

Section 8 - Guidelines

(35) For more information about making a disclosure (including a public interest disclosure), please visit the University's [Whistleblowing web page](#).

(36) Information (including downloadable fact sheets) is also available from the following investigation authorities:

- a. [Independent Commission Against Corruption](#);
- b. [NSW Ombudsman](#);
- c. [NSW Auditor-General](#);
- d. [NSW Information and Privacy Commission](#).

Status and Details

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