PUBLIC INTEREST DISCLOSURE (Whistle-Blowing) POLICY

1. Introduction

1.1 The University of Lincoln acknowledges its duty to conduct its affairs in accordance with high standards of integrity, propriety, accountability and openness, taking full account of the recommendations of the Committee on Standards in Public Life and the requirements of the HE regulatory bodies. Moreover, the Board of Governors is committed to the principles of academic freedom as guaranteed in the University’s Articles of Government and in legislation.

1.2 The University encourages members of staff and students to raise genuine and serious concerns about malpractice in the workplace at the earliest practicable stage. This policy sets out a process whereby employees and students who have concerns about malpractice may raise those concerns at a high level in the University, outside of normal line management, and without fear of detriment. The procedure also seeks to balance the need to provide safeguards for members of staff and students who raise genuine concerns about malpractice against the need to protect other members of staff, students, members of the Governing Body, and the University against uninformed or vexatious allegations.

2. Legal Framework

2.1 The Public Interest Disclosure Act 1998 protects a worker from victimisation and dismissal following disclosure by that worker of a matter threatening the public interest, as long as the case satisfies the detailed conditions set out in the Act. To be protected, the worker must make a “qualifying disclosure” and ensure that it is made in one of the ways described in the Act. A disclosure made other than in accordance with the Act and this Policy, will not be protected under ‘whistle-blowing’ legislation.

3. "Qualifying disclosure"

3.1 This is any disclosure of information which the worker making the disclosure reasonably believes to be in the public interest to disclose, and which tends to show one or more of the following:
- That a criminal offence has been, is being or is likely to be committed;
- That a person has failed, is failing or is likely to fail to comply with any legal obligation to which he or she is subject. This includes any contractual or other common law obligation, statutory duty or requirement or administrative law requirement. It could include academic or professional malpractice or a failure to comply with any rules, regulations or codes of practice of the institution;
- That a miscarriage of justice has occurred, is occurring or is likely to occur;
- That the health and safety of any individual has been, is being or is likely to be endangered;
- That the environment has been, is being or is likely to be damaged; or
- That information tending to show any of the above has been is being or is likely to be deliberately concealed.

3.2 The law places responsibilities upon the worker making a disclosure. In most cases, the worker must raise the matter internally first. The matter must not be motivated by personal antagonism, and the worker must have a reasonable belief that it is in the
public interest to disclose the matter.

3.3 If the whistleblower has not complied with the conditions of the Public Interest Disclosure Act in any respect, he or she may have committed a fundamental breach of contract by disclosing confidential information belonging to the employer. As an employee, the whistleblower may also have fundamentally breached the duty of trust and confidence owed to the employer and may therefore be liable to the University's disciplinary procedures.

4. The University Procedure

4.1 The University of Lincoln already has in place policies and procedures relating to the conduct of staff and students, including the University Regulations, the staff discipline and grievance procedures, the Financial Regulations (including Procedures for dealing with financial misconduct) and the bullying and harassment policy. Allegations of injustice, discrimination or other misconduct made against individuals should normally be raised under these established procedures. The Public Interest Disclosure Act, which this University's Whistle-blowing policy is intended to reflect, relates to serious concerns about matters of public interest which may need, at least initially, to be investigated separately by senior managers with corporate responsibilities or by Governors of the University. Such matters could include:

- Corruption, bribery or blackmail
- Criminal offences
- Failure to comply with a legal or regulatory obligation
- Miscarriage of justice
- Endangering the health or safety of any individual
- Endangering the environment
- Improper use of authority
- Serious financial maladministration arising from the deliberate commission of improper conduct
- Research misconduct

4.2 This procedure applies to disclosure by an employee, an agency contract worker, a self-employed homeworker employed or engaged by the University, or by a student at the University, who has grounds to believe that malpractice has occurred, is occurring or is likely to occur in connection with the institution, and that disclosure would be in the public interest. For the purposes of this policy, the term ‘student’ includes sabbatical officers of the Students’ Union.

4.3 An individual may seek a confidential meeting with the University Secretary to discuss whether it would be appropriate to make a formal disclosure under this procedure. An individual seeking or taking part in such a meeting is guaranteed the same protection against personal detriment as is given under the procedure to someone making a formal disclosure, whether or not a formal disclosure follows.

5. Disclosures

5.1 The person making the disclosure should as soon as practicable disclose in confidence the grounds for the belief of malpractice in the workplace to one of the ‘reportees’ identified below. Any disclosure under this procedure shall, wherever possible, be in writing. The person making the disclosure should provide as much supporting written evidence as possible about the grounds for his or her the belief.

5.2 Disclosures should be made, as the discloser deems appropriate, to one of the following reportees: the University Secretary, the Director of Student Affairs, the discloser’s Head of College or Professional Service department, the Chief Executive Officer of the Student’s Union, the Vice Chancellor or the Chair of the Board of Governors. If for a particular reason none of these individuals is appropriate – for example if they are involved in the matter being disclosed – the disclosure should be
made to the Chair of the University’s Audit Committee, in confidence via the Governance Manager (based in Secretariat, University Registry).

5.3 A reportee may decline to become involved on reasonable grounds. Such grounds include previous involvement or interest in the matter concerned, incapacity or unavailability or that the reportee is satisfied that a different reportee would be more appropriate to consider the matter in accordance with this procedure. In such circumstances, the original reportee will arrange for an alternative reportee to act instead.

5.4 On receipt of the disclosure, the reportee will offer to interview, in confidence, the person making the disclosure. Such an interview will take place as soon as practicable after the initial disclosure. The purpose of the interview will be for the reportee to obtain as much information as possible about the grounds for the belief of malpractice and the strength of the available evidence, to clarify the ‘public interest’ aspects of the disclosure, and to consult about further steps which could be taken. The person making the disclosure may be accompanied by an appropriate person, such as a fellow student or work colleague or local trade union representative (including the University of Lincoln Students’ Union). The reportee may be accompanied by an administrative assistant to take notes. The notes will not identify the person making the disclosure. For safeguards in relation to confidentiality, see below.

5.5 The reportee may make such further preliminary enquiries as s/he deems reasonable and appropriate.

5.6 Where the reportee is satisfied that this whistle-blowing procedure is appropriate, that there is a public interest in the matter(s) and that there are sufficient grounds for proceeding further, s/he shall decide on the nature of the investigation of the allegations. This may be an internal investigation by University staff; or referral of the matter to the police or other appropriate public authority; or the commissioning of an independent enquiry, for example by the University’s auditors.

5.7 If the reportee decides that the whistle-blowing procedure is not appropriate in respect of the matter disclosed, s/he shall so inform the discloser, giving reasons in writing. These could be on grounds that the matter should be, is already or has already been the subject of appropriate proceedings under one of the institution’s other procedures relating to staff or students; or that it is already the subject of legal proceedings, or has already been referred to the police or other public authority; or that there does not appear to be sufficient evidence, or the reasonable prospect of sufficient evidence being found, to substantiate the allegation(s) of malpractice; or of reasonable doubt as to the discloser’s reasonable belief about the alleged malpractice and/or about its relation to the public interest.

5.8 If the discloser is not satisfied with the reportee’s decision, s/he may ask the Governance Manager to nominate an independent member of the Audit Committee who will review the matter of the disclosure, the information and evidence presented, the process followed by the reportee and the grounds for the reportee’s decision. If the Governor decides that the matter should be investigated under the whistle-blowing procedure, s/he shall direct a second reportee to arrange an appropriate investigation. If the Governor decides to uphold the view of the original reportee, no further action will be taken under the University’s processes. The discloser may then consider whether to refer the allegations of malpractice to an external agency (see section 9 below).

5.9 Once it has been confirmed that an investigation under the whistle-blowing procedure should take place, the reportee will provide the Chair of the Audit Committee with an anonymised summary of the allegation(s) and the evidence, and the nature of the investigation.
6. **Protection for the discloser**

6.1 The University wishes to offer support to workers or students who may be considering whether to make a disclosure, but have reservations about raising concerns at a high level, or other difficulties which might affect their ability to initiate action under this procedure. This could include issues relating to ethnicity, culture or disability. The University strongly encourages such potential disclosers to seek support; students can contact the Director of Student Affairs, and staff can contact the Employee Engagement Manager.

6.2 Subject to the paragraph below, the University will not (and it will use all reasonable endeavours to ensure that its employees do not) subject the discloser to any detriment on the grounds of the disclosure of information under this procedure. In this context, ‘detriment’ includes any disadvantage in respect of the discloser’s position as a worker or their workplace activities, or as a student. The person making the disclosure should report any complaints of such treatment to the reportee. In such circumstances, with the discloser’s consent and co-operation, the University may take action to sanction any member of staff who has improperly sought to subject a discloser to any detriment. The discloser may be asked to consent in writing to the reportee revealing the discloser’s identity for the purposes of any such action.

6.3 No disciplinary action will be taken against anyone for making a disclosure in accordance with this procedure. This will not prevent the University from bringing disciplinary action in cases where there are grounds to believe that a disclosure has been made maliciously or vexatiously or where an external disclosure is made in breach of this procedure without reasonable grounds or otherwise than to an appropriate public authority. An individual who persists in making allegations which have been found after due process to be unsubstantiated may face disciplinary action for pursuing malicious or vexatious allegations.

7. **Investigation and outcomes**

7.1 The reportee will ensure that the investigation is not carried out by any person with an involvement in the matter disclosed or who might ultimately have to reach a decision in the matter. The person or persons against whom an allegation is made will be told of it and of the evidence supporting it, and will be given full opportunity to offer refutation, explanation or mitigation before the investigation is concluded.

7.2 Where the discloser participates in an investigation, that participation will usually be required to be on an open rather than a confidential basis, although the obligations of the reportee will remain in relation to the identity of the individual as the original discloser of information under this procedure.

7.3 The reportee will receive from the investigators a written report setting out their conclusions and recommendations for further action. The reportee will liaise with appropriate members of the University’s Executive Board as to the implementation of any recommendations. The reportee will also inform the discloser of the recommendations. Where allegations of malpractice on the part of a named individual are substantiated, the reportee will consider whether the matters should be referred for action under staff or student disciplinary procedures.

7.4 A formal account of the investigation and outcomes shall be made to the Audit Committee.

8. **Safeguards**

8.1 The investigation, and any report or recommendations in relation to the matter, will not normally identify the discloser except, where necessary, on a strictly confidential basis to the reportee’s administrative assistant or to a professionally qualified lawyer for the purpose of obtaining legal advice, unless:
the discloser consents
- there are grounds to believe that the discloser has acted maliciously
- the reportee is under a legal obligation to do so
- the information is already in the public domain
- it is essential to do so in order to deal appropriately with the matter disclosed (for example, if the anonymity of the discloser is incompatible with a fair investigation of allegations against a named individual).

8.2 Where the discloser involves a local trade union representative or other colleague in this procedure, the discloser will be under an obligation to use all reasonable endeavours to ensure that the representative or colleague keeps the matter strictly confidential save, as permitted under this procedure, as required by law or until such time as it comes into the public domain.

9. **External Disclosure**

9.1 If, having followed this procedure, the person making the disclosure is not satisfied with the outcome of any investigation or further action taken by the University, s/he may raise the matter on a confidential basis directly with the police, the HEFCE, the Department for Business Innovation and Skills, a Member of Parliament or other appropriate public authority. Before taking any such action, the discloser will inform the reportee. The reportee will advise the discloser on the requirements of the Public Interest Disclosure Act relating to external disclosures.

9.2 The discloser may also raise the matter externally, as set out in the paragraph above, if s/he has reasonable grounds for believing that s/he will be subjected to a detriment as a result of making the disclosure, or that all the available reportees are involved in the alleged malpractice.

9.3 The discloser may at any time disclose the matter on a confidential basis to a legal representative for the purpose of taking professional legal advice.

10. **The culture of the University**

10.1 This procedure is intended to promote throughout the institution a culture of openness and a shared sense of integrity, by inviting all employees and students to act responsibly in order to uphold the reputation of the University and maintain public confidence.

**Contact details**

Reportees’ and other contact details are as follows:

University Secretary:  Paul Walsh ext 6794  email pwalsh@lincoln.ac.uk

Director of Student Affairs:  Judith Carey ext 6016 email jcarey@lincoln.ac.uk

Vice Chancellor:  Mary Stuart ext 6100 email mstuart@lincoln.ac.uk

Chair of the Board of Governors:  - via University Secretary or Governance Manager (see below)

Chair of the University's Audit Committee:  - via University Secretary or Governance Manager (see below)

Governance Manager: Lisa Baker ext 6665 email lbaker@lincoln.ac.uk

Student's Union Chief Executive Officer: James Brooks ext 6730 jabrooks@lincoln.ac.uk

For advice on Equality & Diversity issues (see 6.1 above) staff should contact the Employee Engagement Manager in the HR Department, Claire Bell: ext 6919 email cbell@lincoln.ac.uk.
Students may contact the Advice Service: ext 7080  email advice@lincoln.ac.uk or access http://adviceguidancefunding.blogs.lincoln.ac.uk/; or the Students’ Union Vice President for Welfare and Community.