

## Document Version Control

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## **PUBLIC INTEREST DISCLOSURE ('WHISTLE-BLOWING') POLICY AND PROCEDURES**

The Institution acknowledges the right of staff to make disclosure under the Public Interest Disclosure Act 1988.

1. Definitions
2. Policy Statement
3. Designated Officer
4. The Role of the Principal or Chairman of the Board of Governors
5. The Investigation
6. Action following the investigation
7. The Law

### **1. Definitions**

'Whistle-blowing' is taken to mean the disclosure by an employee or employees, either internally or externally, of malpractice, illegal acts or omissions. Any person making or wishing to make such disclosure is referred to as a 'whistleblower'.

### **2. Policy Statement**

(a) Trinity Laban is committed to achieving the highest possible standards of service and the highest possible ethical standards in public life. To achieve these ends it supports freedom of speech, and encourages staff to use the appropriate mechanisms for reporting any malpractice or illegal acts or omissions by its employees or ex-employees.

(b) Examples of matters that may be subject to the following procedures are:

- Where a criminal offence has been committed, is being committed or is likely to be committed
- Suspected fraud
- Disregard for legislation, for instance in relation to health & safety at work
- Breach of financial regulations
- Showing undue favour over a contractual matter or to a job applicant
- Offering or receiving gifts or incentives (financial or otherwise) in order to obtain an advantage
- Breach of a code of conduct
- The concealing of information on any of the above

(c) In general, staff are expected initially to use the provisions of any internal procedures, for instance with regard to discipline, complaint/grievance or harassment, to seek to resolve their concerns; or to raise their concerns through the Institution's line management structure.

(d) Anyone taking action in accordance with these procedures will be protected from victimisation or possible reprisals.

### 3. Designated Officer

- (a) The Secretary to the Board ([secretary@trinitylaban.ac.uk](mailto:secretary@trinitylaban.ac.uk)) has been appointed by the Board as the designated officer for concerns under this procedure. In the event of the Secretary to the Board being the object of the concerns, but in no other case, the Principal will act as the designated officer.
- (b) The designated officer will be the point of contact for staff who wish to raise concerns under the provisions of this policy. Once a matter has been brought to the designated officer's attention, s/he will arrange an initial interview, which will be confidential if the whistleblower requests it, to ascertain the area(s) of concern. At this stage the whistleblower may reserve the right to anonymity in any future correspondence or action relating to the concern. The whistleblower will be invited by the designated officer to make a verbal or written statement, and the designated officer will write a summary of the interview, which will be agreed by both parties.

*Staff may also approach the People Services Department (Human Resources) or their Union Representative for advice as required.*

*Another source of advice is "Public Concern at Work" <https://www.pcaw.org.uk/>*

### 4. The Role of the Principal or Chair of the Board of Governors

- (a) Following the initial interview, the designated officer will report the matter to the Principal(s), who will be responsible for the commission of a further investigation, to be conducted by an appropriate member of staff or, exceptionally, other person.
- (b) If exceptionally the concern is about the Principal, the designated officer will report the matter to the Chair of the Board of Governors, who will decide how the investigation should proceed. This may include an external investigation.

### 5. The investigation

- (a) The investigation may need to be carried out under the strictest confidentiality, that is without the subject of the complaint being informed until (or if) it becomes necessary to do so. This may be particularly appropriate in cases of suspected fraud.
- (b) If the result of the investigation is that there is found to be a case to be answered by the individual, the Disciplinary Procedures will be used.
- (c) Where there is no case to answer, but it is established that the whistleblower held a genuine concern and was not acting maliciously, it will be the responsibility of the designated officer to ensure that the whistleblower suffers no reprisals.
- (d) If it is established by the investigation that false allegations have been made maliciously, then the whistleblower will be dealt with under the Disciplinary Procedures.

## 6. Action following the investigation

- (a) The Principal will brief the designated officer as to the outcome of the investigation. The designated officer will then arrange a meeting with the whistleblower to give feedback on any action taken, but will not give details of any disciplinary action it is proposed to take against an individual.
- (b) If the whistleblower is not satisfied with the outcome of the investigation, the Institution recognises the lawful rights of employees and ex-employees to make disclosure to prescribed persons [see **Appendix 1**].

## 7. The Law

These procedures take account of the Public Interest Disclosure Act 1998, which protects staff making disclosure about certain matters of concern, where those disclosures are made in accordance with the Act's provisions [see **Appendix 2**]. The Act is incorporated into the Employment Rights Act 1996, which also already protects employees who take action over, or raise concern about, health and safety at work.

**(Appendix 1)**

## PRESCRIBED PERSONS

Disclosure of information may be made to the following persons, who have been prescribed by Government:

1. **Health & Safety issues:** Health and Safety Executive  
Local Authority
2. **Environmental issues:** Environment Agency
3. **Utilities:** OFGEM (Gas & Electricity)  
OFCOM (Telecoms)  
OFWAT (Water)  
ORR (Rail Regulator)
4. **Financial Services:** Financial Services Authority  
HM Treasury
5. **Fraud & fiscal irregularities:** Serious Fraud Officer  
HMRC (Revenue and Customs)
6. **Public Sector Finance:** NAO (National Audit Office)  
Audit Commission
7. **Company Law:** Department of Trade & Industry
8. **Competition & consumer law:** OFT (Office of Fair Trading)  
Local Authority
9. **Others:** Certification Officer (Trade Unions)  
Charity Commission  
Civil Aviation Authority  
Criminal Cases Review Commission  
Data Protection Commissioner  
Pensions Regulator

**(Appendix 2)**

**THE PUBLIC INTEREST DISCLOSURE ACT 1998**

<http://www.legislation.gov.uk/ukpga/1998/23/introduction>

**1 Introduction**

- 1.1 The Public Interest Disclosure Act 1998 protects from victimisation staff who raise concerns about malpractice, in good faith, in ways specified by the Act.
- 1.2 The Act directs a member of staff to raise a matter internally in the first instance, making use of any internal whistleblowing procedures. However, the Act will protect staff who choose to make external disclosures in a range of circumstances. If a member of staff discloses information in a way that is not covered by that Act, then the Act offers no protection.

**2 Malpractice**

- 2.1 The Act applies to people at work raising genuine concerns about crimes, civil offences (including negligence, breach of contract, breach of administrative law), miscarriages of justice, dangers to health & safety or the environment, and the cover up of any of these. It applies whether or not the information is confidential and whether the malpractice is occurring in the UK or overseas.

**3 Individuals covered**

- 3.1 In addition to employees, the Act covers contractors, trainees, agency staff and homeworkers. The usual employment law restriction on minimum qualifying period and age do not apply to the Act. The Act does not presently cover the self-employed (except in the NHS), volunteers, the intelligence service, the army or the police force.

**4 Internal disclosures**

- 4.1 A disclosure made in good faith to the employer will be protected if the whistleblower has a reasonable suspicion that the malpractice has occurred, is occurring or is likely to occur.

**5 Disclosure for advice**

- 5.1 A disclosure made for the purpose of obtaining legal advice is protected.

**6 Disclosure to Ministers**

- 6.1 A member of staff in a public body subject to ministerial appointment (e.g. the NHS, HEFCE) may make a disclosure direct to a Minister in the sponsoring Department.

**7 Regulatory disclosures**

7.1 The Act makes special provision for disclosure in good faith to prescribed persons [see Appendix 1 on previous page]. Such disclosure will be protected where it meets the test for internal disclosures and, additionally, the whistleblower honestly and reasonably believes that the information and any allegation in it are substantially true.

**8 Wider disclosures**

8.1 Wider disclosures, for example to the police, media, a Member of Parliament, or a non-prescribed regulator, are protected if, in addition to the test for regulatory disclosures, they are reasonable in all the circumstances and they are not made for personal gain.

8.2 In order to obtain protection for a wider disclosure, at least one of the following preconditions must apply:

- The whistleblower reasonably believes that he/she would be victimized if the matter were raised internally or with a prescribed regulator
- There is no prescribed regulator and the whistleblower reasonably believes that the evidence is likely to be concealed or destroyed
- The concern has already been raised with the employer or a prescribed regulator
- The concern is of an exceptionally serious nature

**9 Full protection**

9.1 A whistleblower who is victimised or dismissed in breach of the Act may bring a claim to an employment tribunal for compensation. All awards will be uncapped and based on the losses suffered (though for victimisation short of dismissal the overriding requirement is that the award should be just and equitable). Where the whistleblower is sacked, he/she may within seven days seek interim relief so that his/her employment continues or is deemed to continue until the full hearing.

**10 Confidentiality clauses**

10.1 Gagging clauses in employment contracts and severance agreement are void insofar as they conflict with the Act's protection.