

Public Interest Disclosure and London Business School

London Business School is committed to promoting an environment where the highest standards of accountability, honesty, integrity and openness exist. The School will conduct its business in an ethical and transparent manner, taking into account the requirements of the funding bodies for the proper use of public funds and, adopting the standards in public life set out in the Reports of the Government's Committee on Standards in Public Life (the Nolan Committee).

The loyalty of an employee to his or her employer is an implied condition of service, and employees cannot disclose confidential information about the employer's affairs. However, where an individual discovers apparent evidence and information that he or she believes reveals malpractice, impropriety or wrongdoing within the organisation, then this information should be disclosed without fear of reprisal and the disclosure made independently of line management.

The Public Interest Disclosure Act 1998 gives legal protection to employees against being dismissed or penalised by their employers as a result of publicly disclosing serious concerns and information which is considered to be in the public interest. London Business School has introduced this procedure to enable you to raise your concerns about such malpractice at an early stage and in an appropriate manner.

1 Aims and Principles

1.1 Although the Public Interest Disclosure Act limits protection to employees, agency workers and self-employed workers, London Business School's policy extends protection to cover all of the following groups:

- Faculty
- Staff
- Agency workers
- Self-employed contractors
- Students
- Members of the Governing Body

1.2 The policy seeks to:

- Encourage and enable members of the School to raise genuine and legitimate concerns internally without fear of reprisal
- Provide an opportunity for those concerns to be investigated and for appropriate action to be taken to ensure that the matter is resolved quickly and effectively within the School wherever possible
- Deter serious malpractice
- Promote openness and accountability throughout London Business School.

1.3 The policy is not intended to cover complaints for which the School has other existing procedures, such as grievance or disciplinaries, pay and reward issues, diversity, discrimination and/or

harassment and bullying issues, and student grievances, and cannot be used to reconsider any matters which have already been the subject of any of the aforementioned procedures. It is designed to assist individuals who believe they have discovered malpractice or impropriety. In addition, the procedure is not intended to query strategic, academic or financial decisions taken by the School; nor may it be used to reconsider any matters that have already been the subject of a formal harassment/bullying at work, grievance or disciplinary procedure.

- 1.4 The identity of a person who is the subject of a public interest disclosure under this procedure will be protected as far as possible. If the case against him or her is heard under this procedure, his or her rights to respond to the accusation or to remain silent and to have representation will be the same as under the relevant disciplinary procedure. If a person chooses to remain silent, the School reserves the right to investigate the disclosure by any means at its disposal.

2 Key Definitions

- 2.1 Public interest disclosure for the purpose of this policy is defined as the disclosure of information to the effect that School business has been, is being, or is likely to be the subject of malpractice. The legislation relates to “any disclosure of information which, in the reasonable belief of the worker making the disclosure, tends to show one or more of the following:

- (a) that a criminal offence has been committed, is being committed or is likely to be committed;
- (b) that a person has failed, is failing or is likely to fail to comply with any legal obligation to which he is subject;
- (c) that a miscarriage of justice has occurred, is occurring or is likely to occur
- (d) that the health or safety of any individual has been, is being or is likely to be endangered;
- (e) that the environment has been, is being or is likely to be damaged; or
- (f) that information tending to show any matter falling within any one of the preceding paragraphs has been, is being or is likely to be deliberately concealed.”

- 2.2 Malpractice indicates wrongdoing including illegality; however, the School’s procedure goes beyond the Public Interest Disclosure Act in also extending to conduct, which could be considered unethical. Concerns within the School that might prompt disclosure could include the following:

- Failure to comply with a legal obligation
- Serious failure to comply with the School’s Charter and Statutes
- Endangering of health and safety or damage to the environment
- Criminal activity
- Academic or professional malpractice
- Improper conduct or unethical behaviour
- Abuse of authority for illegal or unethical purposes
- Serious conflict of interest without disclosure
- Concerns regarding fundraising practice
- Attempts to conceal any of the above.

3 Accountability and Responsibilities

3.1 *The Audit and Risk Committee*

The School's Audit and Risk Committee, as commissioned by the Governing Body, has overall accountability for ensuring the effective implementation of this policy, including providing a framework for individuals to make protected disclosures confidentially in order to resolve concerns.

3.2 *The role of the Secretary*

The Secretary is designated by the Audit and Risk Committee as the accountable officer for considering disclosures and allegations in the case of staff. The Secretary is responsible for reporting the results of all investigations (faculty and/or staff) to the Audit and Risk Committee and is also responsible for providing an annual monitoring report to the Audit and Risk Committee.

3.3 *The role of the Deputy Dean (Faculty)*

The Deputy Dean (Faculty) is designated by Audit and Risk Committee as the accountable officer for considering disclosures and allegations in the case of faculty.

3.4 In the absence of these representatives, their roles will be taken by the Chief People Officer (in the case of staff) or the Director, Research and Faculty Office (in the case of faculty)

3.5 *The role of the Chief People Officer and the Director, Research and Faculty Office*

The Chief People Officer and the Director, Research and Faculty Office are jointly responsible for leading on the development and monitoring of this code of practice and for recommending changes to the Secretary, the Deputy Dean (Faculty) and the Audit and Risk Committee that reflect best practice and legal requirements. This will include:

- consultation with Faculty Board and the Staff Committee
- advising members of the School on all aspects of the code of practice and ensuring that the appropriate training is provided
- monitoring the effectiveness of the code of practice with employees, including the provision of relevant information.

4 How to Make a Disclosure – Procedures

4.1 *Step 1 – Making a disclosure*

Any disclosures should initially be made to the Secretary (in the case of staff) or the Deputy Dean (Faculty) (in the case of faculty), who will immediately inform the Dean and, if the matter is judged sufficiently serious, the Chairman of the Governing Body.

The School has introduced a Safe Reporting Mechanism which provides an alternate means for employees to disclose concerns on an anonymous basis. It is the responsibility of the School Secretary to carry out an initial assessment reports made using the Safe Reporting Mechanism and to ensure that they are dealt with appropriately.

If the disclosure implicates the Secretary or the Deputy Dean (Faculty), then the disclosure should be made to the Dean. If the disclosure implicates the Dean, the disclosure should be made to the Chairman of the Governing Body.

The Discloser may make the disclosure either in writing to, or by an informal meeting with, the appropriate officer. The disclosure will be recorded and notes of all meetings will be taken.

4.2 *Step 2 – Investigation*

The person to whom the disclosure has been made will commission an internal investigation. The nature of the disclosure will determine whether the initial investigation is most appropriately conducted by the Secretary, the Chief People Officer, the Director, Research and Faculty Office, or another member of the School's management. Should it be necessary, the Chair of the Audit and Risk Committee can commission the investigation with the agreement of the Chair of the Governing Body.

The purpose of the investigation will be to establish all of the facts surrounding the disclosure and to decide what appropriate action is required. The depth and scope of the investigation will depend on the nature of the allegation.

All investigations will be independent and objective, respecting the rights of all concerned to be appropriately heard and represented. In this light, the discloser and the person against whom the disclosure has been made will be entitled to be accompanied by his/her representative of his/her choice.

The internal investigation will be conducted as sensitively and speedily as possible, concluding with a report outlining findings to the person to whom the disclosure has been made.

In some circumstances, an allegation may need to be referred to an external body for advice and/or action. The Chair of the Audit and Risk Committee will consult the discloser as part of the process of identifying an external body appropriate in the circumstances of the particular case.

Possible external bodies may include:

- The Police
- The Office for Students (OfS)
- The National Audit Office (NAO)
- The Department for Education (DfE)
- The Pensions Regulator

4.3 *Step 3 – Outcomes and action*

Having considered the investigation report, the person to whom the disclosure has been made will decide if there is a case to answer, and inform the discloser in writing of what action, if any, is to be taken. If no action is to be taken the discloser will be informed of the reason for this and allowed a final opportunity to remake the disclosure to the Chair of the Audit and Risk Committee if he or she wishes. The Chair of the Audit and Risk Committee will have discretion to decide on an appropriate form of action based on the circumstances of the case so far.

The Secretary and the Deputy Dean (Faculty) will maintain a record of all disclosures and of any subsequent action for a period of six years. A report on the outcome of any investigation will be provided to the Audit and Risk Committee as a means of allowing the Committee to monitor the effectiveness of the procedure.

5 Safeguards and Protection

5.1 Protection is provided under the code of practice provided that:

- The disclosure is made in good faith and in the reasonable belief of the person making the disclosure that the information made available tends to show malpractice; and
- The disclosure is made to an appropriate person or body (as defined in section 4).

5.2 The individual making the disclosure will:

- Be protected from reprisal or unfair treatment attributable to the making of the disclosure
- Be kept informed at all stages of the procedure
- Be assured that any malpractice will be thoroughly but quickly investigated.

5.3 *Named individuals*

Wherever an allegation is made as part of this procedure against a named individual, that person will be informed of the allegation and of the evidence supporting it, and will be allowed to respond before any investigation or further action is concluded. The point at which the individual is informed will depend on the nature of the case.

5.4 *Anonymous allegations*

Individuals are encouraged to put their name to any disclosures they make, on the understanding that great care will be taken to protect their identity and in the interest of promoting an open and safe environment. Concerns expressed anonymously are much less powerful and far more difficult to address, however they will be considered with discretion taking into account:

- The seriousness of the issues raised
- The credibility of the concern
- The likelihood of confirming the allegations from alternative credible sources

5.5 *Malicious/vexatious allegations*

If an individual makes an allegation in good faith, which is not confirmed by subsequent investigation, no action will be taken against that individual. An individual making malicious or vexatious allegations may however face disciplinary action; particularly if he or she persists in making them when they have been declared after due process to be without foundation. A disclosure may be declared malicious or vexatious at any stage of the procedure.

6 Confidentiality

6.1 As far as practicable, the School will treat all disclosures in a confidential and sensitive manner. The identity of the individual making the allegation will be kept confidential by the School except where it is no longer possible to do so because of procedural or legal reasons (for example, during the course of an investigation where the source of information may need to be revealed).

- 6.2 If an individual chooses to disclose to an external body, this procedure will afford protection if he or she:
- Reasonably believes that the information tends to show malpractice
 - Is acting in good faith
 - Is not making the disclosure for personal gain or with malicious intent
 - Reasonably believes that the information is substantially true.
- 6.3 The discloser should not reveal any part of his or her disclosure outside the School until all steps in this procedure have been exhausted; except to an appropriate external body (as defined in section 4) or to a professionally qualified lawyer for the purpose of taking legal advice.
- 7 Monitoring
- 7.1 The School is committed to ensuring the effectiveness of this policy through efficient monitoring in accordance, where appropriate, with statutory requirements.
- 7.2 The results of monitoring will be reviewed by the Audit and Risk Committee to determine the effectiveness of the policy. The Audit and Risk Committee, in conjunction with the Secretary/Deputy Dean (Faculty) will address any perceived areas of concern.
- 8 Training
- 8.1 London Business School will ensure that all relevant employees receive appropriate training to increase their awareness of this policy, and in particular, will seek to ensure that those with managerial responsibilities fully understand what is expected of them in terms of appropriate action.
- 8.2 The School will also ensure that those with designate responsibilities for operating procedures within the code of practice receive specialist skills training as necessary.
- 9 Policy Review
- 9.1 This policy will be reviewed for fitness of purpose at least annually or after each use. Any need for change will be reported to the Audit and Risk Committee for approval.

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