



## Public Interest Disclosure (Whistleblowing) Policy



<b>Core Documentation Cover Page</b>					
<b>Public Interest Disclosure (Whistleblowing) Policy</b>					
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<b>Equality Impact</b>					
Positive equality impact (i.e. the policy/procedure/guideline significantly reduces inequalities)					
Neutral equality impact (i.e. no significant effect)					X
Negative equality impact (i.e. increasing inequalities)					
<p><b>If you have any feedback or suggestions for enhancing this policy, please email your comments to: <a href="mailto:quality@uco.ac.uk">quality@uco.ac.uk</a></b></p>					

## PUBLIC INTEREST DISCLOSURE (WHISTLEBLOWING) POLICY

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## 1. POLICY STATEMENT

- 1.1 The University College of Osteopathy (UCO) is committed to the highest standards of honesty, openness and accountability in the pursuit of its strategic aims and ambitions. It seeks to conduct its activities in a responsible way, taking into account the proper use of public funds, the requirements of funding bodies and the standards required in public life.
- 1.2 The UCO recognises that, from time to time, individuals may have genuine concerns about an actual or potential risk, fraud or other illegal or unethical conduct.
- 1.3 This policy seeks to reassure individuals that it is acceptable and safe for them to raise such concerns without fear of detriment and to provide a clear procedure for doing so. All disclosures (i.e. the sharing of information relating to potential wrongdoing) will be acted upon promptly, sensitively, fairly and properly. All disclosures will be treated confidentially to the extent that this is compatible with a thorough investigation where that is deemed to be necessary.
- 1.4 This policy incorporates the requirements of the Public Interest Disclosure Act 1998, which was introduced to encourage individuals to raise concerns in a responsible way where they believe there is malpractice or wrongdoing and when they do so, to protect them from detriment. It also incorporates the Guidance for Employers and Code of Practice developed by the Department for Business Innovation and Skills<sup>1</sup>.
- 1.5 The Public Interest Disclosure Act 1998 provides legal protection to prevent individuals from being penalised - for example by dismissal or victimisation - as a result of making a qualifying disclosure; a dismissal for making such a disclosure is automatically unfair. A qualifying disclosure is one made in the public interest by an individual who has a reasonable belief that one of the following has been (in the recent past), is being, or is likely to be committed:
  - a) A criminal offence (this may include, for example, types of financial impropriety such as fraud)
  - b) A failure to comply with a legal obligation
  - c) A miscarriage of justice
  - d) An act creating risk to health and safety
  - e) An act causing damage to the environment
  - f) Deliberate concealment of any of the above<sup>2</sup>
- 1.6 This would include less favourable treatment because of any of the "protected characteristics" specified in the Equality Act 2010 in respect of which discrimination is unlawful, namely: sex, being married or in a civil partnership, gender reassignment, sexual orientation, race, religion or belief, age and disability.
- 1.7 The purpose of the legislation is to encourage individuals to raise their concerns through appropriate channels rather than, for example, publishing them in the media.

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<sup>1</sup> BIS – Whistleblowing, Guidance for Employers and Code of Practice March 2015

<sup>2</sup> BIS – Whistleblowing, Guidance for Employers and Code of Practice March 2015

- 1.8 This policy is an expression of the accountability of all members of the UCO as individuals working and studying within a professional organisation and of our responsibilities to the profession and the public. Indeed, health professionals who are aware of misconduct but fail to take action may themselves be considered guilty of a culpable omission.

## 2. SCOPE

- 2.1 This policy applies to all members of staff and those who are engaged to work in the UCO and includes apprentices, casual and temporary staff, agency workers, self-employed workers, contractors and suppliers, those with honorary contracts, work placements, visiting (but unpaid) researchers. The policy also applies to all students registered on UCO courses and to external members of UCO bodies such as the Board of Directors and all other committees.
- 2.2 This policy and associated procedure are distinct from other internal policies and procedures which are specifically for dealing with complaints by individuals. Any complaint by staff connected with their terms of employment are dealt with under the UCO's Grievance Procedure. Some complaints may be more appropriately dealt with under the UCO's Anti Bullying and Harassment Policy. Student Complaints are dealt with by the Students Complaints Policy and Procedure in student handbooks and the intranet. Patients have a separate Patients Complaints Policy and Procedure which is widely available on the website and in the UCO clinic.
- 2.3 Individuals sometimes believe that they are making a disclosure in the public interest when, in fact, their issue is a personal grievance. This policy and procedure does not cover such issues and any individual making a disclosure should believe that they are acting in the public interest. If an individual requires advice on their position the UCO advises them to contact the Advisory, Conciliation and Arbitration Service (ACAS) ([www.acas.org.uk/grievances](http://www.acas.org.uk/grievances)) for advice.
- 2.4 It is not intended that this policy is to be used to re-open or review a matter already dealt with under other policies or procedures or to question or reconsider financial or business decisions taken by the UCO. The purpose of this policy and procedure is to assist individuals who believe they have discovered serious wrongdoing at the UCO.

## 3. AIMS

- 3.1 The aim of this policy is to enable and encourage individuals to raise matters of concern (referred to hereafter as 'disclosures') that are in the public interest at a high level within the UCO, so that they may be investigated and, where appropriate, acted upon. All concerns raised by an individual will be treated fairly and properly and no individual will suffer any detriment for raising concerns under this policy.

## 4. PRINCIPLES

- 4.1 It is expected that individuals associated with the UCO will not disclose confidential information about its activities. Where an individual discovers evidence of wrongdoing, the UCO will ensure that they may speak freely to report the matter. The Clerk to the Board of Governors is the UCO's first contact when making a disclosure. Once a disclosure has been made a Designated Officer will be appointed. Where a concern relates to the Vice-Chancellor, the Deputy Vice-Chancellors or the Finance Director an individual should raise it with the Chair of the Board of Directors directly, contact details can be obtained from the Clerk to the Board of Directors. The Chair of the Board will then appoint a Designated Officer from the Board of Directors.
- 4.2 An individual may seek to resolve any issues of concern informally by bringing these to the attention of their line manager, course leader or another senior member of staff to enable swift, appropriate action as part of the day-to-day good practice of the UCO. Alternatively, an individual may seek to resolve an issue of concern by raising this formally with the HR Manager or Academic Registrar. Any concerns should be raised promptly so that they may be resolved as soon as possible.
- 4.3 The UCO would generally expect individuals to initially consider whether an informal route would be sufficient to deal with any concerns rather than utilising the Public Disclosure Policy in the first instance. Advice on this can be sought from the HR Manager or the Academic Registrar.
- 4.4 Individuals who make a protected disclosure contained within the criteria detailed in 1.5 above, ie those which are protected under the Public Interest Disclosure Act 1998, will be kept informed of the progress of any investigations at appropriate stages throughout the course of an investigation.

## 5. PROCEDURE

### 5.1 MAKING A DISCLOSURE

- 5.1.1 When an individual considers that their concerns (which meet the criteria in 1.5 above) have not been appropriately dealt with informally or their concern is so serious that it should be considered at a more senior level at the UCO then that concern should be raised under this policy and procedure.
- 5.1.2 Where an individual considers that it may be necessary to make a disclosure under this policy and procedure, and that disclosure fulfils one of the criteria in 1.5 above, the disclosure should be made either verbally in a telephone call or face-to-face discussion or in writing to the Clerk to the Board of Directors. If the disclosure is made verbally, the Clerk will make a file note of it, confirming it with the individual disclosing before processing the disclosure. If the individual wishes to make an anonymous disclosure they should review Section 12. The Clerk to the Board will designate a senior member of staff in the UCO to deal with any disclosures made under this policy and procedure. This senior member of staff considering a disclosure will then become the Designated Officer.

5.1.3 An individual raising a concern under this policy and procedure should make it clear they are making a Public Interest Disclosure and should provide sufficient information and detail to enable the concern to be meaningfully considered by the Designated Officer.

5.1.4 The UCO recognises that to make a disclosure under this policy and procedure is difficult and most likely will cause the individual stress. The UCO provides support for all individuals involved in the disclosure process and provides a confidential counselling service for all and will also provide support and advice via HR for those making disclosures.

## 5.2 THE UCO'S RESPONSE TO A DISCLOSURE

5.2.1 The Designated Officer will acknowledge receipt of the disclosure and will consider whether the matter disclosed provides sufficient grounds for proceeding further. The Designated Officer may bring the disclosure to the attention of the Vice-Chancellor, one of the Deputy Vice-Chancellors and / or the Finance Director.

5.2.2 Any individual named or implicated in a disclosure will not be involved in investigating or deciding on a resolution to it. For example, if a disclosure involves or implicates the Clerk of the Board, the disclosure should be made to a Deputy Vice-Chancellor. If the disclosure concerns the Vice-Chancellor, Deputy Vice-Chancellors or the Finance Director then the Clerk of the Board will alert the Chair of the Board of Directors who will appoint a Designated Officer from the Board of Directors. The general principle will be that such a disclosure will be dealt with by an alternative manager of at least equivalent seniority to the individual implicated in the disclosure where possible.

5.2.3 If the Designated Officer does not have sufficient information to determine whether or how the matter should proceed, they may appoint an Investigating Officer to undertake a brief preliminary enquiry to ascertain whether there is a prima facie case to be considered further. The outcome of the preliminary enquiry will be reported to the Designated Officer (normally within 10 working days) who will then decide on appropriate next steps.

5.2.4 Following consideration of the disclosure (and any preliminary enquiry that may have been conducted) the Designated Officer may:

- a) Determine that a full investigation should be conducted in accordance with the procedure detailed below.
- b) Decide that the matter should be considered under a different UCO policy and procedure; the discloser will be advised of this decision and the disclosure will be referred to the appropriate manager to take any further relevant action.
- c) Refer the matter to an appropriate body external to the UCO, for example, the General Osteopathic Council, Health and Safety Executive, the Commissioners for HM Revenue and Customs, the Environment Agency and the Serious Fraud Office.
- d) Determine that no further action should be taken and the Designated Officer will inform the individual of this decision.



### 5.3 INVESTIGATION

- 5.3.1 If the Designated Officer considers that the disclosure should be investigated (excluding any preliminary enquiry) they may appoint a senior manager to conduct an investigation – the Investigating Officer.
- 5.3.2 The Investigating Officer will be selected based on the nature of the disclosure. The Investigating Officer will not be involved in other procedures which may be invoked as an outcome of any investigation under this policy and procedure.
- 5.3.3 The scope of the investigation will be determined by the Investigating Officer who may be supported by the HR Manager or an agreed alternate.
- 5.3.4 Investigations will be conducted as sensitively and speedily as possible, while having regard to the nature and complexity of the disclosure.
- 5.3.5 The intended timetable for the investigation will be notified to the individual making the disclosure. In order to seek to protect the identity of the parties concerned, those participating in the investigation will be reminded of the need to maintain strict confidentiality at all stages of the procedure.
- 5.3.6 The Designated Officer will inform the individual making the disclosure of what action, if any, is to be taken. This information will be regarded as strictly confidential and may not be disclosed to third parties unless with the express consent of the Designated Officer.
- 5.3.7 Where an allegation is made against a 'named individual', they will normally be informed of the allegation and any supporting evidence and they will be given a right to respond to any allegations. The point at which this will occur will depend on the specific nature of the case. Where such disclosure would jeopardise the ability of the UCO, the police or other independent investigator to conduct a proper investigation, the individual(s) against whom the disclosure is made may not be informed prior to an initial investigation.
- 5.3.8 The Investigating Officer may interview and/or seek a written statement from the individual who made the disclosure and any other individuals who they consider to be relevant to the investigation including anyone named in the disclosure. Any individual being interviewed under this policy and procedure may be accompanied to an investigatory interview by a colleague or trade union representative. A refusal to participate in an investigatory interview may lead to disciplinary action.
- 5.3.9 When the Investigating Officer has concluded the investigation, they will provide a report with their findings to the Designated Officer. The Designated Officer will determine what action, if any, should be taken in the circumstances. This may include the initiation of other UCO procedures, reference to an external body or no further action. If the Designated Officer decides that no further action should be taken, the person making the disclosure has the option to re-make the disclosure to the Vice-Chancellor, who will consider all of the evidence presented and the decision of the Designated Officer. The Vice-Chancellor may then recommend an alternative course of action, or that no further action is necessary.

5.3.10 Where a disclosure leads to formal disciplinary proceedings, there shall, if necessary, be full disclosure of the name of the discloser on the basis of who needs to know and the overall context of confidentiality, i.e. the nature of the allegation(s) and the available evidence to the individual against whom the allegation has been made to enable them to have the opportunity to respond to the allegation.

5.3.11 No individual involved in the conduct of an investigation, or in deciding action following a disclosure under this policy and procedure, will form part of any subsequent disciplinary panel.

#### 5.4 OUTCOME OF A FORMAL INVESTIGATION – REFERRAL FOR CONSIDERATION UNDER THE UCO’S DISCIPLINARY PROCEDURE

5.4.1 On consideration of the Investigating Officer’s report, if the Designated Officer considers that any individual against whom allegations have been made has a disciplinary case to answer, they will discuss this with the HR Manager and the relevant Disciplinary Procedure will be instigated to consider the case.

5.4.2 In accordance with UCO disciplinary procedures the formal investigation report will be provided to the member of staff chairing the UCO Disciplinary Panel, who will consider whether they have sufficient information and evidence to proceed straight to a disciplinary hearing or whether additional information is needed.

5.4.3 If more information is needed, this will be sought prior to a disciplinary hearing taking place. Once all the evidence is available, the Chair of the Disciplinary Panel will convene a Disciplinary Hearing in accordance with UCO disciplinary procedures.

5.4.4 When the disciplinary procedure has been completed including – if appropriate – the issue of a formal sanction, the outcome will be notified to the Designated Officer.

### 6. REPORTS

6.1 A report of all disclosures made under this policy and procedure, and any subsequent action taken, will be prepared by the Clerk to the Board who will retain such reports for a period of three years. In all cases, an annual report of the outcomes of any Public Interest Disclosures and outcomes will be made to the Senior Management Team in such terms as are deemed appropriate.

### 7. APPEALS

7.1 If the individual making the disclosure is dissatisfied with the response to the disclosure, appeals may be made in writing to the Vice-Chancellor, stating the grounds for dissatisfaction which may cover the following and providing supporting evidence:

- a) There is evidence of procedural irregularity, or
- b) There is evidence of prejudice or bias, and/or
- c) There is further evidence that was not available at the time the original disclosure was made.

## 8. MEDIATION AND DISPUTE RESOLUTION

- 8.1 On completion of the disclosure proceedings the UCO recognises that irrelevant of the outcome that relationships and trust will need to be rebuilt. The UCO will offer mediation to all parties concerned if required to aid this process.

## 9. CONFIDENTIALITY

- 9.1 All disclosures made under this policy and procedure will be treated in a sensitive and, where possible, confidential manner. If necessary, the identity of the individual making the disclosure will be kept confidential for as long as possible, provided that this is compatible with an effective investigation. The investigatory process may have to reveal the identity of the individual making the disclosure and they may be requested to make a statement and/or attend an investigatory interview as part of the process.

## 10. ANONYMOUS DISCLOSURES

- 10.1 Individuals making a disclosure are expected to identify themselves as disclosures raised anonymously can be significantly more difficult to address. The UCO may investigate anonymous disclosures depending on the seriousness of the issue, the credibility of the concern, any prejudice to those named in an anonymous disclosure and the likelihood of being able to investigate the matter and confirm the allegation from alternative sources. If an individual wishes to make an anonymous disclosure they should do so in writing / by email to the Clerk to the Board of Directors.
- 10.2 It should be noted that the ability to provide appropriate feedback and protect against detriment will depend on the UCO knowing the identity of the individual making a disclosure.

## 11. FALSE ALLEGATIONS

- 11.1 Individuals who, on the basis of the evidence available, it is believed on reasonable grounds, knowingly make malicious, vexatious or false allegations, may be subject to disciplinary or other appropriate action. However, employees who make allegations that turn out to be unfounded will not be penalised for being genuinely mistaken.

## 12. DISCLOSURE TO THE APPROPRIATE EXTERNAL AUTHORITIES / PRESCRIBED PERSONS

- 12.1 It is anticipated that the UCO's Public Interest Disclosure Policy will, in providing a route for individuals to report any genuine concerns about possible malpractice internally, decrease the likelihood of allegations of possible malpractice being taken outside of the UCO.

12.2 However, individuals may disclose alleged wrongdoing or malpractice to certain specified bodies in circumstances where the alleged wrongdoing or malpractice falls within that body's remit. A number of bodies have been prescribed for this purpose, including the General Osteopathic Council, HM Revenue and Customs, the Health and Safety Executive, the Serious Fraud Office, the Environment Agency, the Financial Conduct Authority, and the Information Commissioner. Individuals may also disclose to an MP any matter that is disclosable to one of these bodies. A complete list of prescribed persons can be found here:

<https://www.gov.uk/government/publications/whistleblowing-guidance-for-prescribed-persons>

12.3 An individual who makes a qualifying disclosure to a prescribed person or body will be protected by the legislation so long as they reasonably believe that the allegations of wrongdoing are substantially true. A list of prescribed persons and bodies to whom an employee can make a protected disclosure can be found in the guidance published by the Department for Business, Innovation and Skills: Blowing the whistle to a prescribed person<sup>3</sup>.

12.4 An employee can make a disclosure (and still retain protection under the Act) to a non-prescribed person if certain conditions are met, namely:

- a) the individual reasonably believes the information is substantially true;
- b) the individual is not making the disclosure for personal gain;
- c) and, in all circumstances it is reasonable for the individual to make the disclosure.

12.5 The individual must also:

- a) reasonably believe that he or she would be subject to detriment by the UCO if he or she made the disclosure directly to the UCO or a prescribed person;
- b) reasonably believe that the UCO would conceal or destroy evidence if the disclosure were put directly; or
- c) have previously made the same disclosure to the UCO or a prescribed person to no avail.

## 13. REFERENCES

UCO Staff Code of Practice

UCO Disciplinary and Capability Procedure

UCO Grievance Procedure

UCO Student Code of Conduct and Disciplinary Procedure

UCO Student Complaints Policy and Procedures

UCO Fitness to Practise Document

The Public Interest Disclosure Act 1998

UCO Patients Complaints Policy and Procedure

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<sup>3</sup> <https://www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies--2>

## APPENDIX 1: A GUIDE TO UNDERSTANDING PUBLIC INTEREST DISCLOSURE

### A Guide to 'Public Interest Disclosure'

