

Whistleblowing Policy and Procedure

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<i>Note: All policies must be read in conjunction with all other SOAS policy, procedure and guidance documents. Printed copies of policies may not be the most up to date, therefore please refer to the policy pages on the SOAS external website or intranet for the latest version.</i>			

1. Introduction

- 1.1 SOAS (the **University**) is committed to the highest standards of openness, honesty and accountability. It seeks to conduct its affairs in a responsible manner taking into account the requirements of regulators, funding bodies and the standards in public life set out in the reports of the Committee on Standards in Public Life (the Nolan Committee).
- 1.2 The University has a reasonable expectation that all employees, workers, students and members of the Board of Trustees will conduct themselves in a manner which is consistent and conducive to the maintenance of the highest standards as befits those who at all levels have a responsibility to fulfil in relation to public funds.
- 1.3 The Public Interest Disclosure Act 1998 (**PIDA**) provides a framework of protection against detriment or dismissal for individuals raising concerns about certain matters of public interest. PIDA gives legal protection to employees and 'workers' (as defined in that Act) against being unfairly dismissed or being subject to negative treatment by their employers as a result of publicly disclosing certain serious concerns provided that they are disclosed under procedures identified in PIDA. Raising such concerns is known as making a 'protected disclosure' in law. It is a fundamental term of every contract of employment that an employee will faithfully serve his or her employer and not disclose confidential information about the employer's affairs. However, where an individual discovers information which they believe shows malpractice/serious wrongdoing within the organisation then there should be identified procedures to enable the individual to disclose the information without fear of reprisal, and it may be necessary for the disclosures to be made independently of line management.

1.4 Policy: The aim of this policy is: -

- 1.4.1 to encourage individuals to speak up and report suspected serious wrongdoing as soon as possible in the knowledge that their concerns will be taken seriously and investigated as appropriate;
- 1.4.2 to provide individuals with guidance as to how to speak up and raise those concerns (see Section 6);
- 1.4.3 to provide a transparent and confidential process for dealing with concerns; and
- 1.4.4 to ensure individuals are aware that they are able to raise genuine concerns without fear of reprisal or detriment, even if they turn out to be mistaken.

2. What is Whistleblowing?

2.1 Whistleblowing is the disclosure of information which relates to suspected wrongdoing or dangers relating to the running of the University or to the work-related activities of staff. These disclosures are called 'qualifying disclosures' if they fall into one or more of the categories below in 2.2 and are in the public interest.

2.2 Whistleblowing may include disclosure of information, which in the reasonable belief of the individual making the disclosure tends to show one or more of the following:

- 2.2.1 criminal activity;
- 2.2.2 failure to comply with any legal obligation;
- 2.2.3 a miscarriage of justice;
- 2.2.4 danger to health and safety;
- 2.2.5 damage to the environment; and
- 2.2.6 the deliberate or attempted concealment of any of the above matters.

Allegations of bribery; financial mismanagement or fraud; academic malpractice or improper conduct would not generally be covered by this policy unless they also fall into one of the qualifying categories above.

2.3 Any qualifying disclosure raised under this policy will be considered seriously by the University.

2.4 A whistleblower is a person who raises a genuine concern they reasonably believe to be true relating to any of the above at 2.2. If an individual covered by this policy has any genuine concerns related to suspected wrongdoing or danger affecting any of the University's activities (a whistleblowing concern) they should report it under this policy.

3. Who is covered by this policy?

- 3.1 The protections provided by PIDA only apply to a 'worker' or any extension of the meaning of 'worker' (as defined in PIDA), but it is expected that other individuals who are members of the University, such as students, members of the Board of Trustees as well as volunteers and self-employed persons providing services to the University will use the procedures set out in this policy.

4. What is/is not covered by this policy?

- 4.1 A qualifying disclosure is as set above in Section 2 and should be made with the view that it is in the public interest. This means that any such disclosure must affect others, for example, the general public, or other members of staff.
- 4.2 This policy is intended to assist individuals who believe they have discovered wrongdoing covered by PIDA. It is not designed to question financial or business decisions taken by the University.
- 4.3 Concerns that are not of a public interest nature, or those which fall into an area covered by another procedure, will not be considered under this policy. Any such concerns may be considered under other policies and procedures of the University. For example, allegations of bribery shall be investigated in accordance with the University's anti-bribery policy.
- 4.4 Complaints that relate to a personal grievance are not usually covered by whistleblowing. Staff grievances can be addressed through the University's Grievance Policy and Procedure. Normally any concern about a workplace situation should be raised with a staff member's immediate manager. In the case of students, concerns would normally be raised through the Student Complaints Procedure. If any individual is uncertain as to whether something is in scope of this policy, they can informally discuss it with the Director of Legal and Governance or contact 'Protect' the independent whistleblowing charity (contact details at Section 8).
- 4.5 This policy provides an internal process for reporting any suspected wrongdoing at the University that amounts to a qualifying disclosure and is in the public interest. It is designed so that it should be unnecessary for any individual to contemplate the need to make a disclosure to someone other than the designated person. While it is accepted that in some limited circumstances it may be appropriate to report concerns to an external body, such as a regulator, the University recommends that the internal process be used in the first instance. However, please note that if external disclosure is necessary, the University strongly advises that individuals considering making such a disclosure seek advice (for example, from their trade union or from 'Protect', the independent whistleblowing charity) before reporting a concern to any external body.

5. Confidentiality and anonymous disclosures

- 5.1 The University hopes that individuals will feel able to voice whistleblowing concerns confidently under this policy and will treat all such disclosures in a confidential and sensitive manner. The identity of the individual making the disclosure may be kept confidential so long as it is consistent with a fair investigation and the rights of the person or persons being investigated. However, the investigation process may reveal the source of the information and the individual making the disclosure may need to provide a statement as part of the evidence required.
- 5.2 Individuals making a disclosure who are concerned about possible repercussions if their identity is revealed should come forward to the Director of Legal and Governance and appropriate measures can then be considered to preserve confidentiality as far as possible. If individuals making a disclosure are in any doubt they can seek advice from ACAS (Advisory, Conciliation and Arbitration Service) and /or 'Protect', (the independent whistleblowing charity) (contact details at Section 8).
- 5.3 This policy encourages individuals to put their name to any disclosures they make. Proper investigation may be more difficult or impossible if further information cannot be obtained from the individual making the disclosure. Concerns expressed anonymously are much less powerful, but they will be considered at the discretion of the University.
- 5.4 In exercising this discretion, the factors to be taken into account will include:
- the seriousness of the issues raised;
 - the credibility of the concern; and
 - the likelihood of confirming the allegation from alternative credible sources.

6. Procedure - how should a disclosure/report be made under this policy and procedure?

6.1 Disclosure to the designated person

- 6.1.1 An individual may make a disclosure in writing to the Director of Legal and Governance who shall carry out the role of designated person under this policy. The Director of Legal and Governance may, at their discretion, decide at this stage to instead refer the disclosure to the Deputy Vice-Chancellor, Finance and Operations (in their capacity as Clerk to the Board) or the Chair of the Audit and Risk Committee who shall then carry out the role of designated person under this policy.
- 6.1.2 If the disclosure is about the Director of Legal and Governance or relates to a matter in which the Director of Legal and Governance is personally involved, then the disclosure may be made directly by the individual to either the Vice-Chancellor or the Chair of the Audit and Risk Committee.

6.2 Consideration by the designated person

- 6.2.1 The person who the disclosure has been made to (the **designated person**) shall ensure that receipt of the disclosure is confirmed to the individual who has made the disclosure, and normally within 2 working days of the designated person receiving it.
- 6.2.2 The designated person shall then consider the information made available to them and, in addition, may request any other information or evidence in support of the claims if they feel that is necessary at this stage. Depending on the nature and circumstances of the disclosure the designated person may:
- decide not to proceed with the matter;
 - authorise an internal investigation under this policy;
 - decide to refer the matter to be dealt with under a different University procedure. If the individual who made the disclosure disputes the proposed procedure to be applied, then this can be escalated to the Vice-Chancellor or the Chair of the Audit & Risk Committee to make a final decision on which University procedure should apply.;
 - refer the matter to the police or other appropriate authority; or
 - otherwise deal with the matter as is reasonable or practicable in the circumstances.
- 6.2.3 A decision on how to proceed may normally be made by the designated person within 20 working days of receiving the disclosure. If the decision is likely to take longer, the designated person shall inform in writing both the individual who has made the disclosure and, if appropriate, any person who may be the subject of the disclosure of the delay.
- 6.2.4 The designated person may determine whether it is necessary to inform the subject(s) of an information disclosure about the disclosure and whether to share any of the supporting evidence with them. The designated person should consult with any relevant investigator or regulator, etc, as to whether it is appropriate to communicate this decision. It may be appropriate to withhold information from the subject(s) of the disclosure in order to preserve evidence or prevent any investigation from being compromised.
- 6.2.5 The designated person may inform in writing both the individual who has made the disclosure and, as appropriate, any person who is the subject of the disclosure of the outcome of their consideration and the reasons for their decision. The designated person should consult with any relevant investigator or regulator, etc, as to whether it is appropriate to communicate this decision.

6.3 Internal investigation of a disclosure

- 6.3.1 In the event that the designated person authorises an internal investigation to be carried out under this policy, the designated person shall then: -
- nominate a person to carry out such an investigation (the **investigator**). This may be a senior officer of the University or a person external to the University who is considered suitably qualified by the designated person to conduct such an investigation. It may not include any person who may

have a role in the decision-making process on the matter at a later stage;
and

- determine the scope and terms of reference of the investigation and concluding report.

- 6.3.2 The individual who made the disclosure may be invited by the investigator to give evidence, make representations or otherwise communicate with the investigator. In the event that the investigator meets with the individual, they may be accompanied by a trade union official or a work colleague (in the case of a staff member), a Students' Union representative (in the case of a student). Any such person is present in a purely supportive capacity, and may not represent the individual, (for example, by presenting evidence on the individual's behalf), unless to allow them to do so would constitute reasonable adjustment under the Equality Act 2010. Professional legal advisers are only permitted to attend such a meeting at the University's discretion.
- 6.3.3 Any person who is the subject of a disclosure will normally be informed of the nature of the allegation, the evidence supporting it and provided with the opportunity to comment on the evidence and present any explanation before any conclusions are reached. In the event that the investigator meets with any such person, they may be accompanied by their trade union official or a work colleague (in the case of a staff member) or a Students' Union representative (in the case of a student). Any such person is present in a purely supportive capacity and may not represent the person who is the subject of a disclosure, (for example, by presenting evidence on the that person's behalf), unless to allow them to do so would constitute reasonable adjustment under the Equality Act 2010. Professional legal advisers are only permitted to attend such a meeting at the University's discretion.
- 6.3.4 The investigator will consider the need for confidentiality, keeping the details of the individual who made the disclosure confidential. The individual who made the disclosure and those who contribute to the investigation should treat any information about the investigation as confidential.
- 6.3.5 The investigator shall conclude the investigation as expediently as possible. Timescales will depend on the nature of the disclosure and the required investigation, however it shall normally be completed and findings reported to the designated person within 90 days of the date of the designated person receiving the disclosure. If the investigation is likely to be protracted, the designated person shall inform the individual making the disclosure in writing and, if appropriate, any person who may be the subject of the disclosure of the reasons for the delay.

6.4 Decision of the designated person following an internal investigation

- 6.4.1 On receipt of the investigation report from the investigator, the designated person shall decide what action should be taken. Depending on the nature and circumstances of the disclosure, and the substance of the investigation report, the designated person will determine what further action may be required, (if any). The designated person may:
- decide not to proceed with the matter;
 - refer the matter to be dealt with under a different University procedure, (such as the University's Grievance Policy and Procedure, Staff Disciplinary Procedure or Student Disciplinary Procedure);
 - refer the matter to an external body such as the police or other appropriate authority; or
 - otherwise deal with the matter as is reasonable or practicable in the circumstances.
- 6.4.2 The designated person shall inform the individual who made the disclosure of the decision in writing as soon as possible after the decision has been made. If the designated person considers it appropriate, they shall also inform in writing any persons to whom the disclosure relates of the decision.
- 6.4.3 The decision of the designated person shall also be notified to the Audit and Risk Committee and the University shall consider whether the disclosure and outcome of the investigation should be reported to the Office for Students as a reportable event.
- 6.4.4 Determination by the designated person concludes the process under this policy.

7. Protection and support for individuals making a disclosure

7.1 Protection

- 7.1.1 This policy is designed to offer protection to individuals making disclosures provided the disclosure is made:
- in accordance with the procedures laid down in this policy;
 - in good faith, and
 - in the reasonable belief of the individual making the disclosure that it tends to show malpractice.
- 7.1.2 The University aims to encourage openness and will support individuals who raise genuine concerns under this policy, even if they turn out to be mistaken.
- 7.1.3 The University does not extend this assurance to someone who has made false allegations maliciously or with a view to personal gain. Such conduct may be dealt with as a disciplinary matter.
- 7.1.4 Staff must not suffer any detrimental treatment as a result of raising a concern under this policy. Detrimental treatment includes dismissal, disciplinary action, threats or other unfavourable treatment connected with raising a concern. If a staff member believes that they have suffered unfavourable treatment as a consequence of raising a concern they should inform the Director of Human Resources

immediately. If the concern in relation to unfavourable treatment is not remedied then the staff member may submit a formal grievance using the University's Grievance Policy and Procedure.

- 7.1.5 Staff must not harass, victimise, threaten or retaliate in any way against individuals making a disclosure. Staff involved in such conduct may be subject to disciplinary action.

8. Support - details of external organisations who can offer independent advice and support

For independent advice, individuals can seek advice and support from 'Protect', the independent whistleblowing charity or ACAS. Their contact details are below.

Protect (independent whistleblowing charity)	Helpline: 020 3117 2520 https://protect-advice.org.uk/
ACAS (Advisory, Conciliation and Arbitration Service)	https://www.acas.org.uk/