REPORTING WRONGDOING POLICY
2012

The Vice-Chancellor and Principal, as delegate of the Senate of the University of Sydney, adopts the following policy.

Dated: 16 January 2012
Amended: 3 October 2012

Signature:
Name: Dr Michael Spence

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1 Name of policy

This is the Reporting Wrongdoing Policy 2012.

2 Commencement

This policy commences on 16 January 2012.
3 Policy is binding

Except to the extent that a contrary intention is expressed, this policy binds the University, staff, students and affiliates.

4 Statement of intent

This policy:

(a) sets out the University’s approach to reporting and managing reports of corruption and wrongdoing;

(b) states the University’s unequivocal commitment to:

(i) identifying, investigating and appropriately addressing wrongdoing within the University;

(ii) appropriately handling reports of wrongdoing, particularly reports which are protected under the Public Interest Disclosures Act 1994 (NSW); and

(iii) supporting and protecting staff who report wrongdoing.

(c) provides for the University’s compliance with its statutory obligations under the Public Interest Disclosures Act 1994 (NSW).

5 Application

This policy applies to all University staff and affiliates.

6 Definitions

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<th>Term</th>
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<tr>
<td>affiliate</td>
<td>means a clinical title holder; an adjunct, conjoint or honorary appointee; a consultant or contractor to the University; an office holder in a University entity; a member of any University committee; and any other person appointed or engaged by the University to perform duties or functions on its behalf.</td>
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<td>authorised disclosure officer</td>
<td>means any one of the following, each of whom is authorised to receive public interest disclosures on the University’s behalf:</td>
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<td></td>
<td>• the Vice-Chancellor</td>
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<td>• the General Counsel</td>
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<td>• the Director, Audit and Risk Management</td>
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<td>• the Manager, Investigations</td>
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<td>corrupt conduct</td>
<td>means the dishonest or partial exercise of official functions by a public official. It includes, but is not limited to:</td>
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<td>• the improper use of knowledge, power or position for personal gain or the advantage of others;</td>
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<td>• acting dishonestly or unfairly, or breaching public trust;</td>
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<td></td>
<td>• a member of the public influencing or trying to influence a public official to use their position in a way that is dishonest, biased or breaches public trust.</td>
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Note: Further information about corrupt conduct is available from the NSW Ombudsman’s Guideline on What can be reported, which at the date of this policy is available at http://www.ombo.nsw.gov.au/aboutus/PublicInterestDisclosures.html#public_interest_disclosures

detrimental action means action causing, comprising or involving any of:

- injury, damage or loss;
- intimidation or harassment;
- discrimination, disadvantage or adverse treatment in relation to employment;
- dismissal from, or prejudice in, employment; or
- disciplinary proceedings.

disclosure means any report of actual or suspected wrongdoing within the University.

Note: Some, but not all, disclosures are protected disclosures – see clause 12 of this policy.

GIPA Act means the Government Information (Public Access) Act 2009 (NSW) including any subordinate legislation made under it, as amended or replaced from time to time.

government information contravention means a failure properly to fulfil functions under the GIPA Act. It includes but is not limited to:

- destroying, concealing or altering records to prevent them being released;
- knowingly making decisions that are contrary to the GIPA Act; or
- directing another person to make a decision contrary to the GIPA Act.

Note 1: Unauthorised destruction of University records is an offence under section 21 of the State Records Act which, at the date of this policy, can be found at: http://www.legislation.nsw.gov.au/

Note 2: See also the University Recordkeeping Policy, which at the date of this policy is available at: http://sydney.edu.au/senate/policies/Recordkeeping.pdf

maladministration means conduct that involves action or inaction of a serious nature that is contrary to law, unreasonable, unjust, oppressive or improperly discriminatory or based wholly or partly on improper motives. It includes, but is not limited to:

- making a decision and or taking action that is unlawful; or
- making a decision for reasons not related to the merits of the matter under consideration.

Note: Further information about maladministration is available from the NSW Ombudsman’s Guideline on What can be reported, which at the date of this policy is available at: http://www.ombo.nsw.gov.au/aboutus/PublicInterestDisclosures.html#public_interest_disclosures
**PID Act** means the *Public Interest Disclosures Act 1994 (NSW)*, including any subordinate legislation made under it, as amended or replaced from time to time.

**Note:** As at the date of this policy, the PID Act can be accessed at: http://www.legislation.nsw.gov.au/

**public interest disclosure** means a disclosure of actual or suspected wrongdoing which meets the requirements of Part 2 of the PID Act, and thereby attracts the protection against reprisals which is provided in Part 3 of the PID Act.

**Note:** Public interest disclosures are further discussed in clause 12 of this policy.

**public official** includes University staff and affiliates when acting in those capacities.

**serious and substantial waste of public money** means the uneconomical, inefficient or ineffective use of resources that could result in the loss or wastage of public resources. It includes but is not limited to:

- failure to follow a competitive tendering process for a large scale contract; or
- having poor or no processes in place for a system involving large amounts of public funds.

**record** means a document or other source of information compiled, recorded or stored in written form, or on film, or by electronic process or in any other manner by any other means.

**staff or staff member** means an employee of the University, including a casual employee.

**supervisor** means:

- in the case of a staff member, the person nominated by the University from time to time as that person’s supervisor;
- in the case of a clinical title holder, or an adjunct, conjoint or honorary appointee, the dean of the relevant faculty;
- in the case of a consultant or contractor to the University, the University officer nominated as the relevant contact officer in relation to their engagement;
- in the case of an office holder in a University entity or a member of any University committee, the chair of the relevant entity or committee;
- in any other case, the University officer nominated as the relevant contact officer in relation to the person’s engagement.

**University committee** means any committee or governing body of any entity established by or with the authority of the Senate.

**University entity** means any entity established by or with the authority of the Senate.
7 Governing principles

(1) The University is committed to ensuring its operations are conducted according to high standards of ethical conduct, and will not tolerate any form of wrongdoing.

(2) Staff and affiliates are expected to disclose anything they consider to be wrongdoing within the University, whether to the University itself or to an appropriate external organisation.

Note: The PID Act prescribes the relevant external authorities and the circumstances in which reports can be made to them. See sections 10-14 PID Act.

(3) Staff and affiliates who disclose wrongdoing help to promote integrity, accountability and good management.

(4) The University is committed to supporting staff and affiliates who disclose wrongdoing and will:

(a) protect the identity of any person disclosing wrongdoing wherever possible and appropriate;

(b) protect individuals who make disclosures from detrimental action by way of reprisal for the disclosures;

(c) deal with disclosures thoroughly and impartially, and conduct investigations when appropriate;

(d) inform individuals who make disclosures of the outcome of any investigation;

(5) The University will take appropriate action to rectify any wrongdoing which is discovered.

(6) The University will take prompt and appropriate disciplinary action against any person found to have engaged in wrongdoing.

8 Responsibilities

(1) Staff and affiliates are expected by the University to:

(a) disclose known or suspected wrongdoing within the University;

(b) assist actively in any investigation under this policy;

(c) support those who have made disclosures; and

(d) protect the identity of those who have made disclosures.

(2) Staff and affiliates must not:

(a) disclose the identity of any person who has made a disclosure without that person’s authorisation, except where required by law or for the proper implementation of this policy;

(b) victimise, harass or otherwise take detrimental action against any person who has made, or is suspected to have made, a disclosure; or

(c) make a false or misleading disclosure.

Note: Victimisation or harassment of a person who has, or may have, made a disclosure may constitute a criminal offence under Section 20 of the PID Act.
9 Procedures

(1) The Director, Audit and Risk Management may, by written determination, establish procedures for the implementation of this policy.

(2) Any such procedures will be published in the University’s online policy database.

10 Serious Complaints Committee

(1) There shall be a Serious Complaints Committee, membership of which comprises:
   (a) the Provost and Deputy Vice-Chancellor, who shall chair the committee;
   (b) the Deputy Vice-Chancellor (Strategic Management);
   (c) the General Counsel; and
   (d) two deans, appointed by the Vice-Chancellor on a two yearly rotational basis.

(2) The Committee will meet at least 3 times per year.

(3) The Committee is responsible for:
   (a) overseeing the functioning of this policy and procedures established under it;
   (b) establishing reporting, review and other associated arrangements to ensure that the University complies with relevant legislation;
   (c) providing advice to University management on corruption prevention issues;
   (d) monitoring the outcome of investigations to ensure that adequate action is taken to implement any recommendations;
   (e) evaluating the factors contributing to wrongdoing which is disclosed and developing strategies to minimise the likelihood of recurrence of any wrongdoing; and
   (f) ensuring the University maintains appropriate liaison with external agencies, such as the police, Independent Commission Against Corruption and the NSW Ombudsman’s Office.

11 Disclosing wrongdoing – what should be disclosed

(1) A staff member or affiliate should disclose conduct which they believe constitutes or may constitute any of the following:
   (a) corrupt conduct;
   (b) maladministration;
   (c) serious and substantial waste of public money;
   (d) government information contravention; or
   (e) some other kind of wrongdoing.

(2) Other kinds of wrongdoing may include, but are not limited to:
   (a) harassment or unlawful discrimination;
   (b) reprisal action taken against a person who has made, or is thought to have made, a disclosure; or
   (c) practices which endanger the health or safety of any person.
12 Public interest disclosures distinguished from other disclosures of wrongdoing

(1) Not all disclosures are public interest disclosures.

Note: See Part 2 of the PID Act. As at the date of this policy, the PID Act requires that a public interest disclosure must:

- Be an honest belief made on reasonable grounds;
- relate (relevantly to the University) to any or all of:
  - corrupt conduct;
  - maladministration;
  - serious and substantial waste of public money; or
  - a government information contravention; and
- be made to an authorised disclosure officer or an external agency as prescribed in the PID Act.

(2) The protections provided by Part 3 of the PID Act apply only to public interest disclosures.

(3) Disclosures will not be public interest disclosures if they:

(a) mostly question the merits of government policy; or
(b) are made with the sole or substantial motive of avoiding dismissal or other disciplinary action.

13 Making a disclosure within the University

(1) A disclosure may be made orally or in writing.

(2) Disclosures which are, or may be, public interest disclosures must be made to an authorised disclosure officer.

Note 1: Public interest disclosures may be made to external investigating authorities in appropriate circumstances – see sections 10 - 14 PID Act.

Note 2: Public interest disclosures may be made to a member of parliament or to a journalist in limited circumstances – see section 19 PID Act.

(3) An authorised disclosure officer receiving a disclosure must immediately forward it to the Director, Audit and Risk Management.

(4) Other disclosures may be made to the relevant supervisor. (see Part 12)

(5) If a supervisor receives a disclosure which the supervisor believes might be a public interest disclosure, the supervisor must refer the person making the disclosure to an authorised disclosure officer.

(6) An authorised disclosure officer receiving an oral disclosure must:

(a) make a comprehensive written record of it;
(b) ask the person making the disclosure to sign the record;
(c) provide a copy to the person making the disclosure; and
(d) ensure the record is filed in accordance with the University Recordkeeping Policy.

Note: As at the date of this policy, the University Recordkeeping Policy is available at http://sydney.edu.au/senate/policies/Recordkeeping.pdf
14 **Confidentiality**

(1) The University is committed to protecting the identity of individuals disclosing wrongdoing, and the fact of any such disclosure, as far as possible. The person receiving a disclosure must discuss any applicable limitations on confidentiality with the person making the disclosure.

**Note 1:** See Section for full description of the exceptions 22 (1) PID Act.

(2) The University is also committed to protecting, as far as possible, the identity of those who are the subject of a disclosure.

(3) A person wishing to make a disclosure may request a meeting in a discreet location, away from their workplace or that of the person receiving the report.

(4) A person making a disclosure should discuss it only with those dealing with it. This will include the Director, Audit and Risk Management, the relevant authorised disclosure officer and any counsellor or legal adviser assisting the person.

15 **Feedback to those making disclosures**

The Director, Audit and Risk Management will ensure that any person making a disclosure under this policy receives a written acknowledgement and a copy of this policy within 45 days of the disclosure.

16 **Protection against reprisals**

(1) Staff and affiliates who disclose wrongdoing or suspected wrongdoing must not be subjected to detrimental action by way of reprisal for having done so.

(2) Disciplinary action may be taken against anyone who takes such action.

**Note 1:** See the *Code of Conduct*, which at the date of this policy is available at: [http://www.usyd.edu.au/hr/policydev/code_of_conduct.pdf](http://www.usyd.edu.au/hr/policydev/code_of_conduct.pdf)

**Note 2:** Taking detrimental action that is substantially in reprisal for a person making a protected disclosure is an offence under the PID Act – see section 20 PID Act.

17 **Responding to reprisals**

(1) A staff member or affiliate who believes that detrimental action has been, or is being, taken against them or another person in reprisal for a disclosure should immediately inform:
   
   (a) the Manager, Investigations;  
   (b) the Director, Audit and Risk Management;  
   (c) the General Counsel; or  
   (d) the Vice-Chancellor.

(2) If the Director, Audit and Risk Management becomes aware of possible reprisal action he or she will:
   
   (a) ensure a senior and experienced person, who has not been involved in dealing with the initial disclosure, will investigate the suspected reprisal; and  
   (b) give the results of that investigation to the Vice-Chancellor for a decision.
(3) If it has been established that reprisal action is occurring, the Vice-Chancellor will ensure that all steps possible are taken to stop that activity and protect the person who made the disclosure. This may include disciplinary action under clause 16 of this policy.

Note: Any evidence of reprisal action in breach of the PID Act must be referred to the Commissioner of Police or to the Independent Commission Against Corruption – see section 20, PID Act.

(4) With the consent of the person who made the disclosure, the Vice-Chancellor may cause specific directions to be issued to help protect that person against reprisals, including:

(a) issuing warnings to those alleged to have taken reprisal action;
(b) relocating the person who made the disclosure or the person the subject of the disclosure within the workplace;
(c) transferring the person who made the disclosure or the person the subject of the disclosure to another position for which they are qualified; or
(d) granting the person who made the disclosure or the person the subject of the disclosure leave of absence during any investigation.

(5) Any direction pursuant to subclause (4) above may be clarified, where appropriate, to ensure that other staff understand that the action taken is not a punishment and has been taken in consultation with the relevant staff member or affiliate.

(6) A staff member or affiliate who believes that reprisal action is not being dealt with effectively by the University may contact the Ombudsman or the ICAC as appropriate.

Note: Contact information for the Ombudsman is found at www.ombo.nsw.gov.au
Contact information for the ICAC is found at www.icac.nsw.gov.au

18 Professional support for those making reports

Information about professional support services for staff and affiliates who make, or are the subject of, a disclosure is available from the Director, Audit and Risk Management.

19 False or misleading reports

(1) Wilfully making a false or misleading statement in breach of this policy may constitute misconduct.

(2) The University may take disciplinary action against any person who makes such a statement.

NOTES

Reporting Wrongdoing Policy 2012

Date adopted: 16 January 2012
Date registered: 16 January 2012

Reporting Wrongdoing Policy 2012
Administrator: Director, Audit and Risk Management
Review date: 16 January 2017
Related documents: Public Interest Disclosures Act 1994 (NSW)
Government Information (Public Access) Act 2009 (NSW)
State Records Act 1998
NSW Ombudsman’s Guideline What can be reported
www.ombo.nsw.gov.au
www.icac.nsw.gov.au
Code of Conduct: Staff
University Record Keeping Policy
Reporting Wrongdoing – Procedures
Corruption Prevention Strategy

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AMENDMENT HISTORY

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