Public Interest Disclosure (Whistleblowing) Procedure

1. Scope and purpose of this procedure

1.1 This procedure was developed following the introduction of the Public Interest Disclosure Act 1998 [PIDA], which gives specific rights to employees who disclose certain types of information to their employer. It has been updated following the enactment of the Enterprise and Regulatory Reform Act in 2013.

1.2 The Enterprise & Regulatory Reform Act [ERRA] received Royal Assent on 25 April 2013 and introduces a Public Interest test requirement on Whistleblowers. In order to receive the protection of PIDA, whistleblowers will now have to show that they reasonably believed that the disclosure they are making is in the Public Interest. The ERRA came into force on 25 June 2013 and affects disclosures made after that date. Further information on the ERRA can be found at www.legislation.gov.uk

1.3 Whistleblowing is the term used when someone raises a concern about a possible fraud, crime, danger or other serious risk. The purpose of the procedure is to enable disclosures about serious malpractice such as financial irregularity, a criminal offence, failure to comply with a legal obligation, dangerous working conditions or fraud, to be raised without fear of recrimination or victimisation.

2. Introduction

2.1 Universities, like all public bodies, have a duty to conduct their affairs in a responsible and open manner and to comply with the requirements of funding bodies, the principles of their Charter and Statutes and the parameters outlined in the reports of the Nolan and Neill Committees on standards in public life.

2.2 Members of staff or students may, however, be the first to know when something goes wrong and therefore the University has long established grievance and appeals procedures in place through which both individual members of staff and students can raise concerns. Issues of collective concern can also be raised through the joint consultative meetings between University managers and trade union and student representatives.

2.3 In the event of serious malpractice however, this procedure is available to enable University employees to make a confidential disclosure that you believe to be in the public interest, without fear of reprisal or repercussion

2.4 The Public Interest Disclosure Act 1998 protects University employees who report concerns from subsequent harassment, victimisation and other unfair treatment. Potential informants should feel reassured that it is illegal for the University to consider any action against them should their concerns not prove to be verifiable. This procedure applies to all employees, including casual and agency staff, and in certain circumstances protection may extend to former members of staff. Separate arrangements exist for students who wish to raise concerns.

3. Aims and Scope of this Procedure

3.1 This procedure aims to:

i. Encourage employees to feel confident in raising serious concerns that they may have about practices and procedures;
ii. provide avenues to raise those concerns and receive feedback on any action taken;

iii. allow employees and students to take the matter further if they are dissatisfied with the University's response;

iv. reassure employees and students that they will be protected from possible reprisals or victimisation if they have made any disclosure in good faith.

3.2 Areas covered by the Whistleblowing Policy include:

-Criminal or other misconduct;
-breach of the University’s Financial Regulations;
-contravention of the University’s accepted standards, policies or procedures;
-disclosures relating to miscarriages of justice;
-health and safety risks;
-damage to the environment;
-unauthorised use of public or charitable funds;
-fraud, bribery and corruption;
-sexual, physical and/or abuse of any person or group;
-other unethical conduct;
-the concealment of any of the above.

4. Safeguards Against Harassment or Victimisation [Protected Disclosure]

4.1 The University recognises that the decision to report a concern can be a difficult one to make, not least because of the fear of reprisal from those responsible for the malpractice. The University will not tolerate any form of harassment or victimisation, and will take appropriate action to protect employees and students who raise a concern in the reasonable belief that it is in the public interest.

4.2 The University has a Harassment and Bullying at Work Policy for employees, which is designed to protect employees from all forms of harassment in the workplace, and a Dignity at Study Policy for students, to protect its students from harassment, bullying or victimisation. The University is committed to good practice and high standards and endeavours to be supportive of its employees and students. In all cases, the provisions of the Public Interest Disclosure Act will be adhered to.

5. Confidentiality

5.1 All concerns will be treated in confidence and the identity of the employee or student raising the concern will not be revealed without his or her consent [subject to any legal requirements or decisions]. At the appropriate time, however, the employee may be expected to come forward as a witness.

6. Anonymous Allegations

6.1 Employees' concerns expressed anonymously are likely to be difficult to deal with effectively. Consequently, employees are encouraged to put their name to any allegation and receive the protection of PIDA. The University recognises that on occasion employees might feel that they could only come forward anonymously. Any action taken in response to an anonymous allegation will be influenced by factors including the seriousness of the issues raised and the likelihood of confirming the allegation from reliable sources.

6.2 It is important for employees to understand that making a whistleblowing allegation does not give them anonymity, but does give them protection from harassment or
7. Untrue Allegations and Legal Protection

7.1 If an allegation is made in good faith, but it is not confirmed by the investigation, no action will be taken against the employee making the allegation. If, however, an allegation is made that is frivolous, malicious or for personal gain, action may be taken against the employee in accordance with the University’s Disciplinary Procedures.

7.2 Employees will be given legal protection by the Public Interest Disclosure Act 1998. If a ‘qualifying disclosure’ under the 1998 Act is made and the act is made reasonably and in good faith, it will be unlawful for the University to subject the person making a disclosure to any detriment [such as denial of promotion or withdrawal of a training opportunity] or dismissal because of the disclosure.

7.3 Compensation may be awarded by an Employment Tribunal if the University breaches the 1998 Act, following a successful claim for ‘detrimental treatment’.

8. To whom should concerns of serious malpractice be reported?

8.1 Employees should normally raise concerns in the first instance with their Line Manager. Disclosures regarding serious malpractice can be reported in confidence to the Vice Chancellor, one of the Deputy Vice Chancellors or one of the Pro-Vice Chancellors. Alternatively, if you would rather disclose a matter to a lay member of Council (who is not an employee of the University) you may report your concerns to the Chair or Vice Chair of Council, or the Chair of the Audit Committee. All of these lay members of Council, can be contacted by a letter marked ‘personal and confidential’ c/o the Secretary to Council, Uxbridge Campus, who will pass it to the addressee unopened. The form at Appendix A may also be used to raise a disclosure.

8.2 If you wish to make a disclosure in person, rather than in writing, you may be accompanied by a work colleague and if you have a personal interest in the issue you must make it clear when you first disclose your concern. If the matter you are reporting is more appropriately dealt with through another procedure, the person to whom you report it will inform you and put you in touch with the appropriate senior manager to deal with your concern.

8.3 If you require advice on making a disclosure you may contact your manager, HR, Secretary to Council, trade union representative or work place colleague or friend.

9. What will they do?

9.1 On receipt of a disclosure via this procedure, the person to whom the disclosure is made will record its receipt and the action subsequently taken. S/he will arrange for the matter to be investigated. The Internal Auditors will normally be included in the internal investigating team, if the complaint is about a financial matter. The investigating team will examine the disclosure and report back to the person to whom the disclosure was originally made.

9.2 On completion of the investigation, the investigating team may recommend a course of action to the Chair of Council, if the report was originally addressed to a lay member of Council, or the Vice Chancellor if the matter was raised with a senior manager. Such a course of action could include reporting the matter to the police, the Higher Education Funding Council, the National Audit Office, the University’s Audit Committee, referral of the
matter for consideration through another University procedure such as the disciplinary procedure or no further action.

9.3 Where possible you will be kept informed of the outcome of the investigation and in the event that no action is taken, you will be told the reason for that decision. Any cases alleging financial irregularity will be reported to the Audit Committee. An annual report monitoring the use of this procedure will be submitted to the University Council, highlighting any actions taken as a result. The final arbiter of whether a disclosure made under this procedure has been adequately addressed, will be the Chair of University Council.

9.4 Disclosures made under this procedure will be treated seriously and sensitively. Where appropriate, action will be taken immediately to investigate the issue raised. Every effort will be made to keep your identity confidential but you may be asked to give evidence or make a formal statement. Where this is the case the reason will be fully explained.

9.5 The University accepts that employees need to be assured that the matter has been properly addressed. Subject to legal constraints, the University will inform the employee of the progress and outcome of any investigation.

9.6 The University will endeavour to investigate any allegation raised as part of this procedure objectively, fairly and as promptly as possible at every stage. It is recognised that the University has a duty of care to its staff and will seek to protect confidentiality as far as is reasonably possibly during the investigation. Disciplinary action will not be considered until a full and proper investigation has been completed and will be taken only if the investigation determines that there is a case to be answered in which case reasonable written notice will be given. The subject of the allegation will be advised of the nature of the complaint, within the bounds permitted by this procedure, and, where possible, given the opportunity to challenge the evidence. The protection afforded to staff under the University’s Disciplinary Procedures will, of course, be extended to any action required under this procedure.

9.7 In certain circumstances it may be considered appropriate to suspend a member of staff while an investigation into an allegation is conducted. In such circumstances the person will remain on full pay during the investigation and the suspension will not be regarded as a form disciplinary action. No presumption of innocence or guilt will be made as a result of any such investigation. The decision to suspend may be made by a manager or Head of Department/College/Institute in conjunction with the Secretary to Council. Should the Secretary to Council be the subject of the investigation then the decision to suspend will be made by the Vice Chancellor. Should the Vice Chancellor be the subject of the investigation then the decision to suspend will be made by the Chair of Council. Human Resources will write detailing the length of the suspension and confirming the contractual rights.

10. The Responsible Officer

10.1 The Vice Chancellor has overall responsibility for the maintenance and operation of this policy, and will maintain a record of concerns raised and the outcomes. This record will be in a form which does not compromise confidentiality

11. External Advice

The purpose of this procedure is to enable you to disclose serious matters of public interest within the University in confidence, without fear of reprisal and, therefore, you are asked not to take your concerns outside the University. There is however a body called Public Concern
at Work, which can provide confidential advice. The telephone number of this organisation is 0207 404 6609 and its website is at www.PCAW.co.uk.

12. How The Matter Can Be Taken Further

12.1 This procedure is intended to provide a process within the University through which employees and students may raise concerns. If at the conclusion of this process the employee or student is not satisfied with any action taken or feels that the action taken is inappropriate, the following are suggested as possible referral points:

-The external or internal auditors;
-a trade union;
-the Union of Brunel Students;
-a relevant professional body or regulatory organisation;
-the police;
-organisations prescribed from time to time by the Secretary of State for the purpose of protected disclosure under the Public Interest Disclosure Act.

12.2 Referral of any matter outside the University must not compromise confidentiality. Employees should check this with the organisation being sent the referral.
Annex 1 Raising a Whistleblowing Concern

To be submitted to the Vice Chancellor, one of the Deputy Vice Chancellors or one of the Pro-Vice Chancellors. Alternatively, if you would rather disclose a matter to a lay member of Council (who is not an employee of the University) you may report your concerns to the Chair or Vice Chair of Council, or the Chair of the Audit Committee.

The lay members of Council, can be contacted by a letter marked ‘personal and confidential’ c/o the Secretary to Council, Uxbridge Campus, who will pass it to the addressee unopened.

For use by any employee or student wishing to raise a concern that has a public interest aspect to it. Please read the whistleblowing policy and procedure before completing this form. If you require assistance completing this form, please contact your manager, HR, Secretary to Council, trade union representative or work place colleague or friend.

Full Name .........................................................Job Title [if applicable].................................

Extension .......................................................Team..............................................................

Please provide descriptions of your concerns including precise information such as dates of events, names of those involved, meetings or correspondence that have taken place, reference to relevant documents or policies [please continue on a separate page if necessary]:

Signature: .....................................................Date of Submission:...........................................

Date of Receipt.................................