

## THE WHISTLE-BLOWING AND ANTI-FRAUD POLICY

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The UP Ethics Hotline is an independent external reporting service and is available on a 24/7 basis through the WiseCall Confidential Platform and Mazars Forensic Services.

The following communication channels are available, should you wish to make use of this service (with the option of remaining anonymous, should you so prefer):

- A toll-free telephone number: 0800 227 007
- A fax number: 086 510 4291
- A secure email address: [confidential@wisecall.eu.com](mailto:confidential@wisecall.eu.com)
- A free-post address: JHZ 1815, Helderkruijn, 1733

The UP Department of Internal Audit and Compliance Services may be contacted directly at the following email address: [fraud@up.ac.za](mailto:fraud@up.ac.za)



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## 1. Policy statement

The University of Pretoria (“UP”) and the entities under UP’s control (campus companies and subsidiaries) are committed to principles of good corporate governance and a culture of zero tolerance towards unethical conduct, non-compliance, fraud or corruption (“irregularities”) in its activities.

## 2. Purpose

- 2.1 The objective of the University of Pretoria’s (“UP”) Whistle-blowing and Anti-Fraud Policy (“the Policy”) is to communicate the position of UP and the entities under UP’s control, regarding irregularities, to provide information on the policies and procedures aimed at deterring, detecting and eradicating such malpractices, and to protect complainants against any victimisation arising from the disclosure of concerns.
- 2.2 In line with the Protected Disclosures Act (Act 26 of 2000, as amended), UP has several mechanisms to facilitate effective and safe reporting of concerns to UP by UP employees, workers, contractors, vendors and other concerned parties (“UP stakeholders”) relating to suspected irregularities at UP.
- 2.3 UP stakeholders are encouraged to disclose their knowledge of actual or suspected irregularities in the UP workplace to the appropriate office at UP.

## 3. Definitions

<b>Bribery</b>	The offering, giving, receiving or soliciting of any item of value to influence the actions of an official, or another person, in the discharge of public or legal duty
<b>Corruption</b>	A form of dishonesty or criminal offence undertaken by a person or organisation entrusted with a position of authority, to acquire illicit benefit or abuse power for private gain
<b>Fraud</b>	A dishonest act that intentionally uses deception to illegally deprive another person or entity of money, property or legal rights
<b>Forgery</b>	The false making or alteration of a document with the specific intent to mislead
<b>Uttering</b>	The act of knowingly presenting or using a forged document
<b>Whistle-blowing</b>	An act of providing information to the relevant authorities about an alleged activity that is deemed to be unethical, incorrect or illegal

## 4. Scope of the Policy

- 4.1 This Policy applies to the University of Pretoria and the entities under UP's control, as well as to their employees, workers, contractors, vendors, consultants, students and members of the public. This Policy is a public document, which is displayed on the UP website and is featured in various UP ethics and compliance awareness campaigns.
- 4.2 This Policy applies to the following types of irregularities:
- fraud;
  - corruption;
  - bribery;
  - material noncompliance with laws or UP policies;
  - dishonesty, forgery and uttering/use of forged documents;
  - financial mismanagement, fruitless and wasteful expenditure and procurement irregularities;
  - conflict of interest and unauthorised external work/private practice;
  - nepotism and favouritism;
  - student administration irregularities;
  - misconduct by UP employees, including breaches of the Code of Conduct for employees and self-approval (e.g. expense claims, leave, etc.);
  - collusion between UP staff and UP suppliers/vendors;
  - research fraud and irregularities relating to externally-funded research projects;
  - criminal offences, cybersecurity threats and data breaches; and
  - damage to the environment.
- 4.3 Complainants are encouraged to initially report their concerns relating to items listed in 4.2, in a timely manner, to the relevant members of line management, as outlined in the *UP Escalation Policy*.
- 4.4 If the escalation process does not resolve the complaint to the complainant's satisfaction within a reasonable time, the complainant is encouraged to report the matter to the UP Ethics Hotline.
- 4.5 The following matters fall outside the ambit of this Policy and should be reported as follows:
- 4.5.1 Matters relating to employment-related grievances of UP employees and UP workers should be reported to the Employment Relations Division of HR, to be dealt with in terms of the *UP Grievance Procedures*.
- 4.5.2 Matters relating to complaints of gender-based harm, racial discrimination, homophobia or xenophobia and other forms of discrimination or harassment should be directed to the Transformation Office to be dealt with in terms of the *UP Anti-Discrimination Policy and Manual*.
- 4.5.3 Matters relating to student misconduct should be reported to the Registrar as outlined in the *Student Disciplinary Code (UP General Rules and Regulations)*.

- 4.5.4 Matters relating to student plagiarism should be reported to the relevant lecturer and/or the Legal Services: Student Discipline Division as outlined in the *UP Plagiarism Prevention Policy*.
- 4.5.5 Matters involving threats to life or property should be immediately reported to the Department of Security Services.
- 4.5.6 Matters relating to the quality of teaching should be reported to the relevant faculty's Deputy Dean for Teaching and Learning and the Quality Unit at the Department of Institutional Planning.
- 4.5.7 Matters relating to academic research ethics, should be reported to the relevant faculty's Deputy Dean for Research and Postgraduate Education (alternatively, to the Dean, if there is no Deputy Dean) and/or the appropriate Ethics Research Committee.

## **5. Protected disclosures**

- 5.1 Complaints submitted by whistle-blowers qualify as protected disclosures, and UP is under an obligation to take all the necessary steps to protect complainants from any occupational or other detriments, in as far as it is within UP's power to do so, if the complaint is submitted as follows:
- the complaint is reported on any of the available formal UP channels, including the UP Ethics Hotline;
  - the complaint is reported in good faith (without malicious intention); and
  - the complainant was not involved in the actual or alleged irregularity that they are reporting.

Also, a complaint may qualify as a protected disclosure if it is made to a legal practitioner or to a person whose occupation involves the giving of legal advice, and with the object of and in the course of obtaining legal advice.

- 5.2 UP acknowledges the fact that the decision to report a concern may be difficult to make, not least because of fear of potential reprisal from those responsible for the alleged irregularity.
- 5.3 UP does not tolerate harassment or victimisation of whistle-blowers and shall take action to protect employees, workers, students and external parties when they raise a concern in good faith.
- 5.4 Any acts of alleged harassment or victimisation arising from the submission of a protected disclosure should be reported to the Department of Internal Audit and Compliance Services.

## **6. Confidentiality**

- 6.1 UP shall endeavour at all times to protect a person's identity when they raise a concern and do not wish their identity to be disclosed.

- 6.2 It should be noted, however, that the investigation process may inadvertently locate the source of the information and that a statement by the employee, worker, contractor, vendor, student or external party concerned may be required as part of the evidence. However, no person may be compelled to give evidence in terms of this Policy.
- 6.3 No person shall supply any information concerning alleged irregularities to the media or external parties without the express written permission of the Registrar, which decision may be taken in consultation, as considered necessary in the circumstances, with the Vice-Chancellor and Principal and/or the Chairperson of the Audit, IT and Risk Management Committee of Council.
- 6.4 All information, documents, evidence and records (including the personal information of the whistle-blower and the investigating team) relating to an investigation is considered confidential and will not be disclosed to any party unless UP is legally obliged to do so during legal proceedings.
- 6.5 The following UP policies apply to the information, documents, evidence and records relating to investigations of whistle-blowing complaints: The Information Governance Policy, the Information Security Management Policy, the Protection of Personal Information (Privacy) Policy and the Records Management Policy.

## **7. Anonymous allegations**

- 7.1 A concern expressed anonymously and without contact details is difficult to investigate. To reduce the risk of malicious allegations UP encourages complainants to put their name on allegations made by them. Alternatively, a whistle-blower may provide an anonymous email address or other details on which they may be contacted, without revealing their identity, should further information be required during the investigation.
- 7.2 Anonymous allegations will be followed up at the discretion of the Registrar in consultation with the Director: Internal Audit and Compliance Services. This discretion will be exercised by taking into account –
- the potential jurisdiction of UP in the particular matter;
  - the seriousness of the issue raised;
  - the credibility of the allegation; and
  - the likelihood of confirming the allegation.

## **8. Untrue/false allegations**

- 8.1 Members of UP management should discourage the making of allegations that are false and are intended to cause harm to the affected party. In instances where reported allegations are proven to be intentionally fabricated and malicious, the person who made them shall be

subjected to firm disciplinary or similar action, while appropriate action may be taken in the case of external parties.

- 8.2 In terms of the Protected Disclosures Act, persons who made false and malicious allegations that have caused the affected party to suffer harm, may be criminally charged with an offence and may be liable, on conviction, to a fine or to imprisonment for a period not exceeding two years or to both a fine and such imprisonment.

## **9. The reporting process**

- 9.1 The reporting channels of the UP Ethics Hotline and the Department of Internal Audit and Compliance Services are indicated on the cover page of this Policy.
- 9.2 It is the responsibility of every employee to immediately report any alleged incident of unethical conduct, irregularity, fraud and corruption to their line manager as the first point of contact unless the line manager is the suspected perpetrator of the alleged incident. In the latter case, the matter should be reported to the line manager of the suspected perpetrator.
- 9.3 Other stakeholders such as students, vendors and members of the public are also encouraged to bring their concerns relating to actual or suspected irregularities to the attention of UP.
- 9.4 Members of UP management are responsible for the prevention, detection and resolution of instances of unethical conduct and irregularities. Also, an instance of suspected or confirmed fraud and corruption must be further reported to the Department of Internal Audit and Compliance Services, who shall initiate an investigation into the matter in consultation with the Registrar.
- 9.5 Should it be suspected that the Vice-Chancellor and Principal may be involved in an alleged incident of fraud and corruption, the Department of Internal Audit and Compliance Services will initiate an investigation into the matter in consultation with the Chairperson of the Audit, IT and Risk Management Committee of UP Council.
- 9.6 In respect of minor issues (e.g. personal use of UP equipment, etc.), an employee or other individual should preferably raise the concerns with the immediate line manager of the employee, who is the subject of the concern. However, every complainant is entitled to make use of the whistle-blowing process.
- 9.7 The background and history of the concern, including names, dates and places where possible, should be set out, as well as the reason why the whistle-blower is particularly concerned about the situation.

9.8 A whistle-blower is not expected to prove the truth of the allegation(s); however, they shall demonstrate to the person contacted that there are sufficient grounds for concern.

9.9 Advice and guidelines on how matters of concern may be pursued, can be obtained from the Director: Internal Audit and Compliance Services.

## **10. Precautionary suspensions and seizure of evidence**

10.1 In the event where preliminary indicators are noted in the course of an investigation that UP staff may be involved in or where a material irregularity and a significant risk of loss or destruction of forensic evidence exists, the Director: Internal Audit and Compliance Services, in consultation with the Registrar, shall obtain urgent approval directly from the member of the Executive responsible for HR, that the suspected staff is placed on precautionary suspension, per the *UP Disciplinary Code for Employees*.

10.2 The preparation of the documentation for the precautionary suspension and the seizure of UP computers and documents will be done in a strictly confidential manner by the Office of the Registrar, in consultation with the Department of Internal Audit and Compliance Services and the member of the Executive responsible for HR and other portfolios, as deemed relevant in the circumstances.

## **11. How a concern shall be dealt with**

11.1 UP, upon receipt of a complaint from a whistle-blower, will:

- acknowledge that the concern has been received (where possible, i.e. where the identity or contact details of the anonymous whistle-blower are known);
- enter the complaint in the UP Whistle-blowing and Fraud Register; and
- initiate a preliminary enquiry/review of the allegations internally or refer it to another appropriate portfolio.

11.2 The action taken by UP will depend on the nature of the concern raised. Should the results of the preliminary review indicate the need for further investigation, the matter will be referred for further enquiries to the appropriate Department, internal or external auditors, or any other relevant party.

11.3 To protect the individuals concerned, as well as UP, initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it should take. Concerns or allegations that fall within the scope of other procedures will normally be referred for consideration following those procedures.



- 11.4 The following timelines apply to the investigation of complaints received from UP employees and UP workers, as legislated in the Protected Disclosures Act, and where practical, these timelines may also apply to complaints received from other persons:
- informing the whistle-blower within 21 calendar days after receipt of the complaint (where the whistle-blower's identity is known) whether further investigation will take place or not; or indicating the referral of the complaint to another person or body and the estimated timeframes (if possible); and
  - if UP is unable to decide within 21 calendar days whether the whistle-blowing complaint should be investigated further, the University will inform the whistle-blower that it is unable to make a decision within 21 calendar days and provide feedback at regular intervals (not more than two months apart) that the decision is still pending.
- 11.5 Once the investigation is completed, UP undertakes to provide feedback on the outcome of whistle-blowing complaints received from UP employees and UP workers, and where possible to complaints received from other categories of complainants, subject to factors such as anonymity of the complainant, legal restrictions on the distribution of privileged information and related considerations. Requests for feedback are, therefore, considered on a case by case basis in consultation, where necessary, with Legal Services and/or other relevant parties.
- 11.6 The University will only correspond with a representative of the whistle-blower in cases where the whistle-blower is not anonymous and where the whistle-blower has provided written consent for the University to correspond through a representative or a third party, subject to the following requirements:
- Consent via email will be sufficient.
  - The whistle-blower needs to communicate the details of their chosen representative to the Department of Internal Audit and Compliance Services.
  - Only one representative per complaint will be approved.
  - Written acceptance by the representative should also be attached to the relevant correspondence.
- 11.7 Where the complainant refers to additional potential complainants wishing to join the original complaint, these additional individuals referred to by the original complainant will not be automatically contacted by the investigators unless these individuals, in writing, inform the Director: Internal Audit and Compliance Services that they are requesting to join the original complaint.
- 11.8 The details of the investigating team are privileged and confidential.
- 11.9 The amount of contact between the body investigating the issues and the whistle-blower will depend on the nature of the matters raised, the potential difficulties involved and the clarity of the information provided. If necessary, further information will be sought from the whistle-blower (where possible).

- 11.10 Some concerns may be resolved through agreed remedial action, thereby negating the need for an investigation.
- 11.11 UP accepts that every employee, worker, contractor, vendor, student and/or external party concerned needs to be assured that the matter has been properly addressed. However, the progress made with investigations shall be handled confidentially and shall not be disclosed to or discussed with any persons who have no legitimate claim to such information.
- 11.12 The manner and scope of the investigation process depend on several factors, including the requirements of the relevant professional bodies. UP does not permit interferences in the investigation process or intimidation of the investigators by complainants or other parties.
- 11.13 When there is a concurrent employee relations grievance/disciplinary matter and a whistleblowing complaint on the same or related matter, it is at the discretion of the Registrar, in consultation with the Director: Internal Audit and Compliance Services and Director: HR, which process takes precedence. The decision will be made on a case by case basis and depending on the facts of each matter.
- 11.14 Any UP employee or UP worker who has been subjected, is subjected or may be subjected to an occupational detriment resulting from the submission of a protected disclosure, or anyone acting on behalf of an employee who is not able to act in their name, may approach any court having jurisdiction, including the Labour Court for appropriate relief or pursue any other process permitted by law.

## **12. Statutory reporting of fraud and related criminal offences to SAPS**

- 12.1 Any person who holds a position of authority at UP, who knows or should have reasonably been expected to know or to suspect that any other person has committed criminal acts such as corruption, theft, fraud, extortion, forgery or uttering of a forged document involving an amount of R100 000 or more, must report such knowledge or suspicion to a police official, as required by law (the Prevention and Combating of Corrupt Activities Act).
- 12.2 The UP Department of Security Services assists members of management in opening such cases at the SAPS, after consultation with the Office of the Registrar and Legal Services.

## **13. Further processes**

Any irregularity committed by a UP employee, UP worker or UP student shall be pursued by thorough investigation and to the full extent of the law, including (where appropriate) consideration of:

- in the case of UP employees, UP workers and UP students taking disciplinary action within a reasonable time after the conclusion of the investigation;
- instituting civil action to recover any loss or damage suffered by UP;
- reporting the matter to the relevant professional body/organisation; and/or

- any other appropriate legal remedy available.

#### 14. Publication of sanctions

The Registrar, in consultation with the Vice-Chancellor and Principal and/or the Chairperson of the Audit, IT and Risk Management Committee, shall decide whether any information relating to corrective actions taken or sanctions imposed in respect of incidents of irregularity, fraud and corruption should be brought to the direct attention of any person or made public by any other means, subject to the applicable limitations in terms of the Protection of Personal Information Act.

Particulars of the complainants remain protected and will not be disclosed or associated with any publication of the above sanctions.

#### 15. Application of prevention controls and detection mechanisms

In respect of all reported incidents of alleged irregularities, fraud and corruption, management shall, in consultation with the Director: Internal Audit and Compliance Services, immediately review and, where possible, improve the effectiveness of the controls that have been breached to prevent similar irregularities from taking place in future.

#### 16. Roles and responsibilities

**The Registrar** The custodian of the Policy is the **Registrar**, who shall be responsible for the administration, revision, interpretation, as well as implementation and monitoring of compliance with the Policy, as well as reporting thereon with assistance from the Department of Internal Audit and Compliance Services and other relevant stakeholders.

**The Department of Internal Audit and Compliance Services** The **Department of Internal Audit and Compliance Services** shall maintain a confidential record of all concerns raised, as well as the outcome of all actions taken in compliance with the applicable legislative and Policy requirements and investigate complaints within its jurisdiction.

Also, formal training sessions on compliance and anti-fraud are presented by the Department of Internal Audit and Compliance Services on an ongoing basis.

**Deans and Directors** **Deans and Directors** shall be responsible for ensuring that all UP employees and UP workers under their control are made aware of and receive the relevant Policy documentation, as well as any updates on the Policy.

**Department of Institutional Advancement** The Department of Institutional Advancement is responsible for structuring and implementing awareness campaigns relating to this Policy, as initiated by the Department of Internal Audit and Compliance Services.

## 17. Policy non-compliance

Submission of disclosures in terms of this Policy is voluntary.

As this Policy refers to other policies such as the Code of Code for Employees and the Code of Conduct for students, all the compliance requirements of such policies are applicable.

## 18. Associated documents

The Policy should be read in conjunction with the following:

- Escalation Policy (Rt292/19),
- Prevention and Combating of Corrupt Activities Act (PRECCA) 12 of 2004 (as amended),
- Promotion of Equality and Prevention of Unfair Discrimination Act 4 of 2000 (as amended),
- Protected Disclosures Act 26 of 2000 (as amended),
- Electronic Communications and Transactions Act 25 of 2002 (as amended),
- Employment Equity Act 55 of 1998 (as amended),
- Higher Education Act 101 of 1997 (as amended),
- Protection of Personal Information Act 4 of 2013 and the University's Protection of Personal Information (Privacy) Policy,
- Information Security Management Policy,
- Records Management Policy, and
- Internal Audit Charter and related policies.

## 19. Policy life cycle

The Policy shall be reviewed at least every three years and updated when necessary.

## 20. Document metadata

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