

Fraud and Corruption Prevention and Public Interest Disclosures Policy

Abstract

This Policy addresses the University's legal and ethical obligations to prevent, monitor and report fraud and corrupt conduct. This Policy describes the framework for dealing with fraud and corruption risks faced by UTS. It also provides a system within UTS for reporting disclosures of corrupt conduct, maladministration, serious and substantial waste and failure to publicly disclose certain government information as required by law.

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Implementation Officer	Executive Officer to Deputy Vice-Chancellor (Corporate Services)	
Relevant to	All staff	
Related documents	Australian Code for the Responsible Conduct of Research Code of Conduct Disciplinary provisions of the relevant Enterprise Agreement Fraud and Corruption Prevention and Public Interest Disclosures Guidelines Handling Staff Grievances — Guidelines for Supervisors Handling Staff Grievances Vice-Chancellor's Directive Handling Student Complaints — Procedures for Managers Outside Work Vice-Chancellor's Directive Policy on Handling Student Complaints Public Interest Disclosures , NSW Ombudsman Responsible Conduct of Research Policy Risk Management Policy	

	UTS Corporate Credit Card and Staff Reimbursements Vice-Chancellor's Directive UTS Gifts and Benefits Vice-Chancellor's Directive UTS Procurement Policy UTS Strategic Plan 2009–2018
Legislation	Children and Young Persons (Care and Protection) Act 1998 (NSW) Defamation Act 2005 (NSW) Government Information (Public Access) Act 2009 (NSW) Health Records and Information Privacy Act 2002 (NSW) Independent Commission Against Corruption Act 1988 (NSW) Ombudsman Act 1974 (NSW) Privacy and Personal Information Protection Act 1998 (NSW) Public Interest Disclosures Act 1994 (NSW) Public Interest Disclosures Regulation 2011 (NSW) University of Technology Sydney Act 1989 (NSW)
File number	UR09/417
Superseded documents	Policy on Reporting Corrupt Conduct, Maladministration and Serious and Substantial Waste within UTS, 2005

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1. Purpose

This Policy addresses the University's legal and ethical obligations to prevent, monitor and report fraud and corrupt conduct. This Policy:

- describes the framework for dealing with the fraud and corruption risks faced by UTS

- provides a system for reporting disclosures of corrupt conduct, maladministration, serious and substantial waste and failure to publicly disclose certain government information as required by law, and
- details the possible repercussions for breaching this Policy.

2. Scope

This Policy does not cover the University's obligations under the Australian Code for the Responsible Conduct of Research, which imposes additional obligations on UTS where allegations involve research misconduct. Only disclosures by UTS staff and contractors may be 'protected' and classed as public interest disclosures under the [Public Interest Disclosures Act 1994 \(NSW\)](#). Nevertheless, emeritus professors and honorary appointees are encouraged to make disclosures in accordance with section 5.2.3 of this Policy.

This Policy applies to all staff at UTS and to emeritus professors, honorary appointees and contractors.

This Policy does not apply to students at UTS. However, students are encouraged to report fraud and corrupt conduct to the University Secretary and Director, Governance Support Unit.

3. Definitions

Corrupt conduct is defined in the [Independent Commission Against Corruption Act 1988 \(NSW\)](#). This definition as varied from time to time will apply at UTS. The [Fraud and Corruption Prevention and Public Interest Disclosures Guidelines](#) include the definition of corrupt conduct from the Act and examples of corrupt conduct in universities. 'Fraud' is a form of corrupt conduct.

Detrimental action is defined by [section 20\(2\)](#) of the Public Interest Disclosures Act 1994 (NSW) as action causing, comprising or involving:

- 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.

Government information contravention means a failure to exercise functions in accordance with any provision of the [Government Information \(Public Access\) Act 2009 \(NSW\)](#).

Internal control culture means a culture that supports and implements internal control systems.

Internal control systems include systems of control, financial and otherwise, established in order to provide reasonable assurance of:

- effective and efficient operations
- internal financial control, and
- compliance with laws and regulations.

These might include policies and procedures, authorities and delegations and reporting and monitoring systems.

Maladministration is defined by [section 11\(2\)](#) of the Public Interest Disclosures Act 1994 (NSW) as conduct by a public official, which includes a UTS employee or contractor, 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.

Nominated Public Interest Disclosures Officers are persons responsible for receiving, forwarding and/or acting upon disclosures in accordance with this Policy and the associated Guidelines. A list of nominated Public Interest Disclosures Officers is contained as an attachment to the [Fraud and Corruption Prevention and Public Interest Disclosures Guidelines](#).

Public Interest Disclosures Coordinator is the person responsible for managing the system for reporting public interest disclosures at UTS. The Public Interest Disclosures Coordinator is specified in the attachment to the [Fraud and Corruption Prevention and Public Interest Disclosures Guidelines](#).

Serious and substantial waste is the uneconomical, inefficient or ineffective use of UTS resources, authorised or unauthorised, which results in significant loss or wastage of money or resources. The [Fraud and Corruption Prevention and Public Interest Disclosures Guidelines](#) provide examples of serious and substantial waste in universities.

Supervisors include, but are not limited to, Deans, Directors, Heads of School, all Managers and other persons who supervise staff.

4. Policy principles

UTS regards honesty and integrity as core values for all staff, honorary appointees, emeritus professors and contractors. The highest standards of professionalism and conduct are expected. The values in the [UTS Strategic Plan 2009–2018](#) state that UTS will deliver on its obligations while maintaining high standards and ethical behaviour.

UTS will not tolerate fraud and corruption. Immediate action will be taken whenever fraud or corruption is suspected or detected.

UTS is strongly committed to:

- establishing a framework for dealing with fraud and corruption risks faced by UTS
- ensuring that all members of UTS are aware of their responsibilities in behaving ethically and identifying and preventing fraud and corrupt conduct
- establishing a framework for internal reporting and public interest disclosures as part of its culture of accountability
- implementing organisational reform to minimise instances of fraud and corruption across UTS
- ensuring that bona fide disclosures are investigated thoroughly in accordance with the principles of confidentiality and procedural fairness, and
- implementing organisational reform identified as necessary following investigation of a disclosure.

In addition to the commitments outlined above UTS will:

- ensure that all staff and contractors are aware of how to make a public interest disclosure using the University's internal reporting system
- provide protection and support for staff and contractors who make a public interest disclosure, and
- provide support for staff and contractors who are the subject of a public interest disclosure.

5. Policy statements

5.1 Fraud and corruption prevention

5.1.1 Communication and awareness of fraud and corruption risks

UTS will undertake activities to communicate and raise awareness of staff, emeritus professors, honorary appointees and contractors in relation to fraud and corruption risks. Supervisors will have a key role to play in such activities (refer to section 6).

5.1.2 Maintaining a strong internal control system and internal control culture

UTS will adopt and maintain internal control systems and develop new controls as need is identified from the conduct of fraud and corruption risk assessments in accordance with the [Fraud and Corruption Prevention and Public Interest Disclosures Guidelines](#).

5.1.3 Fraud and corruption risk detection

The primary responsibility for the detection of fraud and corruption rests with Supervisors, who are accountable for the performance of their staff and contractors. Detection of fraud and corruption may occur through many means, including by observing fraudulent or corrupt activities or by discovering information that tends to reveal fraud or corruption.

5.2 Reporting concerns of fraud, corruption, maladministration, serious and substantial waste and government information contravention

5.2.1 Encouragement to report concerns

All members of the UTS community (including staff, emeritus professors, honorary appointees, contractors, students and those who work with UTS) are encouraged to report or disclose information that shows or tends to show corrupt conduct, maladministration, serious and substantial waste or government information contravention.

5.2.2 Public interest disclosures

Public interest disclosures are different from other disclosures in that they are specifically governed by the [Public Interest Disclosures Act 1994 \(NSW\)](#). The Act enables public officials, which includes UTS employees and contractors, to make disclosures in confidence without fear of reprisals.

5.2.2.1 When a disclosure will be a public interest disclosure

A disclosure may be regarded as a public interest disclosure under the [Public Interest Disclosures Act 1994 \(NSW\)](#) if:

- it is made by a 'public official' (for example, a UTS staff member or contractor), and
- it is made to:

- an investigating authority (such as the Independent Commission Against Corruption, the NSW Ombudsman or the NSW Auditor-General)
- the principal officer of an agency (such as the Vice-Chancellor of UTS), or
- a nominated officer of the agency (such as a UTS Public Interest Disclosures Officer) in accordance with any procedure established by the [Public Interest Disclosures Act 1994 \(NSW\)](#).
- the person making the disclosure honestly believes, on reasonable grounds, that the information disclosed shows or tends to show corrupt conduct, maladministration, serious and substantial waste or government information contravention by a member of staff, contractor or UTS.

It is not appropriate for a member of staff or contractor who receives a public interest disclosure to do nothing, even where the person who received the disclosure is asked not to take it further. Any member of staff or contractor who receives a public interest disclosure, as a minimum should consider the nature of the disclosure and determine:

- whether it needs to be investigated internally by UTS, or
- referred to an investigative authority.

See section 5.2.2.2 for exceptions.

Disclosures by emeritus professors and honorary appointees will not be public interest disclosures. However, emeritus professors and honorary appointees may make disclosures under section 5.2.3 of this Policy.

5.2.2.2 When a disclosure will not be a public interest disclosure

A disclosure will not be regarded as a public interest disclosure under the Public Interest Disclosures Act 1994 (NSW) if:

- it is not a voluntary disclosure. A disclosure is not voluntary if it is made in the exercise of a duty imposed on a public official by or under an Act. For example, the mandatory reporting of children who are at risk of harm under the [Children and Young Persons \(Care and Protection\) Act 1998 \(NSW\)](#)
- the person making the disclosure does not honestly believe, on reasonable grounds, that the information disclosed shows or tends to show corrupt conduct, maladministration, serious and substantial waste or government information contravention
- it principally involves questioning the merits of government policy, or
- it is made solely or substantially with the motive of avoiding disciplinary action.

5.2.2.3 How to make a public interest disclosure

UTS staff and contractors who believe they have information which shows or tends to show corrupt conduct, maladministration, serious and substantial waste or government information contravention by a member of staff of UTS may contact one of the following persons to make a public interest disclosure:

- the UTS Public Interest Disclosures Coordinator
- a Nominated Public Interest Disclosures Officer, or
- the Vice-Chancellor.

The public interest disclosure can be made verbally or in writing.

In order to be classed a 'public interest' disclosure, the disclosure must be made to any of the above officers. Reporting a disclosure to your Supervisor will not be classed as a public interest disclosure unless your Supervisor is one of the above officers.

Any Supervisor who receives a report that they believe may be a public interest disclosure must refer the staff member making the report to one of the above officers.

Public interest disclosures may be made anonymously. These disclosures will still be dealt with by UTS, but it is recommended that persons making such disclosures identify themselves so that they may be provided with any necessary protection and support, as well as feedback about the outcome of any investigation into the allegations. If it is not known who made the disclosure, then it is very difficult for UTS to prevent any potential reprisal action.

It is important to realise that an anonymous disclosure may not prevent you from being identified.

UTS staff and contractors may also make a public interest disclosure to one of the investigating authorities under the [Public Interest Disclosures Act 1994 \(NSW\)](#), including:

- Independent Commission Against Corruption — for reports on corrupt conduct
- NSW Ombudsman — for reports on maladministration
- NSW Auditor-General — for reports on serious and substantial waste, or
- NSW Information Commissioner — for reports on government information contravention.

In limited circumstances, where the above avenues have been exhausted, a public interest disclosure may be made to a Member of Parliament or journalist (refer to [section 19](#) of the Public Interest Disclosures Act 1994 (NSW)).

The person making the disclosure should discuss with the relevant UTS Officer or external agency whether the disclosure is a public interest disclosure under the [Public Interest Disclosures Act 1994 \(NSW\)](#).

5.2.2.4 Rights and responsibilities of persons making a public interest disclosure

A person making a public interest disclosure has a right to:

- be protected from harassment or victimisation
- be provided with access to professional support they may need as a result of making the disclosure
- be provided with a 'mentor', if requested, to provide moral support by accompanying the person making the disclosure to any meetings
- be provided with an acknowledgement, in writing, of receipt of the disclosure and a copy of this Policy within 45 days of making the disclosure
- have their identity kept confidential (see section 5.2.2.6 for exceptions), and
- be informed of action taken or proposed to be taken in respect of the public interest disclosure within six months of the disclosure being made.

A person making a public interest disclosure has a responsibility to:

- ensure information reported is not intentionally false or misleading
- maintain the confidentiality of their public interest disclosure.

It is a criminal offence under the [Public Interest Disclosures Act 1994 \(NSW\)](#) to wilfully making false or misleading statements when reporting wrongdoing. The penalties may be financial, imprisonment or both.

5.2.2.5 Liabilities of persons making a public interest disclosure

A person is not subject to any liability for making a public interest disclosure and no action, claim or demand may be taken or made of or against the person for making the disclosure. This provision has effect despite any duty of secrecy or confidentiality or any other restriction imposed on the UTS staff member or contractor under any Act or other instrument.

A person who has made a public interest disclosure has a defence of absolute privilege in proceedings for defamation.

5.2.2.6 Treatment of public interest disclosures

Public interest disclosures will be investigated as discreetly as possible. In certain circumstances, public interest disclosures may be referred to an investigative agency. Every effort will be made to maintain confidentiality both as to the identity of persons making public interest disclosures and persons the subject of public interest disclosures.

Information that might identify or tend to identify the person making the public interest disclosure will not be released, except for where:

- the person consents in writing to the disclosure of that information
- the person has voluntarily identified themselves (separately from making the public interest disclosure) as the person who made the public interest disclosure
- it is essential, having regard to the principles of natural justice, that the identifying information be disclosed to a person that the public interest disclosure may concern, or
- UTS is of the opinion that it is necessary to disclose the information to effectively investigate the matter or that disclosure is otherwise in the public interest.

5.2.2.7 Treatment of persons making public interest disclosures

A person who takes detrimental action against another person substantially in reprisal for a public interest disclosure is liable to:

- penalties under the [Public Interest Disclosures Act 1994 \(NSW\)](#), and
- action under UTS disciplinary policies and procedures.

UTS will refer any evidence of detrimental action to the NSW Director of Public Prosecutions in accordance with the [Public Interest Disclosures Act 1994 \(NSW\)](#).

5.2.2.8 Rights of persons the subject of public interest disclosures

Persons who are the subject of public interest disclosures have the right to be:

- informed as to the substance of the allegations
- presumed innocent of the allegations until it is proven otherwise
- given a reasonable opportunity to put their case (either verbally or in writing) to the persons carrying out the investigation before any final determination or the like is made
- accompanied by a representative of the person's choosing at any meeting convened in accordance with this Policy, provided that person is not a barrister or solicitor in private practice
- supported appropriately by UTS throughout the investigation, and
- formally advised in writing as to the outcome of the investigation, within six months of the public interest disclosure being made regardless of the outcome.

5.2.3 Other disclosures

Disclosures that are not public interest disclosures under the [Public Interest Disclosures Act 1994 \(NSW\)](#) (as described in sections 5.2.2.1 and 5.2.2.2) should still be reported to UTS. This includes any disclosure made by an emeritus professor or honorary appointee.

5.2.3.1 How to make a disclosure

In the first instance, concerns should generally be reported to the person's Supervisor unless:

- the person wishes to make a public interest disclosure, in which case section 5.2.2 of this Policy will apply, or
- the concerns relate to the Supervisor.

5.2.3.2 Rights and responsibilities of persons making a disclosure

A person making a disclosure has a right to:

- be protected from harassment or victimisation
- have their identity kept confidential (see section 5.2.3.3 for exceptions), and
- be informed of action taken or proposed to be taken in respect of the disclosure within six months of the disclosure being made.

A person making a disclosure has a responsibility to:

- ensure information reported is not vexatious, frivolous, intentionally false or misleading, and
- maintain the confidentiality of their disclosure.

5.2.3.3 Treatment of disclosures

Disclosures will be investigated as discreetly as possible. Every effort will be made to maintain confidentiality both as to the identity of persons making disclosures and persons the subject of disclosures. Information that might identify or tend to identify the person making the disclosure will not be released, except where deemed necessary by UTS.

5.2.3.4 Treatment of persons making disclosures

A person who takes detrimental action against another person substantially in reprisal for a disclosure is liable to action under UTS disciplinary policies and procedures.

5.2.3.5 Rights of persons the subject of disclosures

Persons who are the subject of disclosures have the right to be:

- informed as to the substance of the allegations
- presumed innocent of the allegations until it is proven otherwise
- given a reasonable opportunity to put their case (either orally or in writing) to the persons carrying out the investigation before any final determination or the like is made
- accompanied by a representative of the person's choosing at any meeting convened in accordance with this Policy, provided that person is not a barrister or solicitor in private practice
- supported appropriately by UTS throughout the investigation, and
- formally advised in writing as to the outcome of the investigation, regardless of the outcome.

5.3 Breach of policy

Breaches of this Policy may result in:

- action under UTS disciplinary policies and procedures, and/or
- infringement of the [Public Interest Disclosures Act 1994 \(NSW\)](#).

6. Roles and responsibilities

Accountable Officer: the Deputy Vice-Chancellor (Corporate Services) has primary oversight of the operation of this Policy and may issue guidelines to support its implementation.

Implementation Officer: the Executive Officer to the Deputy Vice-Chancellor (Corporate Services) is the primary point of contact for advice on implementing and administering the Policy.

Senior Deputy Vice-Chancellor, Deputy Vice-Chancellors, Deans and Directors: are responsible for overseeing the operation of this Policy within their areas of responsibility.

Audit and Risk Committee of UTS Council: the Committee is to monitor the implementation of this Policy and assist in its review.

Vice Chancellor: as the Principal Officer, may receive public interest disclosures from staff and contractors and reports from the Public Interest Disclosures Coordinator. Further details of the Vice Chancellor's responsibilities are detailed in the UTS [Fraud and Corruption Prevention and Public Interest Disclosures Guidelines](#).

Public Interest Disclosures Officers: are responsible for receiving, forwarding and/or acting upon disclosures in accordance with this Policy and Guidelines. Further details of their roles and responsibilities are provided in the UTS [Fraud and Corruption Prevention and Public Interest Disclosures Guidelines](#). A list of these nominated officers is provided in Schedule 1 of the Guidelines.

Public Interest Disclosures Coordinator: is responsible for providing an alternate internal reporting channel to Nominated Public Interest Disclosure Officers and to the Vice Chancellor. They are also responsible for the assessment and investigation of the disclosure.

Supervisors: are expected to:

- understand the risks of fraud and corruption faced by UTS
- adopt a risk-based approach in their management
- lead by example in their behaviour in the workplace, and
- create and sustain an ethical culture.

Performance and commitment in these areas will form part of the performance review process for Supervisors at UTS.

All staff and contractors: are required to take responsibility for ensuring the integrity of the University's management and administrative practices, including by reporting corrupt conduct, maladministration, serious and substantial waste and government information contravention.

7. Acknowledgements

[Independent Commission Against Corruption](#)

[NSW Ombudsman](#)

8. Version control and change history

Date	Version	Approved by and resolution no.	Amendment
13/04/2011	2	Council COU/11-03/26	Extended policy to protected disclosures regarding government information contraventions
15/06/2011	3	Council COU/11-04/48	The Fraud Policy has been amended to reflect changes required due to amendments to the Public Interest Disclosures Act 1994 (NSW)
30/03/2012	4	Vice-Chancellor COU/08-3/51	The Fraud Policy has been amended to reflect further changes required due to amendments to the Public Interest Disclosures Act 1994 (NSW)
06/12/2013	4.1	Council COU/13-7/122	A minor amendment to the review schedule, from annually, to every three years.
11/08/2016	4.2	Director, Governance Support Unit (GSU) (11/12/2014)	Changes (approved under Delegation 3.17) to implement 2014 Senior Executive restructure.
		Director, Governance Support Unit (GSU) (27/05/2016)	Changes (approved under Delegation 3.17) to update references to the role of Registrar (part of the 2014 restructure).