

Fraud and Corruption Prevention and Public Interest Disclosures Policy

1. Purpose

- 1.1 The Fraud and Corruption Prevention and Public Interest Disclosures Policy (the policy) addresses UTS's legal and ethical obligations to prevent, monitor and report fraud and corrupt conduct. The policy is supported by the [Fraud and Corruption Prevention and Public Interest Disclosures Procedures](#) (the procedures).
- 1.2 This policy:
 - describes the framework for dealing with 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 outcomes for breaching this policy.

2. Scope

- 2.1 This policy applies to all staff and affiliates.
- 2.2 UTS staff and contractors may be protected under the [Public Interest Disclosures Act 1994 \(NSW\)](#). Disclosures by other affiliates (for example emeritus professors and honorary appointees) are not considered public interest disclosures under the Act, however other affiliates are encouraged to make disclosures or report incidents of wrongdoing in accordance with this policy and the procedures.
- 2.3 Obligations under the [Australian Code for the Responsible Conduct of Research](#) are managed separately in the [Research Policy](#) and its procedures, including requirements for allegations of research misconduct.
- 2.4 This policy does not apply to students, however, students are encouraged to report fraud and corrupt conduct to the University Secretary in line with this policy.

3. Principles

- 3.1 UTS regards honesty and integrity as core values for all staff and affiliates. The highest standards of professionalism and conduct are expected in line with the [Code of Conduct](#). This is supported by the values guiding the [UTS 2027 strategy](#).
- 3.2 UTS does not tolerate fraud and corruption. Immediate action will be taken when fraud or corruption is suspected or detected.

3.3 UTS is committed to:

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

3.4 In addition to the commitments outlined above UTS:

- ensures that all staff and contractors (hereafter staff) are aware of how to make a public interest disclosure using UTS's internal reporting system
- provides protection and support for staff who make a public interest disclosure, and
- provides support for staff who are the subject of a public interest disclosure.

4. Policy statements

Fraud and corruption prevention

- 4.1 UTS undertakes activities to communicate and raise awareness of staff and affiliates in relation to fraud and corruption risks. Supervisors play a key role in these activities.
- 4.2 UTS adopts and maintains internal control systems and develops new controls as required following fraud and corruption risk assessments in accordance with [the procedures](#).
- 4.3 Supervisors are primarily responsible for the detection of fraud and corruption as they are accountable for the performance of their staff and any other direct reports. 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.

Types of disclosures

- 4.4 All staff and affiliates are encouraged to report or disclose information that shows or tends to show corrupt conduct, maladministration, serious and substantial waste or government information contravention.
- 4.5 Public interest disclosures are different from other disclosures in that they are specifically governed by the [Public Interest Disclosures Act](#). The Act enables public officials, which includes UTS staff and contractors, to make disclosures in confidence without fear of reprisals.
- 4.6 A disclosure may be regarded as a public interest disclosure under the [Public Interest Disclosures Act](#) if:

- it is made by a public official (for example UTS staff 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 UTS Vice-Chancellor), or
 - a nominated officer of the agency (such as a nominated public interest disclosures officer) in accordance with any procedure established by the [Public Interest Disclosures Act](#).
- 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.

4.7 Staff who receive a public interest disclosure must, as a minimum, consider the nature of the disclosure and determine:

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

It is not appropriate for staff who receive a public interest disclosure to do nothing (even if they are asked by the person making the disclosure to take it no further).

4.8 Disclosures by affiliates (excluding contractors) will not be public interest disclosures. However, emeritus professors and honorary appointees may make disclosures under this policy (refer [Other disclosures](#)).

Public interest disclosures

4.9 A disclosure will not be regarded as a public interest disclosure under the [Public Interest Disclosures Act](#) 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.

4.10 Staff who believe they have information that shows or tends to show corrupt conduct, maladministration, serious and substantial waste or government information contravention by another member of UTS staff may contact one of the following to make a public interest disclosure (refer also [Schedule 1 of the procedures](#)):

- UTS's public interest disclosures coordinator
- a nominated public interest disclosures officer, or
- the Vice-Chancellor.

- 4.11 In order to be classed a public interest disclosure, the disclosure must be made to any of the above listed officers verbally or in writing. Reporting a disclosure to a supervisor will not be classed as a public interest disclosure, unless the supervisor is one of the listed officers.
- 4.12 Any supervisor who receives a report that may be classed as a public interest disclosure must refer their staff member making the report to one of the above officers.
- 4.13 Public interest disclosures may be made anonymously. These disclosures will still be dealt with by UTS, however it is recommended that people making such disclosures identify themselves so they may be provided with any necessary protection, support and feedback about the investigation. If it is not known who made the disclosure, then it may be difficult for UTS to provide the necessary protections.
- 4.14 An anonymous disclosure may not prevent identification.
- 4.15 Staff may also make a public interest disclosure, or report concerns that they are not being treated fairly after making a public interest disclosure, to one of the external investigating authorities under the [Public Interest Disclosures Act](#), 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.
- 4.16 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).
- 4.17 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](#).

Rights and responsibilities

- 4.18 A person making a disclosure that has been identified as 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 (refer [procedures](#)), 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 where possible (refer [Treatment of public interest disclosures](#)), 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.

- 4.19 A person making a public interest disclosure has a responsibility to:
- ensure information reported is not intentionally false or misleading, and
 - maintain the confidentiality of their public interest disclosure.
- 4.20 It is a criminal offence under the [Public Interest Disclosures Act](#) to wilfully make false or misleading statements when reporting wrongdoing. The penalties may be financial, imprisonment or both.
- 4.21 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.
- 4.22 A person who has made a public interest disclosure has a defence of absolute privilege in proceedings for defamation.
- 4.23 People 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 people 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.

Treatment of public interest disclosures

- 4.24 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 the person making the public interest disclosure and the person who is the subject of the public interest disclosure. Refer [procedures](#) for further actions.
- 4.25 Information that might identify or tend to identify the person making the public interest disclosure will not be released except 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 that the identifying information be disclosed to a person that the public interest disclosure may concern (having regard to the principles of natural justice), and/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.

4.26 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](#), and
- action under UTS disciplinary policies and procedures.

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

Other disclosures

4.28 Disclosures that are not public interest disclosures under the [Public Interest Disclosures Act](#) (and as described in this policy) should still be reported to UTS. These 'other disclosures' include any disclosure made by an affiliate.

4.29 In the first instance, other disclosures or concerns should generally be reported to the supervisor unless the concerns relate to the supervisor.

4.30 A person making other disclosures have a right to:

- be protected from harassment or victimisation
- have their identity kept confidential (unless this is not possible as outlined in this policy), and
- be informed of action taken or proposed to be taken in respect of the disclosure within six months of the disclosure being made.

4.31 A person making other disclosures have a responsibility to:

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

4.32 Other disclosures will be investigated as discreetly as possible. Every effort will be made to maintain confidentiality both as to the identity of the person making the disclosure and the person the subject of the disclosure. Information that might identify or tend to identify the person making the disclosure will not be released, except where deemed necessary by UTS. The disclosure should be referred to the Director, Risk for further action as outlined in [the procedures](#).

4.33 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.

4.34 People who are the subject of other 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 people 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.

Records and privacy

- 4.35 Information relating to disclosures must be managed in accordance with the [Records Management Policy](#), the [Privacy Policy](#) (particularly for personal information) and the [Data Governance Policy](#). All staff managing a public interest disclosure or other disclosure must be aware of the requirements of these policies. Further information is available at [Your privacy at UTS](#).
- 4.36 Documents relating to a public interest disclosure are exempt from disclosure under the [Government Information \(Public Access\) Act 2009 \(NSW\)](#).

Reporting requirements

- 4.37 UTS will record any public interest disclosure on a central register, together with the action taken in respect to the disclosure.
- 4.38 As a public authority, UTS is required to provide a six-monthly report to the Ombudsman under [section 6CA](#) of the Public Interest Disclosures Act. UTS must also provide the Ombudsman a copy of its Annual Report to the Minister detailing its obligations under the [Public Interest Disclosures Act](#) (as detailed in [section 31](#)).
- 4.39 Information to be included in the reports is detailed in the [Public Interest Disclosures Regulation 2011 \(NSW\)](#) and includes:
- the number of public officials who have made a public interest disclosure to UTS
 - the number of public interest disclosures received by UTS in total and the number of public interest disclosures received by UTS relating to each of the following:
 - corrupt conduct
 - maladministration
 - serious and substantial waste of public money or local government money (as appropriate)
 - government information contraventions
 - the number of public interest disclosures finalised by UTS
 - whether UTS has a public interest disclosures policy in place
 - what actions the Vice-Chancellor, in their capacity as the head of the public authority, has taken to ensure that staff awareness responsibilities under section 6E(1)(b) of the Act have been met.

Policy breaches

- 4.40 Breaches of this policy may result in:
- action under the [Code of Conduct](#) and Enterprise agreements, and/or
 - infringement of the [Public Interest Disclosures Act](#).

5. Policy ownership and support

- 5.1 **Policy owner:** The Director, Risk is responsible for policy enforcement and compliance, ensuring that its principles and statements are observed. The Director, Risk, in consultation with the public interest disclosures coordinator, is also responsible for the approval of any associated university level procedures.
- 5.2 **Policy contact:** The Head, Compliance and Assurance (Governance Support Unit) is responsible for the day-to-day implementation of this policy and acts as the primary point of contact for advice on implementing and administering the policy.
- 5.3 **Others:**

The Audit and Risk Committee of the UTS Council is responsible for monitoring the implementation of this policy and assisting in its review.

The Vice Chancellor (as the principal officer under the [Public Interest Disclosures Act](#)) may receive public interest disclosures from staff and contractors and reports from the public interest disclosures coordinator. Refer also [Fraud and Corruption Prevention and Public Interest Disclosures Procedures](#) (the procedures).

Public interest disclosures officers (as listed in [Schedule 1 of the procedures](#)) are responsible for receiving, forwarding and/or acting on disclosures in accordance with this policy and the procedures.

The University Secretary (as UTS's public interest disclosures coordinator under the [Public Interest Disclosures Act](#)) is responsible for providing an alternative internal reporting channel to nominated public interest disclosures officers and to the Vice-Chancellor. The University Secretary is also responsible for the assessment and investigation of the disclosure.

Supervisors are required 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 (including contractors in line with this policy) 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.

6. Definitions

The following definitions apply for this policy and its procedures.

Affiliate is defined in the [Code of Conduct](#).

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. 'Examples of corrupt conduct (including fraud) include (but are not limited to):

- the misuse of grants
- falsification of exam and assessment results
- falsification of degree certificates or qualifications
- cheating
- theft of intellectual property
- falsification of research results
- manipulation, misappropriation and/or misuse of leave entitlements
- accepting money or benefits for favours
- plagiarism
- theft or leakage of exam papers
- misuse of travel allowances
- theft of equipment
- misuse of UTS assets and resources
- misuse of credit cards
- favouritism in procurement and contracting, and
- misleading or inappropriate behaviour associated with outside employment’.

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 \(NSW\)](#). An example of this could include destroying, concealing or altering official UTS records to prevent them from being released.

Internal control system means systems of control, financial and otherwise (including policies, procedures, delegations and associated processes or systems), established in order to provide reasonable assurance of:

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

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 people responsible for receiving, forwarding and/or acting on disclosures in accordance with this policy and the procedures. A

list of nominated public interest disclosures officers is contained in [Schedule 1 of the procedures](#).

Personal information is defined in the [Privacy Policy](#).

Public interest disclosures coordinator means the person responsible for managing the system for reporting public interest disclosures at UTS (refer [procedures](#)).

Serious and substantial waste is the uneconomical, inefficient or ineffective use of UTS resources, authorised or unauthorised, which results in significant loss or waste of money or resources. Serious and substantial waste may take many forms including:

- the purchase of unnecessary or inadequate goods and services
- misappropriation or misuse of UTS property, and
- serious inefficiency or ineffectiveness leading to non-achievement of program objectives or budget overruns.

Staff is defined in the [Code of Conduct](#).

Supervisors include, but are not limited to, deans, executive directors, directors, heads of school, all managers and other people who supervise staff.

Approval information

Policy contact	Director, Risk
Approval authority	Council
Review date	2022
File number	UR09/417
Superseded documents	Policy on Reporting Corrupt Conduct, Maladministration and Serious and Substantial Waste within UTS, 2005

Version history

Version	Approved by	Approval date	Effective date	Sections modified
2.0	Council (COU/11-03/26)	13/04/2011	13/04/2011	Extended policy to protected disclosures regarding government information contraventions.
3.0	Council (COU/11-04/48)	15/06/2011	15/06/2011	Amended to reflect changes required due to amendments to the Public Interest Disclosures Act 1994 (NSW)
4.0	Vice-Chancellor (COU/08-3/51)	30/03/2012	30/03/2012	Amended to reflect further changes required due to amendments to the Public

				Interest Disclosures Act 1994 (NSW).
4.1	Council (COU/13-7/122)	06/12/2013	06/12/2013	A minor amendment to the review schedule, from annually, to every three years.
4.2	Director, Governance Support Unit (GSU) (Delegation 3.17 (now 3.14.1))	11/12/2014	11/08/2016	Changes to implement 2014 Senior Executive restructure.
	Director, Governance Support Unit (GSU) (Delegation 3.17 (now 3.14.1))	27/05/2016		Changes to update references to the role of Registrar (part of the 2014 restructure).
4.3	Council (COU/22-1/14)	16/02/2022	22/02/2022	Changes and updates to reflect new ownership under portfolio realignment under Fit for 2027 project. Template update.

References

[Australian Code for the Responsible Conduct of Research](#)

[Children and Young Persons \(Care and Protection\) Act 1998 \(NSW\)](#)

[Code of Conduct](#)

[Enterprise agreements](#)

[Fraud and Corruption Prevention and Public Interest Disclosures Procedures](#)

[Government Information \(Public Access\) Act 2009 \(NSW\)](#)

[Independent Commission Against Corruption Act 1988 \(NSW\)](#)

[NSW Ombudsman: Public interest disclosures](#)

[Privacy Policy](#)

[Public Interest Disclosures Act 1994 \(NSW\)](#)

[Public Interest Disclosures Regulation 2011 \(NSW\)](#)

[Records Management Policy](#)

[Research Policy](#)

[UTS 2027 strategy](#)

Acknowledgements

[Independent Commission Against Corruption](#)

[NSW Ombudsman](#)