

**THE UNIVERSITY OF WINNIPEG  
PROTECTED DISCLOSURE POLICY**

**NUMBER 2010.03**

**SUBJECT: Protected Disclosure Policy - Manitoba Public Interest Disclosure Act**

**EFFECTIVE DATE: October 1, 2012**

**RESPONSIBILITY: Vice-President (Human Resources, Audit & Sustainability)**

**1.0 Purpose**

To comply with the Manitoba Public Interest Disclosure Act (the Act), by adopting principles pertaining to the protection of any member of the University community, who acts to expose any “wrongdoing” at the University, as defined by the Act, in the spirit of the legislation, and to direct the University’s Director of Audit Services, who shall be the Designated Officer of the University for the purpose of the Act and this Policy, in developing required practices and procedures to ensure adherence with those principles. (see Appendix “A”).

**2.0 Scope**

This Policy applies to all employees of the University.

**3.0 Principles**

- 3.1** To establish processes to facilitate the disclosure and investigation of significant and serious matters in or relating to the University that are potentially unlawful, dangerous to any person, or injurious to the interests of the University.
- 3.2** To protect persons who make such disclosures in good faith from reprisals, within the meaning of the Act, and to protect the rights of persons against whom allegations are made.
- 3.3** The processes must include procedures for receiving and reviewing disclosures, including setting time periods for actions; for investigating disclosures, in accordance with the rules of natural justice and procedural fairness.
- 3.4** Confidentiality of information collected in relation to disclosures and investigations shall be respected, in particular the identity of persons involved in the disclosure process.
- 3.5** Information about the Act, this Policy and the disclosure procedures shall be widely communicated to the University community (a copy of the Act shall be appended to this Statement of Policy).
- 3.6** The University’s Director of Audit Services shall provide advice to any person considering making a disclosure of alleged wrongdoing, and may require a request for advice to be in writing.
- 3.7** The University’s Director of Audit Services shall prepare an annual report in accordance with the Manitoba Public Disclosures Act, including the number of disclosures received, the number acted on and not acted on, the number of investigations commenced as a result of a disclosure, and the outcomes of investigations, to the President & Vice-Chancellor of the University and the University’s Audit Committee.

**4.0 Review**

The University’s Director of Audit Services shall review this at least once every five (5) years, or consequent on amendment(s) to the Act, if earlier.

## Appendix “A”

### PROCEDURES Protected Disclosure

#### 1.0 Authority

The University Administration has issued a Policy, directing the University’s Director of Audit Services to develop and administer the following procedures, with respect to the Manitoba Public Disclosure Act (the Act):

#### 2.0 Overview

- 2.1 The University of Winnipeg is committed to full compliance with the Act. Because of their involvement in the University's day-to-day operations, employees are often in the best position to observe and report “wrongdoing”, as defined by the Act.
- 2.2 Wrongdoing, within the meaning of the Act, does not include policy decisions, business decisions, or administrative actions, about which reasonable people may disagree, and these procedures are not intended to be used to object to or challenge such decisions or actions.
- 2.3 Wrongdoing is not a disagreement with legitimate decisions or orders, and is not about criticizing lawful University policy decisions.
- 2.4 These procedures are not intended to replace policies and procedures already in place to address issues other than “wrongdoing”, or to replace or modify individual rights guaranteed by law, contract or codes of professional ethics.
- 2.5 All employees are encouraged to use the normal reporting relationships, or other available avenues of communication regarding concerns other than violations of the Act, such as speaking to managers, union representatives, human resources specialists, or Audit Services. Employees can expect that such disclosures will be treated with due confidentiality and employee protection.
- 2.6 These procedures do not apply to matters relating to employee performance or discipline related to performance, which are covered by collective agreements or performance management practices.

#### 3.0 Definitions

- 3.1 *Disclosing Employee* – means any person covered by the scope of this Policy, who has information that they reasonably believe could show that a wrongdoing has been committed or is about to be committed, as defined in these procedures.
- 3.2 *Disclosure* - means a disclosure made in good faith, in accordance with these procedures, of alleged wrongdoing that has been committed or is about to be committed.

**3.3 Gross Mismanagement** - means a deliberate act or an omission showing a reckless or willful disregard for the efficient management of significant University resources.

**3.4 Reprisal** - means retaliatory actions or measures that could be taken against a Disclosing Employee reporting a wrongdoing, including but not limited to:

- (a) a disciplinary measure;
- (b) dismissal;
- (c) demotion or withholding of due promotion or opportunity;
- (d) suspension;
- (e) threat of any of the above reprisals;
- (f) intimidation, coercion or threats;
- (g) imposition of any monetary penalty;
- (h) adverse working or learning conditions.

**3.5 Wrongdoing** - means

- (a) an act or omission constituting an offence under an Act of the Manitoba Legislature or the Parliament of Canada, or a regulation made under an Act, such as fraud;
- (b) an act or omission that creates a substantial and specific danger to the life, health or safety of persons, or to the environment, other than a danger that is inherent in the performance of the duties or functions of an employee;
- (c) gross mismanagement, including of University funds or a University asset;
- (d) knowingly directing or counselling a person to commit a wrongdoing described in clauses (a) to (c).

## **4.0 Disclosure**

**4.1** A Disclosing Employee may make a disclosure to the University's Director of Audit Services, or to that employee's supervisor, or to the Manitoba Ombudsman, in accordance with the Act.

**4.2** The disclosure shall normally be made within thirty (30) working days of the Disclosing Employee coming into possession of the information on which the disclosure is based, to ensure timely attention to the matter.

**4.3** The University's Director of Audit Services is available to provide advice to any person who is considering making a disclosure under these procedures.

**4.4** A disclosure must be made in writing and must include the following information, if known:

- (a) a description of the alleged wrongdoing;
- (b) the name of the person or persons alleged to
  - (i) have committed the alleged wrongdoing, or
  - (ii) be about to commit the alleged wrongdoing;
- (c) the date(s) of the alleged wrongdoing;
- (d) if the alleged wrongdoing has already been disclosed, provide details about who it was disclosed to, when it was disclosed and whether a response was received;

- (e) the name and contact information of the Disclosing Employee
- (f) an explanation of any potential risk(s) to the University arising from the alleged wrongdoing;
- (g) any known witnesses to the alleged wrongdoing;
- (h) any other information that would assist in the investigation of the disclosure.

**4.5** Where a disclosure is made that:

- (a) relates to the conduct of a Senior Executive of the University, the Director of Audit Services shall report the disclosure directly to the Chair of the Audit Committee of the University's Board of Regents as soon as is reasonable in the circumstances;
- (b) does not relate to the conduct of a Senior Executive of the University, the Director of Audit Services shall report the disclosure directly to the Vice President Human Resources, Audit and Sustainability as soon as is reasonable in the circumstances.

**4.6** Notwithstanding 4.5, where a disclosure is made which:

- (a) because of the nature of the wrongdoing or because of the persons involved in the disclosure, it would be inappropriate for the Director of Audit Services to deal with, they may refer the disclosure to the Ombudsman and shall simultaneously notify the Disclosing Employee and the Chair of the Audit Committee, or
- (b) is in respect of alleged wrongdoing in or relating to another part of the public service (as that term is defined in the Act), the Director of Audit Services may refer the disclosure to the designated officer for that part of the public service so implicated by the disclosure .

## **5.0 Protection**

**5.1** Any employee who experiences or believes that they have experienced a reprisal as a result of seeking advice about a disclosure, making a disclosure or cooperating with an investigation pursuant to this policy and these procedures, should document the details and immediately inform the Director of Audit Services, who will ensure that the allegation of reprisal is investigated, and if justified, that the appropriate corrective steps are taken. Any person engaging in acts of reprisal shall be subject to disciplinary action.

## **6.0 Withdrawal of a Disclosure**

**6.1** If, after making a disclosure, the Disclosing Employee wishes to withdraw the disclosure, the Disclosing Employee must provide a written request for withdrawal to the person to whom the disclosure was made.

**6.2** In the event that a disclosure is withdrawn, the Director of Audit Services shall determine whether any action regarding the disclosure will be taken. Such action will be independent of these procedures, and will be determined on a case-by-case basis, taking into account all of the relevant circumstances.

## **7.0 Investigation**

- 7.1** Except where the Director of Audit Services has referred the disclosure as provided for in 4.6, all disclosures made under this policy and these procedures will be investigated in accordance with this policy and the related procedures. The University's Director of Audit Services shall conduct a preliminary review of the disclosure, and determine if on reasonable and probable grounds an investigation is warranted. The Director of Audit Services shall conduct an investigation of those disclosures when it is determined to be warranted.
- 7.2** Disclosures made to a Disclosing Employee's supervisor shall be forwarded by the supervisor as soon as is reasonable in the circumstances, and normally within ten (10) working days, to the Director of Audit Services who will determine whether an investigation is warranted, and, if necessary, will conduct the investigation.
- 7.3** The Director of Audit Services shall respond to a Disclosing Employee within ten (10) working days of receiving a disclosure directly from a Disclosing Employee, or indirectly from a Disclosing Employee's supervisor, to acknowledge the disclosure and explain the investigation process.
- 7.4** Disclosures which are determined by the Director of Audit Services to be outside the scope of this Policy and these procedures will be resolved by reference to other University policies or procedures (e.g., Respectful Working and Learning Environment).
- 7.5** In determining whether an investigation is warranted or at any point during an investigation the Director of Audit Services may decline to investigate or to continue to investigate on following grounds:
- (a) the Disclosing Employee has failed to exhaust other reasonable avenues to appropriately deal with the issue.
  - (b) the alleged wrongdoing is not covered by the Act.
  - (c) there is insufficient information to undertake an investigation.
  - (d) there has been undue delay in making a disclosure;
  - (e) the disclosure is frivolous or vexatious, has not been made in good faith or does not deal with a sufficiently serious subject matter;
  - (f) other valid reason.
- 7.6** When an investigation is warranted, it shall be conducted as follows:
- (a) the investigation will be conducted expeditiously and confidentially;
  - (b) all persons involved in the investigation will be treated fairly and impartially;
  - (c) all persons affected by the allegations will be informed of the facts alleged and given a full opportunity to respond;
  - (d) a summary of the findings of the investigation will be conveyed to all persons affected;
  - (e) if a wrongdoing is confirmed, the appropriate remedial actions or disciplinary measures shall be recommended;
- 7.7** No person shall willfully obstruct an investigation under this Policy and these procedures. No person shall, knowing that information, a document or thing is likely to be relevant to an investigation,
- (a) destroy, mutilate or alter the document or thing;

- (b) falsify the document or make a false document;
- (c) knowingly make a false or misleading statement;
- (d) conceal or withhold information, a document or thing; or
- (e) direct, counsel or cause, in any manner, a person to do anything mentioned in the above clauses.

**7.8** If an alleged wrongdoing appears to involve criminal behaviour, the appropriate authorities will be notified (e.g., the RCMP or the Winnipeg Police Service) and they will coordinate and conduct criminal investigations as they judge appropriate.

**7.9** All persons affected by the disclosure will be provided in writing with the outcome of the investigation or the reason(s) why an investigation was not undertaken by the Director of Audit Services.

**7.10** In the circumstance where either the disclosing employee or the person who is alleged to have committed the wrongdoing involves both the University and any affiliated or associated entity, communication and coordination will take place between representatives from the University's Audit Committee and the Directors of the affiliated or associated entity on how to proceed with any investigation if deemed necessary.

## **8.0 Bad Faith Disclosures**

Any person found to have made a disclosure in bad faith or in breach of this Policy and/or these procedures shall be subject to disciplinary action.

## **9.0 Communication**

This Policy and accompanying procedures shall be posted on the University's website, through the Office of the Corporate Secretary and General Counsel.