

**REPUBLIC OF RWANDA**



**HIGHER EDUCATION COUNCIL  
P.O.BOX 6311 KIGALI**

**PUBLIC INTEREST AND DISCLOSURE POLICY (WHISTLE  
BLOWING) AND PROCEDURES**

**October 2007**

## **Public Interest and Disclosure Policy and Procedures**

### **1. Introduction**

It is an implied term of every contract of employment that staff will serve the Institution with good faith and fidelity. Usually that means that staff members should not disclose information acquired during the course of employment or act in a manner that will undermine the mutual trust and confidence on which the employment relationship is based. However, the Institution has a duty to conduct its affairs in a responsible and transparent way and to meet high standards of corporate governance. This policy is designed to protect staff that raise legitimate concerns about things going wrong, for example, in relation to financial malpractice or departure from the requirements of good governance from victimisation. The Institution is also committed to ensuring that as an institution of higher education staff are permitted to speak freely provided they do so lawfully, without malice and in the public interest.

### **2. Scope of the Policy**

This policy covers disclosure by a member of the Institution community of confidential information, which relates to some actual or likely danger, fraud or other illegal or unethical conduct connected with the Institution. For the person making the disclosure to be protected under this policy:

- The disclosure must be made in good faith;
- The person making the disclosure must not commit a criminal offence by doing so;
- It must not involve the disclosure of information in respect of which a claim to legal professional privilege, would apply.

The disclosure must relate to showing one or more of the following:

- That a criminal offence has been committed, is being committed or is likely to be committed;
- That a person has failed, is failing or is likely to fail to comply with any legal obligation to which he is /she is subject;
- That a miscarriage of justice has occurred, is occurring or is likely to occur;
- That the health and safety of any individual has been, is being or is likely to be damaged;

- That the environment has been, is being or is likely to be damaged;
- That any information tending to show any matters falling within any one of the preceding points has been, is being or is likely to be deliberately concealed.

Allegations of injustices or discrimination against individuals and grievance's concerning an individual's conditions of service, or other aspects of their employment should be dealt with through the Institution's *Complaints and Grievances Procedures*

### **3. Purpose of the Policy**

The purpose of the policy is to encourage members of the Institution's community to raise, internally, such concerns as are set out in section 2 above, and ensure the fair treatment of all parties in the event of such action being taken. If such concerns are raised in good faith, and in line with this policy, the person making the allegations will not be subject to any detriment by the Institution, including victimisation and disciplinary action. The Institution will properly examine any concern raised and any appropriate corrective action will be pursued. Any one victimising a member of the institution's community or deterring them from raising legitimate concerns under this policy will be subject to the Institution's *Disciplinary Procedures*.

### **4. Confidentiality**

Any person making an allegation under clause 2 above will be guaranteed that the allegation will be regarded as confidential until a formal investigation is launched. Thereafter the identity of the person making the allegation may be kept confidential, if requested, unless this is incompatible with a fair investigation, or if there is an overriding reason for disclosure (for example, if police involvement is required).

### **5. The Public Interest Disclosure Procedure**

5.1 Allegations/concerns, which fall under the terms of section 2 above, should normally be made to the Vice Rector Administration and Finance who will investigate the allegation. Where the allegation concerns the behaviour of a senior member of staff (Rector or Vice Rector) or a member of the Board of Directors, or the propriety of the decision of a committee or other collective decision, the allegations should be made to the Rector or the Chair of the Board of Directors as the person raising the concerns deems appropriate. If, for any reason

these individuals are not deemed appropriate the allegation should be made to the Director General of the Higher Education Council.

- 5.2 The person to whom the allegation is made will make a record of its receipt and of what subsequent action was taken.
- 5.3 The person to whom the complaint is made will appoint an Investigating Team to determine if there is a prima facie case to be answered. The investigating team will normally be chaired by a Vice Rector assisted by one other appropriate member of staff.
- 5.4 If the matter to be investigated, is thought, potentially to involve gross misconduct the person who is the subject of the allegation/concern may, with the approval of the Rector be immediately suspended from work on full pay or from study, while the investigation procedures. Similarly, if during the course of the investigation the Investigating Team is of the view that a serious breach of discipline may have occurred, they may seek the approval of the Rector to suspend the person concerned. Any decision to suspend must be in accordance with the Institution's *Disciplinary Procedures*
- 5.5 Where an allegation/complaint is made the person/persons against whom it is made must be told of the allegation/complaint, the evidence supporting it, and be allowed to comment before the preliminary investigation is completed.
- 5.6 The Investigation Team shall commence by conducting a detailed interview with the person making the allegation/ complaint. The team will then collect further evidence and read copies of any appropriate documentation.
- 5.7 Person to be interviewed by the Investigating Team have the right to be accompanied by a friend who is not acting in a professional capacity.
- 5.8 On completion of the preliminary investigation the Investigating Team make a written report and submitted it to the person who appointed the team.
- 5.9 If the Investigating Team conclude that there is no case to answer the person receiving the report will explain the reason for the finding to the person making the allegation/complaint and the person against whom the allegation/complaint was made.
- 5.10 If the Investigating Team concludes that a prima facie case exists, the person receiving the report shall determine the nature and scope of any further action. This may involve the application of relevant internal procedures (e.g. the *Disciplinary Procedures*) and/or the Police. The Rector or other person receiving

the complaint should consult the Chair of the Board of Directors before involving the police.

- 5.11 The outcome of any investigation should be reported, at the next appropriate opportunity to the Board of Directors under confidential reserved business (i.e. without students present). The name(s) of any staff where the investigating team found there was no case to answer or where the member(s) of staff concerned have given notice that they intend to appeal against the recommendations or where the matter has been reported to the police should not be revealed and the report should be made in such a way as to conceal their identity. If the nature of the allegation(s) are such that it is likely that the person(s) will be identified in any report made then the Board should be informed of this and the report should remain confidential to the Chair. The Rector's annual report to the Board of Directors should include statistical data on the number of investigations conducted under this policy during the year and the outcomes.
- 5.12 If the person making the complaint /allegations remains dissatisfied with the outcome of the internal procedure, or the nature of the allegation/complaint makes it impossible for the matter to be raised internally s/he is entitled to raise the issue with the Higher Education Council.
- 5.13 Those who misuse or otherwise abuse this policy, in the opinion of the Investigating Team and the senior person, to whom the allegation/complaint was made, shall be subject to the appropriate Institution *Disciplinary Procedure*. For example, such action may be taken where the following circumstances become evident:
- The person concerned did not make the disclosure in good faith;
  - S/he did not reasonably believe that the allegation/complaint was substantially true;
  - S/he is acting for personal gain; and/or
  - S/he has bypassed , unreasonably the Institution's internal procedures;
  - S/he has failed to maintain confidentiality during the course of the internal procedures.
- 5.14 Copies of all completed investigatory reports under the terms of this procedure will be tabled as confidential business for the Institution's Board of Directors.