



Principal's Ad Hoc Committee to Draft a Safe Disclosure Policy

Report to Senate – November 25, 2010

Introduction

A Principal's Ad Hoc Committee was established to draft a Safe Disclosure Policy for Queen's University. The following sequence of events lead to the creation of the Ad Hoc Committee:

1. In November 2008, Senator J. Welsh, SGPS President, submitted for the Senate Agenda, a Motion to establish a committee to draft a policy on the protection of Whistleblowers;
2. The Senate Agenda Committee deemed that such a policy was broader than the function of the Senate and perhaps could be better dealt with through another mechanism. The Motion was referred to the Senate Operations Review Committee (SORC) for its recommendation;
3. In February 2009, Senate approved SORC's recommendation that the Principal should establish an Ad Hoc Committee is draft a "Safe Disclosure Policy".

The Ad Hoc Committee met seven times between June 2009 and February 2010. Guests and resource persons were invited to attend the meetings as required.

Analysis and Discussion

The following highlights should be noted:

- Because "Safe Disclosure" encompasses a wide range of situations and scenario, the Ad Hoc committee strived to achieve a balanced document that includes both policy and procedures;
- The new Policy encompasses the University as a whole and will complement and supplement existing policies. It is not intended to replace policies/agreements already in effect (for example: academic integrity, harassment/discrimination, collective agreements, etc.);
- The scope of the Policy addresses reports of Improper Act(s) by any member of the University community;

- The Policy aims to achieve fairness for all parties involved and is consistent with other University policies;
- The Policy is not intended to be used as a second avenue for “Disclosers” who first access another University process/procedure but are dissatisfied with the outcome.

C o n c l u s i o n s / R e c o m m e n d a t i o n

Recommendation:

that Senate approve the “Queen’s University Policy and Procedures for Safe Disclosure Reporting and Investigation” and forward it to the Board of Trustees for ratification.

Respectfully submitted,



Bob Silverman
Provost and Vice-Principal (Academic)

Committee Members June 2009 – February 2010:

- B. Bryck, Vice-Principal Operations and Finance (Acting)
- I. Bujara, Director, Human Rights Office
- S. Crawley, Department of Biochemistry
- S. Forsberg, President, QUSA
- K. Hart, Audit Manager
- A. Manson, Faculty of Law
- S. Marlin, Associate Vice-Principal (Research)
- P. McNeill, Human Resources
- L. Monkman, Principal’s Delegate (Chair)
- B. Silverman, Director of Special Projects, Office of the Vice-Principal (Academic)
- A. Stevens, SGPS Delegate and Senator
- A. Zabrodski, AMS Vice-President (University Affairs)
- P. Watkin (Secretary)

Committee Observers June 2009 – February 2010:

- D. Kelly, Legal Counsel
- H. Smith, Coordinator of Dispute Resolution Mechanisms

Queen's University Policy and Procedures for Safe Disclosure Reporting and Investigation

1. Rationale

Queen's University seeks to promote a culture of honesty, transparency, and accountability, maintaining high ethical standards in all of its activities. The University recognizes that the good-faith reporting of alleged Improper Acts is a necessary and valuable service to the University and all of its members and must not be cause for Reprisals.

The purpose of this policy is:

- a. To protect members of the Queen's community who make good-faith disclosures of alleged Improper Acts
- b. To provide an effective procedure for making such disclosures except where existing University policies or collective agreements govern the issue
- c. To prescribe procedures for the reporting, investigation, and response to such disclosures, using existing mechanisms wherever possible.

2. Definitions

“Discloser” refers to anyone who reports an alleged Improper Act as defined within this policy.

“Improper Act” includes but is not limited to:

- a. The contravention of University policies or regulations
- b. The contravention of standards and values identified in University policies or regulations
- c. The contravention of relevant local, provincial or federal laws,
- d. Theft, embezzlement, misappropriation, misapplication, destruction, damage, removal, concealment or misuse of University property, assets, resources or funds, including funds administered by the University
- e. Creating a danger to the life, health or safety of persons or to the environment
- f. Interference through direct or indirect action or use of authority to obstruct a person's right to make a report of an alleged Improper Act
- g. Reprisals for reporting an alleged Improper Act

Note: Acts of both commission and omission are included in the term “Improper Act.”

“Innocent Violation” refers to an Improper Act committed by a Respondent who did not know and who could not reasonably have known of its impropriety, except where the law explicitly provides otherwise.

“Investigator” refers to a person or persons assigned by a Responsible Officer to conduct an investigation under this policy.

“Member(s) of the University Community,” refers to full-time, part-time, and exchange students including those attending Queen’s Bader International Study Centre and Queen’s School of English; full-time, part-time, casual, contract and temporary staff; grant-paid employees as well as those who work to gain experience or for benefits, such as volunteers, co-op students, interns and apprentices; librarians, archivists and faculty members; visiting fellows, research and post-doctoral fellows; and members of the Board of Trustees and its committees.

A former Member of the University Community may report an alleged Improper Act that occurred while he or she still was a Member of the University Community.

“Reprisal” refers to any action arising from this policy taken by the University or a Member of the University Community against a Member of the University Community that adversely affects the status or well-being of the latter.

“Respondent” refers to the subject of a report of an alleged Improper Act under this policy.

“Responsible Officer” refers to the appropriate Dean, Provost, Vice-Principal, or Associate Vice-Principal. In the event that an alleged Improper Act involves the Responsible Officer, the report will be directed to the person to whom the Responsible Officer reports.

“Safe Disclosure Officer” refers to the employee in the University Secretariat designated by the University Secretary to receive reports of alleged Improper Acts.

3. Scope

Those responsible for the administration and management of academic, administrative or service units have an existing duty to address Improper Acts in accordance with good management practices and existing policies, guidelines and procedures.

The procedure set out in this policy is in addition to, but does not replace or modify either the responsibility of administrators and managers or existing University policies; nor does it limit or amend the provisions of collective agreements entered into by the University and its employee groups.

4. Confidentiality

To the extent possible and within the limitations of the law and of this policy and of the need to conduct a competent investigation, reports of an alleged Improper Act and consequent related actions shall be kept confidential, including but not limited to the protection of the identity of the Discloser and/or Respondent. To the extent possible, and within the limitations of the law and this policy, the Discloser shall also hold the matter as strictly confidential throughout the investigation and until the completion of the process outlined under this policy.

If an alleged Improper Act appears to involve criminal behaviour, the appropriate authorities will be notified immediately.

5. Procedure for Reporting and Investigating a Report of an Alleged Improper Act

Stage 1

A Discloser should contact the Safe Disclosure Officer in the University Secretariat to make a confidential report of an alleged Improper Act.

The Safe Disclosure Officer shall review the following with the Discloser:

- a. These procedures;
- b. Other existing procedures, if applicable, for dealing with this matter;
- c. Confidentiality protections and required exceptions relating to the safety and/or security of the University Community;
- d. The commitment of the University to protect the Discloser from reprisal to the extent possible.

Anonymous reports will be accepted, but a Discloser's decision to remain anonymous or to request that his or her name not be disclosed by the Safe Disclosure Officer may influence the subsequent investigation of the alleged Improper Act.

Stage 2

The Safe Disclosure Officer shall compile a written report which shall include:

- a. The date and time the disclosure was received;
- b. Name and contact information of the Discloser (unless the Discloser is anonymous or has requested that his or her name not be disclosed by the Safe Disclosure Officer);
- c. Name(s) of the person(s) involved in the alleged Improper Act (the "Respondent"); and
- d. Full details of the alleged Improper Act, including a description and dates if known; and
- e. Any other available information relevant to an assessment of the report.

The Safe Disclosure Officer shall submit the written report to the appropriate Responsible Officer within ten (10) days of the receipt of the disclosure of an alleged Improper Act.

Stage 3

The Responsible Officer shall decide on a course of action regarding the report within fifteen (15) days of receipt. If the Responsible Officer finds that the report has insufficient details to support a decision, the Responsible Officer may meet with the Safe Disclosure Officer to determine if further details are available from the Discloser within this time frame in order to seek clarification or to obtain further information. The Responsible Officer will:

- a. Determine whether any interim measures should be initiated to protect Members of the University Community or the public, or to protect or secure funds or property that belong to the University or for which the University is directly or indirectly responsible. The initiation of such measures shall be without prejudice to the rights of the Respondent;

- b. Ascertain whether a relevant University policy or collective agreement governs the issue, then that process shall be used to deal with the allegation of the Improper Act;
- c. Determine whether an Investigator should be appointed to proceed with an initial investigation of the report of an alleged Improper Act. The Responsible Officer shall take into account the following : the credibility of the report including any available corroborating evidence, the likelihood of confirming the report from alternative credible sources, the apparent seriousness of the issue(s) raised and the vulnerability to Reprisal of the Discloser, whether anonymous or named.

The Responsible Officer shall inform the Safe Disclosure Officer of the determined course of action, in writing, within fifteen (15) days of receipt of the written report from the Safe Disclosure Officer. The Safe Disclosure Officer shall inform the Discloser (unless anonymous).

Stage 4

If an initial investigation is to be conducted, the Responsible Officer, within twenty (20) days of receiving the written report from the Safe Disclosure Officer, shall appoint an Investigator who has no conflicting interests with the Respondent or the Discloser.

The Investigator shall, within fifteen (15) days of being appointed, review the report submitted by the Safe Disclosure Officer and advise the Respondent in writing of the nature and substance of the report, the scope of the investigation and the need to retain all materials possibly relevant to the allegation of an Improper Act until further notice.

The Respondent shall be invited to respond by meeting with the Investigator or by making a written submission or both within twenty (20) days of the date of notification by the Investigator. The Respondent may contact the Responsible Officer if the Respondent believes that the Investigator may have a conflict of interest. The Respondent may seek advice from the Investigator regarding information to be submitted and issues to be addressed which may expedite or simplify the investigation or render further investigation unnecessary. The Investigator may consult with the University Legal Counsel throughout this process.

Based on the information and response provided by the Respondent, the Investigator will make a written recommendation to the Responsible Officer within forty (40) days of being appointed that either:

- a. There is insufficient evidence of an Improper Act to warrant proceeding with further investigation;
- b. There is sufficient evidence of an Improper Act to indicate that further investigation is necessary.

The Responsible Officer shall decide and inform the Safe Disclosure Officer, the Investigator and the Respondent in writing within seven (7) days of receipt of the Investigator's recommendation on whether further investigation is warranted. If it is decided that no further investigation is necessary, the Safe Disclosure Officer shall, without compromising the privacy of the Respondent, meet with and advise the Discloser (unless anonymous) that the investigation has been concluded and inform the Discloser (unless anonymous) of any proposed changes to University policies or practices which may result from the investigation. If it is determined that

no further investigation is necessary, all documents related to the investigation shall be destroyed.

Stage 5

If the Responsible Officer determines that the Investigator should be asked to investigate further:

- a. The Investigator shall identify and obtain any additional records needed in order to pursue further investigation. The Respondent shall be given access to all materials received from the Discloser and otherwise concerning the report. The Investigator shall ensure that a record is made of all documentation collected and reviewed.
- b. The Investigator shall interview the Discloser (if the Discloser neither is anonymous nor has requested that his or her name not be disclosed by the Safe Disclosure Officer) and the Respondent. The Respondent and the Discloser may be accompanied by an advisor of their choosing. The name and position of an advisor shall be provided to the Investigator at least three (3) days prior to any meeting. If the advisor is legal counsel, five (5) days notice shall be provided.
- c. The Investigator may interview individuals suggested by the Discloser or Respondent or Responsible Officer who may shed light on the nature and substance of the report of an alleged Improper Act.
- d. The Investigator shall prepare a written report on the investigation, based on a. b. and c. above, within twenty (20) days the Responsible Officer having requested further investigation, which shall be forwarded to the Respondent. The Respondent shall have the opportunity within ten (10) days to respond to the information in the report either orally or in writing. After receiving this response, the Investigator may pursue further investigation.
- e. The Investigator shall prepare a final written report of the investigation and submit it to the Responsible Officer within forty (40) days of the Responsible Officer having requested that the Investigator pursue further investigation. The report will list the documents reviewed, summarize the content of interviews conducted, and include key considerations and a finding with regard to whether an Improper Act has been committed by the Respondent.
- f. The Responsible Officer will provide the Respondent and the Safe Disclosure Officer with a copy of the final report within ten (10) days of receipt of the final report.
- g. Any disciplinary and/or remedial action shall be determined by the Responsible Officer.
- h. The Responsible Officer will advise the Discloser (unless anonymous or through the Safe Disclosure Officer if the Discloser is not anonymous but has requested that his or her name not be disclosed by the Safe Disclosure Officer) that the investigation has been concluded and inform the Discloser of any proposed changes to University policies and practices which may result from the investigation.

- i. If any of the timelines defined above cannot be met, the Responsible Officer must be informed and approve a revised timeline.
- j. Records concerning reports and investigation of alleged Improper Acts shall be kept by the University Secretariat.

6. Protection from Reprisal

All reasonable steps consistent with the law and the rights of the Respondent shall be taken by the Safe Disclosure Officer, the Responsible Officer, the Investigator, or other officer or body charged with investigation of a good-faith report of an alleged Improper Act to protect the position, reputation, privacy and confidentiality of a Discloser who has made a report of an alleged Improper Act. Any breaches of confidentiality shall be reported to the Responsible Officer who will in turn inform the Discloser (if not anonymous) through the Safe Disclosure Officer if confidentiality can no longer be maintained.

No person shall take any Reprisal against a Discloser who reports an alleged Improper Act. Acts of Reprisal will be subject to disciplinary action. The disciplinary authority of the University extends, however, only to members of the University Community.

The filing of a report of an alleged Improper Act shall not constitute harassment within the terms of the Queen's Harassment/Discrimination Complaint Policy and Procedures.

Any Discloser who believes that he or she has experienced a Reprisal as a result of making a disclosure of an alleged Improper Act pursuant to this policy and these procedures should document the details and immediately inform the Responsible Officer. The Responsible Officer shall ensure that the allegation of Reprisal is investigated and, if justified, that the appropriate corrective steps are taken.

7. Protection of Innocent Respondents

All reasonable steps shall be taken by the University to protect the position, reputation, privacy and confidentiality of an innocent Respondent or a Respondent who commits an Innocent Violation.

An innocent Respondent or a Respondent who commits an Innocent Violation shall not be subject to Reprisal or discipline. An innocent Respondent or a respondent who commits an Innocent Violation who believes that he or she has been the subject of Reprisal by the University or a Member of the University Community whether or not acting on the University's behalf may exercise the recourse available under relevant University regulations, policies, or collective agreements.

8. Reports

Records relating to reports of an alleged Improper Act and investigations which have been conducted under this policy shall be kept by the University Secretariat. As appropriate, the Safe Disclosure Officer shall provide the Provost with an oral summary report of any disclosures of

alleged Improper Acts. At the end of each academic year, the Safe Disclosure Officer shall provide the Provost, the Senate and the Board of Trustees with an annual written report of:

- a. The number of reports made by Disclosers
- b. The number of reports investigated under this policy;
- c. The findings of investigations conducted pursuant to a report
- d. Any action taken pursuant to an investigation

This report shall respect the privacy of Disclosers and Respondents. The Report and all material collected during the investigation shall be held in the office of the Safe Discloser Officer and destroyed after a period of five years.

9. Related Policies

[Employment Agreements](#)

- [CUPE local 1302 collective agreement](#) (to June 30, 2010)
- [CUPE local 229 collective agreement](#) (to June 30, 2010)
- [CUPE local 254 collective agreement](#) (to June 30, 2010)
- [QUFA collective agreement](#) (to April 30, 2011)
- [QUSA Memorandum of Agreement](#) (expired) and [Memorandum of Understanding](#)

Related Senate and Board of Trustees Policies and Procedures (i.e. those that include report of wrongdoing, grievance or complaint procedures)

[Academic Integrity Procedures – Requirements of Faculties & Schools](#)

[Code of Conduct](#)

[Computer User Code of Ethics](#)

[Freedom of Information and Protection of Privacy Act](#)

[Harassment/Discrimination Complaint Policy and Procedure](#)

[Information Systems Security Policy](#)

[Integrity in Research](#)

[Investing, Statement on Responsible](#)

[Non-Academic Discipline at Queen's](#)

[Non-Academic Discipline by Faculty Boards, Guidelines for the Handling](#)

[Non-Bargaining Unit School of Medicine Academic Staff Grievances](#)

[Rescinding Degrees, Policy on](#)

[Student Appeals, Rights and Discipline, Senate Policy on](#)

[Teaching Assistants](#)

Other

[Board of Trustees Code of Conduct](#)

[HR Grievance Procedure](#)

[HR Prevention and Resolution of Harassment in the Workplace Policy](#)

[General ITS policies](#)

Codes of Ethics/Integrity/Conduct at Queen's

[Academic Integrity Policy Statement](#)

[Code of Behaviour for Library Users](#)

[Code of Conduct](#)

[Computer User Code of Ethics](#)
[Human Subjects, Ethical Conduct for Research Involving](#)
[Integrity in Research](#)