

UNIVERSITY OF PARDUBICE	
Directive No. 4/2024	
Subject Matter:	Whistleblower Protection at the University of Pardubice (Whistleblowing)
Applicable to:	All units and departments of the University of Pardubice
Effective from:	12 April 2024
Reference No.:	OPO/0018/24
Prepared and submitted by:	Bc. Jana Nováková, Internal Audit and Complaints
Approved by:	Prof. Ing. Libor Čapek, Ph.D., Rector

PART I INTRODUCTORY PROVISIONS

Article 1 Subject Matter

- (1) The subject of the Whistleblower Protection Directive at the University of Pardubice (the "Directive") is to define the rules for receiving and investigating reports of possible infringements of European Union law (the "report(s)"), so-called whistleblowing, at the University of Pardubice (the "University").
- (2) Concerning the rules for the operation of the internal notification system, this Directive shall regulate
 - (a) the jurisdiction, status, authority and duties of the person designated by the University to receive and handle reports of possible misconduct (the "competent person") in accordance with Act No. 171/2023 Sb., on the Protection of Whistleblowers (the "Whistleblower Protection Act"),
 - (b) the obligations of University employees and other persons working at the University (e.g. persons performing professional practice, internships, volunteer activities, etc.) (the "person(s) involved in the investigation") when receiving and handling reports of possible unlawful conduct,
 - (c) the methods of making a report,
 - (d) the recording and storage of reports,
 - (e) the processing of personal data, and
 - (f) protection against retaliation.

Article 2 Internal Reporting System

- (1) An internal reporting system shall be established at the University to receive and investigate reports.
- (2) The internal reporting system is a set of rules for receiving and investigating reports, communicating with the whistleblower, ensuring that the whistleblower's identity is protected, and keeping records of reports and how they are investigated. The University shall publish information on establishing the internal reporting system, the reporting methods and the contact person on its website.

Article 3 Jurisdiction and Scope

- (1) The competent person shall be the only person who handles, i.e. receives and assesses the legitimacy of reports submitted by a person who has performed or is performing work or other similar activity for the University or who is or has been in contact with the University in connection with the performance of work or other similar activity, e.g. an employee, a job applicant, a person performing professional practice, internship or volunteer activity at the University (the "whistleblower"), and, where appropriate, proposes measures to remedy or prevent an unlawful condition.
- (2) The University, as a legally bound entity, excludes the acceptance of a report from a person who does not perform work or other similar activity for it under Section 2(3)(a), (b), (h) or (i) of the Whistleblower Protection Act.
- (3) A report is a submission by a whistleblower that contains information about a possible violation that has occurred or is about to occur at the University and that
 - (a) bears the elements of a criminal offence,
 - (b) bears the elements of an offence for which the law provides a monetary penalty of at least CZK 100,000,
 - (c) violates the Whistleblower Protection Act; or
 - (d) infringes another legal regulation or a regulation of the European Union concerning
 - 1 financial services, statutory audit and other assurance services, financial products and financial markets,
 - 2 corporate income tax,
 - 3 the prevention of money laundering and terrorist financing,
 - 4 consumer protection,
 - 5 compliance with product requirements, including product safety,
 - 6 transport and road safety,
 - 7 protection of the environment,
 - 8 food and feed safety and animal health,
 - 9 radiation protection and nuclear safety,
 - 10 competition, public auctions and public procurement,
 - 11 protection of internal order and security, life and health,
 - 12 protection of personal data, privacy and security of electronic communications networks and information systems,
 - 13 the protection of the financial interests of the European Union¹, or
 - 14 the functioning of the internal market², including the protection of competition and State aid under European Union law.
- (4) A report shall contain the name, surname, date of birth, or other information from which the whistleblower's identity can be inferred; the information concerning the whistleblower's identity shall be deemed valid. A report need not contain the particulars referred to in the previous sentence if made by a person whose identity is known to the competent person.
- (5) Anonymous reports shall not be investigated.

¹ Article 325 of the Treaty on the Functioning of the European Union.

² Article 26(1), (2) of the Treaty on the Functioning of the European Union.

- (6) A report under subsection 3 shall not be deemed to be a part of a report which contains
- (a) information, the revelation of which could immediately endanger the essential security interest of the Czech Republic. According to the Whistleblower Protection Act, the essential security interest of the Czech Republic means
 - 1 the sovereignty, territorial integrity and democratic foundations of the Czech Republic,
 - 2 internal order and security,
 - 3 the lives and health of persons to a greater extent,
 - 4 the protection of information on public contracts in defence or security, unless a European Union regulation regulates the award of such contracts³,
 - 5 the fulfilment of international defence obligations,
 - 6 major security operations,
 - 7 the combat capability of the armed forces of the Czech Republic,
 - (b) information on the activities of the intelligence services of the Czech Republic, or
 - (c) information, the communication of which would constitute a breach of the obligation of confidentiality of clerics in connection with exercising the seal of confession or the right equivalent thereto⁴.

Article 4

Status of the Competent Person

- (1) A competent person shall be designated to receive a report, assess its validity, investigate it, propose remedial measures, and follow up on it. The Rector shall designate the competent person. The Rector shall also designate a substitute competent person to act in the absence of the competent person at the University or in the case referred to in subsection 5 of this Article.
- (2) The competent person's position, knowledge, abilities, skills and qualities must not give rise to any doubt about their proper and unbiased conduct. The competent person shall be without a criminal record, with legal age and full legal capacity at all times during their appointment. If the competent person does not meet the condition of being without a criminal record, they shall notify the employer within ten days of the date this occurs.
- (3) The competent person shall be duly informed of their rights and obligations in receiving and investigating reports as they arise under this Directive and the Whistleblower Protection Act. A record of the information shall be made with the competent person.
- (4) The competent person shall not be instructed or otherwise influenced in such a way as to impede or endanger the proper performance of their duties. The senior staff member's ability to control the competent person's proper performance shall not be affected.
- (5) The competent person shall immediately forward a report to a substitute competent person for processing if, given their relationship to the whistleblower or the information contained in the report, there is reasonable doubt about their impartiality.
- (6) If a report cannot be forwarded to the substitute competent person for processing, the competent person shall inform the whistleblower of this fact and inform them of their

³ For example, Directive 2009/81/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of procedures for the award of certain works contracts, supply contracts and service contracts by contracting authorities or contracting entities in the fields of defence and security and amending Directives 2004/17/EC and 2004/18/EC.

⁴ Section 7(1)(e) of Act No. 3/2002 Sb., on Freedom of Religion and the Status of Churches and Religious Societies and on Amendments to Certain Acts (the Act on Churches and Religious Societies), as amended.

right to submit the report through the external notification system under the jurisdiction of the Ministry of Justice.

- (7) In the exercise of their duties, the designated competent person shall
- (a) receive and assess the validity of reports submitted through the University's internal reporting system,
 - (b) propose to the Rector measures to remedy or prevent the unlawful condition following a report,
 - (c) carry out the instructions of the Rector unless they threaten or obstruct the performance of their activities,
 - (d) act impartially in the performance of their activities under the Whistleblower Protection Act,
 - (e) maintain the confidentiality of the facts they have become aware of in exercising their activities as a competent person, even after they have ceased to exercise those activities.

PART II

RECEIVING AND HANDLING REPORTS

Article 5

Methods of Whistleblowing

- (1) Notifications under the Whistleblower Protection Act shall be made to the competent person in the following forms:
- (a) in writing by electronic mail to whistleblowing@upce.cz,
 - (b) in writing via postal services to the University of Pardubice, Studentská 95, 532 10 Pardubice. The envelope shall be marked with the words "Do not open – whistleblowing",
 - (c) orally – in person by prior agreement with the competent person. Concerning oral reports, the competent person shall make a record that faithfully captures the substance of the oral report or make an audio recording if the whistleblower agrees in advance. In the case of such oral reports, the competent person shall receive the report within a reasonable period but no longer than 14 days from the date the whistleblower so requests. The competent person shall note this fact in the file if the time limit cannot be met for reasons attributable to the whistleblower.
- (2) The report may also be submitted through the external reporting system of the Ministry of Justice of the Czech Republic.

Article 6

Handling Reports

- (1) The competent person shall notify the whistleblower in writing of the receipt of the report but not later than seven days from the date of receipt thereof. The first sentence shall not apply if the competent person is not known to the whistleblower, in case it is clear that

such action would reveal the whistleblower's identity to another person, or if the whistleblower has expressly requested it.

- (2) The competent person shall assess the validity of the information in the report and inform the whistleblower in writing of the assessment results within 30 days of receipt of the report. In cases of factual or legal complexity, this period may be extended by up to 30 days, but not more than twice. The competent person shall inform the whistleblower in writing of the extension of the time limit and the reasons for it before the expiry of the time limit.
- (3) If the report does not contain all the necessary information or data, the competent person shall invite the whistleblower to complete it and give them a reasonable period to do so.
- (4) If the competent person, when assessing the report's validity, finds that it is not a report under the Whistleblower Protection Act, they shall inform the whistleblower thereof in writing without undue delay. If no violation under Article 3(3) is found, the competent person shall, without undue delay, inform the whistleblower in writing and inform them of their right to file a notification with the competent public authority.
- (5) If possible unlawful conduct has been identified in the assessment of legitimacy, the competent person shall, if it is possible with regard to maintaining the confidentiality of the identity of the whistleblower and the persons referred to in Article 10(2)(a) to (e), propose to the Rector measures to prevent or remedy such violation.
- (6) Concerning the measure taken, the University shall immediately inform the competent person, who shall notify the whistleblower in writing without delay.
- (7) If a report to be received and dealt with by a competent person reaches another person or organisational unit of the University, it must be forwarded immediately to the competent person for handling in a manner that ensures the confidentiality of the content of the report and the identity of the whistleblower.
- (8) If a competent person receives a submission that they are not qualified to receive, the competent person shall draw the attention of the submitter to the fact that it is not a report under the Whistleblower Protection Act, and the regulation in question does not apply.

Article 7

Recording and Retention of Reports

- (1) The competent person shall keep an electronic record of data on reports received to the following extent:
 - (a) the date of receipt of the report,
 - (b) the name, surname, date of birth and contact address of the whistleblower, or other information from which the identity of the whistleblower can be inferred if known,
 - (c) a summary of the report content,
 - (d) the date of completion of the assessment of the legitimacy of the report by the competent person and its outcome,
 - (e) if the report has been assessed as justified, any preventive or corrective measures proposed and taken.
- (2) The competent person shall keep the report and documents relating thereto for five years from the date of receipt of the report. A lockable cabinet shall be provided for the

documents. Electronic documents shall be adequately secured by password or other appropriate means.

- (3) Only the competent person and the substitute competent person shall have access to the records referred to in subsection (1) and the reports and documents kept under subsection (2).

Article 8

Publication of Information

The information published by the University in a way that allows remote access concerns at least:

- (a) how to report potential unlawful conduct at the University through the internal reporting system and to the Ministry of Justice,
- (b) the name of the competent person, their telephone number and electronic mail or other address for service, and
- (c) the fact that the University excludes the receipt of a report from a person who does not perform work or other similar activity for the University under section 2(3)(a), (b), (h) or (i) of the Whistleblower Protection Act.

Article 9

Processing of Personal Data

- (1) The processing of personal data in connection with the receipt and processing of reports must be carried out in accordance with the General Data Protection Regulation, Act No. 110/2019 Sb., on the Processing of Personal Data (the "Personal Data Processing Act") and the relevant internal standard of the University.
- (2) Personal data are processed in relation to the report based on Article 6(1)(c) of the General Data Protection Regulation.
- (3) The special categories of personal data referred to in Article 9(1) of the General Data Protection Regulation may be processed in relation to a report based on Article 9(2)(e), (f) or (g) of this Regulation. In the context of processing reports, only personal data for which processing is necessary and expedient may be processed. Personal data manifestly irrelevant to the processing of the report shall not be processed.
- (4) The exercise of the right of access to personal data under Article 15 of the General Data Protection Regulation may only be granted to the data subject in accordance with Article 23 of the General Data Protection Regulation and Section 19(2) of the Personal Data Processing Act, provided that the confidentiality of the whistleblower and other persons named in the report is preserved.
- (5) The Data Protection Officer shall forward a request for access to personal data relating to a report to the competent person for processing.
- (6) If the competent person finds that no information is held in connection with the report or that an exemption from the obligation to provide such information applies, they shall suspend the request without further delay.
- (7) The obligation to notify a personal data breach to the data subject, while maintaining confidentiality under this Directive, shall also apply to the competent person. The competent person may request the assistance of the Data Protection Officer.

PART III

PROTECTION FROM RETALIATION AND THE RIGHTS AND OBLIGATIONS OF THE COMPETENT PERSON AND OTHER PERSONS

Article 10

Protection of the Whistleblower and Other Persons

- (1) Retaliatory action means an act or its omission in connection with the work or other similar activity of a whistleblower under section 2(3) and (4) of the Whistleblower Protection Act which is caused by the making of a report and which is likely to cause harm to the whistleblower or a person referred to in subsection (2)(a) to (e); where these conditions are met, the retaliatory action is, in particular
- (a) termination of the employment relationship or non-renewal of a fixed-term contract,
 - (b) the termination of a legal relationship established by an agreement to complete a job or to perform work,
 - (c) removal from the post of senior staff member,
 - (d) a reduction in salary or remuneration, or non-award of a personal remuneration,
 - (e) transfer or reassignment,
 - (f) an adverse employment report,
 - (g) failure to allow professional development,
 - (h) change of working hours,
 - (i) requiring a medical report or an occupational medical examination,
 - (j) termination of or withdrawal from the contract; or
 - (k) interference with the right to personality protection.
- (2) Retaliatory action shall not affect the whistleblower or
- (a) the person who assisted in gathering the information that is the subject of the report, filing the report, or assessing the report's legitimacy,
 - (b) a person who is a close relative of the whistleblower,
 - (c) a person who is an employee or colleague of the whistleblower,
 - (d) a person controlled by the whistleblower,
 - (e) other persons under Section 4(2)(e) to (h) of the Whistleblower Protection Act.
- (3) If the whistleblower had reasonable grounds to believe that the report was necessary to detect a breach under Article 3(3), the report shall not be deemed to be a breach of banking secrecy, contractual confidentiality, the duty of confidentiality under the Tax Regulations or the duty of confidentiality under other legislation governing work or other similar activities, except for the obligation to
- (a) ensure the protection of classified information⁵ and information the disclosure of which could jeopardise ongoing criminal proceedings or the protection of special facts according to the law governing crisis management⁶,
 - (b) maintain confidentiality in the performance of the activities of a notary, notary candidate and trainee, prosecuting attorney, assistant prosecuting attorney and judicial trainee, attorney-at-law and articling attorney-at-law, bailiff, bailiff candidate and

⁵ Act No. 412/2005 Sb., on the Protection of Classified Information and Security Clearance, as amended.

⁶ Act No. 240/2000 Sb., on Crisis Management and on Amendments to Certain Acts (Crisis Act), as amended.

trainee, judge, judge of the Constitutional Court, assistant judge and judicial trainee, an employee of a notary public, a bailiff, an attorney-at-law and an employee of a company through which the attorney-at-law practises as a partner under the law regulating the practice of a legal profession, or of a similar foreign company, or of another person who participates in the provision of legal services within such a company,

- (c) maintain confidentiality when providing legal aid in proceedings before a court or other public authority; or
 - (d) maintain confidentiality in the provision of health services⁷.
- (4) A report and the conduct of a whistleblower or a person referred to in paragraph (2)(a) to (e) in connection with the discovery of information which later becomes the subject of the report shall not be deemed to be a breach of a contractual or statutory obligation, except where the conduct in connection with the discovery of such information constitutes the commission of a criminal offence; this shall not apply unless the whistleblower or the person referred to in paragraph (2)(a) to (e) had reasonable grounds for believing that the report was necessary to disclose a possible breach of the offence referred to in Article 3(3). It is without prejudice to subsection 3.
- (5) Protection from retaliation shall not be available to a person who made a report without having reasonable grounds to believe it was based on truthful information. Such a knowingly false report is an offence under the Whistleblower Protection Act for which a monetary penalty may be imposed.

Article 11

Authority of the Competent Person

- (1) In assessing the legitimacy of a report, the competent person shall be entitled to
- (a) require proof of the identity of the person involved in the investigation, e.g. by producing an employee identification card,
 - (b) require the disclosure of information and the production or disclosure of documents, audiovisual and digital recordings and other things that may be relevant to the report,
 - (c) make electronic images, extracts, transcriptions or copies of documents produced or made available,
 - (d) make copies of audiovisual and digital recordings submitted or made available,
 - (e) make an audio or visual recording of their speech with the consent of the person involved in the investigation,
 - (f) enter any University premises that may be related to the report.
- (2) In the course of the investigation, the competent person shall furthermore be entitled to request an oral explanation from the person involved, which they may refuse to give; the competent person shall inform them of this fact. The competent person shall record the course and content of the explanation or make an audio or visual recording. The record shall be signed by the competent person and the person who provided the explanation. It is without prejudice to the obligation of confidentiality under this Directive and the Whistleblower Protection Act.
- (3) The competent person shall be further entitled to require University staff to provide a written professional opinion on the factual and legal issues relating to the report within a

⁷ Act No. 372/2011 Sb., on Health Services and Conditions of their Provision (Health Services Act), as amended.

reasonable time; this is without prejudice to the duty of confidentiality under this Directive and the Whistleblower Protection Act.

Article 12

Duties of the Competent Person

- (1) The competent person shall carry out their activities in person.
- (2) The competent person shall act impartially in the exercise of their activities.
- (3) The competent person shall maintain the confidentiality of the identity of the whistleblower and the persons referred to in Article 10(2)(a) to (e), as well as of information which could lead to the disclosure of their identity; this shall not apply if the whistleblower or the persons referred to in Article 10(2)(a) to (e) give their written consent to a procedure which could jeopardise confidentiality.
- (4) Furthermore, the competent person shall maintain the confidentiality of information, the disclosure of which could frustrate or jeopardise the purpose of the report, in particular, the proper investigation of the information contained in the report and the prevention or remedy of the unlawful condition.
- (5) The competent person shall not provide information and personal data about which confidentiality is maintained, even based on a request under the Act on Free Access to Information⁸.

Article 13

Duties of Persons Involved in the Investigation

- (1) Unless otherwise provided for herein, a person involved in an investigation shall enable the competent person to exercise their powers and provide the required cooperation.
- (2) A person involved in an investigation is obliged to maintain the confidentiality of all information that comes to their attention in connection with the investigation and to comply with the legal regulations and internal standards of the University governing the protection of personal data.

Article 14

Final Provisions

This Directive shall enter into force and effect on the date of issue.

In Pardubice on this 12 April 2024

Prof. Ing. Libor Čapek, Ph.D.
Rector

⁸ Act No. 106/1999 Coll., on Free Access to Information, as amended.