Guidelines

Title: CONDUCTING AN INVESTIGATION

Ref: HR/RIS

When should an investigation take place?

- Prior to any disciplinary proceedings, e.g. when there are allegations of misconduct
- As a result of a grievance
- When there have been allegations of a breach of the University’s policy on Dignity at Work and Study
- In the event of a dismissal being considered on the grounds of Some Other Substantial Reason
- Other situations where an investigation may be required prior to some form of management action being taken.

Carrying out an investigation

1. Appoint someone to carry out the investigation. Where possible the investigator should be independent of the main parties of the investigation and should not have been implicated in any of the actions to be investigated. In some situations it may be appropriate to ask someone from outside the academic area or Service to undertake the investigation.

2. Decide on who is to be interviewed as part of the investigation
   - If there is a complainant, start with them
   - Interviewees/witnesses
   - Normally the person whose conduct is called into question should be seen last so that they can respond to any issues raised against them by witnesses.

   (See Appendix B for advice on conducting interviews.)

3. It is possible that interviewees/witnesses may need to be recalled if new issues are raised in subsequent interviews.

4. Letters should be sent calling interviewees to a meeting (this can be via email). Copies should be kept on file. (See suggested format in Appendix A)

5. Be aware that:
   - Anyone who may face formal or other action as a result of the investigation should be offered the right to be accompanied at the interview by a fellow employee or trade union representative. Although not a legal requirement, it is the University’s practice to invite all employees interviewed as part of an investigation the opportunity to be accompanied.
   - There is a need for confidentiality
   - The information gathered may be used at any subsequent hearing and notes of the meetings given to the respondent prior to the hearing

6. Approach Occupational Health if there are health specific queries. (HR can help with this.)
7. Draft report. (HR can assist in advising on content and analysis.)
See suggested format in Appendix C.

8. The report will go to the Dean or his or her nominee or Head of Professional Service (or to whoever
commissioned the investigation). In a disciplinary case, the report will be likely to recommend whether or not
there is sufficient evidence to proceed to hearing for each of the allegations. The Dean or his or her nominee
or Head of Professional Service makes the decision as to whether it proceeds to a hearing in conjunction with
HR. In a grievance case, the complainant will be invited to a hearing at which the outcome of the
investigation will be considered, and he or she will have the chance to express their views before a final
decision on the grievance is made.

9. The outcome of the investigation (not necessarily the full report) should be communicated to the
respondent or (in the case of a grievance) to the complainant. They should be informed if any further action
is being taken. HR will send this letter.

10. The University procedures do not require the investigation report to be disclosed to those involved.
In a grievance case, the report will usually be disclosed to the complainant and those against whom
allegations have been made. In a disciplinary case, the report will be disclosed to the person facing
disciplinary action if the investigation will form at least part of the evidence in the disciplinary proceedings.
In cases where it is not deemed in the best interests of the University or its staff to disclose the report, it may
be withheld but the involved parties will receive information about the outcome of the investigation and
decision.

11. Other witnesses interviewed as part of an investigation, but not a party to the grievance or other case
being investigated, are not entitled to see the investigation report.

**General Tips**
The investigation should be sufficient but proportionate to the nature of the allegation
As well as conducting interviews, consider other sources of information such as relevant documentation,
videos, etc
Consider how to conduct interviews (for example, it maybe appropriate to gather initial or further information
by phone or email or just request a written statement)
Determine a reasonable timescale for the investigation and keep parties informed of the progress. Should
the investigation go beyond the proposed timescale, the investigator should give reasons for this to the
parties and issue a revised timescale
Apply the principles of natural justice. This means that anyone against whom an allegation has been made
should have a proper opportunity to respond to it, and the investigation should be completely impartial and
separate from any subsequent action.
Provide sufficiently detailed information to allow a response relevant to the person being interviewed
- i.e. witnesses only need to be told the nature of the complaint to the extent necessary to
  interview them. The respondent needs to be told specifically what they have been accused of,
  this may involve providing written information of the complaint in advance of the interview
Make it clear that anonymity of witnesses or the complainant cannot be guaranteed apart from exceptional
cases.
Counter complaints may be made and the investigator will need to consider and possibly extend the remit of
the investigation, following advice from HR and the original initiator
Arrangements for interviewing witnesses and conducting investigations generally may need to be adjusted if
any persons with disabilities are involved.
Example letter to interviewees
(customise as appropriate)

Name
Address/Location

Date

Dear

In accordance with the University’s disciplinary procedure, I am conducting an investigation into allegations made against XXXX with regard to XXXXXX (e.g. an incident that took place on, X’s conduct/performance). I understand that you may be able to assist me in this matter.

As part of my investigation, you are requested to attend an investigatory interview on (date, time, and place). You are welcome to bring a fellow employee or trade union representative to accompany you to the meeting if you wish.

I must advise you that the information you provide during the interview may be used in any subsequent disciplinary hearing. Please note, that the purpose of this interview is to gather information and facts in relation to the issue and is not a hearing. Following my investigation, a report of my findings will be provided to XX (Manager/ Dean or his or her nominee/ Professional Service) who shall then decide what course of action, if any, is appropriate.

I must remind you that you are bound by confidentiality with regard to this investigation. Any breach of confidentiality will be regarded as a disciplinary offence.

Please contact me as soon as possible to confirm your attendance.

Yours sincerely

XXXXX
XXXXX
APPENDIX B

Interview Format
It is advisable to have a note taker present. The investigator should have a set of questions to be asked and the interview should be structured:

1. Open the meeting and introduce all parties
2. State that this is an investigatory interview as part of a disciplinary/grievance/harassment investigation and that, depending on the outcome of the investigation, the matter may proceed to a formal hearing or other action may be taken
3. Remind the interviewee if they were given the opportunity to be accompanied (and chose not to be)
4. Remind them of confidential nature of investigation – it should not be discussed outside the interview
5. Notes will be taken and the individual will be invited to make any amendments that they wish and asked to sign a copy of the notes to confirm agreement with them as a record of the interview. These notes will be a summary of discussions, rather than a verbatim record.
6. The notes may be used as evidence in any subsequent disciplinary hearing
7. Recording of interviews will not usually be permitted.
8. State that the interview is to investigate the allegation made by XXXXX against XXXXX

Questioning should be to uncover evidence to corroborate or rule out the allegations.

The questions should focus on specific allegations (relevant to the person being interviewed). Unspecific descriptions, general opinions or hearsay should not be accepted. The investigator should ask for specific examples of any behaviour. To reinforce the idea that what the investigator is looking for is the interviewee’s perceptions of the incident or sequence of events, the following phrases may be useful:

- In your own words ....
- Tell me about ...
- Describe to me ....
- Give me an example of .......
- How did it make you feel?

Avoid leading questions.

During interviews further evidence may be uncovered that was not in the original line of enquiry. These should be followed up but questioning should then return to the original agenda.

Close interview.

The interview should be written up by the note taker. A copy should be sent to the interviewee asking them to sign and return a copy with any amendments if required within a deadline. Failure to respond or return a signed version of the notes within the specified timescale will be interpreted as ‘no further comment’ to be added.

Adjustments to a statement that are felt to be unreasonable by the Investigator will be acknowledged and kept on file. The Investigator is not obliged to accept any suggested changes that do not, in their view and that of any note taker and/or HR representative, reflect accurately what was said at the meeting.

Ensure that the note taker records the date, time, location, attendees and all the information in points 1–7 above

At the end of the record include the following for interviewee to sign:

I confirm that this is an accurate summary of the evidence given in this interview.

Signed: ........................................................................................................ Date.................
APPENDIX C

The Investigation Report – Suggested format

Depending on the severity of the accusation, the level of the employee and the scope of the investigation, an investigatory report may include the following sections:

Title
(E.g. Investigation by *** into allegations of *** made by *** against *** under the *** Policy.)

Contents
All pages should be numbered and the contents page should detail where each section of the reports can be found.

Introduction and Background
This section should include:
• the nature of the allegations;
• how, to whom and when they were made;
• why it was deemed necessary to carry out an investigation;
• why the investigator was selected for the role;
• the employment details of those involved (name, job title, job family and level, location, length of service).
This section could also include any other significant factors regarding the organisation or individuals which may be relevant to the investigation process.

Investigation Process
This section should include:
• approaches to the investigation;
• how the investigator went about finding information;
• who was interviewed as part of the investigation and why;
• details of the interviews that took place;
• the timescale of the investigation.

This section could also include:
• reference to the procedure used (disciplinary/grievance/harassment);
• any approaches made to Occupational Health and the advice received;
• any other documentation or evidence that was reviewed (e.g. videos).

Findings
This will be the largest section of the report and should include:
• the investigator’s factual account of what has occurred (as revealed by the investigation);
• how the evidence was evaluated;
• details of factors which the investigator believes contributed to the situation;
• if there was conflicting evidence, why a particular version of events was preferred; and
• any mitigating factors in relation to allegations which have been upheld.

(Each of the allegations raised in any complaint should be addressed, referring to specific evidence gleaned from the interviews and indicating what evidence supports or disputes the allegation.)
Conclusions
For each of the allegations the investigator should state whether the allegations are either corroborated/substantiated or not upheld, based on information gained during the investigation;

If, following the investigation, the findings are inconclusive, this should also be clear. If fault is to be attributed, it should be outlined here. If a process or procedure was not followed or an individual behaved inappropriately, this is where to outline exactly what went wrong and what should have happened instead.

Recommendations
This section should outline what actions the investigator believes should take place as an outcome of the investigation. Please note, these should be suggestions for the next steps and should NOT be advising on an outcome or judgement. These may be:

• that no action is necessary;
• that the matter should proceed to a disciplinary hearing (i.e. part or all of the allegations appear to be substantiated);
• that the matter should proceed to some other form of hearing in accordance with the University’s procedures;
• that some form of remedial action is necessary (e.g. mediation)
• that other management action may be appropriate

Numbered Appendices
The relevance of appendices should be carefully considered rather than including as a matter of course. Possible appendices may include:

• Complaint letters
• Other material relevant to the findings especially where referred to in the investigation report. (E.g. advice from Occupational Health; emails; system records etc.)

Interview records should not usually be annexed to the Investigation Report.