

## University of Aberdeen

### Investigation Procedure

#### **1. Purpose**

1.1 The purpose of this Procedure is to provide a framework for undertaking impartial investigations. An investigation is a fact-finding exercise, to collect all relevant information on a matter which will enable the University to fully consider the information and make an informed decision. This procedure is intended to cover investigations into all matters including, but not limited to, those relating to, conduct, grievance, whistleblowing, discrimination, bullying and harassment, gender-based violence and sexual harassment, research misconduct, and fraud.

#### **2. Aim**

2.1 To provide a clear process for undertaking a full, thorough, and impartial investigation in a timely manner where a complaint, allegation, or grievance has been raised.

#### **3. Scope**

3.1 This Procedure applies to all members of staff. The exception to this is where conduct or performance issues are raised about a probationary member of staff - in those cases the Probation Policy should be followed.

#### **4. Principles**

4.1 The University is committed to caring for the wellbeing, health, and safety of its diverse community, supporting and developing people to achieve their full potential. The following Principles outline the University's approach to this commitment in this Procedure.

4.2 It is expected that all members of the University community will participate and cooperate with an investigation that they may be involved in, e.g. as a witness to events, as the complainant or as the subject of a complaint. This will help ensure investigations are thorough and concluded in a timely manner.

4.3 Any individual who unreasonably refuses to follow a request to participate in an investigation, may be subject to disciplinary action.

4.4 All parties involved in an investigation have an obligation to maintain confidentiality. Breaches of confidentiality will be taken seriously and may result in disciplinary action.

4.5 The University will not make electronic or digital recordings of meetings or telephone calls without all-party consent. Normally, a minute will be taken to summarise the key points. This minute is not intended to be a verbatim record.

4.6 In grievance cases, where an investigation is required, the Investigating Officer will usually be the investigator and the decision-maker. The Grievance Procedure should be referred to for information on this procedure.

4.7 A Member of Staff Under Investigation may be accompanied to any investigation meeting by a work colleague or Trade Union Representative. The Member of Staff Under Investigation must notify the panel of their representative prior to a meeting.

## **5. Appointment and Role of Commissioning Officer**

5.1 A Commissioning Officer will be appointed depending on the relevant University Procedure or by the Line Manager or other appropriate individual in discussion with the HRR.

5.2 The Commissioning Officer will make a preliminary determination whether to proceed with an investigation taking into consideration the relevant University policies.

5.3 The Commissioning Officer will liaise with the relevant HRR, to source a suitable Investigating Officer.

5.4 The Commissioning Officer should confirm with the Investigating Officer that they consider they will be able to undertake the investigation in a timely manner and do not consider they have any conflicts of interest.

5.5 If the matters under investigation are the subject of a criminal investigation, charge or conviction (such as drink driving, theft or assault), the Commissioning Officer or Investigating Officer should escalate the matter to the Director of People (or appropriate delegate) to determine if any restrictions should be placed on the investigation. In most cases the University will continue with its own investigation and not wait for the outcome of any criminal proceedings before making its own decision based on the available evidence. However, in rare cases the investigation may be paused, or may recommend any processes consequent on the outcome of the investigation are paused, pending the outcome of criminal proceedings. This will usually only be when it is likely that such investigation or process would materially impact or prejudice the criminal proceedings. Decisions regarding this will be made by the Director of People (or appropriate delegate).

5.6 The Commissioning Officer should assess the risk to determine whether alteration to duties or suspension is required and seek HR guidance and support regarding this. Where it has been determined that alteration to duties or suspension is required, the staff member will be informed of this by the Commissioning Officer. The outcome would be confirmed in writing. Further guidance on suspension can be found in the guidance documents.

5.7 The Commissioning Officer should create terms of reference for the Investigating Officer. The terms of reference should include:

- What the investigation is required to examine.
- Whether a recommendation is required.
- How the findings should be presented. For example, an investigator will often be required to present their findings in some form of investigation report.
- Who the findings should be reported to and who to contact for further direction if unexpected issues arise or advice is needed. This might be HR or a similar experienced and informed source.
- Any applicable timescales.
- The relevant policies, procedures, or protocols that need to be considered.

5.8 It is possible that the terms of reference may have to be modified as the investigation develops. Any changes should be made in consultation with the Commissioning Officer.

5.9 A Line Manager must take immediate action to ensure the safety of staff, students, the environment and secure any physical evidence. This could include asking any witnesses to

an incident to write a witness statement so that the event is easily recalled and informing them that this will be included in subsequent investigation documents.

## **6.0 Investigation Stages**

### **6.1 Planning the investigation**

6.1.1 The Commissioning Officer will provide the Terms of Reference to the Investigating Officer prior to commencing the investigation.

6.1.2 The HRR will provide the Investigating Officer with an Investigation Planning Document which can be used to assist them in preparing for the investigation.

6.1.3 The Investigating Officer should then plan their investigation, mapping out who needs to be interviewed. It is important to gather all facts relevant to the incident or allegation as quickly as possible, while events can be clearly and more easily recalled.

6.1.4 The Investigating Officer should have regard to the relevant policies, procedures and protocols when determining their plan of action.

6.1.5 If there is no disagreement concerning the facts of the case, for example because the staff member admits the misconduct, the Investigating Officer (in discussion with the HRR) should determine if a reduced level of investigation is appropriate at the outset.

### **6.2 Informing the Member of Staff that an investigation has commenced.**

6.2.1 The Commissioning Officer or other appropriate individual should inform the Complainant and/or Member of Staff Under Investigation that an investigation is being arranged and the support available to them. They should usually be told:

- That an investigation is taking place
- The nature of the allegation/s or concerns where appropriate
- The name of the Investigating Officer
- The anticipated timescale of the investigation
- That they may be accompanied to any investigation meeting by a work colleague or Trade Union Representative.

The Member of Staff Under Investigation should inform the Commissioning Officer as soon as possible if they believe there to be a conflict of interest with the Investigating Officer. The Commissioning Officer in discussion with the HRR will decide if a change to Investigating Officer is appropriate.

6.2.2 The Complainant and/or Member of Staff Under Investigation should be kept informed of the progress of their complaint throughout by the Investigating Officer and/or HRR.

6.2.3 The Member of Staff Under Investigation may not be given copies of written complaints or witness statements at this stage. However, they should be given sufficient details of any allegations made against them to allow them to respond at an investigation meeting.

6.2.4 In most situations, the Member of Staff Under Investigation will be informed when an investigation into their actions is instigated. However, situations may arise where, for good reasons, a Member of Staff Under Investigation is not immediately notified of an investigation, or of who has brought a complaint or grievance against them. Such situations include but are not limited to where the Member of Staff Under Investigation may be able to influence or intimidate witnesses or tamper with evidence, or it is thought that a complaint is

malicious, or there is concern for a staff member's wellbeing. In these cases, the Investigating Officer may prefer to wait until there is less risk or appropriate mitigating supports/actions are in place before informing the Member of Staff Under Investigation.

6.2.5 The University recognises that being invited to an investigation could be unsettling. All individuals involved with an investigation should refer to the sources of support document and review the support available.

6.2.6 Members of Staff under Investigation can have access to an independent welfare contact (in addition to their trade union representative/work colleague), who can provide additional support during an investigation. The welfare contact is intended to be a listening ear who can signpost the member of staff to the sources of support available.

### **6.3 Investigation Meetings**

6.3.1 The Member of Staff Under Investigation / Complainant may be invited to attend an investigation meeting to discuss the matter with the Investigating Officer in more detail. Meetings will normally be held face to face but may be held online, by telephone, hybrid or in writing depending on the circumstances at the discretion of the Investigating Officer.

6.3.2 The Member of Staff Under Investigation and their representative must make every effort to attend any Investigation Meeting.

6.3.3 The meeting is an opportunity for the Investigating Officer to meet with an individual who is involved in, or has information on, a matter under investigation to establish facts. Individuals being interviewed are expected to be as open, honest and objective as possible in their responses.

6.3.4 The Member of Staff Under Investigation / Complainant may provide the names of other additional witnesses relevant to the situation. It will be the final decision of the Investigating Officer who will be interviewed as part of the Investigation.

### **6.4 Absence from an Investigation Meeting**

6.4.1 If the Member of Staff Under Investigation / Complainant fails to attend an investigation meeting without reasonable cause, or on a repeated basis, the University may carry out the investigation without the staff member. The investigation will continue in as full and fair a way as possible, and the member of staff will be notified that it is continuing.

6.4.2 If the Member of Staff Under Investigation / Complainant fails to attend an investigation meeting without reasonable cause this may be viewed as a refusal to obey a reasonable request and may result in disciplinary action.

### **6.5 Issues that could be raised during the Investigation.**

6.5.1 If other University procedures are invoked whilst an investigation is in process, consideration will be given as to how the issues will be addressed, depending on the specific circumstances. The HRR will ensure the rationale for running investigations concurrently/separately/combined will be recorded.

### **6.6 Interviewing Witnesses**

6.6.1 The Investigating Officer or HRR will write to witnesses, to confirm they are investigating the issues and to arrange a date to meet or to arrange for them to make a statement.

6.6.2 There might be instances where a witness statement is taken before the formal start of the investigation as outlined in section 5.

6.6.3 The Investigating Officer may decide a witness can give a statement without having a meeting, in which case they should be given reasonable time to write their statement.

6.6.4 If a large number of people witnessed the same incident, the Investigating Officer may talk to a sample of witnesses and check whether their accounts of the incident are broadly consistent. It may not be necessary to talk to all witnesses, unless the Investigating Officer deems that there is a lack of consistent information or more information is required.

## **6.7 Timescales**

6.7.1 The Investigating Officer is responsible for checking relevant procedures for any appropriate timescales and ensuring that all necessary steps are taken promptly and without unreasonable delay. Normally an investigation will be completed as quickly as reasonably practical and regular updates will be provided to the Complainant and/or Member of Staff Under Investigation. For straightforward cases this could be within 4 weeks, depending on the circumstances, availability of witnesses and potential data that needs to be accessed and reviewed. It is recognised that for more complex situations investigations may take longer and, in such cases, regular updates should be provided with anticipated completion dates. Members of Staff will be kept up to date on progress by the HRR.

6.7.2 The nature and extent of the investigation will depend on the seriousness of the concerns. It is important that the investigation is sufficiently prioritised so that the report is completed promptly, whilst maintaining sufficient rigour.

## **6.8 Reaching a Conclusion**

6.8.1 The Investigating Officer should consider the evidence and prepare an investigation report (if appropriate) for the Commissioning Officer, using the template provided.

6.8.2 In developing any investigation report, consideration should be given to:

- The evidence provided by the staff member under investigation and any witnesses
- The physical evidence (if applicable)
- Conflicting evidence
- Mitigating circumstances that require consideration
- Why the Investigating Officer has accepted a particular line of evidence
- Reasons for the conclusion and any recommendations
- Actions to take forward on consideration of the report as appropriate.

6.8.3 If the Investigating Officer identifies broader concerns e.g., management issues or system failures, or the need for the application of other policies to support the staff member (for example, such as the Drugs and Alcohol Policy) during the investigation, relevant findings should be included within the investigation report to ensure necessary action and / or support is implemented.

6.8.4 Whilst an Investigating Officer may seek advice from the HRR any conclusions or recommendations must be their own. Investigation reports should be objective and concise, and any conclusions or recommendations based on the evidence collated. HRR's may

provide advice on employment law, employment policies, procedure and practice, and consistency within the University.

6.8.5 Investigation reports should be submitted to the Commissioning Officer as soon as possible once the investigation is completed.

6.8.6 Please see guidance documents for possible outcomes depending on the nature of the investigation.

## **7. Communicating the outcome of the Investigation**

7.1 The Commissioning Officer should inform the Complainant / Member of Staff Under Investigation of the investigation outcome, and discuss appropriate support with them if relevant, as soon as possible after receipt of the outcome and/or report.

7.2 The University accepts that an effective investigation process requires transparency. It will aim to inform the Complainant / Member of Staff under Investigation of the overall outcome of an investigation and any further hearing or appeal in accordance with Data protection legislation and wider regulatory framework. The level of detail provided will be on a case-by-case basis according to the facts of the situation and will be on a strictly confidential basis.

## **8. Staff Support and Wellbeing**

8.1 The University recognises that involvement in an investigation can be stressful for all parties. It is important to consider the wellbeing and mental health of all staff involved. The Investigating Officer and HRR should be mindful of this throughout the process and if they have concerns these should be raised appropriately. If staff members have concerns, they can raise these with the Investigating Officer and/or HRR.

Please see the guidance documents for up-to-date information on the support avenues currently available to all members of staff.

## **9. Equality Act 2010 Considerations**

9.1 If a staff member has requirements at any stage of the procedure related to a disability or any other protected characteristic or wishes to inform the University of any relevant medical condition, the staff member should contact the HRR who can discuss appropriate support, such as reasonable adjustments.

## **10. Data Retention**

10.1 Investigation reports will be stored in line with the University's record retention schedule and in accordance with the General Data Protection Regulation (UK GDPR) and the Data Protection Act 2018 (DPA).

## **11. Monitoring of this Procedure**

11.1 HR will monitor cases/outcomes and share appropriate information confidentially, such as part of annual monitoring exercises.

## **12. Related Policies and Procedures**

Grievance Procedure

Disciplinary Procedure

Addressing Gender-based Violence and Sexual Harassment Policy

Research Misconduct Procedure

Fraud Policy

Whistleblowing

Complaints

These policies and procedures can be found in the Policy Zone on StaffNet.

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