



# **MANAGING INVESTIGATIONS**

## **Guidance notes for Managers**

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## **1. Introduction**

The University's Managing Investigations Guidance notes for Managers, is designed to provide a framework which will assist managers in carrying out any internal investigation process fairly and consistently.

The University is committed to ensuring that all internal investigations carried out are in accordance with the relevant University Policy or Procedure.

## **2. Scope**

This document provides guidance notes for all 'relevant managers' appointed to carry out internal investigations into matters relating to any member of staff within the University.

The guidance notes contained within this document should be used in accordance with the relevant University Policy or Procedure, as determined by the nature of the investigation.

## **3. Benefits**

Adhering to the guidance notes when managing internal investigations will help to ensure that the University carries out all investigations fairly, consistently and thoroughly.

A fair, consistent and thorough investigation will ensure that managers can establish the facts and make appropriate informed decisions about the next steps, if any.

A fair, consistent and thorough internal investigation will help to promote equity and fulfil the University's legal obligations.

## **4. The use of internal Investigations within the University**

### **4.1 *When should internal investigations be used?***

Internal investigations may be required to be carried out in the following circumstances:

- allegations of misconduct
- allegations of bullying / harassment
- dealing with employee grievances
- dealing with employee capability issues

Internal investigations should always be carried out in accordance with the relevant University procedure (e.g. Disciplinary Procedure) as determined by the nature of the issue in question.

### **4.2 *Why are investigations important?***

In accordance with many University HR policies and procedures, managers are required to gather information in relation to a particular allegation or issue, and make a decision about the most appropriate action(s), which, in some cases can include proceeding to a formal hearing where appropriate sanctions or remedial action may be applied.

In such cases employers are frequently required by Employment Tribunals to demonstrate how and why they reached a particular decision, or recommended course of action(s) and whether or not they acted reasonably in accordance with the relevant internal policy or procedure.

A thorough investigation carried out fairly and consistently will provide managers with the necessary facts and evidence on which a decision can be made and demonstrated as fair and reasonable in line with the relevant University policy or procedure.

## **5. Investigation Process**

### **5.1 *Who should carry out the investigation?***

Those undertaking the investigation are referred to as the Investigating Officer or Investigating Panel. Depending on the University policy or procedure being used, a relevant manager will be appointed as appropriate. The relevant manager can seek advice from HR in this regard .

Before commencing the investigation it is necessary to identify:

- details of the precise issue to be investigated, e.g. details of allegations made etc.
- suggested methodology for conducting investigations, e.g. identification of initial witnesses, copies of policy being breached etc.
- under which University policy or procedure the investigation is being held
- for what purpose and by whom any subsequent Investigation report produced would be used.

### **5.2 *Conducting the investigation meeting.***

The Investigating Officer/Panel should plan to interview any person identified who may be able to provide information relevant to the investigation as appropriate. This could include:

- other member(s) of staff who witnessed/took part in the alleged incident
- other members of staff within a department
- relevant line managers
- any other person who is identified to have information relevant to the investigation.

Where possible the witnesses should be interviewed in a logical manner, in which ideally the person raising the issue/allegation should be interviewed first and the person whom the allegation is against should be last. There may be a need to re-interview witnesses during the investigation process. Additional witnesses are likely to be identified during the investigation and should also be interviewed.

All witnesses are to be advised of a suitable meeting date and be given reasonable notice. The witness should be advised that the purpose of the meeting will be to discuss in detail their account of a particular incident/allegation which forms part of the relevant University policy or procedure. A suggested standard 'Invite to Investigatory Meeting' letter is provided in Appendix 1.

In preparation for the investigation meeting the Investigating Officer should:

- ensure that a suitable private room is available to hold the investigation meeting confidentially and without interruptions
- ensure that all necessary information is available during the course of the meeting e.g. copies of policies/procedures etc.
- prepare a list or structure of questions in relation to the alleged incident/allegation
- ensure that a nominated person is available to take detailed notes of the meeting, for use within the investigation process/report where appropriate.

The structure of the investigation meeting should normally be as follows;

**Introduction:** This explains the context of the meeting, the purpose of the meeting notes and subsequent statement, how and when they will be able to check the notes/statements and the importance of confidentiality.

**Questioning:** Involving a technique of using open questions (who, what, why, when, how etc), probing questions (tell, explain, describe) with closed questions being used to clarify points. **Leading questions should always be avoided.**

Discussing and enquiring into any additional information/evidence presented whilst always returning to the prepared list/structure of questions.

Ensure specific examples are provided when unsubstantiated descriptions are given, i.e. 'bullying' or inappropriate behaviour' etc.

Once the questioning is complete, re-cap and clarify the main points of the discussion. Summarise for the purposes of the notes.

**Closing Statement:** Explain the next steps, confirm how/when the witness statement(s) are to be prepared and verified and when the investigation is expected to be completed.

Ensure that contact details of the Investigating Officer are provided, and ensure that confidentiality is understood.

At the end of the investigation meeting(s) the Investigating Officer (or a nominated person from the Panel) should have obtained from each witness:

- the names of those present or involved
- date, time, place of the alleged incident/allegation
- details of what took place, and the order in which they happened
- how the individual reacts to any other documents or witness evidence which is inconsistent with their account
- the steps taken since the alleged incident/allegation, including any steps taken to resolve
- the preferred solution (where appropriate)

### **5.3 Notes/witness statements**

Any notes taken during the investigation meeting(s) should be typed and ideally checked and signed by the witness.

Where possible the Investigating Officer (or a nominated person from the Panel) should prepare a draft witness statement for the witness using the notes from the investigation interview. The statement should record the facts, written (within reason) in the language used by the witness following the train of events. If there is any ambiguity or gap in the account these should be clarified with the witness. The witness should be given the opportunity to review the statement and should only sign to confirm it as a true and accurate version of events. (A template Witness Statement is provided in Appendix 2.)

Where witness statements cannot be prepared by the Investigating Officer/Panel, the witness can be asked to provide a statement which can be prepared in advance. In these cases the statement should be checked by the Investigating Officer/Panel, and included in the Investigation Report alongside the notes from the Investigation meeting for points of clarity.

## **6. Preparing an Investigation Report**

### **6.1 *Evaluating the evidence***

All of the relevant evidence collated during the investigation should be reviewed and collated for use within the investigation report. This can include witness statements, notes from the investigation meeting, relevant policies & procedures, custom and practice etc. This evidence should be evaluated particularly where there are contradictions or conflicts which the Investigating Officer or Panel should consider. In evaluating evidence, each case should be judged on its merits; however, the following points should be considered:

- direct witness evidence will usually be stronger than indirect information relating to the incident/allegation
- evidence which is inconsistent with documents produced at the time is questionable.
- evidence which is vague, omits significant details or contains inherent contradictions is questionable
- anonymous evidence is highly questionable.
- consideration should be given to any bias or influence individual witnesses may have.

It is important to remember that in reviewing the evidence and making a decision, the Investigating Officer/Panel only have to show they have a “reasonable belief” of what happened based on their assessment of the evidence. Unlike a legal case, there is no requirement to prove a case ‘beyond reasonable doubt’.

## **6.2 Investigation Report Structure**

An Investigation Report should be written by the Investigating Officer (agreed by the Panel), and should normally be structured as follows:

**1. Introduction/Background:** A brief introduction to the report clarifying the allegations/incidents which have been investigated, details of the person whom the allegation has been made against including employee details, start date, post, probation, previous warnings etc. and if they are currently suspended from duty. The aim is to give the Panel an initial frame of reference to assist comprehension and assessment.

**2. Methodology:** This section should detail the process of the investigation including a list of the people interviewed specifying if witness statements/notes from meetings have been taken, details of University Policies and Procedures reviewed, details of any other activities undertaken as part of the investigation (watching video’s etc).

**3. Findings:** This will be the largest section(s) of the report and will detail the findings from the investigation, including the facts and evidence presented, any inconsistencies found with explanations where applicable, any mitigating circumstances and any risks identified. Where information from particular witnesses is cited, note should be made of the relevant appendices where the notes/witness statements can be found.

**4. Conclusions/Recommendations:** These should follow logically from the main body of the report. Do not fall into the common error of including conclusions that cannot be attributed to your Investigation(s). These should be firm, unqualified statements summarising the findings and inferences of the sections of the main text. No new ideas should be introduced at this point. Conclusions are deductions made from evaluating the evidence.

- Recommendations are not mandatory, but in the case of disciplinary investigations should indicate the recommended next steps or the initiation of any other procedure, following issues highlighted during the investigation.

**5. Appendices:** All witness statements/notes from meetings, copies of correspondence, or policies cited during the report should be included. When referring to appendix items in the main body text, ensure they refer to the items chronologically, that is, Appendix 1 will be mentioned first, followed by Appendix 2, etc.

**6. Writing Style:** The report is written for the Panel not for the writer. It is suggested that a more formal and general style is adopted, Appendix 3.

**7. Dealing with difficult issues:**

Inevitably during the investigation process unexpected events occur, which fall outside of the terms of the investigation. These should be dealt with as follows:

**Further or Counter allegations are made:** If the allegations relate directly to the current investigation or substantiate other information the Investigating Officer/Panel should make the decision about whether to include these in the current investigation. If the allegations do not relate, or are made against other parties, these should be dealt with separately from the investigation.

**Fogging:** Fogging is a powerful, assertive verbal skill. The Investigating Officer/Panel should agree with any statements of fact people may use to criticise or attack but should steer the person back on track. For example:

**Question:** *“What do you mean I harassed her? I have been her manager for years and she has never complained before?”*

**Response:** *“Yes, I know she has never complained before; however, she has on this occasion.”*

OR

**Question:** *“How dare you say that! I am a good manager.”*

**Response:** *“I agree you have a record as a good manager. I have received a complaint and I should investigate it.”*

**Confidentiality:** The Investigating Officer/Panel should ensure that all witnesses and those interviewed understand how the information they provide will be used. If a witness asks if what they disclose can remain confidential, the Investigating Officer can explain that if it is important and relevant to the investigation, it will be included in the report; however, confidentiality will be maintained where possible. It is important also that witnesses understand that there may be a need for them to attend a formal hearing.

**Refusal to participate:** If the employee in the centre of the allegation refuses to participate they should be informed that, unless they provide information, either in person during an investigation meeting, or in writing in relation to the allegations, a decision may be made based on the information provided. It is essential that this is communicated verbally and in writing, giving the employee time to reflect and respond appropriately.

**Refusal to participate (Witness):** If a witness refuses to participate it is important that the Investigating Officer meets with the witness to find out the reasons for this, to explain the process and to establish what reassurances/support they may require.. Depending on the case in question, it may be possible to continue the investigation even if the witness refuses to make a formal statement.

**8. Associated Documents:**

Other Associated documents could include:

- Disciplinary Procedure
- Grievance Procedure

## **9. Appendices:**

Appendix 1: Standard letter template - Invite to Investigation Meeting

Appendix 2: Standard template - Witness Statement

Appendix 3: Investigation report template

This Managing Investigations “Guidance notes for Managers” can be obtained from the Human Resources website or by contacting Human Resources direct.



22 March 2022

**Private & Confidential**

Mr/Mrs

Dear

**Re: Invitation to Investigation Meeting**

Further to our conversation on [redacted] in which I advised you that there had been an allegation with regard to [redacted]. I am writing to advise you that I need to carry out a thorough investigation into this allegation. Therefore, you are required to attend a meeting with myself on [redacted].

The meeting will take place on [redacted] at [redacted] am/pm in my office. This meeting is in order to allow us to conduct the investigation fully, impartially and fairly. Whilst this is not a form of disciplinary action against you please be aware that the outcome of the investigation could lead to action being taken under one of the Universities policies and could, at later stage, form part of any subsequent \*disciplinary/\*grievance hearing.

I will attend the meeting, in the role of Investigating Officer and will be accompanied by <name and job title> who will be present in the role of note-taker.

Please note that all stages of the investigation process must be treated as confidential at all times and no audio/electronic or similar recordings may be made. Any breach of these conditions could lead to proceedings under the disciplinary process.

I would be grateful if you could contact me on 01895 <number>, to confirm that you will be able to attend this meeting, or to arrange a more suitable date. If you do not attend, and we have not agreed that there are exceptional reasons for rescheduling this meeting, any decision on how to move forward will be based on the information available.

In the meantime, if you have any questions or concerns, please do not hesitate to contact me.

Yours sincerely

Investigating Officer

\* delete as appropriate

## **Witness Statement (Template)**

**Name:**

**School/Department:**

**Job title:**

Details of witness statement ...

I confirm that this is a true and accurate reflection.

**Name:**

**Signature:**

**Date:**

## Investigation Report – (Template)

**Name:**

**School/Department:**

**Job title:**

**Investigating Officer:**

### **1. Introduction/Background:**

A brief introduction to the report clarifying the allegations/incidents which have been investigated, details of the person whom the allegation has been made against including employee details, start date, post, probation, previous warnings etc. and if they are currently suspended from duty. The aim is to give the Panel an initial frame of reference to assist comprehension and assessment.

### **2. Investigation:**

This section should detail the process of the investigation including a list of the people interviewed specifying if witness statements/notes from meetings have been taken, details of University Policies and Procedures reviewed, details of any other activities undertaken as part of the investigation (watching video's etc).

### **2. Methodology:**

This section should detail the process of the investigation including a list of the people interviewed specifying if witness statements/notes from meetings have been taken, details of University Policies and Procedures reviewed, details of any other activities undertaken as part of the investigation (watching video's etc). (Can be merged with Findings).

### **3. Findings:**

This will be the largest section(s) of the report and will detail the findings from the investigation, including the facts and evidence presented, any inconsistencies found with explanations where applicable, any mitigating circumstances and any risks identified.

Where information from particular witnesses is cited, note should be made of the relevant appendices where the notes/witness statements can be found.

### **4. Conclusions:**

These should follow logically from the main body of the report. Do not fall into the common error of including conclusions that cannot be attributed to your Investigation(s). These should be firm, unqualified statements summarising the findings and inferences of the sections of the main text. No new ideas should be introduced at this point. Conclusions are deductions made from evaluating the evidence.

## **5. Appendices:**

All witness statements/notes from meetings, copies of correspondence, or policies cited during the report should be included. When referring to appendix items in your main body text, ensure you refer to the items chronologically, that is, Appendix 1 will be mentioned first, followed by Appendix 2, etc.

**Name of Investigating Officer:**

**Signature:**

**Date:**

Appendix 3

## **6. Writing Style:**

You are writing for the Panel, not yourself, it is suggested that a more formal and general style is adopted, as follows.

- Avoid writing in the first person; the third person is less emotive and more persuasive.
- Always personally check spelling, do not rely on spell checkers.
- Stay clear of clichés, jargon and statements in inverted commas unless these are quotations which are attributed. Occasionally used jargon and terminology is acceptable providing it is explained in your text.
- Check your grammar; we all make errors, and it is advisable to ask a colleague (where possible and appropriate) to critically and constructively check your work before submission.
- Number your pages consecutively.

**Investigation Meeting process under the Brunel University London Grievance /  
Disciplinary Policy and Procedures into the Submission of a Formal Grievance /  
Disciplinary**

COMPLAINANT:  
RESPONDENT:  
COMPANION:  
INVESTIGATING OFFICER:  
NOTETAKER:  
WITNESSES:

**Interview Format**

1. Thank you for attending / Introductions as required
2. This is a fact-finding meeting – important for all those involved to remain objective
3. Confidentiality. The investigation will be handled with as high a degree of confidentiality as is practicable. All those involved must maintain the confidentiality of the process. Any breach of confidentiality may be treated by the University as a disciplinary matter.
4. The Companion will act as a witness, is able to take note of the proceedings, address the meeting and confer with the interviewee. They may not answer questions on the interviewee's behalf, or prevent the interviewee explaining their case.
5. The University prohibits the electronic recording of meetings and so written notes will be taken throughout.
6. The Informal Process under the Grievance Policy and Procedures has been followed but has not been successful; the Complainant raised a formal Grievance (Stage One of the Formal Process) on (xxx).
7. Notes from each meeting will be subsequently shared with the interviewee. If an interviewee disagrees with an aspect of the record they will be able to annotate the notes before signing and returning to the Investigating Officer.
8. The evidence / information may be used in a subsequent formal hearing which each interviewee may be required to attend.
9. Does the interviewee have any questions about the process?

**Details of the Grievance**

Under the Dignity at Work Policy – Employment, XXX claims that between the period of (XXX and XXX he was subject to a pattern of behaviour conforming to bullying and harassment from XXX. Specifically during this period:

1. (list the specific details if available)

**The Complainant's Expectations for Successful Resolution**

1. (list any specific expectations if available)

### ***Suggested questions***

1. **What can you tell me?** This generally tends to get the interviewee to open up. As said above, employees generally like to talk in these situations.
2. **What is/was your role in matters?** This can be useful to engage with the interviewee and clarify both roles and areas of responsibility or accountability.
3. **What happened exactly?** This question focuses on the facts (rather than anecdotal reporting or hearsay). It separates fact from perception. It can influence the direction that the investigator takes in ascertaining the facts.
4. **When did this all start?** How long has this been going on? This enables the investigator to ascertain timing and location and any historic factors, timeline etc., and the response provides the means to establish consistency and facts.
5. **What did you personally observe?** Again, this separates fact from hearsay and focuses the mind. The investigator needs to untangle the 'real' from the 'imagined' and ascertain exactly what occurred – rather than what employee's believe happened. Follow up questioning and interviewing will clarify facts and (in the employer's best interest), enable the investigator to get to the heart of the matter.
6. **What have you been told and by whom?** Collusion and collective bullying is a most serious issue in the workplace. There may be resistance to the question but the response helps identify 'ringleaders' and protagonists or perpetrators in bullying cases.
7. **Who was present?** Statements made by employees in response to this question are far more powerful where there is consistency. Where matters can be corroborated by multiple parties, the investigation outcome and recommendations carry far more weight and may even be relied on in future litigation.
8. **What was your response** This question is extremely important in terms of separating the bystanders from perpetrators. The responses received in each case can have a significant bearing on any formal action recommended by the investigator, to the employer.
9. **What action did you take?** Focusing once more on the role of a bystander, we can establish whether, or not, prompt intervention will have prevented matters from escalating.
10. **What action have you taken since?** As with the question above, this question ascertains the level of comprehension in terms of accountability, responsibility and/or an understanding of the policies in place. It is powerful when identifying future diversity awareness training and/or remedies to address a bullying culture, in the aftermath of an investigation process.

### **Closing Interview**

1. Does each interviewee wish to provide any further information or raise any questions before the interview concludes?
2. Next steps / indicative timescales / Thanks