

Protocol for Investigating Officers

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| Responsibility for Policy: | Registrar & Chief Operating Officer |
| Relevant to: | LJMU staff |
| Approved by: | September 2015 |
| Responsibility for Document Review: | Student Governance |
| Date introduced: | September 2015 |
| Date(s) modified: | September 2016, July 2017, July 2019, December 2020, July 2021 |
| Next Review Date: | July 2022 |

RELEVANT DOCUMENTS

Student Complaints Procedure
Student Code of Behaviour and Student Disciplinary Procedures

RELATED POLICIES & DOCUMENTS

Investigation protocol and guidance for Investigating Officers

1. Introduction

1.1. This investigation protocol is applicable to all formal student-related investigations. For example, where a student complaint is particularly complex and/or contains serious allegations against other students or members of staff (Appendix 1 of the Student Complaints Procedure refers) or, following serious allegations under the Student Code of Behaviour and Student Disciplinary Procedures or Fitness to Practise Policy, an independent, impartial Investigating Officer (IO) may be appointed to investigate the circumstances of the matter. The decision to appoint an Investigating Officer will be taken by Student Governance.

1.1 The IO will be a senior member of university staff with no direct involvement with the relevant University department or any of the parties to the complaint and will be supported by a Student Governance Adviser.

1.2 These guidance notes are to support the IO to:

- Better understand the process of investigation.
- Reach a conclusion based on the evidence.
- To support a finding that:
 - The student complaint is upheld, upheld in part or not upheld.
 - The allegation(s) are proven, proven in part or not proven.
 - There is a case to be considered at a Fitness to Practise Panel.
 - The matter should be referred to another university procedure.

1.3 The term 'complaints' is used generically through these notes but they are also applicable to investigations under the student disciplinary procedure or fitness to practise procedures.

1.4 'Parties to the complaint' is a term commonly used to refer to the complainant, (the person who makes the complaint), the respondent (the individual(s) who is the subject of the complaint) and witnesses (individuals who are providing evidence to corroborate statements provided by either the complainant or the respondent).

2 Student investigation protocol

2.1 University procedures follows the principles of natural justice and procedural fairness:

- There are two sides to every dispute.
- All parties are given the opportunity to provide evidence to substantiate their version of the matter.
- All parties are entitled to have their case considered by an independent, impartial and unbiased decision maker.

- Full disclosure of allegations or evidence will be made to those parties involved in the complaint prior to any formal interview or hearing.
- There should be no unreasonable delay in investigating the matter.
- All parties involved in a complaint have the right to be accompanied by a Friend/Liverpool John Moores Students' Union/Trade Union representative at each stage of the procedure.

The investigation process must be fair and transparent. This entails allowing the parties (complainant and respondent) to present their evidence, usually in separate interviews with the IO, to know who else will be interviewed and to see all of the available evidence. Evidence will not normally be disclosed to witnesses.

Where more than one individual is named in a complaint, those individuals will be party only to the matter(s) of complaint and outcome(s) that are directly specific to them.

- 2.1 Failure to observe the basic requirements of fairness will allow any decision to be challenged.
- 2.2 Complaints should be investigated and brought to a conclusion with the minimum of delay. If a case is unreasonably delayed, there is the potential for challenge on the basis that the student has been compromised; by witnesses being unavailable, by evidence being more difficult to investigate and witness memories waning. Delay also enables an argument that, irrespective of the outcome of the investigation, the individuals involved have been under stress due to the length of time taken to consider the matter.
- 2.3 Where there may be delay due to the availability of parties to the complaint (during the vacation periods for example), the IO should consider the potential implications of the delay. Where delay is unavoidable but essential to ensure a fair investigation, then this should be made clear to the relevant parties. In exceptional circumstances, the Investigating Officer may request signed statements to be provided in lieu of interview. Interviews may be conducted on line where appropriate.
- 2.4 The IO will have access to all documents relating to the case but may request further information or documents as appropriate.
- 2.5 All information provided regarding the investigation is normally confidential for use within the investigation process and subject to the requirements of data protection legislation. Normally, only staff directly involved with the complaint will have access to confidential information. However, confidentiality cannot be guaranteed; for example, where the matter may be escalated by the student to the Office of the Independent Adjudicator or the courts. Exceptionally, where there are issues of safeguarding, risks of harm to students or others, or criminal activity, information may be provided to a third party without an individual's consent.

3 Interviewing the parties

- 3.1 Following an initial review of the documents and where applicable, consultation with Human Resources (HR), the Student Governance Adviser will arrange interviews with the complainant, witnesses and other relevant parties to the complaint.
- 3.2 The complainant will normally be interviewed first; parties to a complaint may be interviewed or contacted on more than one occasion if further clarification is needed.
- 3.3 The order of interviews is subject to the discretion of the IO and the availability of the parties. Normally, witnesses for the complainant are interviewed before the respondent to the complaint is interviewed.
- 3.4 Respondents will be provided with a copy of the complaint submission and any evidence provided by the complainant, prior to meeting with the IO.
- 3.5 Non-verbatim notes will be made of the interview and a copy given to the interviewee, who will be asked to confirm or amend factual details, following the interview. (Section 5 provides further information on interview meeting notes).

4 Conducting an Investigation Interview

- 4.1 At the start of the interview, the IO / Student Governance Adviser must ensure that:
 - 4.1.1 All parties present at the interview are introduced and their roles explained.
 - 4.1.2 The interviewee, if unaccompanied, was informed of their right to be accompanied prior to the interview. Where the interviewee is accompanied, then the name of the friend John Moores Students' Union/trade union representative is included in the interview notes.
 - 4.1.3 The interviewee is aware of the procedure that is being followed, relevant timescales and (if known at this stage) any potential delays.
 - 4.1.4 The involvement of the interviewee in the matter / incident is clear (for example whether they are the complainant, a respondent or witness) and that all relevant details are within their knowledge. Wherever possible, second-hand (hearsay) evidence should be avoided.
 - 4.1.5 The interviewee is aware that full disclosure of the allegations and evidence will be made to the relevant parties to the complaint.
- 4.2 The **complainant** confirms the substance of the complaint and the issues to be investigated. The IO will confirm the scope and remit of the investigation. This must be noted and agreed at the initial interview.
- 4.3 The **complainant** confirms the remedy they are seeking i.e., what they see as the desired outcome to their complaint. This must be noted and agreed at the initial interview.

- 4.4 The **complainant** has provided all documentary evidence and information (any outstanding evidence must be provided by a specified date). This must be noted and agreed at the initial interview. After this date no new information or evidence will be considered unless the complainant is able to demonstrate that they were unable to, or prevented from submitting the information at the correct time.
- 4.5 The IO will confirm to the **complainant** who s/he deems relevant to interview. (The respondent and IO may also identify other staff/students to be interviewed).
- 4.6 Prior to meeting the IO, respondents to the complaint will be provided with a copy of the complaint submission and evidence submitted relevant to the issue of complaint they are responding to. The respondent is given the opportunity to respond to the issues of complaint, provide documentary evidence where applicable and/or arrange to provide relevant documents by a scheduled date.
- 4.7 The interviewee is advised that the investigation report will be circulated to the complainant, the respondent and the director of the faculty/service for consideration and appropriate action in accordance with the recommendations.
- 4.8 During the Interview the IO asks the witness to respond to the issues raised, provide documentary evidence if applicable and / or arranges to provide relevant documents by a scheduled date.

5 Interview Notes

- 5.2 Summary (not verbatim) notes of the interview will be taken.
- 5.3 Interview notes will be sent to the interviewee normally within 7 working days of the interview requesting that the notes are agreed or amendments proposed, signed and returned within 7 days.
- 5.4 **The interview notes should:**
- Note the procedure that is being followed.
 - Clearly record the matter of complaint.
 - Record the response to the complaint.
 - Refer to any relevant documents that support the accounts of the complainant, respondents and witnesses
 - Record any further information required and agreed deadlines for providing such information.
 - Not include irrelevant or prejudicial material.
 - Be written in such a way that it can be read by someone with no knowledge of the case, so that they would be able to understand the circumstances of the complaint and the relevance of the evidence of the witness.
- 5.5 Interviewees should note that a copy of the original notes and their amendments will be retained for consideration by the IO, via Student Governance during the investigation and when determining his/her findings.

6 Investigating Officer's report

6.2 Format of the report

- 6.3 Once the investigation has been completed, the Investigating Officer will submit his/her findings in the form of a written report.
- 6.4 The report should follow the format outlined in Appendix 2.
- 6.5 The report will state if the complaint is upheld, upheld in part or not upheld and include any recommendations for further action.

7 Distribution of the report

- 7.1 All parties will receive a copy of the final investigation report and will be advised of any appropriate actions to be taken and the next stage of the procedure.

Where more than one individual is named in a complaint normally, those individuals will be party only to the matter(s) of complaint and outcome(s) that are directly specific to them.

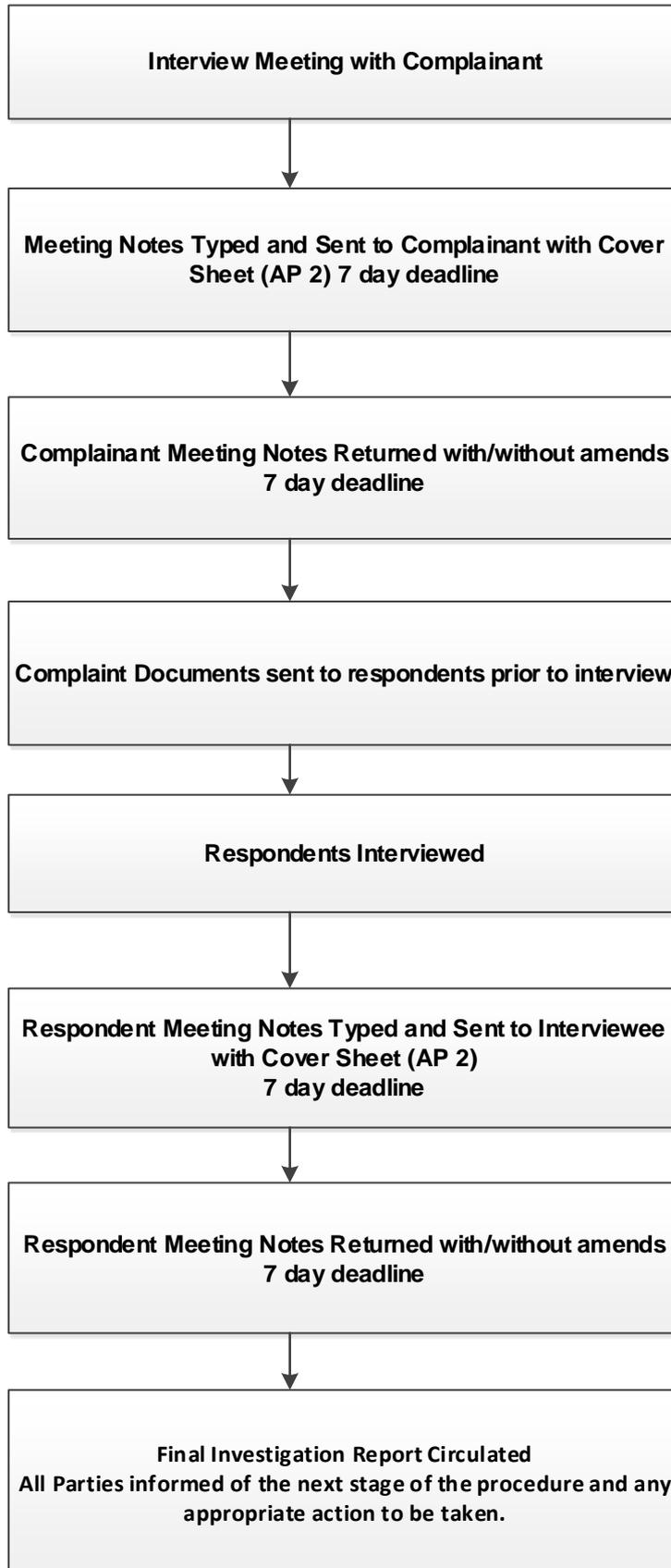
Where the outcome of a student complaint investigation includes recommendations for consideration under student disciplinary procedures or staff management processes, the outcome of these processes will not normally be disclosed to the complainant.

- 7.2 Dependent on the nature of the complaint and the findings the investigation report may also (if applicable) be circulated to the director of faculty/service and Human Resources (HR) to consider the findings and any recommendations. The director of faculty/service (and where applicable HR) will determine further action in light of the findings.

Appendix 1
Student Governance
Investigation Process

Witnesses for
complainant
Interviewed

Other Interviews/
information collated



Appendix 2 Investigation Report Format

1. Complaint

This section should clearly specify the issues of complaint as agreed with the complainant and note the remedy sought by the complainant.

2. Summary of investigation process

This section should summarise the scope of the investigation including who was interviewed and why as well as referencing the evidence considered.

3. Outcome of the Investigation

This section should state the findings of the investigation addressing each aspect of the complaint as summarised in section 1.

If the complainant has not provided evidence to substantiate all or part of the complaint or if the Investigating Officer is unable to reach a conclusion on all or part of the complaint due to conflicting evidence, then the report should note this.

This section should state whether each issue of the complaint is Upheld, Upheld in Part or Not Upheld.

4. Recommendations

Where the complaint is upheld or upheld in part, then the report should refer to a remedy. If this is not the remedy sought by the complainant, then the report should indicate why.

Additionally, the report should note any recommendations for further action if appropriate, for example the recommendations for good practice, feedback on procedures etc.

The Report should note that the Investigation Report will be circulated to the Director of Faculty/Professional Service Team and where appropriate HR, to consider the findings any recommendations and that the Director may take further action in response to the findings of the report.

5. Appendices

This section should list the copies of evidence referred to in the report as appendices.