

## **People and Culture Investigation Procedure - June 2024**

### **1. Introduction**

Where a concern, complaint, allegation or grievance is raised, the College will usually conduct an investigation under this procedure.

The purpose of an investigation is to establish the facts of the matter, collect and consider evidence that supports and challenges the allegation(s), decide if there is a case to answer, and recommend actions.

This procedure aims to ensure that investigations are carried out promptly and in a fair and reasonable manner. It is intended to cover all investigations including, but not limited to, matters relating to conduct, grievance, harassment and bullying.

An investigation will likely be conducted in relation to a policy, the relevant policy should be consulted in conjunction with this procedure.

### **2. Scope**

#### **2.1 College employees**

This procedure applies to all College employees and members of the College community who have raised a concern/complaint or been asked to participate in an investigation e.g. the subject of the investigation or as a witness.

#### **2.2 Employee complaint involving a student**

If an employee raises a complaint regarding a student, an investigation would usually be conducted by the Student Support team in accordance with [the RCA Student Misconduct and Disciplinary Policy'](#)

#### **2.3 Employee complaint involving an external party**

If a complaint relates to an external party supplied by an external agency, supplier, auditor or any third-party company e.g. an attendee at an internal/external event, the College will transfer the matter to the agency/company responsible for the individual.

The employee should report the matter using Report & Support or, if preferred, contact their line manager or the People and Culture team. It will be the responsibility of People and Culture to notify the external agency/company of the complaint and ensure appropriate support is provided to the employee who has disclosed the matter. It will be the responsibility of that agency/company to investigate and conclude matters as appropriate in line with their existing policies. As an external organisation, they may not share the outcome of any investigation with us. Depending on the outcome, the College reserves the right not to engage the services of that individual or company again.

## 2.4 Student complaint regarding an employee

If a student wishes to formally complain about the conduct of a staff member, they can do so via [the RCA Student Complaints Policy](#). They can alternatively report the matter via [Report and Support](#) to receive advice about available support and how to make a formal complaint. Any investigation into the complaint will be undertaken with assistance from People and Culture in accordance with this procedure. Any complaint investigated that amounts to misconduct may lead to action taken under the Disciplinary policy.

## 3. Principles of Investigation

3.1 Investigation meetings will ideally take place face to face but can be virtual if all parties agree.

3.2 The Investigation Manager will normally give up to 5 working days' notice to those required to take part in an investigation. These timings can vary depending on the circumstances and an alternative notice period can be agreed by both parties.

3.3 All members of the College community are required to participate and cooperate with any investigation that they may be involved in or witness to. This is a reasonable expectation of anyone who may have information that could assist an investigation. Failure to engage with the investigation process may result in the investigating manager reaching their conclusions without all of the available information.

3.4 All those involved in the investigation process are bound by confidentiality and must not discuss the case with anyone other than the person investigating the allegations or the individual's representative and immediate family / close relatives as is reasonable and appropriate. Failure to abide by the limits of this requirement could result in disciplinary action against the employee concerned

Those involved in an investigation can share information as part of a confidential counselling session or at the request of the Police.

3.5 The College reserves the right to conduct a general investigation. This could be in relation to an incident, or to surface a more general concern within a team and/or department where a matter does not naturally align to a specific policy at the outset. It may be that during this investigation, evidence is presented that directs towards a specific policy. This will only be undertaken on the advice and guidance of People and Culture.

3.6 Audio and/or video recording of meetings is strictly prohibited unless with the express and written consent of all parties present.

3.7 Any concerns or possible conflict of interest regarding the Investigation Manager, should be raised by the employee to the Investigation Manager, People and Culture, or a Trade Union representative at the outset of the investigation.

3.8 If the incident under investigation has multiple witnesses, the Investigation Manager is not required to interview all individuals. The Investigation Manager is required to do what is reasonable and proportionate to gather the necessary information.

3.9 Where the employee subject to the investigation requests to see evidence during an on-going investigation, they will receive details of the allegation(s) but not any witness statements or meeting notes. Should the matter lead to a hearing, these statements will normally be shared at this point.

3.10 An investigation report will be produced that will recommend whether sufficient evidence of misconduct exists to warrant a formal disciplinary hearing.

#### **4. Investigation Instigation and Appointment of Investigating Manager**

4.1 Where an issue arises that is serious in nature and/or complex and cannot be resolved informally, it is likely that an investigation will be required. The matter should be brought to the attention of the HR Advisor for the School/Department for advice and guidance.

4.2 People and Culture will appoint an Investigation Manager to conduct the investigation as soon as possible and will normally attend investigation meetings to provide procedural support and advice to all parties and guidance to the Investigation Manager as required.

4.3 In the case of a Grievance, the manager hearing the grievance will normally act as the investigating manager unless the Director of People and Culture deems it necessary to appoint an independent investigating manager.

4.4 If the matter requires a criminal investigation, the Investigation Manager should escalate the matter to the Director of People and Culture (or appropriate delegate) and a decision will be made, on advice of the Police, whether to postpone the investigation pending the criminal proceedings or continue. If it is deemed reasonable to do so, the College may still carry out its own investigation if this does not impact on any criminal investigation or prejudice the criminal proceedings. Any decision regarding this will be made by the Director of People and Culture (or appropriate delegate).

4.5 The Investigating Manager will:

- be at least one Grade above the employee being investigated.
- be impartial, objective and have had no prior involvement in the case.
- be available during the period of investigation to ensure no undue delays.
- ensure that they have adequate time out with other work priorities to manage the case.
- not be involved in any subsequent decision making on the matter. (The exception to this is grievances, where the investigation manager is also the decision-maker.)

4.6 The Investigating Manager will ensure that the scope of the investigation is proportionate to the matter under investigation. While an investigation should be completed as quickly as practical and ideally within 20 working days. The main priority is to ensure that the Investigation Manager focuses their attention on what is likely to be important and

relevant. Any delays to the investigation should be explained to those involved and included in the conclusion/report.

4.7 For particularly complex cases, or those requiring specialist investigatory skills, it may be necessary to appoint an external investigator. This will be determined and arranged by the Director of People and Culture.

## **5. Suspension**

5.1 There may be instances where suspension with full contractual pay is necessary while investigations are carried out. The College has the right to suspend with pay where there are reasonable grounds for concern that evidence may be tampered with, destroyed or witnesses pressurised before a disciplinary hearing, or if there is a potential risk to the business or other employees or third parties in allowing the employee to remain at work.

5.2 Suspension is not, in itself, a form of disciplinary sanction. The period of suspension will be as short as possible and ideally no longer than 15 working days.

5.3 A suspension impact assessment will be conducted and the authority to suspend is obtained from the Director of People and Culture or their nominee.

5.4 It may be deemed appropriate to, as an alternative to suspension, place the individual at another location or in a different role within the College. This will depend on the nature of the alleged misconduct.

## **6. Investigation Meeting(s) and Evidence Collection**

6.1 An investigation should only be initially concealed if there is a valid reason for doing so, such as in cases where an employee might be able to influence witnesses or tamper with evidence. It may also be necessary to delay notification of a grievance to those accused until after the complainant has been interviewed to confirm the scope of the investigation.

6.2 The initial investigation meeting will be convened by sending an invitation to the employee, usually electronically. The invitation will be sent by People and Culture and will indicate the logistics of the meeting (date, time and location), confirm whether the person can be accompanied, provide a brief summary of the allegation(s) or, in the case of a grievance, normally a copy of the employee's grievance submission, and confirm who the Investigation Manager will be.

6.3 The parties will be met separately and effort will be made in the case of sensitive matters to ensure that these meetings are held on different dates/at different locations in order to lessen the impact on the individuals.

6.4 The Investigation Manager may choose to re-interview individuals in order to clarify areas of contradictory information if appropriate or if new facts come to light during the investigation which warrant further discussions.

6.5 Whilst this is not normally the recommended approach, it may be appropriate to obtain a written statement from a witness rather than interview them in a meeting. For example, if a witness is not an employee of the College; when the facts required from a witness are limited and straightforward; or where a witness is unable to attend an investigation meeting, for instance due to illness or being on research leave.

6.6 A witness can request to remain anonymous. While anonymity cannot be guaranteed, it may be considered in circumstances where there is a real or pertinent fear/threat of harm or danger, and the witness has legitimate grounds for that belief. Where anonymity is requested, the witness should be made aware that the Investigation Manager will attempt to keep witness statements and interview notes anonymous as far as possible. Should the matter result in legal proceedings, anonymity is unlikely to be sustained. Any anonymous documents must contain enough detailed information to allow the Investigation Manager to obtain independent corroboration of the facts. Investigation Managers should always seek the advice from People and Culture if anonymity is requested.

6.7 Witnesses and individuals contacted by the investigator are required to participate and cooperate with any investigation. This is a reasonable expectation of anyone who may have information that could assist an investigation. Failure to engage with the investigation process may result in the investigating manager reaching their conclusions without all of the available information.

6.8 The Investigating Manager should collect any documentation that may be useful to establish the facts of the matter such as meeting notes, email correspondence and any previous warnings related to the allegations under investigation.

6.9 The Investigating Manager should consider if there may be other forms of evidence such as CCTV footage, computer files, and phone records relevant to the investigation. Such records should only be sought and used where it is necessary to do so. The Investigation Manager must consult with the Data Protection, Records and Information Officer to ensure compliance with the College's obligations to uphold Data Protection laws and regulations.

## **7. Investigation Outcome**

7.1 The Investigation Manager must confirm, in writing, the outcome of the investigation. It is usual practice for the Investigation Manager to summarise their findings and recommend an outcome usually in the form of an Investigation Report however, this may not always be required for Grievance outcomes.

7.2 While an Investigation Manager may seek advice from People and Culture, the conclusion will be their own.

7.3 The Investigation Manager must ensure that the report is objective and concise, and the recommended action is based on the evidence collated.

7.4 The report/conclusion should cover:

- material facts that were/were not established;
- mitigating circumstances that require consideration;

- relevant written and physical evidence gathered;
- action to take forward upon conclusion of the report;
- whether there is a case to answer.

7.5 For grievance matters (as the grievance manager is also the decision-maker), a report is not required, unless there is a recommendation for any matters to be considered further under the Disciplinary policy as this would be required for the Disciplinary panel.

7.6 In relation to disciplinary matters, the investigation can conclude that the individual should be referred for further action under the Disciplinary Policy. Where the investigation results in the decision to proceed to a Disciplinary Hearing, the subject of the disciplinary will be issued with an invitation to a hearing including all of the evidence gathered as part of the investigation.

7.7 Where applicable, the person who raised the complaint will be informed that formal action has been recommended. However, the outcome of the Disciplinary Hearing will not be shared with the complainant or any other relevant parties involved in the investigation and disciplinary process e.g. Investigation Manager/witnesses in order to protect confidentiality.

7.8 The investigation may identify issues that, whilst outside the scope of the investigation, may warrant action. The Investigating Manager should document these for consideration in the final report.

7.9 If the decision is taken to share information with the police, the Director of People and Culture (or appropriate other) must document this decision and the rationale.

7.10 The outcome of the investigation will be held confidentially within People and Culture.

## **Support**

The College recognises that individuals who are required to participate in an investigation process may feel anxious about the process and is committed to providing support and assistance for all individuals in these circumstances.

For Staff - information on wellbeing, the Employee Assistance Programme and Occupational Health provision can be found on the HR Hub on the intranet.

For Students - information on Student Support including wellbeing and mental health can be found on the Student Support Hub.