



Brasenose College
College Guidelines to Investigations
(This document applies to non-academic staff)

Approved at Governing Body 14 February 2018

(To be read with the College's Disciplinary, Grievance, Harassment or Capability policies)

These College guidelines explain the way allegations against staff will be investigated to ensure that any incidents or issues are dealt with fairly and consistently. They set out the steps in the process to gather and review evidence with an open mind before a decision is made on whether a case needs to be considered further, usually under the formal stage of the College's **Disciplinary Policy**, but also possibly as a result of a case being considered under the College's **Harassment** or **Grievance Policy**. In some cases if a member of staff appears unable to perform to the expected standards of work, an investigation may be necessary to gather evidence for consideration under the **Capability Policy**. Copies of these policies are on the staff website and further guidance on their use is available from HR.

Most problems can and should be resolved informally and if an incident or problem occurs, College will need to decide whether informal action is appropriate as part of normal management routine to resolve the matter quickly. Where an informal approach is not practical or appropriate, or if an employee raises a formal grievance or complaint, the College will need to investigate before taking further action.

An employee can insist on having a complaint (also known as a grievance) dealt with formally. If staff raise a grievance against College or another member of staff, this would lead to the start of an investigation (following the principles set out in these Guidelines to Investigations). Please see the **Grievance Policy** for further details of the process.

In all cases, the investigation is a process to gather available evidence. An appropriate person will be appointed to carry out the investigation, who will often be the individual's line manager, but depending on the circumstances, another appropriate person may be appointed. The investigator will approach the matter objectively and concentrate on any evidence which supports or contradicts the issues or allegations raised. In exceptional circumstances, an external consultant may be appointed to act as investigator.

The investigator, together with an appropriate person (usually the line manager, Bursar or Domestic Bursar) and supported by the HR Manager, will agree the remit of the investigation i.e. what is to be included and the projected timescale for the investigation. The investigator will decide on any possible witnesses they want to talk to as part of gathering evidence.

The employee who is subject to the investigation, or who has a complaint/grievance against them will be told what the investigation is about and why it is happening and, other than in exceptional circumstances, these details will be confirmed in writing in good time prior to the first investigation meeting.

Confidentiality

During the investigation, all information gathered during the preliminary investigation and during investigation meetings will only be circulated between the investigator, the HR team and the College's professional or legal advisers. The fact that an investigation is being carried out should remain confidential to everyone involved in the process. No-one should discuss details with colleagues or with anyone else inside or outside the College.

If the investigation progresses to a formal Disciplinary, Grievance or Capability hearing, evidence gathered and all confirmed statements, including those made by any witnesses, will be made available to HR and to the person who chairs the hearing and any appeal hearing arising. In addition, the person with the allegation or complaint made against them (and therefore also anyone who accompanies them to the disciplinary hearing) will be provided with the evidence which will be considered at any subsequent Disciplinary, Grievance or Capability Hearing, including relevant witness statements. Any information gathered will be subject to the relevant data protection regulations in force at the time. Please see the College's guidelines on Confidentiality for further information on how sensitive information is handled by the College.

If a formal **grievance** is investigated, the outcome of that grievance is disclosable to the person who made the complaint, on a confidential basis. They will be instructed not to share this information with anyone else. In cases other than a grievance, staff would not have the right to know the outcome of an investigation or any subsequent action taken as a result.

Preliminary investigation

Before holding meetings with the employee and any witnesses, the investigator should assess all evidence they hold so far. Emails or website searches may also be carried out in accordance with the College's Employee Handbook and Social Media policy.

Investigation Meetings

Investigation meetings enable questions to be asked about what happened. The College will ensure that investigation meetings are usually attended by a note-taker who can provide minutes of the meeting. In some cases the meeting may be recorded to assist accuracy. The College will provide a translator if one is required and reasonable adjustments made for disabled employees if required.

Employees may be called as witnesses to an investigation meeting

Employees may be called to attend an investigation meeting if they are considered to be a witness to an alleged incident or may have evidence which relates to a case under review. Witnesses will usually be invited in writing to attend an investigation meeting. Depending on the circumstances, the letter will contain the following information:

- Date, time and place of meeting.
- Name of investigator and their role.
- Reasons for the meeting i.e. that they are called as a witness and no allegations have been made against them.
- Explanation that the purpose is to gather evidence

- A reminder that all details concerning the investigation process must be kept confidential and that a breach of confidentiality may result in disciplinary action.
- How a witness statement or minutes taken in the investigation will be used, i.e. as part of a report to the Bursar/Domestic Bursar for example. Also that the statement may be used as evidence at any future disciplinary hearing, and would usually be made available to the employee against whom the allegation has been made, and anyone who accompanies them.
- Any option to be accompanied to the meeting.
- If a new allegation arises during the investigation relating to a witness, this will be explained to them separately, and in writing.

Employee subject to an investigation

The employee against whom an allegation has been made, or who is the subject of a potential capability process which requires investigation, will be informed of the accusation or issue, before an investigation begins so that they have the opportunity to discuss the issue and have the relevant process explained to them. This will usually take place with their manager, if appropriate or another suitable manager, or HR.

The employee who is subject to the investigation will be told what the investigation is about and why it is happening and, other than in exceptional circumstances, these details will then be confirmed in writing in good time prior to the investigation meeting. Depending on the circumstances, the letter will usually give details of the following:

- Date, time and place of the investigation meeting.
- The name of the investigator and their role
- The allegations/issues to be investigated (although these may be changed in light of the investigations).
- An explanation that the meeting is to gather evidence.
- That on the basis of the evidence gathered, a short summary of evidence/report will be written by the investigator for the relevant person (usually Domestic Bursar or Bursar) who will decide if there is sufficient evidence to indicate that a formal disciplinary hearing should be convened.
- A reminder that all details concerning the investigation process must be kept confidential and that a breach of confidentiality may result in a disciplinary action.
- That the statement or minutes taken in the investigation will be used if the case goes forward to a formal disciplinary hearing.
- The option to be accompanied.
- That it may be considered a disciplinary issue if staff unreasonably refuse to attend the meeting.

An employee with an allegation against them is normally interviewed last, after all other witnesses meetings have been completed, but this will vary case by case.

Witness Statements

Notes will be taken during the investigation meetings either by the person undertaking the investigation or by a note-taker and/or in certain circumstances they may be recorded and

transcribed later. These notes will usually form a witness statement or set of minutes. A copy of the witness statement will usually be typed up and will be given to the interviewee to check for accuracy. Wherever possible, statements will be provided for staff to check and approve during their working hours.

The minutes/statement will contain the main points of the meeting and will not be a word for word account. The employee will be offered the chance to make any amendments to the record and to initial and date these. They will be asked to sign to confirm that this document is a “true and accurate record”. (This document will be referred to if the case progresses to a disciplinary hearing).

Once the statement/ minutes have been checked/amended and signed and dated as a true and accurate record, the document will usually form part of the investigator’s final report. Any discrepancies should be considered and amended as appropriate.

Suspension

Under normal circumstances, employees subject to the investigation may remain at work. However, if practical the College may transfer an employee to a different work location during the investigation, or be reassigned certain duties.

In certain situations involving some allegations of gross misconduct, it may be appropriate for College to agree that an individual does not need to report for work while an investigation takes place, while remaining on full pay. This should not be seen as a disciplinary sanction or penalty of any kind.

Timing

It is important that an investigation is completed as soon as possible to assist with accurate recall of the events. Wherever possible the meetings will usually take place at College during normal working hours in a private room with no interruptions. Where a greater degree of confidentiality is required, it may be necessary to hold the meetings outside of College and normal working hours.

Where a large number of employees were witness to the same incident, it may not be necessary to interview everyone individually. A selection of staff may be interviewed and if their accounts are consistent, there may not be the need to interview any others.

If criminal proceedings are required, the College may still continue with their investigation before any external investigation has been completed, depending on Police advice.

Being accompanied to a meeting

Whilst there is no statutory right for an employee to be accompanied to an investigation meeting, College will usually allow the employee to be accompanied by fellow worker, a trade union representative, or an official employed by a trade union.

With the prior consent of the investigator, a personal friend or family member may be able to accompany the interviewee in special circumstances. A translator may also be necessary,

for example, where English is not the interviewee's first language (but they are not the companion).

Role of the companion

Where a companion accompanies the employee to the meeting, the companion is not allowed to answer questions on behalf of the employee. They can ask questions for clarification purposes, confer with the employee and interpret if necessary but the employee must answer the questions. They are there to support the employee.

Sickness Absence during Investigation Process

If the employee under investigation is off work on sickness absence during the investigation process, they may still be invited to an investigation meeting. The College may also decide to refer the employee to Occupational Health for an assessment to check whether they are well enough to attend the investigation meeting and take part in the process. If an employee is suspended and reports that they are sick, then their suspension on full pay will be lifted and they will be paid sick pay in the usual way in accordance with their contract.

Final Investigation Report and Outcomes

After the investigator has interviewed relevant employees, and gathered the body of evidence required, they will report their findings to the relevant person (usually Bursar or Domestic Bursar, or line manager in the case of Capability issues). Very occasionally a verbal report may be sufficient if the evidence is clear and timescales are short (e.g. in cases of violent behaviour or being found drunk on duty).

For conduct issues, such as a case which falls under the Disciplinary Policy or Grievance Policy, the report will include relevant witness statements, and would normally include a recommendation of whether there is a **'case to answer'**.

- If there is **no** case to answer, the employee will be informed that the investigation has concluded, with no further action to be taken.
- However, if the report recommends that there is a **'case to answer'**, this would mean that the investigator recommends progress to a disciplinary hearing so that the employee can explain their case as part of the Disciplinary (or Grievance) process. The investigator would not recommend any penalty or sanctions against the individual; this would be a consideration at the next stage in the process, as a possible outcome of the disciplinary hearing. However, they will advise whether they think the matter is likely to be classed as potential gross misconduct or a lesser offence.

The investigator will brief the person assigned to head the disciplinary or grievance hearing (for example the Bursar/ Domestic Bursar or other relevant person) and will provide them with the relevant information gleaned during the investigation process. They will not however, be further involved in the management of any disciplinary process to follow.

Next steps- See Disciplinary Policy and/or Grievance Policy

If the case is to progress to a hearing, the employee under investigation will be provided with a letter which clearly sets out the allegation, and includes a copy of the relevant policy. The

employee would be given copies of relevant witness statements gathered during the investigation. Anonymous statements may be withheld by College. Further information about the next stage of the process can be found in the College's **Disciplinary Policy, Grievance Policy or Capability Policy and guidance is available from HR.**

Access to the Investigation Report and data protection

Depending on the outcome of the investigation, the final report will be securely retained for a specific period of time, as applicable under relevant data protection regulations. If any employee believes they have been named in this report, they may request to see specific parts of the report where they have been mentioned, but they do not have the right to see confidential information relating to other employees.

Levels of Authority and decision-making

College reserves the right to ask appropriate staff, including the Principal or third parties, to progress any action, at whatever stage of the investigation, disciplinary, grievance or capability processes. Whilst any disciplinary hearing would usually be chaired by the Bursar or Domestic Bursar, College reserves the right for a higher or lower authority to apply a sanction.

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