# Protocol for Investigating Officers

## Introduction and Background

1. City St George's, University of London (CSG) operates several procedures that require the appointment of an independent Investigating Officer (IO) such as the Complaints Procedure, Student Disciplinary Regulations and the Fitness to Practise Procedure.

2. The IO will be provided with support by a disinterested member of the administration, usually a staff member in Academic Services or within a school, who will act as a Case Handler to the investigation.

3. The IO has an overarching role in making recommendations to the Case Handler. Where permitted by the relevant procedures, this may include advising as to the validity of the entry of the student into the formal/secondary section of the procedure and making a recommendation regarding any further action.

## Guidelines for choosing an Investigating Officer

4. The IO shall not have been directly involved in any pastoral support, informal investigation, or any prior investigations for the student(s) under consideration.

5. All IOs must be appropriately trained for the type of case being investigated. This can either be in-person or via the online training resources. IOs should undertake refresher training every 3 years.

6. The Case Handler is responsible for commissioning the investigation and for assigning a suitable IO. Suitability is determined by the following:
   a the required **training** of the IO
   b their **impartiality**
   c their **availability** to conduct the investigation and complete it in a timely manner

7. The university reserves the right to appoint external professional investigators with suitable training and professional experience. The appointment of external investigators is approved by the Academic Registrar. Any externally appointed IO would be directed by a member of Academic Services who would provide any necessary documentation.

## General guidelines for the Investigating Officer

8. The IO should satisfy themselves that they are suitably independent before accepting the appointment. If at any stage during the investigation, an IO becomes aware of a conflict of

interest, this should be immediately declared to Academic Services and documented within the IO report.

9. The IO should record within the Investigating Officer Report that they have undertaken the relevant training within the last 3 years.

10. The IO should satisfy themselves that they will be able to complete the investigation and report within the timeframes dictated by the relevant procedure.

11. The Protocol for Investigating Officers should be read in conjunction with the appropriate university Procedure/Regulation/Policy.

12. The IO should be clear on the scope of their investigation, for example, whether the investigation is concerned with a single incident or recurring themes or behaviour. Guidance may be sought from the relevant procedure or relevant senior named officer in the procedure.

13. Correspondence with relevant parties (including the student(s) under consideration) may be conducted by email, in person and/or via Teams. All correspondence shall be made available to the Case Handler. These notes of any meeting with the IO shall be made available to the interviewee.

14. All correspondence with students from the IO or the Case Handler shall clearly state which procedure is in operation and under which stage the student is being considered. All correspondence with all relevant parties shall be neutral in tone, and should clearly reflect that no decision, judgement or action is predetermined.

15. In conducting the investigation, the IO may request written statements, request additional documentation, and shall interview relevant parties. In cases where the student's health is in question, the IO may request a report from the Occupational Health Team, with the permission of the student.

16. An IO should take reasonable steps to verify and test the evidence provided. The standard of proof is the balance of probabilities.

17. Copies of all written statements and documentation should be forwarded to the Case Handler for compilation and filing.

18. When conducting interviews, the IO should provide the interviewee with sufficient time to prepare, including the opportunity to seek advice and arrange accompaniment if necessary. The IO may be accompanied during all interviews by the Case Handler, who may arrange for the meetings to be audio/audio-video recorded.

19. The IO is obliged to ensure that all parties and their supporters are treated fairly and with respect at all times during the investigation and should expect the same in kind. Compliance with relevant equality and diversity policies is mandatory during the conduct of interviews.

20. Any person being interviewed may be accompanied by a supporter of his or her choice. The IO and the Case Handler should be informed in advance of the identity of the interviewee's supporter and their intended contribution to the interview. Students should be encouraged to speak for themselves wherever possible.

21. The IO and the Case Handler will be responsible for arranging the meeting time of the interview and will communicate this to the interviewee. It is the interviewee's responsibility to communicate meeting times to their representative.

22. IOs should be mindful of the confidentiality of all parties when interviewing. However, confidentiality must not be promised as it cannot be guaranteed, for example when certain disclosures must be escalated to other processes.

## Conducting an interview

23. The IO should introduce themselves and those present. The IO should then ascertain the identity of any other attendees, and this shall be recorded in the meeting notes.

24. The IO shall remind the interviewee of their role and should make clear reference to the relevant procedure and the time frames that are outlined therein.

25. The IO may outline the chronology and facts of the case, as relevant to the interviewee, and shall allow the interviewee to respond. The IO is permitted to ask questions of the interviewee to clarify facts.

26. In concluding the interview, the IO should provide the interviewee with an opportunity to make any further, relevant comment.

## Producing an Investigating Officer's Report

27. The IO shall produce a detailed report, including a summary of the investigation, investigation findings, rationale for the findings, and any recommendation for further action, specifically addressing any concerns or issues that have been previously raised.

28. The outcomes available to an IO differ depending on the procedure underpinning the investigation. They can range from "no case to answer" to "referral to a panel hearing".

29. A copy of the IO report shall always be made available to the responding party. Reporting parties may also get the parts of the report which contain information pertaining to them.

30. The IO's report should be finalised within the time limits dictated by the relevant procedure. When this is not possible, the reasons for this should be clearly communicated to the student and any other relevant parties in a timely manner.

## Definitions and roles

- **Reporting party:** the person/people telling us about a case of possible misconduct.
- **Responding party:** the person/people about whom the allegations of misconduct have been made. The responding party will be told about the allegations and asked to respond to them.
- **Witness:** someone who can provide an account of the possible misconduct for the University to consider. The accuracy and detail of the material obtained from witnesses is crucial to the success of any investigation. Witness types:
    - **Direct witness**: An individual who observed or might have observed the incident/s or activity surrounding the incident.
    - **Outcry witness**: An individual who knows details of the incident/s from the reporting party and/or responding party directly after the incident/s. For example, the friend to whom a reporting student made the first disclosure to.
    - **After-the-Fact Witness**: An individual who observed the reactions or changes in behaviour by either the reporting party or responding party.
    - **Indirect Witness:** An individual who was later told about the incident/s by the reporting party or responding party, or by a third party (limited value)

    - **Character Witness**: An individual who speaks to the general character of an individual but not to any aspect of the incident/s. This is the least valuable type of witness and should not be given much weight, particularly if it is apparent that the witness has no knowledge of the allegations being considered.
- **Points of Contact (POC)**: members of staff who keep the parties updated throughout the investigation, accompany them to meetings, and signpost them to support. They have no active role in the investigation. 2 separate points of contact (POC) for the reporting party and the responding party are assigned.
- **Investigating officer**: independent staff member who conducts the investigation.
- **Investigation**: a non-judgemental information gathering exercise to collect all the relevant facts on a matter**.** An investigator should be given clear guidance on what exactly they are required to investigate, and how their findings should be reported. The IO role involves:
    - Identification
    - Gathering
    - Consideration of evidence

  An IO should be fair and objective when carrying out an investigation. They should look for evidence that supports as well as evidence that negates the allegation/s.
- **Impartiality**: the IO must not be personally involved with the parties concerned. However, no prior knowledge of the case is not always sufficient in meeting the impartiality requirement. An individual who has any private interest in the outcome, or who might be thought by a reasonable and informed observer to have such an interest, must not to investigate an issue. Private interests can be interpreted widely. Making public statements has been identified as a reason why impartiality might be challenged. For example, an academic member of staff who publicly expressed their strong views regarding transgender issues, may not be suitable to investigate a case that involves allegations of transphobia. Another example would be doctor who authored an article indicating their view that anyone with a criminal conviction should never be allowed be a doctor may be considered to lack impartiality for a fitness to practise case.
- **Case Handler**: the one who commissions the investigation and is responsible to assign a suitable IO for the case. Role of the Case Handler:
    - Assigns Points of Contact
    - Frames allegations
    - Implements and monitors precautionary measures
    - Ensures procedural fairness
    - Makes referrals to other processes (where appropriate)
    - Oversees communication relevant to the investigation
    - Oversees what is formally recorded in the investigation pack
    - Provides templates and guidance
    - Maintains a community of practice
- **Scope** of investigation: establishing the **broad parameters** of the issue/s subject to investigation. Some factors to consider when scoping:
    - Nature of allegation/s
    - What potential policy breach will be investigated. There may be multiple breaches, these can change as new information comes to light.
    - Nature of investigation (for example is it a complaint investigation, fitness to practise, or disciplinary investigation)
    - The Parties involved (students, staff, members of the public, contractors, etc)
    - The limits of the investigation (i.e. what can and can't be considered). For example, a university investigation cannot investigate an allegation of rape to a criminal standard. It can, however, investigate sexual misconduct as a policy breach of the Sexual Misconduct Policy/ Student Disciplinary Policy/ Code of Professional Practise.

**This protocol will not be invalidated if the role title named in the procedure has changed or a nominee acts in the place of another named in the procedure.*