

INDEPENDENT REVIEW OF SYSTEMS AND PROCESSES AT HERIOT-WATT UNIVERSITY

In November 2019, I commissioned an independent report from the respected senior lawyer, Morag Ross QC, on the systems and processes and matters used to (a) appoint Professor Kevin O’Gorman and (b) respond to concerns raised about his conduct. He was dismissed from the University in November 2017. The report is the result of a University wide confidential consultation with staff.

The report provides a comprehensive review of the circumstances around this case and the University’s processes relating to recruitment, the collation of complaints and concerns, and its actions in dismissal. Morag Ross QC has made ten recommendations covering aspects of recruitment, complaints and working culture and relationships. Speaking on behalf of both myself and the University Executive, we fully accept each of these and will take all necessary steps to ensure the recommendations are implemented.

I recognise this, regrettably, has been a painful period for students and staff and the whole University community and in commissioning this report I was anxious to explore where lessons can be learned, how we can rebuild trust and ensure we are adopting best practice wherever our systems and processes can be improved. Once again, I would wish to advise that if you have been affected by any of the issues raised within the report and need support, please access the resources which are available on <https://heriotwatt.sharepoint.com/sites/hr-yourwellbeing> or contact Carol Murray on c.j.murray@hw.ac.uk. I want to particularly draw your attention to Morag Ross QC’s guidance on how to read and use the report (section 1.2) and the spirit of moving forward which her thorough and impartial account is seeking to enable.

In accepting all the recommendations, I note that the University’s actions in many areas are endorsed by the report. I include a copy of the University’s response to each operational recommendation and these will now be taken forward by the University Executive in consultation with our student and staff communities. Updates will be presented to the University Court via the Court’s Staff Committee to ensure there is full clarity and transparency on implementing the University’s response.

As we move ahead our values and ethos will continue to be the foundation of our behaviours to collaborate, inspire, celebrate and create a community of belonging. We share a commitment to ensure the University is a listening organisation, where peoples’ voices are heard and respected. I would like to thank Morag Ross for her report and I sincerely thank all those who participated in the review and indicate my appreciation of the support of our whole community as we move forward.

Richard A. Williams

Principal and Vice-Chancellor

QC recommendations and initial response from the University

The ten Recommendations (shown in **bold**) and the University's response (shown in *italics*) is set out below following the three themes of Recruitment, Complaints and Working Culture & Relationships.

Recruitment

The University is carrying out a full review of its recruitment procedures and practices as part of the creation of a central function within HR. The recruitment recommendations set out below will be further considered within this exercise in conjunction with managers and the trade unions and reported to the University Staff Committee of Court at its scheduled meeting in November 2020.

- (a) Where the recruitment is not competitive (i.e. only one candidate) special care should be taken in scrutinising that application.**

All Academic appointments are made in accordance with the relevant Ordinances to ensure appropriate rigour in the selection process. The University acknowledges that there are occasions where recruitment is not competitive (i.e. only one candidate) and will ensure all appointments are based on the agreed standard assessment approach.

- (b) References should not be restricted to academic references only. Employment references should also be obtained.**

The University changed its practices in 2018, issuing new guidance to tighten up its approach to obtaining employment references. This was reviewed and updated in October 2019 and we are pleased to see endorsement of this action in this recommendation. Going forward the University's Human Resources Group will monitor the application of the guidance and the Global Director of Human Resources will provide regular reports to The Staff Committee of Court in relation to all recruitment activities as part of its standard agenda.

- (c) Where information is provided about candidates through informal channels, and where that information appears to be credible and to raise matters of concern, it should be referred to the HR department. Decisions about what use can be made of information, which is conveyed informally, and what weight, if any, should be placed on it, should be managed by the HR department.**

Since 2019, this approach has been adopted by the University and will be formally documented within the relevant policies and procedures following consultation with managers, trade unions and the Staff Committee of Court.

University Executive Lead for recommendations (a) – (c):
Global Director of Human Resources

Reporting to the University Executive for consideration at Staff Committee in November 2020

Complaints

The University will consider these recommendations and consult with the appointed Student and Staff Union Representatives. Commentary on each recommendation is set out below, including an indication of timelines, and a final report on the actions taken will be presented to the Staff Committee of Court at its scheduled meeting in November 2020.

- (d) The University should consider whether there should be express provision in the Complaints Policy to the effect that members of staff can make representative complaints on behalf of students, and whether it is necessary to review practice in relation to the treatment of issues raised informally.**

The University Complaints arrangements are based on the standard set by the Scottish Public Services Ombudsman. The supporting guidance for staff relating to who can make a complaint on behalf of another person and how to respond to matters raised informally will be reviewed and updated guidance published by September 2020.

- (e) The University should keep the 'Report-It' app under careful review, paying particular attention to the number and nature of anonymous reports, and should keep a careful record of how they are followed up. At an appropriate future point, the University should consider whether maintaining an anonymous reporting function is merited.**

A review of the use of the Report-it is already in progress. The University Secretary will consider both the merits of having a system for such anonymous reporting and, should such be retained, whether the current system and associated procedures are adequate. The outcome from this review will be presented to Staff Committee and other relevant Committees in November 2020.

- (f) The University should take steps to ensure that there is proper coordination and oversight of the various means of making complaints and raising issues of concern, and appropriate record-keeping in relation to these matters.**

The University is creating a new central Academic Secretariat Division, within the University Registry and Academic Support Directorate, which will co-ordinate the University response to all complaints. Where complaints are either raised by or relate specifically to members of University Staff, there will be close co-ordination with HR to consider which University Procedures should be followed. The Registrar and Global Director of Human Resources will review the University's relevant procedures and guidelines along with the approach to record keeping and report their findings to Staff Committee in November 2020.

University Executive Lead for recommendation (e):

Secretary of the University

Reporting to the University Executive for implementation for the start of the new session and review at Staff Committee in November 2020

University Executive Lead for recommendations (d) and (f):

Global Director of Human Resources and the Academic Registrar

Reporting to the University Executive for consideration and review at Staff Committee in November 2020

(g) The University should consider whether it is necessary to put in place formal guidance on the use of social media by members of staff in communicating with students.

The Global Director of Human Resources will review existing guidance, consult with members of the Student Representative bodies and the trade union representatives. This will be concluded by September 2020.

(h) The University should keep under review the support provided to members of staff who have direct responsibility for providing advice and support to students.

Prior to the new Academic Session in September 2020, the University will review the guidance and training provided to staff and the manner in which support services are sign-posted to both staff and students, using the new SharePoint services, to ensure that first responders are clear on their responsibilities and how to direct the matters raised with them to the appropriate service or procedure within the University. Oversight is to be governed by our response to (f) above.

University Executive Lead for recommendations (g) and (h):
Global Director of Human Resources

Reporting to the University Executive for implementation for the start of the new session and review at Staff Committee in November 2020

Working culture and working relationships

(i) The University should make urgent efforts to repair working relationships in the School of Social Sciences and should consider using external facilitation to achieve this.

During 2019 significant work, including external facilitation, has been undertaken in the School. The School leadership team has continued to evolve its management style during this time, seeking feedback widely and drawing on external facilitation, which may continue to play a role going forward. Indications from the recent staff survey point to a more positive ambience in the School, better communications and enhanced transparency. It is acknowledged that such matters take time to fully address and the School Leadership team have engaged directly with Union representatives to explore further matters of culture and trust. There are firm plans in place to enhance dialogue within the School and to monitor progress and action through local staff engagement surveys and other routes.

University Executive Lead:
School of Social Sciences Head of School, supported by Global Director of Human Resources

Reporting to the University Executive for consideration at Staff Committee in November 2020 and in annual Staff Engagement Survey outcomes 2020/1

(j) The University should take steps to address concerns about communication between the University Executive and staff and to promote a culture of listening and support.

The Executive is aware of concerns relating to communication, listening and support. These have also been expressed through the recent University-wide staff engagement survey. Every member of the Executive is developing a personal plan relating to these communication aspects and the Executive is active in exploring new communication channels. Along with the University Court, the Executive is committed to ensuring that the values of the University are expressed through the organisation and appropriately modelled by senior staff and its governing body. The Executive will monitor and review progress via mechanisms including pulse surveys and the annual Staff Engagement Survey. Outcomes will be reviewed by the University Executive and shared with Staff Committee and Court.

University Executive Lead:
Principal and Vice-Chancellor with
members of the University Executive

Reporting to Staff Committee in November 2020 and
to Court on review of Staff Engagement in 2020/1.



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Independent review of systems and processes
at Heriot-Watt University

May 2020

Commissioned by the Principal and Vice-Chancellor
and prepared by
Morag Ross QC on behalf of Heriot-Watt University

HERIOT-WATT UNIVERSITY

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PRELIMINARY MATTERS

1. *Introduction*

1.1. On 5 September 2019 I was asked to conduct an independent review of systems and processes at Heriot-Watt University. This request came following certain issues relating to the employment of Dr Kevin O’Gorman. The agreed remit for the review was:

“To consider the robustness of (a) the systems and processes used to appoint Kevin O’Gorman at Heriot-Watt University, and (b) the systems and processes used to respond to concerns raised about the conduct of Kevin O’Gorman during his employment at Heriot-Watt University, including the identification of any actions that could have been taken, or lessons to learn from those processes.”

1.2. This is my report to Heriot-Watt University following that review. In the paragraphs below I consider the scope and the nature of the review. At the outset, though, I would encourage the reader to think about how to approach this report. Necessarily, it involves looking back at things that have happened in the past, but the purpose is to allow the University to move forward. I ask the reader to come to this report not in order to find confirmation of existing assumptions or a means to extend disagreements. It is intended to be constructive, but for it to be properly useful it needs to be read with care and an open mind, a willingness to reflect and to see issues from different perspectives. It should be read as a whole.

2. *Background*

2.1. Dr Kevin O’Gorman was an academic. He was employed at the University of Strathclyde from 2005 to 2012. In early 2012 he sought to move to Heriot-Watt University and was appointed as Professor of Management, starting work on 1 April 2012 at what was then known as the School of Management and Languages. He was subsequently appointed as Head of Department of Business Management. After some internal reorganisation the school became the School of Social Sciences. Kevin O’Gorman resigned as Head of Department in June 2015. Thereafter, he was

appointed as Head of International. He travelled frequently to Asia on University business but also maintained a busy schedule at the University's Edinburgh campus where, in addition to his management duties, he also took responsibility for teaching, both at undergraduate and postgraduate level, and for the supervision of PhD students. He undertook some research.

- 2.2. In the summer of 2017, two members of staff raised complaints about the behaviour of Dr O’Gorman. The allegations made were serious. The University began an investigation and placed Dr O’Gorman on a temporary suspension.
- 2.3. Disciplinary proceedings followed. Dr O’Gorman was summarily dismissed, with effect from 8 November 2017. A subsequent appeal was not upheld.
- 2.4. The University also referred matters to the police, in early September 2017. The police enquiries also covered the period of Dr O’Gorman’s employment at the University of Strathclyde. In due course, there was a prosecution in the Sheriff Court. Dr O’Gorman was acquitted of three charges and convicted on 14 charges, which related to offences between 2006 and 2014 of sexual assault on seven young male students and sending sexual communications to an eighth student. On 26 September 2019 he was sentenced. He was ordered to carry out 240 hours of community service and was subject to a tagging order for six months. He was also placed under supervision for three years and placed on the sex offenders’ register for five years.

3. *Relevant information*

- 3.1. I have read and considered the University’s codes and policies which are relevant to this review. These include, in particular:
 - 3.1.1. Ordinance 2 (Appointment of Academic Staff and others) (October 2019)
 - 3.1.2. Recruitment and Selection Policy (February 2018)
 - 3.1.3. Disciplinary Policy (June 2012)
 - 3.1.4. Disciplinary Code (April 2010)
 - 3.1.5. Grievance Policy and Procedures (June 2012)

- 3.1.6. Harassment and Bullying Policy and Procedures for Staff (July 2010)
- 3.1.7. Harassment and Bullying Policy and Procedures for Students (2015)
- 3.1.8. Complaints Policy (Students) (March 2014)
- 3.1.9. Complaints Procedures (Students) (March 2014)

3.2. I have also had sight of relevant material from the University's files relating to Dr O'Gorman. The information that I have about the criminal proceedings comes from publicly available reports.

4. The review process

4.1. I was appointed to conduct this review as an external and independent person. I have no other professional or personal connection with Heriot-Watt University.

4.2. The scope of the review reflects the remit at paragraph 1.1. The University communicated with all staff and students by email to advise that a review would be carried out and to invite anyone with information or with concerns to come forward, and my contact details were given. I am aware that there was a concern amongst some members of staff that the initial communication from the University suggested that the remit of the review would cover only recruitment questions. A further email confirmed that the scope encompassed both recruitment and the handling of complaints and reiterated the invitation to make contact with me.

4.3. I have carried out the necessary work on my own. Whilst I have received valuable administrative assistance from members of staff in the Principal's office, for which I am most grateful, this has not involved any sharing of information about the detail of the work or the nature of discussions that I have had.

4.4. In the course of my enquiries, I have had communications with 49 people. The great majority of these I have met face-to-face, and in a small number of cases on more than one occasion. For the most part, the meetings took place at the University campus although I also met some people in central Edinburgh. These meetings allowed for reasonably in-depth discussion and, in a few cases where people had had

particularly significant involvement, they were quite extended. I also had telephone conversations with some people and a smaller number sent me written representations. Many people took the opportunity to contact me. As well as speaking to them, I also initiated contact with people where I considered that to be necessary.

4.5. The majority of people I met were current members of staff. I also had communications with some people who had been employed by the University at the relevant time, but who are now elsewhere. I met both academic and administrative staff, and at all levels, from the most senior to relatively junior employees. A small number of students also came forward, almost all postgraduate students. Representations were made to me by those with responsibilities in the University and College Union.

4.6. I cannot claim to have met every person with a contribution to make, nor everyone with immediate experience of the issues in question. It is quite likely that there are still some gaps and imperfections in my understanding. I have had to keep in balance several considerations. It is, obviously, very important for me to have knowledge of both the factual detail and of people's feelings and anxieties and that has required a significant investment of time. It has also been very important for me to hear from people with different perspectives and I think that I have been given views from across the entire spectrum. At the same time, it is important that this review is conducted with appropriate dispatch. A very extended process is unlikely to be helpful to anyone and it is necessary to maintain a sense of proportion. I have also been conscious that I have no power to compel anyone to speak to me and that, to a large extent, I am relying on both goodwill and a wish to see progress made. I do not take that generosity for granted and I am grateful to all those who have been willing to talk to me. I acknowledge that, in some cases, that has not been easy.

5. *Confidentiality*

5.1. It was clear to me from the beginning of my work that the issues involved were sensitive and, potentially, quite difficult and stressful to discuss. With that in mind, I

made it clear to those I met that they should feel free to speak to me in complete confidence. I gave assurances that I would treat information provided confidentially and would not attribute to them in this report things that they said. It rapidly became apparent that for many people this was a highly important matter. Some people contacted me first to seek assurances on anonymity and confidentiality and to find out the basis on which I would be carrying out my work before agreeing to meet. Indeed, in a couple of cases I had fairly extensive email correspondence on that subject in advance of any substantive discussion and, in perhaps one or two cases, after making contact people decided that they did not wish to meet.

5.2. The extent of this concern, and the depth of feeling on the part of some people, were striking. This was something that I felt it was important to explore. In some cases, the explanation given was that, were the information given or views expressed to be disclosed in a way that could be attributed to the individual, there would be serious negative consequences in an employment context. I found that quite troubling. Only one person stated without being asked that I could use her name and attribute to her what she told me.

5.3. As a result, it is very difficult for me to prepare a report that sets out in detail the evidence for my conclusions. Having given the assurances that I have, and wishing to avoid, so far as I am able, the risk of inadvertent disclosure, I am necessarily constrained in what I can say.

6. *The nature of this review*

6.1. The aim of this review is to identify actions which could, or should, have been taken, and to identify lessons to learn. It is not an investigation conducted with the intention of attributing blame or fault. It is not an inquiry into the actions or inactions of specific individuals, although, inevitably, it is necessary to have regard to what those in positions of relevant responsibility did or did not do. It is certainly not a disciplinary exercise.

6.2. Treating information in confidence will often constrain the ability to test its veracity.

Whilst I have listened to and read a great deal of factual information, it has not been possible for me to verify everything. This is not an exercise in which I can make extensive findings in fact. That is neither the intention nor the outcome.

6.3. I consider that I have been given sufficient information to allow me to understand what happened. In some instances, the accounts I have been given by different people about the same situation cannot be reconciled. These are matters that I have approached with special care. In considering what weight to put on any individual representation, I have considered its source, how directly that person was involved, what else he or she has told me and what information I might have from elsewhere which is consistent. I have kept in mind that people have been talking to me, in some respects, about things that took place several years ago and that the memory is not always reliable. In virtually every case, it seemed to me that the people speaking to me were doing so in a genuine spirit of willingness to assist and in an effort to contribute to an improvement within the University.

6.4. An observation made below relates to divisions amongst groups of people and individuals. That sense of division has been apparent to me and it is important both to acknowledge that it exists and to recognise that it is likely, to some extent, to affect what people have said to me and how they have said it. I have borne in mind that there has been a degree of self-selection in those choosing to make representations to me.

6.5. I have thought carefully about the size, shape and purpose of this report, and, in particular, the extent to which it is necessary or appropriate to spell out the detail of the events and experiences which were the subject of the discussions that I have had and which have informed the views that I have reached and the recommendations that I make. My view is that it is neither necessary nor appropriate to provide a detailed account. That is so for the following reasons.

6.6. First, there is the confidentiality issue which I have already mentioned.

- 6.7. Secondly, it seems to me that the benefit in this exercise will be found in allowing the University and members of staff to focus on what should happen next. A detailed analysis of past events is unlikely to serve that purpose.
- 6.8. I am acutely aware, because I have been told repeatedly, that many people feel very strongly that some issues have not been handled well and I have been given specific examples. Not referring to those issues or those examples should not be taken to mean that I have disregarded them. However, in relation to some factual issues, there seems to me to be real misunderstanding and, where possible, I have sought to address these.
- 6.9. As on other subjects covered, I heard opposing views about the idea of ‘drawing a line’. Some people spoke about the need to move on, saying that the consequences of Dr O’Gorman’s actions had already taken up too much time and energy. Others felt it was important to bring the underlying issues to the surface and to acknowledge and examine the difficulties. There is value in both perspectives. Striking a balance has not been easy, but that is my endeavour.
- 6.10. Finally, my remit is to consider the robustness of the University’s systems and processes, as they apply to both recruitment and the handling of complaints. Systems and processes do not exist in the abstract. Codes and policies require to be written down, of course, but that is not enough for them to be effective. They cannot be assessed in a vacuum, without an understanding of the way the institution works, the ways people relate to each other, and the sense of confidence that people have in those systems and processes. In making observations and recommendations, I cannot restrict myself simply to the terms of the relevant documents. For this to be meaningful, it is necessary also to consider organisational culture and working relationships.

RECRUITMENT

7. *The recruitment process - introduction*

- 7.1. Dr Kevin O’Gorman was recruited through the Global Platform scheme. This was not a competitive process in the sense of there being multiple applicants for a single vacancy, or an advertisement for a particular chair. Rather, it was a rolling programme, which allowed an applicant, such as Dr O’Gorman, to make a relatively informal approach to the University.
- 7.2. The process was carried out in accordance with the provisions of the University Ordinance which were relevant to a professorial appointment and which were applicable at the time. Although the full documentation relating to the interview process is no longer available, I have seen nothing to suggest that that process was not carried out properly. Among other things, there was a requirement that there be written references from at least two referees external to the University. That requirement was met. Two academic references were provided and they were abundant in their praise for the candidate. No other references were sought or given.
- 7.3. At the time of his application, Dr O’Gorman was suspended from his employment at Strathclyde University, following a complaint which had been made. I am told that he informed Heriot-Watt University that he was on sabbatical.
- 7.4. The then Head of School received informal communications about Dr O’Gorman from an external source at around the time of his appointment. I have only limited information about the circumstances. My understanding, having discussed matters with the then Head of School, is that the information that was provided was vague, although it was expressed as a warning. I also understand that the then Head of School took advice at a senior level, and was advised that there was no reason to withdraw the offer that had been made.
- 7.5. I am also aware that, on his departure from Strathclyde University, Dr O’Gorman entered into a confidentiality agreement with his former employer. Heriot-Watt University was not aware of the existence of that agreement at the time of the appointment and only became aware of it subsequently. I do not know whether, as a

matter of fact, that made any difference to the recruitment process insofar as it may, or may not, have affected the content of the reference which was provided by a member of staff at Strathclyde; I have only been able to discover relatively limited information about that aspect. In general terms, it is not unknown for people leaving employment to sign non-disclosure or confidentiality agreements, and there may be a variety of reasons for that. It should not be taken necessarily to mean that there is a problem to hide. It is not necessary for me to offer further comment on this point, apart from observing that it is for the HR department to be aware of the potential tensions between entering into confidentiality agreements and retaining the ability to give a full reference, if asked.

8. Recruitment: issues arising

8.1. My remit is to consider systems and processes within Heriot-Watt University. I am not in a position to comment on any systems and processes elsewhere. In hindsight, and in the light of subsequent developments, the decision had unfortunate results, but the recruitment of Dr O’Gorman was carried out by the University in accordance with its own processes and in an appropriate way.

8.2. This was not a competitive process, in the sense of there being multiple candidates for a position. I understand that that is not unusual in universities. Where there is only one candidate, and therefore no immediate opportunity to compare and contrast relative suitability, it is especially important to scrutinise information with care.

8.3. There is a distinction between an academic reference and an ‘HR reference’. I understand that an HR reference, or an employment reference, is intended to be quite brief and factual, containing basic information relating to employment dates, etc. An academic reference would be expected to be more detailed, with the author expressing opinions about the merits of the subject’s work.

8.4. I have been told that it is now the policy and practice of the University to obtain employment references in every new recruitment. In this case, had the University asked for an employment reference from Dr O’Gorman’s previous employer, it is

possible but it cannot be assumed that more information would have been forthcoming about his employment circumstances. Nor can it be assumed that that would necessarily have resulted in a different decision. In providing an employment reference, an employer is not bound to disclose that an employee is subject to a suspension. Such situations can be very difficult. Allegations or complaints may turn out to be unfounded. Indeed, they may be vexatious or malicious. Disclosing information in a situation where there is an ongoing process might very unfairly prejudice that person's prospects.

- 8.5. Obtaining employment references is prudent and the information contained in such a reference, even if basic, may be useful. It may lead to additional questions being asked but it will not give a complete answer.
- 8.6. It appears to me that in a system where there is a distinction between academic references and employment references there is a risk that sensitive and important information might fall between the two and be lost. The author of the academic reference may assume that employment issues will be covered elsewhere, and the provider of the employment reference may assume that questions about performance and suitability will be dealt with in a more detailed academic reference. In reality, it may be difficult to draw a hard line between the two. Intelligence, academic ability, clarity of expression, teaching ability, etc, may all come within an academic reference. But an employee works within a network of professional relationships, including with other academics, with administrative staff and with students. To function effectively, all of those relationships matter.
- 8.7. Employers also have to be mindful of their data protection obligations. I understand that, generally, there is an increasing tendency towards a cautious approach in providing references, resulting in only limited disclosure of information. In some cases, and notwithstanding the legislative protections that exist in relation to the provision and receipt of references, risk aversion may lead to excessive caution, removing a valuable check on the movement of people who might cause harm.
- 8.8. References are only part of the picture. Given the limitations that exist, a wise employer will not place excessive weight on them. Obtaining employment references as well as academic references is prudent. Taken together, they are

necessary but not sufficient. They should be a starting point for considering a candidate's suitability, not conclusive.

8.9. Informal information is an issue. One of the most challenging issues for organisations such as the University is what to do in a situation where information about a candidate is communicated not through an application or a reference but informally. Information might be provided by phone. An informal conversation between people in different institutions may alert the recruiting employer to potential problems, or might serve as a prompt to ask particular questions at interview. I do not offer a view as to the extent to which taking such communications into account is compatible with employers' and employees' rights and responsibilities; much will depend on individual circumstances. Informal information may be valuable, but it must be handled with care, and, in particular, if it is to be used at all it must be in a way that is fair to the candidate.

8.10. As a general guide, if information is made available, unsolicited and informally, which is vague, non-specific or self-evidently just gossip then it should be disregarded. If it is specific, apparently credible and raises a serious concern, then efforts should be made to verify it and the candidate should be given an opportunity to respond. These may be matters of fine judgement and in some cases will be fraught with difficulty, especially when a person's reputation and livelihood might be at stake. Giving undue weight to rumours or unsubstantiated allegations will be unfair and may lead to good candidates being lost.

8.11. One of the many perils of transmitting sensitive information informally, especially on an anonymous or unattributable basis, is that it is likely to put the person receiving that information in a difficult position. In seeking to achieve consistent good practice, there is a critical role for the HR department. If a member of University staff receives informal information about a candidate in the course of a recruitment process, where that information is adverse and at least apparently credible, then the matter should be referred to the head of the HR department straight away. Decisions about the use that can be made of such information should be managed by the HR department.

8.12. I understand that there have been some developments in HR practice within the University since the period under consideration. In particular, whereas previously HR matters were dealt with in quite a decentralised way, the main responsibilities are now within the central structure. That is likely to help in allowing good oversight of these sensitive matters.

COMPLAINTS HANDLING

9. *Complaints handling – introduction*

- 9.1. The second aspect of this review concerns the systems and processes used to respond to complaints about the behaviour of Dr O’Gorman during the period of his employment at the University. In connection with this, a more general concern has been expressed to me repeatedly and can be summarised in this way: it ought to have been possible to see the problems and to solve them much earlier.
- 9.2. The concerns raised by numerous people fall broadly into two categories. The first is that complaints were made but were either not dealt with or not dealt with sufficiently robustly. The second is that the working environment and the culture within the University, and especially within the School of Management and Languages, which later became the School of Social Sciences, made it difficult or impossible for members of staff to raise complaints. Because these were at the forefront of many of the representations made to me, it is appropriate to address these specifically. However, this is not an exhaustive list. Other issues, also associated with the systems and processes used in relation to complaints, have also become apparent, and I deal with those separately.
- 9.3. Before turning to the particular areas of concern, it may be helpful to make some general observations about the context in which the handling of complaints in this case should be considered.

10. *Complaints – the context*

- 10.1. I have already referred to the relevant policies and codes. They are comprehensive and clearly written and, taken together with other documents, for example guidance on investigations, they provide a sensible and straightforward framework for dealing with a range of complaints and grievances. Of course, it is always important to keep such policies under review and to consider updates and improvements in the light of experience. I understand that that happens, though I note that there is a certain amount of updating needed to reflect recent changes to

data protection regulation. Subject to one qualification, I do not have any recommendations to make in relation to changes to these codes.

10.2. There is one paragraph in the Complaints Policy which should be noted.

Within section 4:

“Complainants may include (but are not limited to):

[...]

“Representative third party complainants. In accordance with the requirements of the [Scottish Public Services Ombudsman], and in support of those who are unable or reluctant to raise complaints themselves, HWU will accept complaints raised by third parties acting as representatives as long as the individual(s) affected have given their personal consent under the requirements of the UK Data Protection Act 1998 providing clear written authority for the third party to act on their behalf.”

The reference to the Data Protection Act 1998 needs to be updated (as in other documents). More importantly, though, it is not clear whether a member of staff may act as a third party representative. It may be that, as a matter of policy, this is intended to cover people external to the University, such as parents, or perhaps friends. There would seem to be no reason in principle why a member of staff, for example a personal tutor, could not be a third party representative. In some cases members of staff might be unable or reluctant to take on such a role, and there should be no sense of obligation. But it may be helpful to make it clear that, if willing, members of staff can act in that way. I would encourage the University to consider whether there should be express provision to that effect.

10.3. Policies and codes are necessary but not sufficient. Working relationships are essential and understanding the issues in this case involves some consideration of how Dr O’Gorman related to others. Some of the people I spoke to worked with him closely over a number of years. I have been given many accounts of his character and his ways of relating to other people. These are relevant because they have a bearing on both the circumstances giving rise to complaints and on the willingness of people to complain.

10.4. In the criminal proceedings in the Sheriff Court, the procurator fiscal is reported as describing Dr O’Gorman as a “master manipulator”. That is consistent with the view of very many of his former colleagues and students. I was also given a picture of someone who is intelligent, charming, funny and entertaining, witty and articulate and often good company. He was sociable and often very generous with gifts and hospitality. Some spoke of his capacity for hard work, although that is now qualified by doubts about the extent to which he relied on others to do the work. It appears that he was successful in generating income and in bringing in students.

10.5. A description frequently provided was that Dr O’Gorman “managed upwards”. In his working relationships with those who were more senior to him, or who had influence or power within the University, he was helpful and supportive, making sure that he was present and ready and willing to ensure that things were done. By contrast, those who were either at the same level of seniority as Dr O’Gorman, or who were more junior, generally, but by no means invariably, had a very different experience. The most common description given to me was that he was a bully. The accounts given to me indicate that shouting and verbal aggression were quite commonplace. Some colleagues chose simply to keep their distance and to have as little to do with him as possible. Others did not have that option.

10.6. It would appear from various accounts that Dr O’Gorman was adept at creating the impression that he was very close to and that he enjoyed the confidence and support of very senior members of University staff, including the Principal. He succeeded in conveying to various colleagues, either explicitly or implicitly, that he was very well-connected with all of the important people in authority, including in the HR department.

10.7. Whereas numerous members of staff have given me extensive and detailed information about their experiences of working with Dr O’Gorman, I have less comprehensive information about his relationships with students. Nevertheless, I have been able to form a general sense of his behaviour with both undergraduate and postgraduate students. For many, especially undergraduates, he was a popular and charismatic teacher who often received very positive feedback. Some found him to be very supportive, offering encouragement to pursue further academic work. Some also found him to be “creepy” and there seems to have been a general awareness

amongst students that he could be tactile, to an extent that was regarded as rather odd. To an extent, this seems to have been seen as a bit of a joke, but for some it was very distressing.

10.8. A repeated theme in some of the accounts provided was that Dr O’Gorman had a very obvious preference for male students, at both undergraduate and postgraduate level, although the consequences of this bias appear to have been especially marked at PhD level. I was told that he gave preferential treatment to male students, in the form of opportunities offered, such as publishing or employment, and help and support provided.

10.9. On occasions, the help and support given by Dr O’Gorman crossed the boundaries of what is appropriate in a relationship with a student. I was told that some students benefited from gifts or loans of money. He frequently paid for meals for students, especially when on trips abroad. More than one person referred to an occasion where a student slept in and missed an exam and Dr O’Gorman arranged, contrary to all normal practice, for the student to sit the exam later.

10.10. Whilst for some there were undoubtedly benefits and advantages from being one of Dr O’Gorman’s favoured students, those often came at a price. Students have spoken of Dr O’Gorman making unreasonable demands about keeping in contact and a heavy use of Skype and social media. Some, but not all, experienced abusive behaviour. Whilst there were rewards, in the sense of favoured treatment, there were also, in some cases, punishments. That extended to physical contact. There was a clear sense that falling out of favour would have negative consequences.

10.11. I do not have a clear picture of the number of people who directly experienced abuse by Dr O’Gorman. I received a very small number of first-hand accounts from people who had encountered, on a one-to-one basis, abusive behaviour. I received a greater number of second-hand accounts, not just of a general sense of something not being right but also of specific occasions. These came both from members of staff and from other students, who were able to see what was going on. Within the behaviour described, it is possible, in some instances, to discern a sexual element. Whilst I can offer no precise numbers, the accounts I have been given indicate that the instances of students and members of staff directly experiencing abusive

behaviour by Dr O’Gorman were not isolated or occasional. There was a pattern in which Dr O’Gorman formed relationships with young men who were in a weaker position, relative to him and, at least in some cases and to some degree, those relationships became abusive.

10.12. There was another, separate, aspect to the behaviour and conduct of Dr O’Gorman which, in a few cases, caused serious upset. Several women spoke to me about his offensive language in relation to female members of staff. Whilst he could be charming in some circumstances, there were occasions when he made misogynistic and highly derogatory comments to and about female staff.

10.13. In summary, there was a spectrum of behaviour and conduct. Some people within the University only saw that part of Dr O’Gorman’s character and conduct which was hard-working, efficient, intelligent and engaging. I am satisfied that there are reasonable grounds for concluding that, at the other end of the spectrum, there was abusive behaviour, including behaviour which was sexually abusive. Between these extremes, there is evidence that allows me to conclude that many people experienced aspects of behaviour which were bullying, manipulative and undermining. It was significant that Dr O’Gorman had an ability to manipulate both information and relationships in a way that made his bad behaviour invisible to some, especially those in positions of authority.

10.14. Many people emphasised to me that, although they found Dr O’Gorman difficult, they had no idea that he was responsible for behaviour of the kind that has subsequently come to light. When the news of his dismissal and the fact of the police investigation became known, many people were genuinely shocked. For some, however, these later events did not especially come as a surprise and, in some cases, confirmed suspicions that they had had for some time. Given what I have been told by numerous responsible people who have clearly thought about these matters very carefully, it cannot be the case that there was a widespread awareness of the full nature and extent of the abusive behaviour carried out by Dr O’Gorman.

10.15. There are, of course, more specific questions. What did those in authority within the University know about concerns relating to Dr O’Gorman’s conduct during his employment? What complaints were made, and what actions were taken?

11. Complaints – issue 1 – what complaints were made and how were they dealt with?

11.1. Dr O’Gorman’s dismissal and, indeed, the police investigation and subsequent prosecution and conviction came about as a result of complaints which were made in 2017. I consider the way in which those complaints were handled below. That was not the first time concerns were raised.

2014

11.2. Three members of staff raised concerns in 2014, at around the same time. These were not about matters experienced directly; rather they concerned behaviour towards students which had either been witnessed or reported. The students themselves did not wish to complain directly. On the information provided to me, the behaviour in question, whilst not extreme, was sufficient to raise an alarm and in at least two of the cases it was possible to identify a sexual element. The fact that these concerns were raised appears to have been fairly common knowledge, amongst at least some academic staff within the School. These issues were raised separately with the HR department. I refer to them as ‘complaints’, although they were not dealt with in accordance with the University’s formal processes. In two cases, the advice from the HR department was that it was for the student to complain.

11.3. One of the significant difficulties that I have encountered is that, with one exception, there is no written record of these complaints, which were made in person. I was given information based on diary records about the dates on which the complaints were made. No-one involved has been able to refer me to any relevant email correspondence. If there were any notes taken at the time, it would appear that they have not been kept. As a result, although specific issues were apparently identified, it is very difficult to be sure what decisions were taken within the HR

department in relation to them. It is possible that a view was taken that because the students affected had not complained directly then nothing further could or should be done. It appears that, apart from incomplete information about one of the complaints, the substance of these complaints was not conveyed to the Head of School.

11.4. Some information was relayed to the Head of School, who arranged a meeting with Dr O’Gorman and a member of staff from the HR department. Subsequently advice was provided about communication style and the meeting was followed up by a note. That is the only written record that I have seen in relation to any of these issues.

2015

11.5. A separate issue arose in 2015. It came to the attention of the HR department and the Head of School that Dr O’Gorman had spent time away from the University with a PhD student. This had been at the student’s request and the purpose had been to provide support and supervision to the student who was writing up a thesis. The Head of School made arrangements for this matter to be investigated independently. Amongst other things, it was established that the original source of concern was not so much about the propriety of this course of action but, rather, the unfairness involved in providing a disproportionate level of supervision to one student.

11.6. A meeting took place, attended by the Head of School, Dr O’Gorman and a member of staff from the HR department. Advice was provided. The written record of the meeting shows that matters were dealt with in a careful and balanced way.

2016

11.7. A further issue arose in 2016. An undergraduate student expressed a concern that because he was not amongst Dr O’Gorman’s favoured students he did not receive extra help with his work and that he would not achieve a good grade. The student contacted a member of staff who relayed the concerns to senior members of the University Executive. She was told that it would be appropriate to take the

matter through the relevant HR and management processes and that it should be supported by evidence. The matter was not pursued.

2017

- 11.8. In August 2017 two members of staff made formal complaints about Dr O’Gorman’s conduct. These were not complaints made on behalf of students or others, but based on their own direct experience. It is unnecessary for me to set out the substance of these complaints in detail. They concerned behaviour which was abusive and sustained over a long period.
- 11.9. The members of staff reported their complaints in the first instance to the Head of School. As it was explained to me, they went to the person they felt they could trust the most. The Head of School acted immediately, setting out their options and advising that it was necessary to report the matter to the HR department. Matters thereafter moved quickly, with the Head of the HR department and the University Secretary becoming involved. Dr O’Gorman, who had been on leave at the time the complaints were first made, was suspended on his return. Thereafter, an investigation and a disciplinary process took place.
- 11.10. Once it became known that questions had been raised about Dr O’Gorman’s conduct and, in particular, once the police investigation had started, more people came forward and gave information about their experiences. Some students sought help from within the University’s administrative structures and some made contact with academic members of staff. Some of the students who came forward were put in contact with the police and were offered support through counselling with the University’s wellbeing service.
- 11.11. One of the steps taken by the University after Dr O’Gorman’s departure was to carry out checks on exam results in order to see whether there were any relevant discrepancies in marks. This was a prudent course of action. I understand that no material issues were identified and that there is no reason to doubt the integrity of the assessment process or the results.

12. Complaints – issue 2 – the working environment and culture – difficulties in making complaints

12.1. In retrospect, it is quite clear that there was a pattern of difficult and, at times, offensive behaviour on the part of Dr O’Gorman. It is hard to say when exactly it began but it would be reasonable to think that it subsisted for most of the period of his employment at the University. Prior to 2017, complaints were made, but only on an indirect and anonymous basis (in the sense of not identifying the person actually affected by the conduct) and these were not treated as formal complaints. Against the whole background of suspicion and unhappiness experienced by more than a few members of staff, it seemed to me to be quite surprising that it took so long for formal complaints to be made. I asked those I met for their views on this subject. Why did you not raise your concerns? Why did so few people come forward? I also considered that it was important to understand whether things had changed since Dr O’Gorman’s departure. Could the same thing happen again? If something similar were to arise, would you feel able to complain now?

12.2. Numerous people told me that, although they were concerned about the behaviour of Dr O’Gorman and the effect that he was having on staff relationships, they did not feel able to raise those issues or to complain. I heard similar reasons given repeatedly. The most common theme was that it would be impossible to complain because Dr O’Gorman and the Head of School were close. I was told that they were friends and that they worked closely together. Some people told me that it was impossible to speak to the Head of School because Dr O’Gorman was always there. I was also told that on occasions when Dr O’Gorman behaved badly in front of other members of staff and when the Head of School was present, he would do nothing to stop Dr O’Gorman. The Head of School has explained to me that there were indeed such occasions but that, when that happened, he took the opportunity afterwards to speak to Dr O’Gorman in private to explain that his behaviour in meetings was unacceptable.

12.3. Other reasons were also given. Dr O’Gorman was perceived to be friends not only with the Head of School but also with other senior figures within the University. He made it known or, perhaps more accurately, created the impression that he was

often in the company of the Principal and that he enjoyed the confidence of most, if not all, of the members of the University executive. Members of staff within the School understood that the University Secretary had a high opinion of Dr O’Gorman and his ability to generate revenue. He told some members of staff that he knew people within the HR department, on at least one occasion explicitly stating that there would be no point in complaining about him. There was a general view that he was very well connected and had the support and favour of significant people in authority. Against that background, it would not only be a waste of time to complain, but, it was felt, it would be seriously prejudicial to the interests of anyone seeking to complain. One member of staff, who had experienced direct and offensive verbal abuse considered making a formal complaint, and discussed that option with a senior colleague, but ultimately decided not to, taking the view that it would be ‘career suicide’.

12.4. For some people, this anxiety was compounded because, as they understood it, other people had previously made complaints about Dr O’Gorman but, as they perceived it, nothing had happened as a result. Numerous people referred to the fact that issues had been raised in 2014 with the HR department but, as they explained it, that had not had any consequences. That was taken to be proof that the formal complaint route would be ineffective and that there was nothing to be done. As I have noted, when those issues were raised, they were not dealt with as formal complaints.

12.5. In listening to these various accounts and explanations, and also in speaking to some of the people who were the subject of these criticisms, I came to realise that there was a powerful and at times confusing blend of facts, perceptions, misperceptions and myths. I do not doubt the sincerity or the strength of feeling of those people who suffered as a result of Dr O’Gorman’s actions. Indeed, many of their concerns about his bullying and manipulative behaviour were well founded.

12.6. Nor do I doubt that, for most people who expressed the view that it would be pointless to complain, that is what they genuinely believed. Their sincerely held view was if they did voice their concerns they would not be taken seriously or that, worse, there would be a negative impact for them.

- 12.7. These views were bound up with the perception that the Head of School and Dr O’Gorman had a close professional relationship or were good personal friends, or both. Numerous people cited two particular pieces of evidence for this: book publishing and car sharing.
- 12.8. I have heard a great deal about the publication of a series of textbooks, which were co-authored by academic staff and PhD students in the University and for which the Head of School and Dr O’Gorman were responsible as co-editors. Views on the merits of the enterprise were mixed, with some people regarding it as exploitative and expressing concern about where the money went, whilst others believed that, in principle, it was a good idea, and that it worked well. I do not need to assess whether or not it was a good deal for the University, for the authors or for students. There is no evidence that I have seen that indicates any impropriety.
- 12.9. I mention the textbooks here because they were repeatedly mentioned to me, as illustrative of the close professional ties between two individuals. I can see that some may have formed that impression and that for those who already had misgivings this would have been significant but, beyond that, I have difficulty in placing any weight on this. The fact that the work was done does not prove that the relationship was too close or otherwise inappropriate. After all, numerous others were also involved as editors and authors.
- 12.10. Car sharing was the other issue repeatedly referred to. There was a pattern of members of staff who lived in or near Glasgow, including Dr O’Gorman, sharing lifts to the University campus. On its own, this seems to be quite an innocuous matter but, as it was explained to me, it gave rise to serious concerns amongst other members of staff that informal discussions were taking place, and decisions were being made, without the appropriate involvement of other members of staff. A particular focus was on car sharing by Dr O’Gorman and the Head of School. Clearly, it would be very unsatisfactory for substantial decisions to be taken in an informal and exclusive way. In circumstances where there is already a sense of division and mistrust, routine opportunities for some members of staff to meet privately are likely to exacerbate the difficulties, and in retrospect it was unwise to allow that to happen. However, there seems to be some inconsistency between

perception and reality in relation to the frequency of car sharing. According to a number of people who spoke to me, the Head of School and Dr O’Gorman shared lifts on a daily basis, but I understand that, more accurately, the Head of School ensured that it happened no more than once a week. It does not give a basis for concluding that there was an inappropriately close relationship.

12.11. Difficulties arise when, on either side, there is an incomplete picture. Such difficulties will be both exacerbated and obscured where information is misrepresented or otherwise manipulated. There is evidence that that happened in this case. It appears that Dr O’Gorman created the impression that he had a special relationship with the Head of School when in reality that was not the case. Even when there is no intention to mislead or to create problems, there are obviously dangers when truth, fiction and rumours become blended and are repeated. There are, for example, some beliefs about the relationship between the Head of School and Dr O’Gorman which do not have any basis in fact. One is that the Head of School recruited Dr O’Gorman from Strathclyde University. He did not: Dr O’Gorman came to the University in 2012, while the Head of School joined in 2013. Another is that the Head of School worked with Dr O’Gorman at Strathclyde and knew him from that time. Before coming to the University, he was at the University of Glasgow and had had no professional dealings with Dr O’Gorman.

12.12. Staff relationships exist within a wider context too. As with many higher education institutions across the country, there has been an increased emphasis on financial and commercial matters and on numbers of students. There are benefits in recruiting international students. Relative to the experience of previous generations, there is also more of an emphasis on staff performance. I offer no comment on the desirability or otherwise of universities moving towards a more commercial and more performance-oriented model. These are important matters, but they are well beyond the scope of this review. For present purposes, they are best seen as a fact of life.

12.13. Changes, especially where they are seen to affect the ethos of an institution, or where they will make a change to working practices, are unlikely to be universally

welcome and may give rise to anxiety. They require sensitive, patient attention from those in senior positions.

12.14. In 2012, when Dr O’Gorman arrived, changes were underway within the School. A new Head of School was appointed in 2013. There came to be a sense of division between those people who supported the Head of School, some of whom were also new arrivals, and those who were more sceptical, although it would be too crude to characterise the situation as being a clear split between two camps. Dr O’Gorman made use of this situation to his advantage. He positioned himself with one ‘side’. He began to speak openly of “getting rid” of people who, in his view, were underperforming. Quite quickly, he took steps to align himself with the Head of School and to give colleagues the idea that he enjoyed special favour. That served to exacerbate and deepen existing tensions. In some circumstances, and with some people, he performed very well and his behaviour gave little or no cause for concern. In other circumstances, and with other people, he behaved badly. Within the School, the person who was realistically best placed to intervene or to curb the excesses was the Head of School. The Head of School did have meetings with Dr O’Gorman and gave him advice about his conduct in some specific circumstances, but these do not appear to have had any wider impact. To some extent, the negative effects of Dr O’Gorman’s behaviour on other members of staff may not have been visible to those in authority, and for that reason, that behaviour went largely unchecked. At the same time, some staff experienced increasing levels of tension and there appear to have been no meaningful efforts to address these. I have heard a great deal about the sense of division and tension. Clearly, there were problems. Something of a vicious circle developed: the more staff felt that they had no confidence in anything being done to improve the situation, and specifically no confidence in the Head of School, the less they felt able to complain, notwithstanding deteriorating morale. Instead of making formal complaints and using the existing systems for resolving grievances, disaffected staff either stayed out of the way or talked to each other. In doing so, they had the benefit of mutual support, but this also had the effect of reinforcing disaffection. This unhappy situation continued until Dr O’Gorman’s departure in 2017.

12.15. Did things improve after Dr O’Gorman left? For some people, his departure brought a great sense of relief. He had evidently been a source of stress for many and, once that was removed, there were improvements. At the same time, the manner of his departure was quite shocking for many people. Some responded with self-reflection, asking themselves whether they should have been more aware. Others were angry with the School and also with the wider University leadership. Some of that anger remains and there continues to be a wish, on the part of a few people, to attribute blame. Lest it be thought that the picture is entirely bleak, I should add that I was also struck by the number of people who spoke with evident self-awareness and sensitivity, recognising that all people have flaws and that there is more to be gained by acknowledging what has gone wrong and in finding ways to improve future relationships than by recriminations.

12.16. Members of staff gave me their views of the Head of School. The spectrum ranged from animosity to sympathy and support. I have been provided with some information about staff surveys and consultations, but it is not properly part of my remit to review or to comment on those. Clearly, there is work to be done in repairing working relationships and that is likely to involve an examination of management style. That work will be very difficult if there remains the idea that the Head of School knowingly enabled abusive behaviour, or that he did nothing when specific matters were brought to his attention. Those are ideas which still appear to have some currency but, in my view, they have no substance. First, on two separate occasions, meetings took place and were documented. The ultimate outcome may have been unsatisfactory, but it is not true to say that nothing was done. Secondly, and importantly, when in 2017 members of staff made formal complaints raising serious issues they took those to the Head of School because they trusted him. He responded swiftly and entirely appropriately. Against that background, had there been formal complaints raised with him about Dr O’Gorman at an earlier stage, there is no reason to think that he would have ignored them or would otherwise have failed to deal with them, or that those making the complaints would have suffered as a result. It is unfortunate that for some people that was the perception at the time and that for some people that perception remains.

12.17. On the specific question of the handling of complaints by the Head of School, the criticisms made are unfair. When particular issues about behaviour came to his attention, the Head of School took steps to address them. It remains the case, though, that there are very strong views about the responsiveness and inclusiveness of leadership within the School, at the time and subsequently. It is now very clear that, for all his achievements, Dr O’Gorman’s behaviour was divisive and had a negative effect on many. That may be more clearly seen in hindsight, but the signs were there. It is possible that, had those in positions of authority listened more sensitively to the concerns of the body of staff as a whole, and had the working environment not been characterised by there being ‘sides’, it would have been easier to see the damage being done and to have taken steps to intervene.

12.18. The divisions within the staff membership appear to have become entrenched and marked. I heard terms such as ‘mafia’ and ‘gang’ used frequently. These are not normal words to describe groups of colleagues and are indicative of an unhealthy working environment. I do not know to what extent these views and attitudes have affected, or continue to affect, normal business within the School, but such expressions of mistrust should be a source of concern. I understand that some work has already been done relatively recently within the School, with the aid of an external facilitator. I am also aware, of course, that there are significant changes taking place with the coming together of the School of Social Sciences and the Edinburgh Business School. I have no comment to make on that development or its impact – that is outwith my remit – but it does seem that there may be a good opportunity to look afresh at structures and staff relationships.

12.19. I would want to emphasise that this work will require commitment and openness from all involved, and a recognition that all of those directly involved have been bruised by their experiences, at the time and in some cases subsequently. This report should not be used as a basis for one group, or another, to re-assert past grievances.

12.20. Most of the people who spoke to me were from the School, but not all. For the most part, people spoke to me about the situation within the School itself. However, various members of staff also took the opportunity to tell me about other experiences which they considered to have a bearing on the handling of complaints.

12.21. Numerous representations were made about communication. One particular focus was on communication with members of staff about Dr O’Gorman’s departure and the reasons for his dismissal. A view was expressed to me that more information should have been provided. There is a balance to be struck. Members of staff, and indeed students, should not be left entirely in the dark, but disciplinary procedures are confidential and the University has an obligation to treat staff personal data with care. Other members of staff do not have a right to information about personnel matters relating to colleagues or former colleagues.

12.22. To an extent, different considerations apply when a member of staff becomes involved in assisting a student to make a complaint. I received information about a separate matter involving a sexual harassment complaint, completely unrelated to Dr O’Gorman. A student wanted to make a complaint about an academic member of staff and sought help from another member of staff, who was relatively junior. That member of staff assisted, appropriately, by contacting the HR department, but then heard nothing further.

12.23. When members of staff become involved by assisting those who wish to make complaints, but who, for whatever reason, lack the confidence to do so on their own, there needs to be a clear understanding, in advance, of the extent of information which they should expect to receive in any investigation to follow. Investigations into conduct issues will almost always be sensitive, especially where they relate to sexual misconduct, and it will not be appropriate for those responsible for such investigations, or for subsequent decisions, to provide commentary and updates to other members of staff. Good handling of such complaints requires that they are treated in confidence. The complaints relating to Dr O’Gorman in 2017 and the issues raised previously were dealt with appropriately in this respect.

12.24. Leaving aside the particular question of disclosure of confidential staff information, other questions arise about communications with staff, specifically in relation to Dr O’Gorman’s departure. Some of those directly affected told me that they were offered and given good support. However, others, who were not directly affected, spoke of the experience as being shocking and traumatic and of there being insufficient information and support. Some spoke to me about the University

authorities closing ranks and becoming very defensive. The main message from the University, it appears, was that it had acted immediately and had done everything properly. On the face of it, that was a reasonable characterisation. When the specific issues came to light, the University followed the proper course by contacting the police and by commencing an investigation, which was then conducted expeditiously and fairly. The investigative process was confidential and had to be handled with care. But the focus on the formal, institutional response did not take account of the sense of shock, bewilderment and anger experienced by many members of staff, or of the longer term impact. For some members of staff, the departure of Dr O’Gorman brought new issues as more people came forward to speak to them and to share their experiences. For a few, that resulted in having to carry quite significant emotional burdens for some time afterwards. They did not, and do not, share the view that the University got everything right.

12.25. There was a concern on the part of the University to manage the situation carefully. It was reasonable to be aware of reputational risk and to have a communication strategy. However, in seeking to protect institutional interests it is also important to be aware of the needs and rights of individuals. I was concerned to hear the account of one member of staff who told me that a senior member of staff had asked to be told what information had been given to the police and that, having subsequently been cited as a witness at the trial, the same member of staff was told it would be necessary to take a day’s unpaid leave for that purpose. I am assured that that is not the policy. The general point is that a good employer should be sensitive, especially given the workplace connection. Whilst I spoke to relatively few people who had direct experience, the majority of those spoke highly of the good support provided, although others felt that they were not treated with appropriate sensitivity.

12.26. More fundamental concerns about communication and culture within the University were raised with me. These came out of discussions about the way in which Dr O’Gorman’s departure was handled but they also relate to continuing issues. Although individuals’ experiences varied widely, in certain respects there were notable consistencies. It is not possible to put them aside on the basis of personal grievance or an orchestrated campaign. As I have stated earlier in this report, I recognise the difficulties inherent when people choose to come forward to

make representations and the risk that I may have been provided with only a partial view. Notwithstanding those difficulties and that risk, I believe that it is important to convey what has been said to me about the culture within the University.

12.27. The notion of culture is one that I have discussed with numerous people within the University. It seems to me that it includes ‘the way we do things’ and goes beyond that to encompass ‘how we relate to each other’. I have heard the essential issue described in many ways but perhaps the clearest is that within the University Executive there is not a listening culture. Instead, I was told, the tone from the top is characterised by an unwillingness to engage with criticism or with different points of view. Members of staff, including people in relatively senior positions, do not feel able to offer constructive challenge, or even to raise questions. There is a feeling amongst some members of staff that although there is talk about values and respect, they are often not practised or demonstrated. I heard the view expressed that it can be difficult to communicate with the University Executive and that, if issues are raised, they are not taken seriously or they are treated as a threat or a challenge. In particular, representations were made to me about difficulties in communicating with the University Secretary.

12.28. I would wish to add these observations. First, I do not suggest that this is the uniform experience of all members of staff. Indeed, I have been made aware that in some very difficult situations the University Secretary has provided very valuable support and, in particular, that in instances where specific complaints have been raised with her in sensitive circumstances she has responded decisively and compassionately. Almost by their nature, such situations demand confidential treatment and will not be widely known. It is important to acknowledge that. However, I cannot ignore or wholly discount the concerns that have been raised with me. Some members of staff have made it plain that the things that they have said to me they would not be able to say to senior colleagues in the University. I have gained the impression that there is a real sense of anxiety about the consequences of stepping out of line. This cannot all be attributed to one person, or even to a small group of people. But one explanation that has been given to me is that the tone at the top sets the tone for other management relationships at lower levels. Even if these concerns are to some extent exaggerated, and even if some of the anxieties are

misplaced, the fact that the perception exists is itself a problem which needs to be addressed.

12.29. Secondly, running a university is undoubtedly a difficult job. There are financial pressures. Maintaining oversight of campuses in very different settings across the world is challenging, and working in both the private and public sectors brings other significant demands. The responsibilities of senior management are onerous.

12.30. Within the University Executive there is a wish that the University should succeed and prosper, even in difficult times, and there is an evident sense of commitment to the welfare of the institution. That sense of commitment and interest in the University's success and prosperity were shared by almost all of the members of staff to whom I spoke. Many spoke of their sense of pride in the place and of a feeling of belonging to a community of colleagues, but some qualified that with a sense of frustration or disillusionment about the senior leadership. I have been struck by the fact that, as I see it, the University Secretary and the University Executive and most members of staff want to pull in the same direction. There are no really fundamental differences of view about what the University is for. There are pressures now in relation to financial and academic performance and there will be similar pressures in the future. As in any organisation, changes will need to be made and that is unsettling. But they are much better dealt with together, collectively and with a shared sense of purpose.

12.31. I have been asked to look at systems and processes and to identify lessons to learn. Neither the problems nor the solutions are to be found in codes, protocols or regulations. The most important lessons to learn are in the area of relationships and, in particular, good leadership and good management. There remains an impressive reservoir of goodwill and commitment. At the same time, work is needed to improve communication between the University Executive and the staff body and to rebuild trust. That is needed especially within the newly expanded School of Social Sciences so that, so far as possible, past experiences of division are not allowed to compromise the work that lies ahead. I am not in a position to make specific recommendations as to how that work should be done but I am very clear that it is necessary. A good starting point would be to consider external facilitation, perhaps building on previous

input. My route into this problem has been by thinking about why people do or don't make complaints. The route out will involve listening, patience and trust.

SYSTEMS AND PROCESSES: OTHER CONSIDERATIONS

13. Reporting methods, anonymous reporting and record-keeping

13.1. I have already noted that the existing codes and policies are generally in good shape and it would appear that the mechanics of the reporting systems work reasonably well. On the whole, staff are quite well informed in relation to line management responsibilities and the practicalities of initiating grievances or otherwise making complaints. The relevant materials are easily accessible on the University website. If there were barriers preventing staff members from raising issues or making complaints, they did not arise because of structural or procedural defects or a lack of awareness about how to complain.

13.2. I have already noted, at paragraph 10.2, the need to consider whether members of staff might act as third party representatives for the purpose of making complaints. At the same time, it would be sensible to consider whether it is necessary to review practice when members of staff raise concerns in an informal way. Much will depend on the individual circumstances in each case but, consistently with the way in which anonymous reports are handled in other contexts, as discussed below, there should, at a minimum, be proper record-keeping and clear advice to the person raising the concern as to what further steps, if any, will be taken. As with informal information received in the recruitment context, where it is credible and raises issues of concern, decisions should be managed at an appropriately senior level within the HR department.

13.3. There are some further issues relating to the processes themselves. In addition to the traditional methods for making complaints set out in the codes referred to, both students and staff now have the opportunity to use the University's Report-It app. This is relatively new and it is still too early to draw meaningful conclusions about the extent of its use or its success. This facility is intended to complement the University's Safe Zone app, which, by all accounts, is a useful system. I understand that Report-It allows people to make confidential reports about incidents and there is an option to do so on an anonymous basis.

13.4. I understand the general principles involved. Anonymous reporting allows people who might otherwise be afraid to complain to bring matters to the University's attention. Other principles are also in issue, including fair processes for those who are the subject of complaints. I have real difficulty in understanding how, in practice, anonymous reporting can be truly effective. The Report-It page on the University website contains this advice:

“[...] Any reports of inappropriate conduct by anyone are treated with the utmost seriousness and all will be thoroughly investigated.

“Report-It allows you to submit information confidentially, and if need be anonymously, in the event of unacceptable behaviour, such as harassment, bullying or abuse of any kind.

“Please note the more information you provide, the more effectively we can address your concerns. [...]”

13.5. If a student submits an anonymous report, even if it contains detailed information, what does “thoroughly investigated” mean in that context? Investigation would normally involve, at a minimum, checking that the information is accurate. That may not be possible. If it is to be put to the person complained about, can that be done fairly, if the identity of the person making the complaint is unknown? Anonymous reporting carries real risks, including to the fair treatment of people who are the subject of complaints. I also have a concern about managing expectations. Realistically, the University will be constrained in what it can do with an anonymous report. That probably ought to be obvious to students, who are, of course, encouraged to provide more information rather than less. The message that all reports, including anonymous ones, will be thoroughly investigated might be a misleading overstatement.

13.6. The Report-It system is new. In carrying out the necessary work in monitoring its use and effectiveness, the University should pay particular attention to the number and nature of anonymous reports, and should keep a careful record of how they are followed up. There may be satisfactory answers to the questions raised, but these should be checked when the system is reviewed. The Report-It system may

be intended to complement more traditional methods of making complaints, but it would be very worrying indeed if anonymous reporting came to be the preferred method for most people.

- 13.7. The Report-It system is part of a suite of options for raising concerns. Other routes are available. For students, these include (a) contacting the student well-being services, (b) contacting the Academic Registry, (c) speaking to a personal tutor, or (d) in a harassment case, speaking to one of the University's appointed Harassment Advisers. There is also an Equality and Diversity initiative, Respect@HW, which I understand is intended to provide support and guidance to enable people to speak up about inappropriate behaviour. I also understand that this is at quite an early stage in its development. Members of staff have other options, principally speaking to a line manager or making contact directly with the HR department.
- 13.8. I recognise that the intention is to make it as easy as possible for people to raise concerns, especially in relation to bullying and harassment. Accessibility is very important. However, two important questions arise.
- 13.9. First, are there, in fact, too many options, especially for students, and does it just become confusing? Perhaps the Respect@HW initiative can add value by giving very clear signposts, but are they pointing in too many directions? One student who spoke to me and who had raised an issue through student wellbeing services told me that the technological methods were rather clinical and that what mattered was being able to speak to a real person who could be trusted. Instinctively, that makes sense, although other people may have different preferences.
- 13.10. The second question concerns joining up and record keeping. With multiple routes into the system, it is a challenge to ensure that there is proper oversight of how they work together. Where confidentiality or anonymity are in issue, it will be difficult to cross check reports. There is a danger of reports staying in silos. Different students may choose different routes to report problems all relating to one individual. Taken together, those reports could point to a problem that needs to be dealt with immediately but it is not at all certain that they would be matched up quickly, if at all. The University should take steps to ensure that there are proper mechanisms for overseeing and cross-referencing information relating to complaints.

Such mechanisms should not compromise confidentiality and will have to comply with data protection obligations. An allied concern relates to record keeping and analysis of data. It is difficult to be clear how many instances of, for example, sexual harassment there are each year. If reports and complaints are handled in a range of ways then, in the absence of good oversight, the University will not have an accurate picture of the extent of the issue. That is, potentially, a serious matter. One member of staff with responsibility in this area explained that this is a current problem. It is difficult to respond to a problem if one does not have proper information about the nature and size of that problem.

13.11. Good quality record keeping is also important in relation to staff complaints, including occasions when matters are raised relatively informally. There are existing policies covering data retention within the HR department and there is already an understanding of the need to take and keep a record. Even when, on a particular occasion, no further steps are taken, it is helpful to put in writing a brief summary of any discussion that has taken place because that may become important at a later date if further problems come to light.

13.12. As I have mentioned earlier in this report, Dr O’Gorman made extensive use of social media in communicating with some of his students. He did so to a degree that was clearly inappropriate, both in frequency of contact and in content of messages. It would be sensible for the University to consider the advice and guidance given to academic members of staff about communicating with students, and, in particular, about the use of social media. Several members of staff spoke to me about this. I do not consider there to be a serious issue, chiefly because it seems that, overwhelmingly, members of staff are capable of exercising good judgement and common sense. There is a balance to be struck. Social media might be useful, for example, in coordinating a research group, provided that all those taking part have a clear understanding of the necessary boundaries. But in other circumstances it will not be appropriate for members of staff to use informal social communication with students. Sensible good practice is probably already in place, but it may be prudent to put this on a more formal footing.

13.13. A final and separate issue concerns support for members of staff who deal face to face with students in difficulty. It is clear that members of academic staff who act as personal tutors, and indeed other staff in a range of settings, may be asked to carry significant burdens when students come to them with personal problems. Such problems may include complaints about harassment, but might also extend to mental health issues, or relationship or family difficulties. Providing appropriate guidance can be demanding in time and emotional energy. I am aware that the University makes training and support available. These are not matters I have explored in any detail, and they raise issues beyond my remit, but in a number of conversations I was struck by the weight of responsibility borne by conscientious members of staff who might be asked to deal at short notice with very serious problems arising unexpectedly, and also by those supporting students through longer term difficulties. I would encourage the University to keep under review the way in which such staff are equipped and supported in doing this valuable work.

CONCLUSION

14. Concluding observations

- 14.1. The issues which I was asked to consider arose out of the appointment and conduct of one person, whose conduct, it is clear, gave rise to serious problems. It is right to examine systems and processes and there are lessons to be learned but it is right to recognise that it is not possible to frame institutional processes in such a way as to guarantee that no such situation will ever arise again. No organisation can protect itself completely from the malign effects of those who treat other people badly. Recruitment processes that are careful and consistent will help to reduce the risk. Beyond that, though, the more difficult and, indeed, the critical challenge is to build and operate a system which is sensitive and responsive and which allows both staff and students to raise concerns about bad behaviour.
- 14.2. In the University, the formal parts of that system are largely in place already. There are processes in place which allow members of staff and students to raise concerns and make complaints. The University has dedicated and responsible people within its HR department who are well placed to advise and support members of staff. Students have available a wide variety of options. There are some improvements which can be made and it is sensible to keep practical arrangements under review. I have identified certain matters which are likely to benefit from particular attention.
- 14.3. Beyond the practicalities, there are, I consider, some deeper and wider issues which, in some cases, prevent the systems and processes functioning as effectively as they should. At their simplest, they are to do with confidence and trust. The system is important, but much more important are the working relationships. I wish to emphasise that I have not undertaken a complete review of all relevant relationships. Rather, I have been given information and I have seen for myself evidence of areas in which there is work to be done. Creating and maintaining an environment in which people – senior management, academic staff, administrative staff, union representatives and others – listen to each other, carefully and respectfully, will take time and commitment. A member of staff with whom I had a conversation in the

course of this work spoke to me about the importance of kindness. That is not a soft concept. It has real value, even in hard-edged areas of work where the emphasis is on competitiveness, achievement and commercial success, and perhaps especially in those areas. Providing support, recognising mistakes, listening carefully, and treating colleagues with kindness – these are the steps which, taken seriously, will lead to real improvements.

15. Postscript

15.1. I completed the bulk of the work for this report in January 2020. I took the opportunity to discuss certain of my findings and recommendations with some of the people principally involved and responsible for consideration of changes. I have taken account of those discussions and these are reflected in this report.

15.2. At the time of finalising this report, Heriot-Watt University, this country and the world are caught up in what are likely to be only the early stages of a global health crisis. The covid-19 pandemic is making us change, very profoundly, the ways in which we work and relate to each other. Whether those changes will be temporary or longer lasting in their impact remains to be seen. The challenges for universities, their staff and their students, are immense, especially for those which, like Heriot-Watt, have an international presence. The pressures will test both staff and students and they will also test the structures, the systems and processes, in very different ways to those which I have been asked to consider, and more profoundly. Inevitably, there will be breaks and cracks and damage. Having met a good number of University members of staff, albeit only a small proportion of the whole, I believe that, when it matters, the University, as an institution and as a group of skilled and committed people, will have the necessary resilience and will handle those challenges. Handling them well and emerging from the present crisis stronger will depend on good mutual support and on respecting the contribution that each person can make. I would encourage those who read this report to use it not as a basis for blame and recrimination but as a way of enabling openness and building working relationships founded in kindness, trust and respect. That is the lesson for this time.

RECOMMENDATIONS

Recruitment

- (a) Where the recruitment is not competitive (i.e. only one candidate) special care should be taken in scrutinising that application.**
- (b) References should not be restricted to academic references only. Employment references should also be obtained.**
- (c) Where information is provided about candidates through informal channels, and where that information appears to be credible and to raise matters of concern, it should be referred to the HR department. Decisions about what use can be made of information which is conveyed informally, and what weight, if any, should be placed on it, should be managed by the HR department.**

Complaints

- (d) The University should consider whether there should be express provision in the Complaints Policy to the effect that members of staff can make representative complaints on behalf of students, and whether it is necessary to review practice in relation to the treatment of issues raised informally.**
- (e) The University should keep the Report-It app under careful review, paying particular attention to the number and nature of anonymous reports, and should keep a careful record of how they are followed up. At an appropriate future point, the University should consider whether maintaining an anonymous reporting function is merited.**

- (f) The University should take steps to ensure that there is proper coordination and oversight of the various means of making complaints and raising issues of concern, and appropriate record-keeping in relation to these matters.**

- (g) The University should consider whether it is necessary to put in place formal guidance on the use of social media by members of staff in communicating with students.**

- (h) The University should keep under review the support provided to members of staff who have direct responsibility for providing advice and support to students.**

Working culture and working relationships

- (i) The University should make urgent efforts to repair working relationships in the School of Social Sciences and should consider using external facilitation to achieve this.**

- (j) The University should take steps to address concerns about communication between the University Executive and staff and to promote a culture of listening and support.**

Morag Ross QC

Edinburgh

27 April 2020