

Workplace Investigation Process

OVERVIEW

Mount Royal University (the “University”) is committed to addressing workplace Complaints in a fair, timely and respectful way, in compliance with University policy, Collective Agreements, and the law. This document details how Complaints are addressed by the University and creates a clear, unbiased, and transparent process for receiving and managing Complaints through proper ownership and accountability for investigations.

An investigation is a fact-finding process, intended to determine if, based on a balance of probabilities, Allegations brought forward are more likely than not to have occurred. It involves an Investigator meeting with the Complainant, Witnesses and the Respondent, to gather evidence in order to make a determination on findings. The principles of procedural fairness and natural justice govern the investigation process. At its core, these concepts include the right to an unbiased and impartial Investigator, a notice of investigation that includes a sufficient amount of information for the Respondent to understand the allegations, an opportunity to review and respond to the Allegations, union representation when desired, and a process that’s completed within a reasonable timeframe.

SCOPE

The Workplace Investigation Process (“the Process”) applies to all Employees. The Process is not intended to supersede any University Policy or Procedure; its purpose is to provide guidance and clear expectations regarding the general process involved in conducting a workplace investigation. The Process outlined applies only to those investigations where a breach of a Policy under the umbrella of Human Resources or serious misconduct is alleged to have occurred.

DEFINITIONS

- a. **Allegations:** The specific details of a Complaint. In other words, a Complaint refers to the fact that someone has come forward with a concern; Allegations are the specific details of the Complaint.
- b. **Complainant:** A person who files a Complaint. A Complainant may also be a third party (referred to as a “Third Party Complainant”) who was not directly subject to the alleged behaviour/action or experienced the occurrence, but nonetheless reports the incident via the appropriate channels.
- c. **Complaint:** A report or concern about an incident in the workplace. See “Allegations”.
- d. **Collective Agreement:** Either the agreement between the The Board of Governors of Mount Royal University and and the Mount Royal Faculty Association (“MRFA”) or the Mount Royal Staff Association (“MRSa”).
- e. **Employee:** Individuals who are engaged to work for the University under an employment contract, including but not limited to those belonging to the following groups: MRFA, MRSa, Exempt and Management.
- f. **External Investigator:** A non-Employee contracted by the University for the specific purpose of investigating a Complaint.
- g. **Human Resources (HR):** Any member of the Human Resources team which may include but is not limited to the Associate Vice-President of Human Resources (referred to as “AVP HR”), Director of Human Resources, Employee and Labour Relations, or a Human Resources Business Partner (“HRBP”).
- h. **Investigative Evidence:** All documents and materials related to an incident, including but not limited to physical items (or photographs of items), emails, chat messages, computer activity logs, CCTV footage, photographs, online posts (including social media), Witness statements, etc. This list is not exhaustive and may vary depending on the situation.
- i. **Investigation Report:** A written report generated by the Investigator which includes all findings of fact.
- j. **Investigator:** The individual assigned to conduct an Investigation and who is responsible for the collection and examination of all relevant Investigative Evidence.

- k. **Manager or Management:** A Mount Royal University Employee who has direct reporting relationships and/or is a member of the Management Employee group.
- l. **Policy or Procedure:** A broadly applicable document that outlines expectations for members of the University community.
- m. **Respondent:** The person against whom the Complaint has been filed. In other words, the person who is alleged to have committed the actions or behaviour.
- n. **University:** Mount Royal University
- o. **Witness:** Any individual who is identified as having direct knowledge of, or relevant information about, the alleged incident(s).

INVESTIGATION PROCESS

The Workplace Investigation Process applies to the majority of workplace investigations conducted by Human Resources; however, depending on the particular circumstances of each Complaint, the steps may be adjusted in response to the unique nature of each situation. In situations where concurrent Complaints under different Policies, processes or laws are received and an investigation is required, it may be appropriate to pause one of the investigations pending the outcome of the other.

Step 1: Identification of Incident or Receipt of Complaint

The University may become aware of an incident or Complaint via a number of different mechanisms as set out in the relevant Policy. Before an investigation can proceed, sufficient information will need to be gathered to inform the assessment. This may involve one or multiple requests for additional information or clarity from the Complainant in order to determine if the definitions under a Policy may have been breached and/or if an investigation is necessary.

More often than not, the Complainant will identify themselves but on some occasions, the University will be in receipt of anonymous Complaints. Where an anonymous Complaint is received, and there is sufficient information provided to complete an assessment, the University may be compelled to investigate depending on the applicable Policy, law, or legislation that is alleged to have been breached.

Step 2: Initial Assessment

Depending on which Policy or law is alleged to have been violated and/or what is alleged to have occurred, the AVP HR or the appropriate level of Management shall conduct an assessment in order to determine the correct path forward in addressing the Allegations. The assessment will consider whether, if true, the Allegations represent a breach of one or more of Mount Royal University's Policies, the law, the Employee's terms of employment, or is otherwise actionable as an incident of misconduct. In some cases, the University is legally compelled to investigate. An example of this would be when a violation of OHS legislation is alleged to have occurred, which includes Allegations of violence or harassment. Investigations are generally required or strongly advisable in the following circumstances (not an exhaustive list):

- Serious Allegations such as violence, sexual assault or harassment.
- Allegations involving abuse of power.
- A Respondent has demonstrated a failure to recognize how their conduct has impacted their colleague(s) or others and/or where previous informal processes have failed to correct the behaviour.
- Allegation of serious misconduct (e.g. fraud, insubordination, theft).
- Problematic behaviour that is not a one-off and/or is recurrent in nature.
- Any Allegation, Complaint or concern that may lead to discipline.

Assessing Harassment

Harassment, sexual harassment, violence and sexual violence are defined in the University's Workplace Violence and Harassment Prevention Policy as follows:

Harassment: *Any single incident or repeated incidents of objectionable or unwelcome conduct, comment, bullying or action by a person that the individual knows or ought reasonably to know will or would cause offence or humiliation, or adversely affects the individual's health and safety, and includes Discrimination and Sexual Harassment.*

Sexual Harassment: *Unwanted or uninvited sexual advances, remarks, gestures, sounds and*

actions that make a person feel unsafe, intimidated, degraded or uncomfortable, or that their sexual integrity is compromised, even if the person harassing claims to have been only joking or didn't mean to offend. It includes bullying or coercion of a sexual nature, unwanted sexual attention or requests for sexual favours. It can also include threatening and/or unwanted phone calls, text messages, e-mails, letters and unwanted gifts.

Violence: *Whether at a work site or work-related, the threatened, attempted, or actual conduct of a person that causes or is likely to cause physical or psychological harm, and includes Domestic Violence or Sexual Violence.*

Sexual Violence: *Any Violence, physical or psychological, carried out without consent through a sexual means or by targeting sexuality. This includes, but is not limited to, sexual assault, Sexual Harassment, stalking and/or monitoring, indecent exposure, voyeurism, degrading sexual imagery, or distribution of images or video of a community member without their consent.*

Examples of harassment under OHS legislation include:

- unwelcome conduct, comments, gestures or contact that cause offence or humiliation (e.g. name-calling, harassing phone calls, spreading rumours);
- deliberate misgendering (i.e. referring to a person using terms or pronouns that do not align with the person's affirmed gender);
- physical or psychological bullying that creates fear or mistrust or that ridicules or devalues the individual (e.g. fist shaking, yelling);
- exclusion or isolation of individuals;
- intimidation (e.g. standing too close or making inappropriate gestures/comments);
- cyberbullying (e.g. posting or sending offensive or intimidating messages through social media or email);
- deliberately setting the individual up to fail (e.g. making unreasonable demands, setting impossible deadlines, interfering with work);
- intentionally withholding information or giving the wrong information;
- taking away work or responsibility without cause;

- displaying or circulating offensive pictures or materials in print or electronic form.

What is **not** considered harassment includes:

- legitimate performance management;
- extending probationary periods;
- adopting a performance improvement plan;
- discipline;
- civil conflict between employees;
- preference for or deference to specific employees;
- less than optimal management or managerial style;
- rudeness (unless it's extreme or repetitive);
- academic freedom defined as the legitimate exercise of academic freedom or freedom of expression, consistent with university policies or collective agreements.

Upon conducting an assessment, the particular circumstances involved may render an investigation unnecessary and a more informal method for addressing the concerns determined to be more appropriate. When an Allegation does not meet the threshold for being in violation of the definitions of the Workplace Violence and Harassment Prevention Policy but is nonetheless problematic, the appropriate Manager of the Respondent shall be consulted to determine a path forward in addressing the concerning behaviour. Examples of situations where an investigation may not be necessary and other methods for addressing the Allegations may be appropriate include, without limitation, where the Allegations do not meet the definitions under the Workplace Violence and Harassment Prevention Policy, are not egregious and:

- A Complainant feels comfortable having a direct discussion or engaging in a means of informal resolution (e.g. facilitated conversation, mediation) with the person who engaged in the alleged behaviour.
- The alleged behaviour has not occurred more than one or two times.
- Where a conversation between the Manager and Employee has yet to occur and/or is expected to be productive in addressing the concerns.
- Where the issues relate to minor misconduct that has not been brought to the Employee's

attention. Minor misconduct may include speaking in a disrespectful tone or behaving in a rude or disrespectful manner (unless extreme or repetitive).

- Allegations or concerns where discipline is unlikely to follow.
- Problematic dynamics between two Employees which has resulted in conflict and where an informal process for addressing the reasons for the conflict has yet to be utilized.
- Any Allegation that is addressed via another University Policy or process (e.g. Responsible Conduct in Research), or would more appropriately be addressed through some other means or process (e.g. concerns a student brings forward about a faculty member that are not in violation of a Policy under the AVP HR and/or would be more appropriately redirected to the Dean or Vice Dean).

Upon completing the assessment, which may require multiple requests for additional information from the Complainant, the Complainant shall be informed if the investigation is proceeding. If an investigation is required, the University shall determine the investigation scope and assign an Investigator. If an investigation is deemed unnecessary, the Complainant shall be notified and alternate methods for follow up and resolution may be provided.

If there is an immediate safety concern, or if the University determines it is untenable for a Respondent to remain in the workplace while an investigation is ongoing, interim measures such as non-disciplinary paid administrative leave or other security measures may be implemented until such time as the investigation is complete.

Step 3: Determining an Investigator

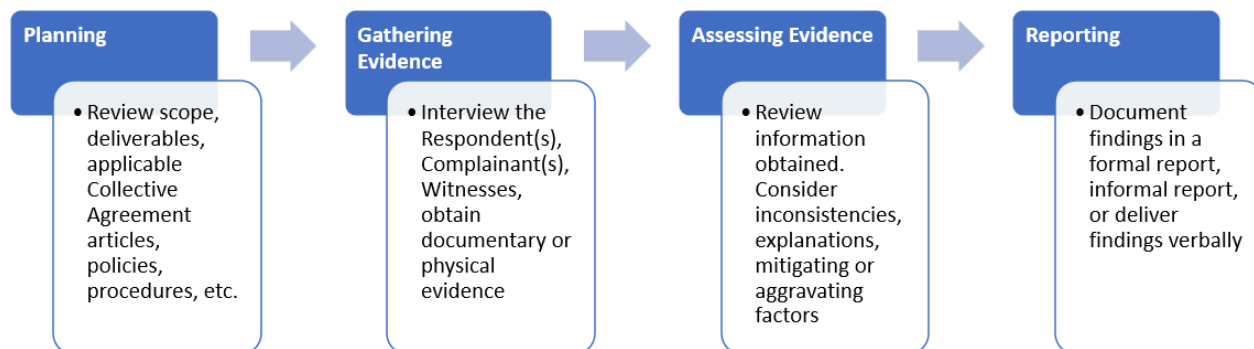
- The assigned Investigator may be a Manager, an internal member of the Human Resources team, or may be contracted externally. The appointment of the Investigator is at the University's discretion.
- The decision to assign an internal or External Investigator depends on a multitude of factors including but not limited to: the complexity of the investigation; the role of the Respondent in the organization; the time commitment and capacity of internal Investigators; level of risk; the publicity associated with the Allegations; or the risk of bias.

Step 4: Parties Are Notified in Writing

- The University shall notify the Respondent(s) and Complainant (if appropriate) in writing via a Notice of Investigation (NOI) that an investigation is proceeding. A NOI may be provided by the AVP HR or a member of Management depending on the nature of the Allegations, and may be provided in the form of a formal letter or email.
- The NOI shall generally contain information on:
 - The specifics of the Allegation(s) so the parties may seek advice and come prepared to the investigation meeting. Information such as date, time, location of the incident, and the identity of the Complainant will be provided where available and necessary.
 - The Policy or law, if applicable, that is alleged to have been breached.
 - The name of the Investigator. If the name of the Investigator is not available at the time the NOI is sent, the information will be shared as soon as is practical.
 - The importance of non-reprisal and confidentiality,
 - The opportunity to seek support or advice from the relevant Union.
- The Mount Royal Faculty Association (MRFA) and Mount Royal Staff Association (MRSA) are copied on NOIs sent to their members.

Step 5: Investigator Conducts Investigation

- The investigative process depends on the specific details and circumstances surrounding the Complaint. An investigation will typically follow the below outline.



- Upon request by the Investigator on behalf of the University, Employees are required to participate in investigations. Some exceptions apply and Employees are encouraged to speak to the Investigator, HRBP and/or union if they have been asked to participate in an investigation and have concerns with doing so.

What to Expect During an Investigation

Employees who are participating in an investigation will meet with the Investigator either in person or via an online meeting platform such as Google Meet. The investigation meeting may be very brief or it may be lengthy and require multiple meetings in order for the Investigator to gather all relevant information. The Investigator will begin by reviewing a preamble that will cover the responsibilities and expectations of all parties to the investigation. The Investigator will then ask a series of questions and may present the Employee with documentary evidence for review and response. Employees who participate in an investigation meeting may also bring forward new evidence to the Investigator for consideration, including names of additional Witnesses or any concerns around the legitimacy of the Complaint. New Complaints or Allegations brought forward during an investigation meeting may cause the scope of the investigation to increase or alternatively, may be investigated as a separate matter. When the scope of an investigation increases with new Allegations brought forward against the original Respondent, or another party to the investigation, a NOI will be issued to the applicable parties detailing the new Allegations.

MRSA and MRFA Employees will have a representative from their union present to support them unless they choose otherwise. Exempt and Management Employees are welcome to bring a support person, though this person cannot participate in the meeting beyond simply being present for the Employee. Once the Investigator has gathered all the relevant information needed from the Employee, the meeting will end.

Timelines

The Investigator shall endeavor to complete the investigation as soon as is reasonably possible. Both the MRFA and MRSA Collective Agreements provide for a period of 30 working days to complete the investigation, though extensions on these timelines may be agreed upon by the

University and the union. Where an extension on timelines occurs, the Complainant and Respondent to an investigation will be notified.

Step 6: Findings

The Investigator's role is to gather information, objectively assess the evidence in its totality, and determine whether the Allegations are substantiated, partially substantiated, or not substantiated.

Step 7: Preparation of Investigative Report

The Investigator will prepare a report of their findings which will be shared with Management and Human Resources.

Step 8: Investigation Outcome and Closure

The Respondent(s) and Complainant(s) (if available) are notified of the outcome of the Investigation via receipt of an outcome letter detailing whether or not the Allegations were substantiated. No details regarding remedies, discipline, or next steps shall be shared in the outcome letters. An executive summary report shall be shared with the Respondent and their Union (MRFA or MRSA), if applicable.

Human Resources or Management may undertake any post-investigation follow-up or a review of other concerns that may have been identified by the Investigator such as workplace restoration activities or other processes noted in the Collective Agreement.

Step 9: Post Investigation Workplace Restoration

Following the conclusion of each investigation, Management and/or Human Resources shall review the circumstances surrounding the investigation and determine whether workplace restoration is advisable. The goal of workplace restoration is to consider the context of the investigation and identify underlying issues, trends, and challenges that may prevent a return to a safe, civil, and productive work environment for all parties to an investigation. Activities may include mediation, facilitated conversations between the affected parties, additional training, or other re-integration strategies.

PROTECTION FROM RETALIATION

Employees who report an incident or Complaint in good faith, and those who participate in the investigation process, shall be protected from reprisal.

APPEALS

There is no formal internal appeal process through Human Resources for when a Complainant/Respondent disagrees with the University's decision to investigate, the investigation findings, or other information presented in an investigative report. Members of the MRFA and MRSA are encouraged to discuss any concerns they may have with the process with a union representative.

RELATED MOUNT ROYAL UNIVERSITY POLICIES

- Workplace Violence and Harassment Prevention Policy
- Procedure for Reporting Workplace Violence and Harassment
- Code of Conduct - Employees
- Protected Disclosure (Whistleblower) Policy
- Human Rights Policy
- Gender-Based Violence and Misconduct Prevention and Response Policy
- Environmental Health and Safety Policy
- Weapons Policy

RELATED LEGISLATION

- Alberta Occupational Health and Safety Act
- Alberta Human Rights Act

RELATED DOCUMENTS

- Workplace Violence Prevention and Harassment Prevention Policy
- Workplace Violence Prevention and Harassment Procedure



REVISION HISTORY

Date	Description of Change	Sections	Person Who Entered Revision (Position Title)	Person Who Authorized Revision (Position Title)
January 17, 2025	Initial release	All		