



# **The Higher Education Authority**

**Review of the processes employed by the University of Limerick to inquire into allegations made by Persons A, B and C**

**29 January 2016**

**Report version: Final**



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# 1. EXECUTIVE SUMMARY

## 1.1 This Report

Mazars have been requested to carry out a review commissioned by the Higher Education Authority (“HEA”) into the processes employed by the University of Limerick (“the University”) to inquire into certain allegations as outlined in the Terms of Reference included at Appendix A. This report represents the final report in respect of the outcome of this review.

The Mazars review team (“the review team”) conducted a comprehensive review over the period October 2015 to January 2016. The review has been conducted objectively, with sensitivity, and confidentiality.

This report does not include the names of any persons who participated in the review or who were mentioned in submissions made to us. It only examines the inquiry processes followed by the University in so far as they relate to allegations made by Persons A, B and C set out in the Terms of Reference. To provide for this anonymity, the review team has also removed any references to person names in direct quotes from allegations and related responses taken from the Terms of Reference.

This report is not a legal opinion on the processes reviewed, rather it is an independent analysis conducted by professional consultants, Human Resource experts and qualified auditors.

In performing our review, we are not purporting to make any findings or expressing any views on the allegations or the substance of the allegations and/or practices contained in the Appendices to the Terms of Reference. Our objective is to perform a review of the process employed by the University to inquire into the allegations made. Our report makes comment where we identify further actions or improvements as may be required in the University process to inquire into those allegations at the request of the Higher Education Authority (HEA).

The report has been structured as follows:

- This section – executive summary, including terms of reference, approach to the review, summary outcomes reached and acknowledgements;
- Section 2 – this section provides factual details in respect of the process of inquiry employed by the University in respect of allegations made by Person A and outcomes arising from the review;
- Section 3 – this section provides factual details in respect of the process of inquiry employed by the University in respect of allegations made by Persons B and C and outcomes arising from the review;
- Section 4 – this section provides factual details in respect of other persons, on items relevant to University processes covered by the initial allegations made by Persons A, B and C and outcomes arising from the review.

## 1.2 Terms of Reference

The review Terms of Reference specified by the HEA, which includes the making of recommendations where necessary, are as follows:

1. “to conduct a review of the following matters –
  - The process employed by the University of Limerick to inquire into allegations made by Person A of irregular practices both in the making of payments and in their authorisation by the Finance Department which were the subject of a report (attached at Appendix 1 [within the Terms of Reference]) to the Comptroller and Auditor General from the University on 27 April 2012;
  - The process employed by the University to inquire into: (a) the allegations of Person A as set out in Appendix 2 [within the Terms of Reference]; and (b) the allegations made by Persons B and C as set out in Appendix 3 [within the Terms of Reference].

and

2. to make a final report to the CEO of the HEA by 30 November 2015. In the event that it is not practical to make a final report by 30 November, an interim report shall be provided.”

In addition to this Terms of Reference, the HEA has clarified that, while the focus of the review is on the processes employed by the University of Limerick to inquire into the allegations made by Persons A, B and C, it should allow for input from other parties that can offer further detail or context with regard to these processes. The engagement of these other parties should be facilitated as far as possible by the University.

The HEA has further clarified that, where the review team considered that the University’s inquiry processes did not address all relevant matters contained in allegations, or did not address these in adequate detail, the review team may request further evidence to support the review and make recommendations as appropriate.

## 1.3 Review Approach and Reporting

The approach followed by the review team, based on the experience of the professional consultants, Human Resource experts and qualified auditors involved, included:

- Discussions and clarification meetings with Persons A, B and C;
- Discussions and clarification meetings with University management;
- Review of submissions made by and documentation received from Persons A, B and C;
- Review of submissions made by and documentation received from University management;
- Further request of additional information and original records required from the University and Persons A, B and C, and review of such documentation;
- Review of relevant policies, procedures and guidelines in place at the University at the times applicable to the allegations made; and
- Meetings and discussions with and review of documentation provided by other parties offering further detail or context with regard to University processes under review.

In their evaluating of the allegations of a financial / transactional nature, specific consideration was given to whether the process of inquiry employed by the University:

- Was independent to ensure objective conclusions can be reached;
- Considered all relevant financial systems information available;
- Included discussions with key University personnel in place at the times relating to allegations made;
- Reviewed all of the allegations made;

- Gave adequate consideration for the review of potential wider impact of allegations made; and
- Concluded on the basis of valid evidence gathered.

In evaluating the process employed by the University to inquire into the other allegations as set out in Appendices 2 and 3 of the Terms of Reference, consideration was given to whether the University adequately established:

- The actions/behaviour of the employee;
- The actions/behaviour of the employer;
- The policies and related procedures in existence and in operation by the University; and
- The legal context, where applicable.

The University's inquiry processes into the matters raised by Persons A, B and C (as outlined in Appendix 1, 2 and 3 to the Terms of Reference), consisted of a combination of formal inquiries into these matters, and establishing a process to provide and obtain information in response to those matters it identified as being pertinent within Appendix 2 and Appendix 3. The review team sought to review the University processes (both formal inquiry and provision of information) in reaching its conclusions.

Our review outcomes and associated recommendations are detailed in Sections 2 to 4. It is noted that it was not possible to comment on all items included in submissions by Persons A, B and C. We have focussed on the University processes for inquiry into the specific allegations of a transactional nature, as well as the main other allegations highlighted. In respect of other persons providing further detail or context in respect of University processes, we have focussed only on items relevant to University processes covered by the initial allegations made by Persons A, B and C.

This report will be presented to the CEO of the HEA. This report should not be quoted, referred to or shown to any other parties without the prior consent in writing of Mazars and the HEA. To the fullest extent permitted by law, Mazars will not accept liability to any other parties for any loss, damage, claim, demand, action, costs, charges and other liabilities arising from the use of the information contained in this report and documents which may accompany it. No third parties should place reliance on this report and its outcomes.

Our review did not constitute an investigation of the allegations, but as per the Terms of Reference, reviewed the process employed by the University to inquire into the allegations made. Our review was based on the information provided to us by Persons A, B and C, the University, the HEA and other parties. We have endeavoured to ensure the reliability of the information provided to us, but do not assume any responsibility for any inaccuracy in information provided to us. We have also placed reliance on explanations given to us without having sought to validate these with independent sources. We have however satisfied ourselves that explanations received are consistent with other information furnished to us. We have not carried out extensive audits or evaluations in respect of the operation and functionality of the systems and sources of such information.

## 1.4 Summary outcomes

The following outcomes were noted from this review:

a) *Allegations made by Person A in respect of University expense claims*

The review team established that the process followed by the University was initiated when the allegations relating to expense claims were formally raised by Person A as part of legal correspondence during 2011. The University, in the first instance, carried out its own inquiry into the matters raised, and subsequently also provided management views to the Office of the Comptroller and Auditor General and the HEA. The University's inquiry process included review of the specific expense claims referred to by Person A and interview and discussions with persons in its Finance Department (insofar as these persons were still employed by the University). In addition, the University considered its existing control and assurance frameworks in place, including the controls, processes and internal checks in place around expense claims, the role of its internal and external auditors in assurance provision over these matters, and the governance and oversight structures in place over all of these policies and practices, including the Audit & Risk Management Committee and the University Governing Authority. We also understand that the University, subsequent to its initial inquiries into the allegations, maintained an ongoing monitoring position in respect of the matters raised through its ongoing audit and review processes. The University's initial inquiry process or subsequent monitoring arrangements in respect of the matters raised by Person A, did not identify instances of irregular practices, in the making of expense claim payments or in their authorisation by its Finance Department. Our review of the overall process employed by the University to inquire into allegations made by Person A in respect of expense claims, confirmed that adequate evidence is available to support the inquiry process followed by the University. We have made the following recommendations for improvement in respect of the University's initial inquiry process (in 2011) into the allegations made by Person A:

- The University should consider that, when conducting its own inquiry into allegations made in respect of University affairs, parties independent of the function to which allegations relate should be appointed to conduct such an inquiry; and
- At the time of performing an internal inquiry of this nature, the University should consider widening its detailed review, at least on a sample basis, to ensure that alleged practices do not exist on a wider scale.

The review team also considered the specific inquiry processes followed by the University in respect of each of the individual expense claim items referred to by Person A in the allegations. We noted in this regard that the University's inquiry into these items did examine the relevant expense claim systems information (and other information where relevant) and supporting documentation, and presented adequate evidence that Person A was correct to initially query these claims (where [Person A] was involved in processing such claims), and that the relevant claims were ultimately correctly treated and approved by the Finance Department (in instances where such approval was required). We have made the following recommendations for improvement in respect of the University's inquiry process into the individually listed expense claim items referred to by Person A:

- The University should clarify the source of funding utilised in the instance for payment of Sabbatical Leave; and
- The University should review a sample of items raised by Person A as equipment purchases put through expenses, particularly those items (if any) exceeding procurement or purchase approval thresholds in place at the time, with a view to consider whether:
  - procurement rules were breached; and
  - these practices may have been utilised to circumvent purchasing controls in place at the time.

The University's findings in this regard should be evaluated to consider whether control improvements implemented subsequently, adequately mitigate against the risk of re-occurrence

b) *Other allegations made by Person A*

The review team considered the inquiry processes employed by the University in respect of certain other allegations referred to by Person A and attached at Appendix 2 of the Terms of Reference. These allegations were raised by Person A as part of legal correspondence with the University (between 2010 and 2012), and the University's inquiries into these allegations were therefore initiated and continued as part of a legal process. Our review does not comment on the legal process between Person A and the University, but we have, for the purposes of this review, considered the information presented by the University to support its conclusions on the processes referred to in the allegations made by Person A. In considering the information presented by the University, consideration was also given to guidance as set out in the policies and related procedures in place at the time and provided by the University.

On this basis, the review team has made recommendations for improvement in respect of the University's process of inquiry into the allegations made by Person A. These recommendations are:

- The University Sick Leave Scheme in respect of requiring medical certification and reporting certified sick leave to the Human Resources Department should be followed in all instances;
- The seriousness of reported staff illnesses should be evaluated on a case by case basis, and where defined serious illnesses are reported, such staff members should be referred to an Occupational Health Specialist to assess their fitness to return to work, prior to their return. The University should also implement a defined return to work process in such cases;
- The University should ensure that line managers and employees receive adequate training in respect of sick leave certification, and reporting. Line managers should formally liaise and consult with HR on the implementation of appropriate procedures and should notify the employee that this is being done;
- Where the University is aware of a condition or number of conditions that could affect an employee's ability to be in work, including diagnosis of a significant illness, extended previous absence from work, indications of work related concerns, or workplace incidents relating to such illness, it should take appropriate action to specifically assess the affected employee's ability to continue in work (including consideration of potential referral to an Occupational Health Specialist);
- The development of internal protocols to deal with ill health related workplace incidents should be done in consultation with relevant health specialists;
- The University should ensure that line management and employees receive appropriate training regarding their responsibilities under the Managing Attendance Procedure (May 2012);
- As a matter of good practice, employers should keep communication channels open with employees who are out sick. Typically, line managers, in conjunction with the Human Resources Department share this responsibility;
- A process should be put in place between the Human Resources Department and line management as to who will be the primary contact with employees on illness leave, who should then be notified of such contacts;
- Where an employee on long term sick leave indicates the possibility of return to work, the University should facilitate this in the first instance, and exercise a significant degree of caution in respect of any engagement in discussions on retirement options. This should be considered in the context of suitable processes available to the University, such as review by Occupational Health, assessment of reasonable accommodation and fitness to return to work certification; and
- Retirement on ill health grounds should only be considered on a case management basis, with input from a number of stakeholders, including but not limited to the employee, medical advice, Occupational Health Specialist or other medical advice, Human Resources, line management, and employee representatives (if required).

c) *Allegations made by Persons B and C in respect of University financial transactions*

The review team established that the process followed by the University to inquire into allegations made by Persons B and C in respect of University financial transactions was initiated when the University received the formal allegations from the HEA at the end of May 2015. The University confirmed that it appointed its internal auditors in June 2015 to review the financial allegations, but that this review could not immediately proceed in the absence of detailed examples of the financial allegations made. The University commissioned a general internal audit of travel and subsistence claims, and the accounts payable area in October 2015. The University also confirmed that it continued to place reliance on its overall controls and assurance frameworks in place in respect of these financial activity areas.

Detailed examples of the financial allegations referred to by Persons B and C were provided to the University on 8 January 2016. Upon receipt of this information, the University completed a management review of the items presented, and subsequently appointed its internal auditors to carry out an independent review of the financial allegations. The University's conclusions in respect of these processes were made available to the review team, and we understand that the next steps in respect of the University's process will include formal consideration of these conclusions by the University's Audit & Risk Management Committee. The University's inquiry process in respect of the matters raised by Persons B and C, did not identify instances of irregular practices, financial wrongdoing or financial mismanagement in respect of expense claims or accounts payable transactions. The University's inquiry process did identify some areas of potential control improvement, and has established five (5) recommendations for such improvement. These recommendations and associated areas for improvement are detailed in Section 3.1 below.

Our review of the overall process employed by the University to inquire into financial allegations made by Persons B and C, including our review of the original supporting documentation in respect of the financial transactions queried, confirmed that adequate evidence is available to support the inquiry process followed by the University, and further noted the independence of that process.

d) *Other allegations made by Persons B and C*

The review team considered the inquiry processes employed by the University in respect of certain other allegations referred to by Persons B and C and attached at Appendix 3 of the Terms of Reference. It is noted that the University received these formal allegations from the HEA in May 2015, but that there were also existing processes ongoing in the University at the time, which were already considering some of these allegations. We have, for the purposes of this review, considered the information presented by the University to support its inquiry process into these other allegations, as well as the information supporting the ongoing internal processes which were already in place prior to formal communication from the HEA. In considering the information presented by the University, consideration was also given to guidance as set out in the policies and related procedures in place at the time and provided by the University. On this basis, the review team has made some observations and recommendations for improvement in respect of the University's process of inquiry into the allegations. These recommendations are as follows:

- The University should re-communicate the requirements of the Managing Attendance Procedure to line management and employees in respect of notification of return to work and managing communication with employees on illness absence (including long term illness absence). Suitable training should also be put in place for line management and employees on respective responsibilities;
- In the case of long term illness absence, the University should consistently apply the Managing Attendance Procedure which states "*in cases of long-term absence (greater than 20 days), the University's Occupational Health Service or the employee's own doctor must certify that the employee is fit to resume duties*". The requirements of this procedure should be re-communicated to line management and employees;
- The University should ensure that the rationale for decisions relating to how complaints are to be treated is adequately documented. Such documentation should include evidence of:
  - clarifying the nature of the complaint;
  - involvement of line management in the first instance;
  - consideration of the basis for whether a complaint should be informally or formally resolved; and

- confirmation of the specific policy under which the complaint is being managed;
- In the event of a failure to resolve complaints through an informal process, University policies and procedures should be implemented on a timely basis. For example, formal complaint and investigation procedures should be followed on a timely basis to seek to resolve and close open complaints amongst employees. The resolution process of complaints should be completed within a reasonable timeframe in accordance with the principles for natural and constitutional justice;
- The University should seek to update existing policies to further clarify the required format for submitting complaints, including requirements to outline the specific events that took place (including dates), the nature of the complaints and, where known, the policy under which such complaints are made;
- The University communications of complaints to respondents should clearly state under which policy the response is being pursued and the nature of the complaints being made. This includes where a complaint is being raised under the Policy & Procedures for Workplace Dignity and Respect;
- The University Grievance procedure, last updated in 2005, should be reviewed and updated to identify examples or instances of grievances, including but not limited to workplace relations;
- The University should seek to further improve existing processes by formally documenting and retaining evidence of the checks performed by the University on relevant experience, potential conflict checks and other pertinent factors which the University deems relevant to the appointment of any independent investigator; and
- The University terms of reference for investigations should seek to establish a reasonable timeline in line with the stated policy requirements.

*e) Other parties providing further detail or context*

The review team has received additional submissions from other parties offering further detail or context with regard to the University processes and procedures referred to in or related to the allegations made by Persons A, B and C as attached to the Terms of Reference. Having reviewed these additional cases in detail (insofar as it formed part of the Terms of Reference), the review team has made some observations and recommendations for improvement in respect of the outcomes from this review. These recommendations are as follows:

- The University should ensure that the rationale supporting key decisions is, in all cases, clearly and adequately documented, for determining whether:
  - A complaint should be informally or formally resolved, in the first instance (the University policies allow for both options);
  - The nature of the complaint is clearly defined, and whether based on this definition, the complaint should fall under a specific policy, such as the Policy & Procedures for Workplace/Student Dignity and Respect, or Grievance Procedures;
  - The details in the complaint, such as dates/times and nature of events, are adequately documented to support further investigation;
  - Complaints were made within the relevant timeframe specified in policies and procedures;
  - A complaint should be escalated to formal stage;
  - The process should be progressed to a disciplinary matter under Statute no 4 of the Universities Act 1997 University of Limerick;
- The University should place specific focus on the adequate management of the timeline for processes falling under the Policy and Procedures for Dignity and Respect, and Statute no 4 of the Universities Act 1997 University of Limerick, including ensuring that the processes for making complaints, following informal resolution processes (if appropriate), carrying out investigations and completing disciplinary meetings take place within a reasonable timeframe in accordance with the principles for natural and constitutional justice;
- While it is acknowledged that the investigation process should be independent, the University should ensure that a clearly evidenced process is in place under the Policies and Procedures for Workplace Dignity and Respect that demonstrates how responses in respect

of draft findings are given adequate time and consideration prior to finalising an investigation report;

- The University should consider being more prescriptive in its policies in respect of the selection of disciplinary panel members;
- In respect of disciplinary matters of a serious nature, consideration should be given to including an independent external panel member. Such an approach is used in other Universities; and
- In addition to the provisions of Statute no 4 of the Universities Act 1997 University of Limerick, the University should develop clearly documented criteria for suspension, and maintain evidence of decisions taken in respect of possible suspension.

## **1.5 Acknowledgements**

The review team would like to acknowledge the considerable time and information made available to us as part of this review, by Persons A, B and C, the University, the HEA and other parties.

## 2. FACTUAL DETAILS AND OUTCOME OF REVIEW – PERSON A

### 2.1 Allegations made by Person A in respect of University Expense Claims (as referred to in Appendices 1 and 2 of the Terms of Reference)

#### a) The inquiry process followed by the University

*University inquiry process, as reported to the C&AG per Appendix I of the Terms of Reference:*

Through discussion with and review of documentation presented by the University, the review team noted that the University did not receive formal allegations from Person A prior to such information being made available as part of a legal process in May and September 2011. The University, as part of responding to legal correspondence, reviewed the allegations in respect of University expense claims at this point. The University also subsequently (in early 2012) outlined its responses to these allegations when the matters were raised by the HEA and the Office of the Comptroller and Auditor General (through the Public Accounts Committee).

The process followed by the University to inquire into the allegations relating to University expense claims involved a review of each of the seven specific allegations (refer Section 2.1 b for findings in respect of the inquiry process relating to the individual allegations). This review was led by the Director of Finance of the University, and involved other members of the Finance Department. For each allegation, transaction details were extracted and discussions were held with various members of staff. It should be noted that not all Finance Department staff who may have been active during the period covered by the allegation were still employed by the University at this time. The University also did not correspond directly with Person A as part of its review, due to Person A's absence on illness leave and the fact that the matter was subject to legal process at the time of inquiry.

The University further considered whether findings from internal and external audit reports (including external research award audits), as well as internal checking procedures, indicated any similar issues as those alleged by Person A. The University process outlined that there were many processes, procedures, policies, controls, checks, audits and reviews happening when the University received the allegations from Person A. The University further determined that it was not possible to document all of these, however, the University noted that each and every one of these processes, procedures, policies, controls, checks, audits and reviews collectively would have had an influence on the process of inquiry. The University concluded that, although some expense related control improvement points were raised by the auditors, there was no indication of financial wrongdoing in respect of expense claims processed and paid by the University.

The University further outlined that its commercial auditors were made fully aware of the issues raised and that it is the University's understanding that they took account of the issues in framing their audit plans in subsequent years (after the allegations were formally raised). The University further outlined that the commercial auditors raised no issues relevant to the matters contained in the allegations, in 2012, 2013 or 2014, and it is the University's belief that this provided very significant assurance in a wider context. The University also outlined that the Governing Authority Audit and Risk Management Committee would have been fully aware of the matters raised and the ongoing assurances required and provided in this regard.

The University, in its letter to the C&AG dated 27 April 2012, did not outline its inquiry process into the allegations made by Person A in detail. The University referred to the systems and procedures in place around expenses, the process improvements made from 2010 to date, as well as the governance arrangements in place around these system changes. The University acknowledged that Person A, as part of her role in expenses, queried a range of expense claims where such clarifications were required on individual expense claims. The University however refuted in the strongest possible terms Person A's view that the payment of the expenses noted in her allegations indicated financial wrongdoing. The University also made reference to the fact that it was satisfied with the controls in place to ensure that payments are reimbursed in accordance with University

Policy, and that the University is subject to rigorous auditing on an ongoing basis, including by internal and external auditors which are overseen by the Governing Authority's Audit & Risk Management Committee.

*Outcome from this review:*

The review team noted that the University's inquiry included all of the transactional allegations made by Person A. The inquiry process covered both a review of supporting financial system transactions and documentation, and interview of University personnel. We noted in this regard that the University's inquiry into these items presented adequate evidence that Person A was correct to initially query these claims (where [Person A] was involved in processing such claims), and that the relevant claims were ultimately correctly treated and approved by the Finance Department (in instances where such approval was required).

The review team noted that the University did not:

- Internally appoint persons independent from the Finance Department to carry out the initial inquiry in 2011. It is noted that the University confirmed that the findings from its own initial inquiry and the scope of the allegations were reported to their internal auditors and external auditors.
- Carry out a detailed review in respect of all the allegations as to whether such practices might exist on a wider basis than the expense claims referred to as part of Person A's allegations; it is noted that the University placed reliance on the findings of its internal and external auditors, which the University determined did not indicate that such practices existed on a wider basis.

It is also noted that the University could not interview the relevant Finance Department manager and supervisor who were directly responsible for expense claim processing on dates mentioned in the allegations, as these persons had retired or left University employment at the time when the allegations were formally made. As a result, the University was not able to establish whether Person A had difficulty in obtaining signoff for expenditure items as mentioned in her allegations, where such approval is to be obtained in accordance with the University process of a €1,500 approval threshold which the University understood was applying at the time.

It is evident that, for the period covered by the allegations, while a process was in place for making expense claims and for processing these claims by the Finance Department, formal written policies and procedures to capture this process were in development, and were not approved and in place until October 2010. It was also evident that a number of the queries raised by Person A were made in the absence of such written procedures being in place. Updated written procedures were introduced in October 2010 and captured a number of the items previously queried by Person A. The changes in the expense claims process introduced by the University also resulted in expenses being processed online and therefore transformed the manual process that was in place during the period to which the allegations relate. A further update to this policy was introduced during October 2013.

The following recommendations are made in respect of this outcome:

Recommendation 1:

- i) The University should consider that, when conducting its own inquiry into allegations made in respect of University affairs, parties independent of the function to which allegations relate should be appointed to conduct such an inquiry.
- ii) At the time of performing an internal inquiry of this nature, the University should consider widening its detailed review, at least on a sample basis, to ensure that alleged practices do not exist on a wider scale.

## b) University conclusions in respect of specific individual allegations

The review team examined the University's process to inquire into the specific individual allegations made by Person A in respect of University expense claims. It is noted that Person A referred to some financial allegations in respect of the processing of expense claims by the University that did not reference specific examples. For the purposes of this review the review team considered the specific examples of expense claims provided by Person A as examples of these financial allegations, and therefore did not give separate consideration to these financial allegations. Such financial allegations include references to the following:

- *'...there seemed to be irregularities with what was allowable and not. Different managers gave very different answers as to whether claims were allowable and it seemed to depend on who the claimant was rather than if the claim was allowed.'*
- *'I immediately requested a policy to be introduced to clear this up. All other Universities had an expenses policy other than UL.'*
- *'I was getting very conflicting advice and consistently had problems trying to get them approved in writing.'*
- *'I was constantly told to go ahead and put things through but could not get my superiors to approve things in writing.'*
- *'I was told that part of my job would need me to "turn a blind eye" in some claims...'*
- *'I was put under a lot of pressure with ethical issues to do with my job...'*

The outcomes of the review team are detailed below in respect of each of the specific individual allegations made by Person A:

### i) *Allegation by Person A:*

*"On 23/11/09 I was dealing with an expense for which mileage of €150 ten times was claimed totalling €1500. Because there was no relevant rate used I made further enquiries and was advised that this was not mileage but was payment for work done. The reason it was being put through as expenses was because he was signing on and would lose his social welfare entitlement. I advised that as far as I was concerned this was tax evasion and social welfare fraud so I could not process it and it would need to go through salaries. However, my supervisor came under pressure to put this through and instructed me to pay it even though it was not a genuine mileage claim. She would not sign the expense as it was out of a research cost-centre. Research said that if they signed it - they would only be signing that there is money in this cost-centre. I had to constantly negotiate with my supervisor and make it very clear that I was uncomfortable processing this and it was an unfair position to put me in. After my 3rd attempt to get her to sign it, she finally agreed to put it through salaries (backdated to a date when he wasn't signing on)."*

*University inquiry conclusion, as reported to the C&AG per Appendix I of the Terms of Reference:*

This individual was a postgraduate student in the University. Even though his studies were finished and he was no longer in receipt of a stipend as a postgraduate student, he had continued to work unpaid on a research project. His supervisor wished to make a payment to him in recognition of the work he had done in completing the project. Person A was correct in drawing the attention of her line manager to this matter. The individual was not paid the mileage and was instead paid appropriately through the salaries office in December 2009. It is not possible to backdate payroll as alleged by Person A.

*Outcome from this review:*

The review team noted that the University's inquiry into this item did examine the relevant expense and payroll systems and presented adequate evidence that:

- Person A was correct to initially query this expense; and
- The payment was correctly treated through salaries, and was not backdated.

As noted in Section 2.1(a), the University could not establish whether Person A had difficulty in obtaining signoff for expenditure items as mentioned in her allegation.

ii)

*Allegation by Person A:*

*“On 14/04/10 I received an expense for approximately €4500 for a trip to Sydney. This was going to be payment in advance. The back-up showed that (the claimant) was claiming flight and hotel costs for him and his wife to travel there. His wife does not work for UL. The time he was going to be travelling is a time when he was going to be on Sabbatical Leave. I was advised by my management at first that this should not be paid but nobody would deal with the expense and I was expected to sort it. I sent it in the direction of HR and it came back eventually signed by (a HR manager). The portion of the wife’s expenses was deducted however the expense was increased to nearly €15,000 as (the claimant) claimed for his time in advance (per diem where no receipts were ever going to be required). I was first advised by 2 managers in accounts that this was an illegitimate claim as the claimant was retiring shortly; the time he was claiming for was while on Sabbatical leave and that we don’t pay for travel while on Sabbatical Leave. I was told that the cost-centre he was charging the money to had not been audited in a long time and no questions would arise from auditors as it would not be missed but that (the claimant) wanted to avail of the funds before he retired. They both agreed it should not be paid. However, direction came from (a manager) that the €15,000 was to be paid. The claim came back to me unsigned by any finance manager and I was asked to process it. I refused on the basis that it had to be authorised and signed off at their level and I went to (a manager) and requested that he sign it as it was his decision to pay it. He did not sign it either and eventually the best I could get in writing was a signature from (a research manager) with a note next to his signature indicating that he was only signing that “there is funds in this cost-centre”. I was instructed by management to process it based on this.”*

*University inquiry conclusion, as reported to the C&AG per Appendix I of the Terms of Reference:*

The University is satisfied that the expense claim by the individual who was on Sabbatical Leave was properly authorised by the appropriate managers in the University. The amount was the equivalent of the Civil Service per diem (subsistence) rate for Sydney. During this leave he visited the University of Technology, Sydney and other centres in Australia and New Zealand.

*Outcome from this review:*

The review team noted that, based on evidence provided by the University, the process of paying unvouched round sum amounts to persons on sabbatical leave was raised and discussed by the University during 2010 and 2011, prior to this allegation being made. A further review of Sabbatical Leave payments was undertaken by the University during 2012 and external advice was sought particularly in respect of the taxation treatment of such payments. Following this advice, a new methodology was agreed and put in place, and the University reviewed all such payment made in the preceding 4 years and made a voluntary disclosure to Revenue in respect of any additional taxation due. This matter was again subject to a Revenue audit in 2013 and we understand that no additional matters were raised by Revenue in this regard.

The review team noted that the University’s inquiry into this item did examine the relevant expense and financial systems and presented adequate evidence that:

- Person A was correct to initially query this expense;
- The payment was in line with the Sabbatical Leave policy in place at the time, subject to taxation treatment changes later implemented; and
- The expense was signed by appropriate officers in the University.

As noted in Section 2.1(a), the University could not establish whether Person A had difficulty in obtaining signoff for expenditure items as mentioned in her allegation.

While the University did not include this in their response to the C&AG, we noted that the claimant did retire after the Sabbatical period, but that he remained engaged with the University for a longer period.

The University’s inquiry attempted to establish the source of funding utilised to pay for the Sabbatical Leave period, but this process had not concluded at the time of our report.

The following recommendations are made in respect of this outcome:

Recommendation 2:

i) The University should clarify the source of funding utilised in this instance for payment of Sabbatical Leave.

iii) *Allegation by Person A:*

*“On 23/10/09 I sent an email to my management to address whether or not computers and equipment should be allowed to be paid through expenses. I knew that the purchase of these items should not be purchased without the approval of the procurement office however, in 2 years over €337,500 was spent on equipment through expenses and not through procurement. I first enquired with the (Department of Finance) and was told that equipment should not be bought under travel expense claims. I sent an email including these figures and a breakdown of same in an attempt to address whether this was allowable or not. Nobody would give me any instructions in writing and the email was never answered. (A procurement manager) advised that this should not be allowed and asked that I email details of these to him and highlight future similar claims. There are different levels of authority required between an expense claim and a purchase order requisition. He also asked me to email the individuals to see why they did not go through the proper procedures of procurement. I did this and copied him on the mails. However, shortly afterwards my own manager called me in to say that (a manager) was very unhappy with me querying these and wanted all mails regarding it to cease. When I asked for this to be confirmed by mail and that the purchase of this equipment through expenses was to now be allowed I was told there was no need of it.”*

*University inquiry conclusion, as reported to the C&AG per Appendix I of the Terms of Reference:*

Expense claims for equipment were processed. This remains a feature of University activity and the new system and protocol makes allowance for the continuation of this practice within appropriate parameters. The University is satisfied that purchases of equipment which were processed via expense claim forms represented value for money and that the expenses were properly incurred and authorised by the appropriate staff.

*Outcome from this review:*

The University's response based on its own inquiry indicates that it does not dispute that this practice existed, and its inquiry focussed on ensuring the system has improved to the extent that expense claims for equipment purchases are now limited. The University did not present evidence that the University investigated the items highlighted by Person A specifically, with a view to ascertain whether procurement rules were breached, or whether this practice may have been used to circumvent purchasing approval procedures. It is noted that the items listed by Person A dated back over a number of years.

As noted in Section 2.1(a), the University could not establish whether Person A had difficulty in obtaining signoff for expenditure items as mentioned in her allegation.

The following recommendations are made in respect of this outcome:

Recommendation 3:

i) The University should review, at least on a sample basis, items raised by Person A as equipment purchases put through expenses, particularly those items (if any) exceeding procurement or purchase approval thresholds in place at the time, with a view to consider whether:

- procurement rules were breached; and
- these practices may have been utilised to circumvent purchasing controls in place at the time.

The University's findings in this regard should be evaluated to consider whether control improvements implemented subsequently, adequately mitigates against the risk of re-occurrence.

iv) *Allegation by Person A:*  
"On 01/06/2010 I received an expense from (a claimant) which included spa treatments. I asked research and they agreed with me that public money should not be spent on this and that it shouldn't be re-imbursed. I emailed the claimant copying my manager to state that the spa treatments could not be re-imbursed, however, she advised me that (the claimant) was very high up, that we don't want to upset him and to recall the email I sent even though I was right in saying that it should not be paid."

*University inquiry conclusion, as reported to the C&AG per Appendix I of the Terms of Reference:*

The claim in question was not paid. Person A informed the claimant by email that the expense was not an allowable expense. The claimant replied immediately acknowledging that he made a mistake and confirming that the amount should be deducted from his claim.

*Outcome from this review:*

The review team noted that the University's inquiry into this item did examine the relevant expense and financial systems and presented adequate evidence that:

- Person A was correct to initially query this expense; and
- The payment was revised to exclude the spa treatments.

As noted in Section 2.1(a), the University could not establish whether Person A had difficulty in obtaining signoff for expenditure items as mentioned in her allegation.

v) *Allegation by Person A:*  
"On 08/07/2010 I received an expense for "relocation expenses" for (a claimant) signed by (a HR manager) for €1400. These expenses were not moving expenses as a result in recent employment from one house to another. (The claimant) had been employed by UL for a number of years. It was one receipt from a furniture shop for the delivery of a fitted kitchen. I spoke to (a manager) on this and he said he was uncomfortable with it. He worded an email that he wanted me to send to the HR manager to address the issue. He actually typed it himself from my pc rather than send the query himself. I asked if I could copy him on it as I felt they should deal with it from one manager to another but he would not allow me to copy him. After HR reverted back (the manager) advised that he was still uncomfortable but to go ahead and pay it. He would not sign the expense claim though."

*University inquiry conclusion, as reported to the C&AG per Appendix I of the Terms of Reference:*

Person A originally alleged that the University paid for a household item (under this allegation). Person A then amended her allegation when it was pointed out by the University that the claim was only for transport costs. (The claimant) was reimbursed in respect of certain relocation costs which were agreed with him as a condition of his recruitment to the

University in 2007 in accordance with the University's relocation Policy. It was agreed with (the claimant) in 2007 that the relocation expenses would be deferred until he purchased a house, which he did in 2010. This was all explained to Person A in an email dated 12 July 2010.

*Outcome from this review:*

The review team noted that the University's inquiry into this item did examine the relevant expense and financial systems and presented adequate evidence that:

- Person A was correct to initially query this expense; and
- The payment was in respect of delivery costs and was appropriately approved by a University officer responsible for such expenses.

As noted in Section 2.1(a), the University could not establish whether Person A had difficulty in obtaining signoff for expenditure items as mentioned in her allegation.

vi) *Allegation by Person A:*

*"On the 01/06/2010 I received an expense claim from (a claimant) for a re-imbursment of transcription payments she had paid in cash to an individual for doing transcription services. This type of claim was quite regular from the claimant but the receipts worried me as they were just a piece of paper with a signature and amount paid. There was no address, pps no or details on the "receipt". Upon looking at her previous claims I noticed that there were also "receipts" for B&B services which did not look right and the signature was the same signature as for the transcription ones. I was asked by research to contact (the claimant) and clarify the matter. I also had a mobile no. on one of the receipts for the B&B so I queried that number too. It turned out that the person receiving the money from (the claimant) and that we were re-imbursing her for was actually her sister. Her sister was very reluctant to speak to me but admitted that she had never done any work previously as a transcripator, only for her sister, and that the "B&B" payments were for times when her sister and daughter stayed in her house. She did not have a registered B&B. I discussed this with (a manager) and two other accountants and they all agreed these payments needed to be stopped and possibly re-imbursed back from (the claimant). However, at a later stage I was informed that the matter was to be allowed to be continued and the expense paid. The only signature I could get was from a research accountant who told me that her job was only to sign that there was funds in that cost-centre. I requested an email from my management instructing me to continue making these payments but they never sent one."*

*University inquiry conclusion, as reported to the C&AG per Appendix I of the Terms of Reference:*

As the B&B service and the transcription service was being provided by the same person, the claimant was contacted by Research Accounts Department staff and new procedures were put in place. It was agreed that the claimant should continue to claim her B&B cost of €25 per night when she stayed in Dublin as this was significantly below the Department of Finance domestic subsistence rate, and considerably cheaper than paying for hotel accommodation which she could legitimately have claimed. She was advised that she could no longer expense the cost of the transcription service and that instead her relative would have to provide her PPS number and invoice the University directly. This arrangement has been effective since late 2010. The gross amount invoiced for transcription between June 2010 and (April 2012) is €1,390 and withholding tax has been deducted from this.

*Outcome from this review:*

The review team noted that the University's inquiry into this item did examine the relevant expense and financial systems and presented adequate evidence that:

- Person A was correct to initially query this expense;
- The payment in respect of B&B costs were allowed to continue on the basis that it was below the cost of valid subsistence cost that could have been claimed; and
- The payment for transcription services required invoicing and the PPS number of the person providing this service from late 2010.

As noted in Section 2.1(a), the University could not establish whether Person A had difficulty in obtaining signoff for expenditure items as mentioned in her allegation.

vii) *Allegation by Person A:*

*“On the back of any expense claim form it states that employees cannot claim mileage from their home address to their work address. However, there seemed to be a regular amount of claims that was claiming home to work mileage. (A claimant) had received €3496 for this mileage previously along with others. I sent these back but was informed that these were arrangements that had been made by the heads of departments with certain individuals. I emailed my management on numerous occasions to see if this was to be allowed or not. I kept getting conflicting advice about it in their response. The (Department of Finance) was very clear that this was prohibited. I was consistently told that they were trying to sort it and in the mean-time to process the ones I had received. After many months, I was told not to pay them anymore. I requested that my management or the heads of department would contact the individuals concerned and advise them of this change but they would not. It was me that got the abusive calls when I refused to pay them. I was told by (the claimant) that this arrangement was made as their salaries were so low and this was to compensate for it. Pressure came on (finance managers) and I was then told to process the ones I had stopped. I asked for a mail for this but did not receive it.”*

*University inquiry conclusion, as reported to the C&AG per Appendix I of the Terms of Reference:*

It is University policy that staff are not permitted to claim mileage expenses for travelling from home to their place of work. The claimant in this case is a former employee of the University who was occasionally engaged as a lecturer on an hourly paid basis by the University. When it was known that he was claiming mileage from his home to place of work, the matter was brought to the attention of the University's (Finance Department) and the practice was stopped immediately. This predated Person A's employment in the expenses section of the Finance Department. The last mileage claim paid on this basis was for April 2009. The University is satisfied that Person A never processed an incorrect expense claim relating to the individual she alleges in her correspondence. The University is pursuing repayment of the amounts incorrectly claimed.

*Outcome from this review:*

The review team noted that the University's inquiry into this item did examine the relevant expense and financial systems and presented adequate evidence that payments in respect of mileage from home for this claimant were stopped and the University pursued repayment of amounts incorrectly claimed.

The review team noted that the University made inquiries with management in the Finance Department as to whether a practice existed in respect of claiming mileage from home, and whether any other known instances had occurred. Additional examples of potential mileage claims from home were highlighted by Person A during her time in the expenses section of the University. The University reviewed these examples and reached the conclusion that the practice was not permitted, and although from time to time expense claims may be submitted for such mileage, the Finance Department will reject such claims if identified.

## 2.2 Other Allegations made by Person A

The review team also carried out a review of the process of inquiry employed by the University in respect of other allegations made by Person A, as detailed in Appendix 2 of the Terms of Reference. It is noted that these allegations were not specifically numbered, as was the case in respect of allegations relating to University expenses claims, and that the University's inquiries into these allegations did not therefore capture a point by point conclusion. In addition, these allegations were primarily formalised by Person A as part of a legal process, and the University therefore reviewed and responded to these allegations as part of that process.

Our review does not comment on the legal correspondence between Person A and the University, but we have for the purposes of this review, considered the information presented by the University to support its conclusions on the processes referred to in the allegations made by Person A. In considering the information presented by the University, consideration was also given to guidance as set out in the policies and related procedures in place at the time and provided by the University. At the time of the allegations the following policies and related procedures considered relevant to the allegations were in effect across the University:

Policy	Effective Date
Sick Leave Policy (Code CX013.2)	No effective date – email 1/12/15 from University of Limerick confirms this was the policy in effect at the time.
Procedures for the Recruitment/Appointment of Staff	Approved Governing Authority – 28 October 2008
Policy & Procedures for Workplace Dignity and Respect	Amended by Governing Authority on 26 January 2010.
Grievance Procedure	Approved by Governing Authority January 2005
Statute on Employee Disciplinary Matters and Termination of Employment	Governing Authority 2002

The outcomes of the review team are detailed under each of the headings below:

### a) Sick Leave Certification and Reporting – Line Management

#### *Allegation reference from Person A*

*"I was diagnosed with (an illness) in December 2009. I was out sick for about 3 weeks. My husband... called...my online manager and advised her that I had been diagnosed with (this illness).*

*Upon my return to work I spoke to (my manager) and was always honest about the fact that I was suffering from (this illness). I also spoke to the girls in my office and advised them and I met with (a finance manager) also. I printed out an explanation of (the illness) and gave it to (the manager). I advised both (managers) that this condition interfered with my ability to concentrate, problem solve and cope with stress. I also advised that in order to overcome this condition I would need to minimise stress levels. (The manager) did not refer me to HR or occupational health. Although he did say how sorry he was to hear that I was unwell and he said that my job would be safe, he did not take any steps to assess my ability to do the same level of work and deal with the stress involved. He did not at any stage put extra resources in place and did not follow up on our meeting."*

*Summary information presented by the University to support the processes referred to in this allegation:*

The University established that Person A went on sick leave for a three week period during December 2009 and was diagnosed with a serious illness based on pre-existing conditions. This illness was reported to Person A's department only, and Person A returned to work based on a self-declaration of fitness to be in work at that time. Person A's return to work was managed by her own department. The University did not present evidence to suggest that Person A had to provide medical certification for this illness, or that this illness was reported to the University Human Resources Department.

*Outcome from this review:*

The University's Sick Leave Scheme in place at the time (reference Section 6.2 of that scheme) required that a medical certificate should have been required to be provided by Person A for the period of sick leave during December 2009, and for Person A's line manager to report this to the Human Resources Department of the University (reference Section 6.4 of that scheme). The University did not provide evidence that Person A's line management obtained medical certification at that time or reported the sick leave to the University Human Resources Department. The University was aware of the nature of the illness that Person A was diagnosed with, but the University's did not note a decision as to whether Person A should have been referred to an Occupational Health Specialist to examine whether it is safe for her to be in work, or that a specific return to work process should have been implemented. The University's Managing Attendance Procedure which was implemented subsequent to these events (from May 2012), now describes the responsibilities of line managers in this regard as follows:

- To ensure compliance with the notification and certification procedure in accordance with the University's Sick Leave Scheme (Section 5.2 of that Procedure)

The University's Managing Attendance Procedure now also describes the responsibilities of the Human Resources Department in this regard as follows:

- To provide information, guidance, training and support for line managers and employees in relation to the University's Managing Attendance Procedure (i.e. this procedure) and the Sick Leave Scheme (Section 5.3 of that Procedure);
- To refer employees, where appropriate, to the University's Occupational Health Service (Section 5.3 of that Procedure).

Additionally, the University's Managing Attendance Procedure requires employees to comply with the notification and certification procedure in accordance with the University's Sick Leave Scheme (Section 5.1 of that Procedure).

The University process does not clearly demonstrate whether managers and employees received adequate training in respect of implementation of the Sick Leave Scheme in place at the time.

The following recommendations are made in respect of this outcome:

Recommendation 4:

- i) The University Sick Leave Scheme in respect of requiring medical certification and reporting certified sick leave to the Human Resources Department should be followed in all instances.
- ii) The seriousness of reported staff illnesses should be evaluated on a case by case basis, and where defined serious illnesses are reported, such staff members should be referred to an Occupational Health Specialist to assess their fitness to return to work, prior to their return. The University should also implement a defined return to work process in such cases.
- iii) The University should ensure that line managers and employees receive adequate training in respect of sick leave certification, and reporting. Line managers should formally liaise and consult with HR on the implementation of appropriate procedures and should notify the employee that this is being done.

**b) Assessment of fitness to be in work**

*Allegation reference from Person A*

*“Upon my return to work I spoke to (my manager) and was always honest about the fact that I was suffering from (this illness). I also spoke to the girls in my office and advised them and I met with (a finance manager) also. I printed out an explanation of (the illness) and gave it to (the manager). I advised both (managers) that this condition interfered with my ability to concentrate, problem solve and cope with stress. I also advised that in order to overcome this condition I would need to minimise stress levels. (The manager) did not refer me to HR or occupational health. Although he did say how sorry he was to hear that I was unwell and he said that my job would be safe, he did not take any steps to assess my ability to do the same level of work and deal with the stress involved. He did not at any stage put extra resources in place and did not follow up on our meeting.*

*In order to get my cheque run done on time and keep on top of my work, I had to do a lot of overtime which was unpaid. I often worked late, came in Saturdays and Sundays to try to manage my job while also trying to figure out how to deal with questionable expenses in a way that shows clear accountability. My on-line supervisor and (a manager) were both aware that I had to work back and came in weekends but no resources were given to me and it was never addressed. If I was out sick or on leave I was not replaced and on my return I had to catch up on the work I missed. I was out in early June for 3 weeks as I was getting married and there was a backlog on my return which I was given no help to deal with so I had to work late, come in weekends etc to try to cope. I therefore feel that management were very aware of my workload, my condition, my stress levels, my moral issues with the expenses and yet nothing was done by them to improve it.*

*Between December and July I was put under a lot of pressure with ethical issues to do with my job. I spoke to my line manager and my supervisor many times about the stress I felt in relation to this. I also spoke to the (a finance manager) when I asked him for a private meeting and expressed to him that I was very stressed out because of the unethical issues. He asked me to leave it with him but no changes were made and it was not followed up.”*

*Summary information presented by the University to support the processes referred to in this allegation:*

The University confirmed that the nature of Person A's illness was explained to her line management in the first part of 2010, as well as the potential impact on her work behaviour.

The University established that Person A had certain workplace incidents relating to her illness between December 2009 and July 2010. It was confirmed that, during this period, Person A's department put an informal 'protocol' in place, which in the event of such behaviour, was designed to provide Person A with a private, safe and secure place to recover and to contact Person A's next of kin. The University confirmed that Person A's line management took the decision not to refer her for further medical assessment during this time, as it was indicated to them that she was under care of external medical experts, and that the illness was a pre-existing condition. We understand from the University that these incidents were initially not regular, but became more frequent during June / July 2010. Person A went on long term sick leave during July 2010.

The University confirmed that Person A also raised a number of queries with her line management in respect of expenses she had to process and that she queried the lack of clarity around what is allowable expenses. The University questioned whether Person A initially made references to feelings of stress and her workload. The University, as part of its own inquiry, reviewed the workload of Person A and determined it to be comparable to other administrators with similar duties. The University contend that management in the Finance Department of the University also discussed the process improvements planned in respect of expense claims processed in the University with Person A, with a view to alleviating some of her concerns. It was noted that the University was in the process of introducing a new protocol for expenses processing through an online system, and that Person A was involved in making suggestions for process design and system implementation. University management also indicated that, while Person A raised a number of policy related queries in respect of expenses, these did not relate to 'unethical issues' as referred to by Person A.

The University confirmed that Person A was referred to an Occupational Health Specialist after Person A went on long term sick leave in July 2010,

*Review team outcome:*

Given that the University (Person A's line management) was aware of Person A's condition, her previous sickness absences, the nature of the diagnosed illness, the illness related incidents that have occurred in the workplace, and her discussions around expenses policy concerns, it would have been considered reasonable for the University's inquiries to note that more specific action in this regard may have been taken. Appropriate action in this case could have included consideration of referral to the Occupational Health Service during the period from January to June 2010, prior to Person A going on long term sick leave in July 2010. It is noted that the University's Sick Leave Scheme and Managing Attendance Procedure (which was implemented subsequent to these events from May 2012) now makes provision for such a referral on a case management basis. In addition, the University's inquiries did not identify that the protocol put in place by the Finance Department to manage Person A's workplace incidents, was not developed based on appropriate medical advice, particularly given the availability of an Occupational Health Service to the University. It is noted that the University's Managing Attendance Procedure (in Section 5.2 of that Procedure), now requires line management 'to take all reasonably practicable steps to accommodate an employee's return to work in line with any recommendations from HR or the University's Occupational Health Service'. Additionally, the policy requires employees to "take responsibility for their own health, safety and welfare, and that of others" and "to avail of appropriate support services".

The following recommendations are made in respect of this outcome:

Recommendation 5:

- i) Where the University is aware of a condition or number of conditions that could affect an employee's ability to be in work, including diagnosis of a significant illness, extended previous absence from work, indications of work related concerns, or workplace incidents relating to such illness, it should take appropriate action to specifically assess the affected employee's ability to continue in work (including consideration of potential referral to an Occupational Health Specialist).
- ii) The development of internal protocols to deal with ill health related workplace incidents should be done in consultation with relevant health specialists.
- iii) The University should ensure that line management and employees receive appropriate training regarding their responsibilities under the Managing Attendance Procedure (May 2012).

**c) Review of work related issues raised**

*Allegation reference from Person A*

*"I met with (a manager) on 14/07/2010 and explained to him that I felt completely overworked, that I could not handle the stress of my job, my concerns for the unethical expenses and that I felt it was affecting my ability to cope with (the illness) as all this was affecting it. I also advised him of the hours I was working and requested to get redeployed. He was quite cold in his response. He said that the previous person to me did not have all these issues and was able to get the job done. He said that if I felt I wanted redeployment to speak to HR but asked me to wait until February as he felt that bringing in the online system would reduce the workload."*

*Summary information presented by the University to support the processes referred to in this allegation:*

The University acknowledged that Person A raised a number of concerns with her line management in the Finance Department on 14 July 2010. However, the University process asserts that there was no specific use of the word "unethical" expenses at the meeting referred to in the above allegation reference. The University concluded that it was not however able to take the matter further with Person A, as she went on long term sick leave on the next day, and ultimately did not return to the University.

The University established that Person A was referred to an Occupational Health Specialist in July 2010 after going on extended sick leave. It was noted that the specialist recommended that work related issues noted by Person A should be investigated by the University, and corrective actions put in place as required. The University concluded that these recommendations were not resolved by the University with Person A, as she subsequently did not return to the University.

*Outcome from this review:*

The University did not initially formally investigate the issues raised by Person A during her meeting with line management on 14 July 2010, or raised during her Occupational Health Specialist visit. It is noted that Person A did not return to the University after 15 July 2010 and consequently the University were not in a position to progress Person A's concerns in discussion with her. It was noted that these concerns were subsequently raised as formal allegations by Person A through a legal process.

#### d) Communication with Person A while on Sick Leave

##### *Allegation reference from Person A*

*“Although HR sent me a couple of emails, my own department would not correspond with me. I emailed my department on 16/07/10, 14/10/2010 and 07/11/2010, I also rang them and left messages asking them to return my call. The last time I rang (a manager) was 17/11 when his secretary said he would ring me back and 19/11 when I left a message on (a manager’s) voicemail asking him to ring me back. None of my emails since I went out sick were responded to or acknowledged by my department and they have never returned my calls. My email on 07/11 was to advise them that I expect to return on 15 Dec and both messages I left indicated same, however, I was ignored.*

*After emailing my department on 07/11 to advise them I expected to return to work on 15 December I got no reply. Because my department had failed to respond to any of my emails since I went out sick I was worried. I rang my own department on 16 and 17th to (two managers). Neither took my call and my call was never returned. I left messages with their secretary and their voicemail saying that I was calling as I will be returning to work on the 15th and wanted to make arrangements. I then got an email from (a manager) in HR (19th) asking me to contact him.”*

##### *Summary information presented by the University to support the processes referred to in this allegation:*

The University confirmed that, from 15 July 2010, Person A was on certified sick leave for a number of months. It was established that, during this time, she made a number of attempts to stay in contact with her department and the Human Resources Department. The University confirmed that it was the view of the Finance Department that they were ‘operating a policy of not enquiring as to the wellbeing of colleagues while they are out on certified sick leave’. The University also noted that the University’s Human Resources Department did correspond with Person A during her illness and also monitored her continuous illness certification. The University further confirmed that the Finance Department corresponded with Person A in December 2010, acknowledging her indication that she may return to work.

##### *Outcome from this review:*

There appeared to be a lack of clarity over the allocation of responsibility with regard to maintaining contact with Person A over the course of her absence through illness. Given that management of the Finance Department was assumed by Person A as primary liaison individuals on behalf of the University, validated by her progress update emails to her managers, the line management approach of ‘operating a policy of not enquiring as to the wellbeing of colleagues while they are out on certified sick leave’ appears to be contrary to the common law view that an employer has a general duty of care towards their employees. The Managing Attendance procedure, in place from 2012, places a responsibility on line management “to maintain regular (fortnightly) contact with employees during illness absence” and in periods of long term absence, “regular contact should be maintained between the line manager and employee during extended periods of sick leave”. The University’s inquiries did not adequately address these matters.

The following recommendations are made in respect of this outcome:

##### Recommendation 6:

- i) As a matter of good practice, employers should keep communication channels open with employees who are out sick. Typically, line managers, in conjunction with the Human Resources Department share this responsibility.
- ii) A process should be put in place between the Human Resources Department and line management as to who will be the primary contact with employees on illness leave, who should then be notified of such contacts.

## e) Return to Work Process

### *Allegation reference from Person A*

*"The conversation started with me explaining to (the HR manager) that with the support of my doctor I expect to return shortly. I explained I was excited about my return to work but that the only thing that concerned me was that my department were not responding to my mails or taking my calls. He agreed that I would in fact need to speak to them before turning up for work and said that he himself had spoken to them during the week since my mail. He asked me if I wanted to stay working in UL. I responded saying yes that I am 29 with a young family and needed to work. He advised that at times people on long-term sick leave dont adjust well when deciding to return to work. He said that in similar situations to mine that people find it a better alternative to consider the other options. He said that although I have a right to come back and can if I so wish, that they worry about my ability to adjust back. I said that the last thing I want to do is work for a company that would not welcome my return and I asked him what options he would like me to consider and he stated retirement on medical grounds. He went on to explain that he would be able to add 6 years on to my current years and that although not near the amount of my salary, that it would be a guaranteed income every month. He also went on to say that if I went with this I could work anywhere except UL and keep this income. I was surprised and upset and said I would need to speak to my husband on it. He re-iterated that it was completely up to me but that this option might be the best in light of "my circumstances". He said that he could get the figures to me the next day if I so wished."*

### *Summary information presented by the University to support the processes referred to in this allegation:*

The University confirmed that Person A contacted the University in respect of her return to work during November 2010. It was noted that various options to facilitate her return were discussed between Person A and the Human Resources Department. The University acknowledges that these options were discussed and it is evident from email exchanges between Person A and the University that these discussions took place. The University indicates however that these discussions were in the context of inquiries by Person A.

### *Outcome from this review:*

The University presented evidence of Person A's initial contact regarding return to work and contact by the Human Resources Department. The email trail indicates a discussion was facilitated regarding alternative options other than return to work (including retirement on ill health grounds) following a telephone conversation between Person A and the University Human Resources Department. Whilst the University process could not clearly establish who initiated the conversation in relation to retirement on ill health grounds, the review team noted that the University process did not demonstrate that an appropriate degree of caution in discussing such circumstances and managing potential expectations was exercised at that time. In particular, this outcome is relevant where there were indicators at the time of a request to return to work and there was as yet no evaluation and related recommendation performed by any Occupational Health Specialist(s). The review team noted that the Sick Leave Scheme in place at the time did not provide for facilitation of such discussions (of retirement options) as part of the return to work process. Retirement on ill health grounds are typically treated on a case management basis with input from a number of stakeholders. The University process did not present adequate evidence that, on this occasion, there was such a case management process in place.

The following recommendations are made in respect of this outcome:

Recommendation 7:

i) Where an employee on long term sick leave indicates the possibility of return to work, the University should facilitate this in the first instance, and exercise a significant degree of caution in respect of any engagement in discussions on retirement options. This should be considered in the context of suitable processes available to the University, such as review by Occupational Health, medical advice, assessment of reasonable accommodation and fitness to return to work certification.

ii) Retirement on ill health grounds should only be considered on a case management basis, with input from a number of stakeholders, including but not limited to the employee, Occupational Health Specialist or other medical advice, Human Resources, line management, and employee representatives (if required).

### 3. FACTUAL DETAILS AND OUTCOME OF REVIEW – PERSONS B AND C

#### 3.1 Allegations made by Persons B and C in respect of University Financial Transactions

The review team performed a review of the process of inquiry employed by the University in respect of allegations of a financial nature made by Person B and Person C, as detailed in Appendix 3 of the Terms of Reference. Examples of allegations relevant to this theme include the following extracts from the terms of reference:

##### *Allegation references from Persons B and C*

*“The issues relate to a series of actions and inactions in the Finance Department of the University of Limerick, since their employment but in particular commencing in 2012 and the actions and inactions of the HR Department since December 2013.....it is the view of Person B and Person C that what precipitated this series of events was their studious attention to process and procedure in the Finance Department. On a number of occasions Person B queried details of expense claims submitted by staff. On other occasions, claims were queried that inappropriately included the cost of alcohol. Procedure requires that no such claims be allowed, except in special cases, such as official entertainment, and then only to the extent of one third. Occasions arose, where were queried, of spouses accompanying staff to meetings abroad. Whilst flights would be paid by the staff member for the spouse, accommodation costs were charged to the University. Retirees were re-engaged and allowed access to internal systems and allowed to claim expenses not part of their invoices submitted. On other occasions instructions were issued to deal with the purchase of alcohol under “supplies” which meant they were camouflaged and not detailed. Other occasions were brought to attention where invoices were being paid contrary to normal procedure. Mileage was also queried. When questioning all of the above the answers were not satisfactory....”*

##### *Summary information presented by the University to support the processes referred to in this allegation:*

On 11 June 2015, following receipt of the allegations as set out in Appendix 3 of the Terms of Reference for this review, the University process of inquiry appointed the University internal auditors to review the allegations of a financial nature. The University process outlined that the internal auditors were unable to proceed at this time on the basis that further details in respect of specific allegations were not provided by Persons B and C to the University internal auditors. As at 2 November 2015, the University process outlined that specific details of any financial allegations were requested on nine separate occasions, however, no specific information was provided up to that date. The University commissioned a general internal audit of travel and subsistence claims, and the accounts payable area in October 2015.

The University process also outlined that Persons B and C did not formally raise any allegations of poor or irregular financial practice in the Finance Department until the 5<sup>th</sup> May 2015 when they specified allegations to the HEA. The University process of inquiry also commented that there was no reference to allegations of a financial nature during the facilitation process established by the University in January to early April 2014), subsequent investigation (including the period January 2015 to April 2015) or any of the discussions and negotiations between the University and legal representatives in 2014 and early 2015.

In mid-December 2015, the University facilitated offsite access by Person B and Person C to email and financial systems for the purpose of the review and provision of any relevant correspondence and specific financial transaction detail to be provided to the review team. Following this process, the review team provided a transaction listing containing 69 identifiable transactions to the University on 8 January 2016 for the University to review through its own process of inquiry. The transactions were reviewed by University management in the period 11 January 2016 to 15 January 2016 and the University internal auditors in the period 18 January 2016 to 22 January 2016. The objective of the internal audit review was to identify if the relevant back up information was available and appropriate, to identify any control weaknesses and to highlight any control improvements for management’s consideration.

Through this process of inquiry, the internal auditors issued a draft report to the Audit and Risk Management Committee of the University on 22 January 2016 and the Chair of the Audit and Risk

Management Committee approved the release of the report to the review team at this time. Based on the draft internal audit report, the University concluded that no evidence of financial wrongdoing was found.

The University process of inquiry sought to determine whether:

- transactions provided were paid prior to obtaining the required line management authorisation or approval;
- transactions provided were processed and paid prior to obtaining relevant tax clearance certificates;
- transactions provided were in accordance with the policy in respect of alcohol related expenditure being incurred;
- transactions provided included payment for travel of spouses;
- transactions provided were in compliance with the University policy for deposit (pro-forma) invoices;
- transactions provided were in accordance with the University policy with particular reference to whether professional services withholding tax (PSWT) was/should have been deducted and the treatment of expenses claimed by suppliers;
- transactions provided were in accordance with the University policy, with particular reference to whether these were accompanied by adequate receipts;
- transactions provided were in accordance with the University policy, with particular reference to whether expenses are processed through internal systems by a person who is no longer an employee;
- transactions provided were in accordance with the University policy with particular reference to payment of honorariums, gifts to staff members, or expenses claimed by non employees;
- transactions provided were in accordance with the University policy, including back up, approval and particular reference to mileage claims to Dublin being limited to €80 at the time; and
- transactions provided were in accordance with the University policy with particular reference to the purchase of equipment/assets through expense claims.

The University process of inquiry demonstrated that five (5) recommendations of “minor control improvement” were made by the internal auditors and accepted by management. These included recommendations for:

- Formal delegation of authority to be put in place during periods of annual leave or absenteeism. The process of inquiry identified this recommendation arising from weaknesses identified in the evidence retained around authorisation of purchase invoices during period(s) of management absence.
- Documentation and communication of the process to be followed by nominee staff members when management are on annual leave, in particular, procedures to be adhered to during such periods of absence. The process of inquiry similarly identified this recommendation arising from weaknesses identified in the communication of invoice authorisation arrangements during period(s) of management absence.
- Development of an entertainment policy to provide greater clarity for events such as conferring, seminars and other similar events which are invoiced to the University. The University process identified this recommendation arising from the absence of clear guidance applicable to such purchases which are not processed by way of the expenses system. Whilst the University process of inquiry demonstrated that the expenditure incurred in respect of alcohol was in line with the guidelines set out in the Travel and Subsistence policy, the policy does not apply to invoiced amounts.
- Development and implementation of clear guidance around the purchase of gifts for staff leaving the University. The University process of inquiry noted expenditure to the value of €150, which related to the purchase of “bike accessories” for a member of staff leaving the University. The process of inquiry noted that the University does not have a policy in place regarding the purchase, if any, of gifts for staff leaving employment.
- More regular communication of changes to the travel and subsistence policy to ensure that staff are made fully aware of such changes. The University process of inquiry noted one transaction which incorrectly allowed a payment in excess of the stated €80 fixed mileage rate when travelling between Limerick and Dublin. The process also outlined that there was no query raised by the Finance Department in the processing of the transaction. The process therefore

identified the recommendation for more regular communication of any changes or updates to the travel and subsistence policy.

The University's inquiry process also identified some areas of potential control weakness where it was deemed that such control weakness had already been addressed as part of subsequent system improvements, and therefore no further recommendations were made. These included the following:

- The University process identified one tax clearance certificate which was not date stamped at the time to evidence when it was received in the Finance Department. The University process of inquiry noted that the invoice payment made was within the period of the tax clearance certificate held on file. The University process of inquiry further noted that going forward all tax clearance certificates will be subject to electronic checking in line with the Revenue Online System (ROS).
- The University process of inquiry identified two expense type transactions where receipts were not provided for all expenditure in each claim. The University process notes that for one of those items, there was evidence of correspondence to indicate that management gave consideration to the appropriateness of the claim prior to payment. The University process further noted that receipts can now be uploaded online via the University system and the University travel and subsistence policy and procedure is being updated to require claimants to upload all receipts as evidence of spend before submission of the claim to the Accounts Department.
- The University identified three transactions related to the reimbursement of expenses incurred by one individual following retirement who continued to represent the University on an EU funded project. The University process noted that, at the time of the transactions being recorded, it was not wholly clear what policy/protocol applied to "other" individuals. The University process noted that the payment of expenses to those claiming honorariums (for example, owing to involvement in quality review panels, interview boards etc.) was also not clearly outlined in policy. The University process noted that the University Travel and Subsistence policy was amended to reference "every representative of the University".
- The University process identified six expense claims, relating to the purchase of equipment/assets, in excess of the upper limit of €50, which was applicable based on the University policy. The process of inquiry noted that the transactions occurred in the period between April 2011 and September 2012 and the University process of inquiry was satisfied that all transactions were approved as they deemed legitimate by either the line manager or administrator who processed the transaction.

The University process outlined that the draft internal audit report would be presented at the next scheduled Audit and Risk Committee meeting for formal approval and finalisation.

*Outcome from this review:*

The review team noted the conclusion of the University process of inquiry, supported by the work of the University internal auditors, that no evidence of financial wrongdoing was found.

The review team noted that five (5) recommendations of "minor control improvement" were made by the internal auditors, which were accepted by management.

Our review of the overall process employed by the University to inquire into financial allegations made by Persons B and C, including our review of the original supporting documentation in respect of the financial transactions queried, confirmed that adequate evidence was available to support the inquiry process followed by the University, and further noted the independence of that process.

### 3.2 Other Allegations made by Persons B and C

The review team performed a review of the process of inquiry employed by the University in respect of other allegations made by Person B and Person C, as detailed in Appendix 3 of the Terms of Reference. It is noted that the University received these formal allegations from the HEA in May 2015, but that there was also existing processes ongoing in the University at the time, which were already considering some of these allegations. We have, for the purposes of this review, considered the information presented by the University to support its inquiry process into these other allegations, as well as the information supporting the ongoing internal processes which were already in place prior to formal communication from the HEA.

In considering the information presented by the University, consideration was also given to guidance as set out in the policies and related procedures in place at the time and provided by the University. At the time of the allegations the following policies and related procedures considered relevant to the allegations were in effect across the University:

Policy	Effective Date
Policy & Procedures for Workplace Dignity and Respect	Amended by Governing Authority on 26 January 2010. Approved by Governing Authority 27 June 2014
Grievance Procedure	Approved by Governing Authority January 2005
Statute on employee Disciplinary Matters and Termination of Employment	Governing Authority 2002
Managing Attendance Procedure	1 May 2012

The outcomes of the review team are detailed under each of the headings below:

#### a) Allegations of inactions and unfair treatment (part 1)

##### *Allegation references from Persons B and C*

In their submission to the HEA, Persons B and C allege that they were subject to “a series of actions and inactions in the Finance Department”. The full details of the allegations is contained in Appendix 3 to the Terms of Reference. Examples of such allegations include the following extracts from the Terms of Reference:

- (i) *“In general, (Persons B and C) were made aware they should not “rock the boat”. In their opinion, this is a culture that has been part of this department for many years. In February 2013, Person B was removed from (his/her) role in expenses”.*
- (ii) *“In October 2013, they (Persons B and C) both discussed their concerns with the (manager) about the treatment that had been shown to them. The (manager) advised that (the manager) would follow up on this matter, but no satisfactory response given.”*
- (iii) *“In November 2013, barriers were put in their way regarding the taking of term time. Person C sent an email to the (manager) seeking a meeting with the (managers) to discuss the outstanding issues - no response at the time was (given) to this.”*

- (iv) *"In early January 2014, the working environment worsened for them. Health and Safety was breached along with Dignity and Respect policies. Management and HR were informed of this and no satisfactory response received".*
- (v) *"They returned to work on 2 April 2014. Their colleagues walked out of the office when they entered.....At this time, they were not supported in their work by (managers)....and were generally ignored and not spoken to".*
- (vi) *"In August 2014, (Person C) was moved to another role within the office without advance notice."*

*Summary information presented by the University to support the processes referred to in this allegation:*

The University presented that its process comprised the inquiry with Finance Department line management and Human Resources management to assess allegations of a specific nature contained within the submission to the HEA.

- (i) The University process did not identify evidence of Person B raising any issues on transfer from expenses to accounts payable. The process of inquiry performed by the University determined that Person B requested the transfer, which included facilitating the process through involvement in training of other staff members.

The University process of inquiry further reviewed focus group outputs and outputs of quality review processes conducted in 2007, 2011 and 2015. The University process of inquiry noted that the independent quality review group commended the Finance Department in 2015 for the *"commitment to continual improvement in all areas of the department in recent years, evidenced by significant improvements actually achieved. The use of benchmarking against other universities to identify best practice and, where necessary, the action taken to reach this level. The demonstrated ability of the department to adapt to an increasingly demanding economic and regularity climate"*.

- (ii) The University process sought to clarify with Finance Department management whether there was any formal record of complaint or otherwise in October 2013. The University process notes that there was no formal record of concerns communicated in writing by Person B or Person C at this time. Additionally, the University process confirmed with Finance Department management that no formal note was recorded of such concerns being raised at that time. The University process further noted that, based on follow up with the Human Resources Department, a file was not established in relation to any concerns or formal complaints made by or against Person B and/or Person C until December 2013.
- (iii) The University process confirmed with Finance Department management that correspondence, including responses, on the taking of term time was ongoing in the period November 2013 through to December 2013. Additionally, the University process noted that the decision to approve such leave needed to be considered in the context of business needs. The University process notes that the agreement for taking of term time was concluded in December 2013.
- (iv) The University process confirmed that an issue was raised by email by Person C with the Health and Safety and Human Resources Department in relation to the use of fan heaters in the Finance office on 6 January 2014. The University process demonstrated that specific matters or concerns were not specified by Person C that could be classified as issues raised under the Policy and Procedure for Workplace Dignity and Respect in the correspondence sent on 6 January 2014. The subsequent correspondence reviewed by the University confirmed that the use of such fan heaters was not permitted at the time, due to the higher energy costs incurred. The University process determined that the use of fan heaters, in itself, did not constitute a Health and Safety incident and a verbal request for agreement between the parties was performed at the time to seek to resolve the matter.

- (v) The University process shows a meeting was held on 3 April 2014 following the return to work of Persons B and C. The University process shows that the meeting note recorded at the time includes discussion of the claim that colleagues walked out of the office as outlined in the allegation contained in Appendix 3 of the Terms of Reference. The University process noted that it was the view of Finance Department management that there was no walk out upon the return of Person B and Person C. The University process showed that the meeting held on 3 April 2014 included management of the Finance Department, Human Resources, a Union representative and Persons B and C. The meeting concluded with an agreement for a communication by a member of the Finance Department management of the return to work of Persons B and C. The University process confirmed with Finance Department management that they were not formally notified by Person B and Person C of their planned return to work. Upon their return to work, the University process noted that line management obtained sick leave certificates for Persons B and C to confirm fitness to return to work.
- (vi) The University process concluded that, rather than being removed from any role in August 2014, Person C continued to process payments to suppliers within the same role. It was noted by the University process that a new requirement was implemented for all invoices to have a purchase order from 2 June 2014. As a consequence of the system implementation, the University process noted that the quantity of invoices with purchase orders increased which required Person C to continue processing invoices for payment but the role also required invoices to be matched with purchase orders.

*Outcome from this review:*

The review team noted that the University process performed adequate inquiry in respect of Person B moving from expenses to accounts payable.

The review team noted that the University process of inquiry performed adequate follow up in respect of assessing the alleged raising of concerns in October 2013 and the University response to same. The University process also demonstrated a response in line with policy to the request, review and approval of term time. The process demonstrated responses in the period through to December 2013.

The review team noted the University process of inquiry into the use of fan heaters in the office environment and conclusion on subsequent follow up. The review team further noted that Person C was on sick leave, due to work related stress, from 9 January 2014, which may have impacted upon the ability to perform additional follow up subsequent to formal communication of concerns on 6 January 2014.

The review team notes the responsibility of employees, as outlined in the Managing Attendance Procedure, to advise line management of any matter that may affect their attendance, including the requirement to indicate likely return date following a period absence.

The University process does not provide sufficient evidence of regular communication by line management, or Human Resources, in the period January to April 2014, outside of the facilitation process which was ongoing within this period. The University Managing Attendance Procedure (in sections 6.1.2 and 6.3.2) states that line managers “should maintain regular (fortnightly) contact with employees during illness absence” and, in periods of long terms absence (greater than 20 days), “regular contact should be maintained between the line manager and employee during extended periods of sick leave”.

Based on the University process, and information contained therein, the process noted that Persons B and C were referred to an Occupational Health Specialist at the end of January 2014. The Occupational Health Specialist recommended a meeting to discuss perceived workplace issues (including physical environment) to agree a resolution and a subsequent return to work. Following the return to work of Persons B and C in April 2014, and based on our review of the University process, evidence of further referral to an Occupational Health Specialist was not available. The University Managing Attendance Procedure (in section 6.3.4) states that “*in cases of long-term absence (greater than 20 days), the University’s Occupational Health Service or the employee’s own doctor must certify that the employee is fit to resume duties*”.

The following recommendations are made in respect of this outcome:

Recommendation 8

- i) The University should re-communicate the requirements of the Managing Attendance Procedure to line management and employees in respect of notification of return to work and managing communication with employees on illness absence (including long term illness absence). Suitable training should also be put in place for line management and employees on respective responsibilities.
- ii) In the case of long term illness absence, the University should consistently apply the Managing Attendance Procedure which states *"in cases of long-term absence (greater than 20 days), the University's Occupational Health Service or the employee's own doctor must certify that the employee is fit to resume duties.* The requirements of this procedure should be re-communicated to line management and employees.

**b) Allegations of inaction and unfair treatment (part 2)**

*Allegation references from Persons B and C*

In their submission to the HEA, Persons B and C allege that they were subject to inaction and unfair treatment by the Human Resource Department. The full details of the allegations are set out within Appendix 3 of the Terms of Reference. Examples of such allegations include the following extracts from the Terms of Reference:

- (i) *"During this period up to April 2014, they were on sick leave. They were informed by their Union (representative) that HR had advised that their sick leave entitlements would not be affected.....In September 2014, they were advised by HR that their sick leave entitlements between January and April 2014 would be affected."*
- (ii) *"On 16 January 2015, Human Resources offered them paid leave until the complaint was dealt with and they were put under pressure by HR to make a decision within an hour and that the leave would be continued until a possible resolution was reached. They did not accept this. They saw no justification as to why they should be singled out, instead of their colleague".*

*Summary information presented by the University to support the processes referred to in this allegation:*

The University process presented to the review team comprised the following inquiry with Human resource management to assess allegations of set out above.

- (i) The University process shows correspondence from the Union representative on behalf of Persons B and C to the University Human Resource Department on the 19th September 2014 requesting that the University honour a previously understood agreement that a period of sick leave between January 2014 and April 2014 would not impact on absence records or sick leave entitlements in the future. The University process notes a response to the Union representative which outlines the University policies (including University of Limerick Sick Pay Scheme, which the University outlines mirrors standard public sector sick pay schemes and the Department of Education and Skills Directive) and states that the University cannot ignore previous and cumulative absences. In the circumstances, the University correspondence further notes that the University may discuss spreading the impact of any reduced pay arising from potential future absences to ameliorate any future hardship arising.
- (ii) The University process confirmed that an offer of paid leave was made by a member of the Human Resource Department to Persons B and Person C in response to concerns raised

by Person B and Person C of suffering from anxiety owing to workplace safety concerns arising from a previous complaint submitted in December 2014. The process demonstrates that the offer of paid leave was for the period until the investigation of the complaint was concluded upon. The University process confirmed that a similar offer was not made to the respondent to the complaint. The University process outlined that this was on the basis that the respondent to the complaint did not raise any workplace safety concerns.

*Outcome from this review:*

We noted that the University process demonstrated a formal response to the request for sick leave entitlements and the adherence of the University to the University of Limerick Sick pay scheme in the case of Person B and Person C.

The review team also noted that the University process concluded that an offer of paid leave was made in response to concerns raised by Person B and Person C arising from their anxiety owing to workplace safety concerns.

**c) Open and unresolved grievance issues and complaints**

*Allegation references from Persons B and C*

In their submission to the HEA, Persons B and C allege that the issues of concern to them relate to a “series of actions and inactions in the Finance Department” of the University of Limerick and the “actions and inactions of the Human Resources Department”. Included within this allegation, is an allegation of open and unresolved complaints made both by Persons B and C against Finance Department colleagues and against Persons B and C by their Finance Department colleagues. The full detail of the allegations made are included within Appendix 3 of the Terms of Reference. Examples of such allegations include the following extracts from the Terms of Reference:

(i) *“(Person C) sent a complaint to her manager (16<sup>th</sup> December 2013) on this after (being) verbally abused by one of the colleagues involved. No satisfactory support was given by supervisor or manager on this issue and (Person C) advised (he/she) would be taking this matter to (the) Union and to be addressed at a further date”.*

(ii) *“On the 19<sup>th</sup> December 2013 a Union representative wrote to (a member of Finance management), who subsequently sent it to (a member of the Finance management team), on their behalf setting out a list of complaints – this in turn was sent to HR. In January 2014, the union wrote to (Human Resources) on this issue. No response at the time was received to this”.*

(iii) *“On the 20<sup>th</sup> December 2013 (Person C) received notice from Human Resources that a colleague had lodged a formal complaint against her for incidents in Accounts Payable – the person had then just left the organisation. This was the same colleague (against whom) (Person C) had complained on the 16<sup>th</sup> December 2013.....”*

(iv) *“In January 2014..... both parties received complaints from their finance colleagues and were never afforded the opportunity to respond”.*

(v) *“In January 2014, the University appointed a facilitator to deal with their colleagues’ complaints.....In the event, the facilitation agreement was not completed and nothing further happened as regards the facilitation”.*

*Summary information presented by the University to support the processes referred to in this allegation:*

(i) The University process confirmed e-mail correspondence from Person C on the 16 and 17 December, which related to alleged events which occurred in the workplace. The correspondence obtained and reviewed by the University shows that the line manager’s immediate response was a request for Person C to “consider making a formal complaint to HR if you cannot resolve the matter amicably with the individual(s) concerned”. On 17 December, the University process shows that line management responded to a separate email from Person C highlighting workplace issues by offering a meeting to “discuss any issues/concerns you have”. The offer of the meeting did not take place as Person C advised that [he/she] would be taking the matter to her Union to be addressed at a further date. The University process did not determine or address whether the initial

response to the first email correspondence received on the 16<sup>th</sup> December was dealt with in accordance with University procedures i.e. “informally through discussion between the employee and his/her immediate supervisor/manager” (University Grievance Procedures, Section 2.1). The University process noted that this correspondence was subsequently grouped together with a series of complaints received in this period for subsequent investigation in February 2015 (referred to as “Complaint A” by the University).

(ii) The University process confirmed the receipt of email correspondence on 19 December 2013 titled “*Issues affecting Unite members in the Finance Division*”. On 20 December 2013, line management sought further “specific details of the matters referred to” by email based correspondence. On 9 January 2014, a member of the Human Resources team recommended by email correspondence that “any concerns relating to work practices should be raised with local management in the first instance and policies relating to dignity and respect, and grievance are in place”. The correspondence on 9 January 2014 goes on to offer a meeting to clarify this further. The University process noted that Person B and Person C went on sick leave on 9 January 2014 owing to work related stress. Additionally, the University process noted that this correspondence was subsequently grouped together with a series of complaints received in this period for subsequent investigation in February 2015 (referred to as “Complaint A” by the University).

(iii) The University process confirmed that, on 20 December 2013, a member of the Finance Department made a complaint to the Human Resources Department against Person C. The University process notes that the complaint was, in the first instance, submitted to the Human Resource Department, who subsequently wrote to Person C to notify her of this complaint. Person C was invited to make a response within 20 days. The University process demonstrated that the correspondence did not specifically state the nature of the complaint and/or under which policy the complaint was being raised. The University process outlines that it was later established by the University’s Human Resources department that the complaint was against both Person C and Person B. The University process shows that this complaint was formally grouped together with another complaint received on 9 January 2014 from five (5) members of the Finance team against Person C for the purpose of facilitation to seek to resolve the matters raised.

(iv) The University process confirmed that, on 9 January 2014, a formal complaint was submitted by five (5) members of the Finance team against Persons B and C. The University established a facilitation process in January 2014 to seek to resolve this complaint and the complaint received on 20 December 2013 (see point (iii) above).

(v) The University process confirmed that, in January 2014, the University established a facilitation process through informal action in accordance with University policy. The University process shows that the facilitation process was established to deal with the complaints received by the University on 20 December 2013 and 9 January 2014. The communication of the facilitation process did not formally refer to dealing with any other correspondence/communication received prior to the formal complaint of 20 December 2013. The facilitation process was ultimately unsuccessful in reaching an agreement between the parties (by April 2014). Owing to the ultimately unsuccessful outcome of the facilitation process, the University process in respect of the 20 December 2013 and 9 January 2014 complaints does not readily determine on how the complaints were closed and/or withdrawn.

The University process confirmed that a formal process of investigation was established in February 2015 to investigate the complaints, including those potential grievances initially raised by Persons B and C in December 2013. The University process outlined that the investigation of these complaints, which were combined and referred to as “Complaint A” had not commenced at the time of this HEA commissioned review on the basis that, in the University’s view, Persons B and C had not yet engaged with the investigation process. Consequently, the complaints originating in December 2013 and January 2014 remained open at the time of the HEA review and reporting.

*Outcome from this review:*

- (i) The review team noted that it was not immediately evident from the University process why the concern raised by Person C [16 December] was not, in the first instance, managed in accordance with University procedures i.e. to deal with the matter *"informally through discussion between the employee and his/her immediate supervisor/manager"* (University Grievance Procedures, Section 2.1).
- (ii) The review team noted that the correspondence, initially received in December 2013, was subsequently grouped together with a series of complaints received in this period for subsequent investigation in February 2015. The review team noted that the issues raised at this time were not ultimately dealt with through formal processes in the intervening period.
- (iii) The review team noted that the rationale, including applicable policy and nature of the complaint, underpinning the communication of the 20 December 2013 complaint to Person C was not evident from the University process. We noted from the University process that it did not manage the communication of the complaint received on 20 December 2013 in accordance with the Grievance procedures in the first instance. The review team noted that the University policy states: *"it is the policy of the University of Limerick that employees, in the first instance, make reasonable efforts to resolve grievances informally through discussion between the employee and his/her immediate supervisor/manager"* (Section 2.1, University Grievance Procedures). Section 2.2 of the Grievance Procedures goes on to state *"all grievances, in the first instance, should be dealt with promptly and in accordance with the agreed procedures by the employee's immediate supervisor/manager"*. The review team also noted that the process does not adequately provide documentation of the rationale as to why the complaint was not referred to the employee's immediate supervisor/manager to be dealt with, "in the first instance", through informal procedures.

The review noted from the University process that the 20 December 2013 complaint was dealt with in accordance with the Policy and Procedures for Workplace Dignity and Respect. The University process does not adequately demonstrate the rationale for dealing with the complaint under this policy. The review team noted that the initial complaint received did not state the policy under which the complaint was being made and did not specifically refer to "bullying", "harassment" or "victimisation". The Policy and Procedures for Workplace Dignity and Respect outlines (in Section 5.5) that *"it is the policy of the University of Limerick that incidents/allegations of such types should, where appropriate and insofar as possible, be dealt with at source by the employee's manager" and that "allegations of [such nature] will normally be dealt with locally in a low key, non-confrontational manner through the informal procedures, except where, in the view of management, the seriousness of the complaint requires implementation of the formal procedures"*. The policy further recommends *"discussion of the problem between the complainant and his/her line manager"*.

The review team further noted that the communication of the formal complaint received did not specify the nature of the complaint or the specific policy under which the complaint was being raised. Based on the University process, the review team also noted that the complaint was extended to another respondent (Person B) based initially upon an email instruction received from the complainant.

- (iv) Following the unsuccessful outcome of the facilitation process (see iv below), the review team noted that the complaint remained open and unresolved in the period January 2014 to February 2015 for all parties involved.
- (v) Following the unsuccessful conclusion to the facilitation process, which set aside all formal complaints between the parties involved, the review team noted that the complaints noted at (iii) and (iv) were not resolved through formal processes on a timely basis. Consequently, the complaints remained open and unresolved for all the parties involved

(both complainants and respondents). The review team noted that the University process outlined that the independent facilitator indicated that it would not be helpful to investigate the complaints. The review team further noted that the original terms proposed that *"if the facilitation has a positive outcome then complaints will be withdrawn through the normal channels"*. Given that the complainants did not formally agree with the output of the facilitation process, it is apparent from the University process that the complaints were not withdrawn through the normal channels and consequently remained open.

The review team further noted that, while the University process demonstrated that the independent facilitator suggested that no investigation should take place, the review team noted that the Human Resources Department had overall responsibility as the instigators of the informal process to ensure that the process as outlined in the policy and procedures were complied with, specifically section 8.1 of the Policy & Procedures for Workplace Dignity and Respect which provides that formal complaint and investigation procedure will normally be followed if attempts to resolve the matter pursuant to the informal procedure have not proven successful and agreeable to all parties involved.

The following recommendations are made in respect of this outcome:

#### Recommendation 9

- i) The University should ensure that the rationale for decisions relating to how complaints are to be treated is adequately documented. Such documentation should include evidence of:
  - clarifying the nature of the complaint;
  - involvement of line management in the first instance;
  - consideration of the basis for whether a complaint should be informally or formally resolved; and
  - confirmation of the specific policy under which the complaint is being managed.
- ii) In the event of a failure to resolve complaints through an informal process, University policies and procedures should be implemented on a timely basis. For example, formal complaint and investigation procedures should be followed on a timely basis to seek to resolve and close open complaints amongst employees. The resolution process of complaints should be completed within a reasonable timeframe in accordance with the principles for natural and constitutional justice.
- iii) The University should seek to update existing policies to further clarify the required format for submitting complaints, including requirements to outline the specific events that took place (including dates), the nature of the complaints and, where known, the policy under which such complaints are made.
- iv) University communications of complaints to respondents should clearly state under which policy the response is being pursued and the nature of the complaints being made. This includes where a complaint is being raised under the Policy & Procedures for Workplace Dignity and Respect.
- v) The University Grievance procedure, last updated in 2005, should be reviewed and updated to identify examples or instances of grievances, including but not limited to workplace relations.

#### **d) Complaints management process**

In allegations contained in the Terms of Reference, Persons B and C allege that the issues of concern to them relate to a series of actions and inactions in the Finance Department of the University of Limerick and the actions and inactions of the Human Resource Department. The full details of the allegations are included within Appendix 3 of the Terms of Reference. Examples of such allegations in respect of the management of complaints include the following extracts from the Terms of Reference:

*Allegation references from Persons B and C*

*“A detailed list of complaints was submitted to HR in June 2014. The (Human Resource Department) responded by stating that the complaints could not be dealt with as the document submitted had not stated which policy the complaint was to be investigated under, that it should be signed and dated letter and that it should name the people against whom the allegations were made”.*

*“On advice from their Union in January 2015, they approached their (manager) in January – February 2015 in confidence in relation to other concerns in the department – again the response was not always satisfactory”.*

*Summary information presented by the University to support the processes referred to in this allegation:*

The University process confirmed the receipt of a written grievance to the Director of Human Resources dated 30 June 2014 titled “Unresolved Grievance in the Finance Department”, which included a request for an investigation to be performed. The University process confirms that on 18 July 2014, the Director of Human Resources requested clarification of the names of the individuals against whom the complaints were being made and to clarify what policy of the University the complaints were being made under. The correspondence also outlined that the complaint needs to be “established in writing by signed and dated letter”.

The University process confirmed the receipt of correspondence in February 2015 from Persons B and C in relation to other concerns in the department. On receipt of the correspondence, the University immediately proceeded to investigate the “complaint” received under the Policy & Procedures for Workplace Dignity and Respect. The University process noted that Persons B and C initially objected to the correspondence being treated as a complaint and being investigated. The University, however, highlighted to Persons B and C that it was its prerogative to investigate serious allegations against other members of staff that comes to its attention.

*Outcome from this review:*

In reviewing the University process for receipt, assessment and subsequent decision making in respect of these allegations raised by Persons B and C, the review team note that we have already included Recommendations 9(i) and (iii) above with a view to further improving the University process demonstrated to the review team.

**e) Documenting evidence of University checks performed when appointing any investigator(s)**

The following allegations were noted in Persons B and C submission to the HEA relevant to the conduct of the University investigation process, which commenced in January 2015 following the receipt of a complaint in December 2014:

*Allegation references from Persons B and C [complaint B]*

*“Having met with HR they (Persons B and C) were told to make a formal complaint – they did so. They returned to work on 5 January 2015. This colleague was given their complaint and given ten days to respond.....HR advised that there would be an internal investigation into this matter and would be conducted by a 3<sup>rd</sup> party. Both (Persons B and C) asked their Union to seek to appoint a third party that all involved would be agreeable to for various reasons. However, Union advised that they had no choice”.*

*“The investigator appointed by the University concluded that (Persons B and C) had acted maliciously with an agenda in mind, but the investigator did not state what agenda. They have appealed the findings.”*

*Summary information presented by the University to support the processes referred to in this allegation:*

The University confirmed that, on 22 December 2014, Person B and Person C submitted a complaint to the University against a work colleague in respect of an alleged incident which occurred on 19 December 2014.

Upon receipt of the complaint, the University acted immediately and appointed an independent investigator to investigate the complaint in accordance with the University's Policy and Procedures for Workplace Dignity and Respect. The investigation commenced in January 2015. The University process demonstrated and outlined that the University uses a number of sources to engage persons to conduct investigations or hear an appeal. The sources used are: (a) Legal Firms working with the University, (b) the Law Library (to source barristers of Law appointed (called) to the bar with employment expertise), and (c) IBEC. The University process also outlines that all individuals appointed to conduct an investigation or hear an appeal have the required skills, knowledge and competence to carry out such tasks and come highly recommended; Furthermore, officers of the University meet with each individual prior to appointment to ensure no conflicts of interest exist and the candidates are suitable for the proposed task.

The University process noted that the policy and procedures for Workplace Dignity and Respect, at paragraph 9.12, states *"having gathered and considered all the relevant information, the Investigation Committee/Investigator will be required to produce a written reasoned report setting out its findings. This report will conclude whether or not, on the balance of probabilities, the complaint of bullying, harassment or victimisation has been substantiated. Where it is concluded that bullying, harassment or victimisation has taken place, the Investigation Committee/Investigator will stipulate whether or not they have reason to believe that the complaint was false, malicious or vexatious in its intent"*.

On 8 April 2015, the University's independent investigator issued his final report to the University and all parties concerned. The report included the conclusion as outlined in the allegations set out in Appendix 3 of the Terms of Reference.

The University process noted that the report was subsequently appealed. The University appointed a barrister to hear the appeal in relation to the investigation report. It was noted from the University process that the appeal was not upheld.

*Outcome from this review:*

The review team noted a further improvement opportunity in respect of the University process in respect of clearly demonstrating how the University documents the checks which are performed prior to the appointment of any independent investigator. This may include, for example, documented evidence of the checks performed by the University on the relevant skills and experience of the investigator, and checks for potential conflicts of interest.

The review team noted that the University process determined that the investigation was performed "as expeditiously as possible" and that the review itself commenced in January 2015 and reported in early April 2015. Through review of the process, the review team noted that Section 9.2 of the Policy and Procedures for Workplace Dignity and Respect requires that the likely timescale for the completion of the investigation be outlined in the Terms of Reference. A specific likely timescale was not outlined, however, the University process did demonstrate that the Terms of Reference stated that *"the matter will be dealt with as expeditiously as possible"*.

The following recommendations are made in respect of this outcome:

Recommendation 10

- i) The University should seek to further improve existing processes by formally documenting and retaining evidence of the checks performed by the University on relevant experience, potential conflict checks and other pertinent factors which the University deems relevant to the appointment of any independent investigator.
- ii) The University terms of reference for investigations should seek to establish a reasonable timeline in line with the stated policy requirements.

## 4. FACTUAL DETAILS AND OUTCOME OF REVIEW – OTHER PARTIES

The review team has received additional submissions from other parties offering further detail or context with regard to the University processes and procedures referred to in or related to the allegations by Persons A, B and C. The review team has received these submissions at different times during the review process, and has followed the following process in respect of each submission received:

- Request of protections to be put in place by the University, if required, to facilitate such parties providing input into the review;
- Review of submissions received and consideration of whether the submissions provide further details or context with regard to the University processes under review;
- Meetings with other parties if considered necessary or relevant;
- In respect of submissions considered part of the Terms of Reference, as outlined in our overall approach, meetings, discussions and clarifications with the University, as well as review of documentation provided by the University and other parties;
- In respect of submissions not considered part of the Terms of Reference, consideration to be given by such parties to provide the submissions to the HEA for further consideration.

The review team received 2 submissions which we considered to form part of our Terms of Reference. Outcomes identified in respect of items relevant to University processes referred to in or related to the allegations made by Persons A, B and C, are detailed below. It is noted that further submissions were received and the review team did meet with other persons in this regard, but in these cases the submissions did not align to our Terms of Reference or were made anonymously and could not be followed up. These items were brought to the attention of the HEA separately.

The outcomes from the review team in respect of other parties offering further detail or context with regard to the University procedures referred to in or related to the allegations by Persons A, B and C, are as follows:

### a) Evidence recording in respect of complaints procedures decision processes

#### *Context*

In respect of the cases of Persons B and C, the University presented evidence in respect of informal and formal complaints processes, with some of these complaints resulting in informal facilitation and/or formal investigation processes under the Policy & Procedures for Workplace Dignity and Respect. In respect of the two additional persons who provided further detail and context to these and related processes, both persons were involved in cases where complaints were made by and/or against them, resulting in investigations under the University Policy & Procedures for Workplace/Student Dignity and Respect. On this basis the review team considered the consistency of application of these processes by the University across these cases, and whether in line with University Policy.

#### *Outcome from this review:*

The review team noted that, for the two additional cases reviewed, while the University was able to present the circumstances under which decisions were taken to invoke formal investigations under the Policy & Procedures for Dignity and Respect in place at the time, it was established that the University can improve upon the level of evidence that is retained to describe the rationale behind key decisions. Such key decisions may include whether:

- A complaint should be informally or formally resolved, in the first instance (the University policies allow for both options);
- The nature of the complaint is clearly defined, and whether based on this definition, the complaint should fall under a specific policy, such as the Policy & Procedures for Workplace/Student Dignity and Respect, Grievance Procedures or policies in respect of Gross Misconduct;
- The details in the complaint, such as dates/times and nature of events, are adequately documented to support further investigation;
- Complaints were made within the relevant timeframe specified in policies and procedures;
- A complaint should be escalated to formal stage;
- To proceed to a disciplinary matter under Statute no 4 of the Universities Act 1997 University of Limerick.

The following recommendations are made in respect of the outcome for this review:

**Recommendation 11:**

i) The University should ensure that the rationale supporting key decisions is, in all cases, clearly and adequately documented, for determining whether:

- A complaint should be informally or formally resolved, in the first instance (the University policies allow for both options);
- The nature of the complaint is clearly defined, and whether based on this definition, the complaint should fall under a specific policy, such as the Policy & Procedures for Workplace/Student Dignity and Respect, or Grievance Procedures;
- The details in the complaint, such as dates/times and nature of events, are adequately documented to support further investigation;
- Complaints were made within the relevant timeframe specified in policies and procedures;
- A complaint should be escalated to formal stage;
- The process should be progressed to a disciplinary matter under Statute no 4 of the Universities Act 1997 University of Limerick.

**b) Management of the timeline of complaints resolution procedures documented and recorded**

*Context*

In respect of the cases of Persons B and C, the University presented evidence in respect of formal complaints made, that resulted in a formal investigation process under the Policy & Procedures for Workplace Dignity and Respect. In respect of one of the additional persons who provided further detail and context to these and related processes, the review team observed further evidence in respect of the timeline followed for a complaints and investigation process under the Policy & Procedures for Student Dignity and Respect.

*Outcome from this review:*

Whilst the University has overall ownership of the processes followed under its policies, various parties forming part of the complaints resolution processes may have an impact on whether timelines are being achieved. The review team noted the following outcomes in respect of the timeline followed for the additional case reviewed:

- The Investigator, during an interview as part of the investigation, noted that it is anticipated that the draft findings will be available from the investigation in approximately 2 weeks; the draft report was in fact only available after close to 9 weeks;
- The overall time elapsed from receipt of the initial written complaint to delivery of a final investigation report was 5 months (although it is noted that one of the persons involved in the investigation was on a period of sick leave during this time); the Policies and Procedures for Student Dignity and Respect states that any investigation should be completed within 8 weeks of the appointment of an investigator;
- A delay of 3 weeks occurred between the date when the investigation report was finalised and when the final report was sent to the person complained against;
- At the time when a disciplinary meeting was arranged under Statute no 4 of the Universities Act 1997 University of Limerick, almost 8 months had elapsed since written complaints were made, and 10 months since the initial verbal complaints were made; at this stage none of the complainants were available to attend the disciplinary meeting; Statute no 4 notes that 'Any such investigation by the University will be carried out promptly after receipt of the allegation of misconduct and in accordance with the principles of natural and constitutional justice;

- A settlement was ultimately reached with the person complained against, and his employment concluded, 14 months after the first written complaint was received.

The following recommendations are made in respect of the outcome of this review:

Recommendation 12:

i) The University should place specific focus on the adequate management of the timeline for processes falling under the Policy and Procedures for Dignity and Respect, and Statute no 4 of the Universities Act 1997 University of Limerick, including ensuring that the processes for making complaints, following informal resolution processes (if appropriate), carrying out investigations and completing disciplinary meetings take place within a reasonable timeframe in accordance with the principles for natural and constitutional justice.

### **c) Management of the investigation reporting process**

#### *Context*

In respect of the cases of Persons B and C, the University presented evidence in respect of reporting phase of a formal investigation process under the Policy & Procedures for Workplace Dignity and Respect. In respect of both of the additional persons who provided further detail and context to these and related processes, the review team observed further evidence in respect of the process for making available draft and final investigation reports, and the consideration of responses by all parties as part of this process.

#### *Outcome from this review:*

The review team noted the following, in respect of the University's process to manage the reporting phase of the investigation process under the Policy and Procedure for Workplace Dignity and Respect, for the additional case reviewed:

- In one of the additional cases reviewed, it was noted that a substantial response was provided by the person complained against, to detail observations made in respect of the draft report; this response was considered and the report finalised in a matter of hours; the investigator confirmed to the University that the responses were considered as part of the finalisation process;
- In both of the additional cases reviewed, the University did not receive detailed evidence of how responses provided by persons complained against, were reviewed and taken into consideration prior to finalising the investigation report; the University did receive confirmation that such responses were considered.

The following recommendations are made in respect of the outcome of this review:

Recommendation 13:

i) While it is acknowledged that the investigation process should be independent, the University should therefore ensure that a clearly evidenced process is in place under the Policies and Procedures for Workplace Dignity and Respect that demonstrates how responses in respect of draft findings are given adequate time and consideration prior to finalising an investigation report.

## d) Disciplinary panel selection

### *Context*

In respect of the cases of Persons B and C, we note that the University had escalated certain complaints to a disciplinary matter under Statute no 4 of the Universities Act 1997 University of Limerick, on foot of the findings of an investigation under the Policy and Procedure for Workplace Dignity and Respect. In respect of one of the additional persons who provided further detail and context to these and related processes, the review team observed further evidence in respect of the process for selection of disciplinary panels under Statute 4

### *Outcome from this review:*

The review team noted the following, in respect of the University's process for selection of disciplinary panels under Statute 4, for the additional case reviewed:

- The University's policies do not appear to be prescriptive in respect of disciplinary panel selection;
- We noted that the person's line manager was initially selected on the panel, but was removed from the panel based on objections made;
- A person external to the University was not included on the panel.

The following recommendations are made in respect of the outcome from this review:

#### Recommendation 14:

- i) The University should consider being more prescriptive in its policies in respect of the selection of disciplinary panel members.
- ii) In respect of disciplinary matters of a serious nature, consideration should be given to including an independent external panel member. Such an approach is used in other Universities.

## e) Decisions to suspend

### *Context*

In respect of the cases of Persons B and C, we note that the University had invoked suspension under Statute no 4 of the Universities Act 1997 University of Limerick, on foot of the findings of an investigation under the Policy and Procedure for Workplace Dignity and Respect. In respect of one of the additional persons who provided further detail and context to these and related processes, the review team observed further evidence in respect of the process for suspension under Statute no 4.

### *Outcome from this review:*

The review team noted the following, in respect of the University's process for invoking suspension under Statute no 4, for the additional case reviewed:

- The investigation upheld some of the complaints against the person, and concluded on the basis of harassment on gender grounds; the University did not suspend the person at this point, and the person was allowed to resume limited teaching duties for a period of time after the investigation findings were finalised;
- The University did not present clear evidence of the decision taken to consider whether the person complained against should have been suspended under Statute no. 4.



The following recommendations are made in respect of the outcome from this review:

Recommendation 15:

i) In addition to the provisions of Statute no 4 of the Universities Act 1997 University of Limerick, the University should develop clearly documented criteria for suspension, and maintain evidence of decisions taken in respect of possible suspension.



## **APPENDIX A – TERMS OF REFERENCE**