

Imperial College London: Independent Investigation Report 2020

(Version including redactions in accordance with ICO decision notice)

This document contains the full Jane McNeill QC report, other than redactions agreed by the ICO to protect the privacy of individuals.

Where text has been removed from the report the resulting gaps have been replaced with “ [•] ”.

[•]

My Terms of Reference

6. I am asked to carry out an independent investigation into the matters raised in [•] disclosure in accordance with Terms of Reference, which are exhibited to this report at Annex 3.

7. In particular, I am asked to make findings of fact, where possible, on the following four matters:
 - (i) Whether AG has bullied and/or harassed [•] and/or other members of staff of the College;
 - (ii) Whether [•] MS have bullied and/or harassed [•] and/or other members of staff and, if so, whether AG, knowing of such conduct, failed to restrain it;
 - (iii) Whether AG, [•] and/or MS have created or contributed to a culture of bullying and/or harassment at the College, both since the Covid-19 pandemic and before; and
 - (iv) If so, whether such a culture has had a negative impact on the governance, culture, values and reputation of the College.

8. I have determined the facts applying the civil standard of proof (balance of probabilities). My investigations are limited to matters occurring the in past two years. I am asked to consider whether conduct amounted to bullying or harassment by reference to the anti-bullying Policy, which is attached to this report at Annex 4, to draw conclusions and to make any recommendations I consider appropriate.

9. The aspiration was to complete this report by the end of July and, while that aspiration has not been met, I am aware of the importance of completing the report within a reasonable time for the benefit of the College and all individuals directly affected by the allegations made, who continue to work together. While the investigation has been thorough and has involved the consideration of a large amount of evidence, it is not part of a disciplinary process, where some of the allegations made would be subject to more detailed scrutiny and different procedures would apply before findings were made. I do not recite

all the evidence I have received but focus on those matters which, in my judgment, are most relevant to the disclosure.

10. If the Chair and Deputy Chair of Council wish to speak to me about any aspect of this report or wish me to explore any of the matters considered in greater detail, I would be happy to make myself available.

[•]

12. In summary, I have made the following findings:

- (i) **Whether AG has bullied [•] and/or other members of staff at the College**

AG, in her position as President of the College, has behaved towards [•] in a manner that has undermined them professionally and personally and excluded them.

AG's treatment of [•] does not amount to bullying.

AG's treatment of [•] does amount to bullying.

AG has not bullied any other member of staff.

- (ii) **Whether [•] MS have bullied [•] and/or other members of staff and, if so, whether AG, knowing of such conduct, failed to restrain it**

Neither MS [•] has bullied [•]

[•]

MS bullied [•] in the period between about 27 February and 16 March 2020.

No finding is made that [•] MS bullied any other members of staff.

No finding is made that AG knew of MS's bullying behaviour and failed to restrain it.

(iii) **Whether AG, [•] and/or MS have created or contributed to a culture of bullying at the College, both since the Covid-19 pandemic and before**

AG and MS have created or contributed to a culture which involves and tolerates favouritism, exclusion, the making of disparaging comments about others and at times a lack of respect for others.

MS has created or contributed to a culture where aggression and the making of inappropriate and offensive comments is tolerated.

While my findings do not enable me to conclude that there is a culture of bullying at the College, all of the above types of behaviours fall within the definition of bullying in the anti-bullying Policy.

The manner in which such behaviours are dealt with does not always reflect best practice in a modern workplace.

The Covid-19 pandemic is relevant only insofar as the huge stresses created by the pandemic have impacted negatively on behaviours and, in some instances, exacerbated a pre-existing problem.

(iv) **Whether such a culture has had a negative impact on the governance, culture, values and reputation of the College**

The impact of exclusion, in terms of who is or is not involved in decision-making in the College, has had an impact on governance which is perceived as negative by many within the College.

Behaviours which are aggressive, undermining or involve disparaging others and treating others disrespectfully are not consistent with Imperial Expectations and the values of the College.

In terms of external reputation, I could find no evidence that the reputation of the College has currently been negatively impacted. There are obvious risks of a negative impact on reputation where senior members of the College leave the College with negative views on its workplace culture and where senior members of the College attend external meetings without adequate information as to what is happening in the College.

Methodology

13. In conducting the investigation, I followed the methodology set out in the Terms of Reference, with the overarching requirements of procedural fairness in mind.

Evidence in the investigation

14. During the course of the investigation, I interviewed 51 individuals in total, [•] All those who they nominated were contacted and invited to speak to me. I sought to speak to two individuals who were not nominated, one of whom accepted the invitation and the other of whom did not.

15. AG, MS [•] were provided with a copy of [•] disclosure letter under cover of a template letter from me. Each of them took up the offer of a preliminary phone call with me to talk about any questions they had in relation to the process. [•]

16. Witnesses were sent a template letter inviting them to interview [•] Because of the nature of this investigation, I do not propose to list individuals by name but will refer to names (or initials) where I think necessary or appropriate to do so. Most of those interviewed were interviewed only once. Where I thought it necessary to obtain some further answers, I requested such answers by email or conducted a further interview.

[•]

19. Only two witnesses who were invited to give evidence declined to do so.
20. The interviews took place over Zoom and audio recordings of the interview were sent for transcription. All witnesses were reminded of the need for confidentiality at the start of their interviews and were given some information about process, including that the transcriptions of their interviews would not be annexed to my report but may later become disclosable if required by law. Witnesses were given the opportunity to say if there were parts of their evidence that they did not wish me to refer to in my report in such a way as would identify them. This enabled some witnesses to be more open in what they told me than they might otherwise have been and I have respected their

wish. Most witnesses, however, did not place any or any significant restrictions of this nature on how their evidence was used. All seemed to be aware that disclosure of documents could be required in certain circumstances where there was a legal obligation to disclose.

21. The witnesses I interviewed mainly gave evidence which was frank, open, balanced and in many cases perceptive and helpful, both in relation to the individuals involved in the disclosure and the nature of the College. A small number of witnesses were less open, less precise or gave evidence which was less impartial. I gave their evidence less weight in considering my factual findings. Where I refer to evidence given by witnesses, I have accepted that evidence unless stated otherwise. Some evidence involved perceptions or opinions and I have not referred to such evidence where I considered that it was over-stated or influenced by personal animus, save where necessary in making a finding.

22. Some witnesses expressed a fear of retaliatory action, by MS in particular, as a result of the evidence they gave. I reminded witnesses who raised such a concern about the assurance from the Chair of Council, included in the letter inviting them to interview, that they would not be subjected to any detriment as a result of assisting in the investigation. Some expressed a lack of confidence as to whether this assurance would fully protect them.

[•]

24. I was provided with a significant amount of documentation during the investigation, including email exchanges, some agendas for meetings, file notes of meetings, the College's Personal Review and Development Plan (PDRP) Guidance, organisation charts and various employment policies. Some witnesses provided their own written summary of events and emails which they had annotated, which I was able to use in formulating questions for AG, MS [•]

[•]

26. I asked for and was provided with some information in relation to records of complaints about bullying and harassment in the College, which was provided from March 2019 to July 2020.

27. AG provided me with a document headed “Transformation Plan notes”, which she had sent to the Chair and Deputy Chair of Council on 3 June 2020. In this document, which she intended to put before the Remuneration Committee (“Rem Comm”) on 2 June 2020 at a meeting which, in the event, did not go ahead, she proposed a restructure [•] and asked Rem Comm for their support [•] The proposal included significant changes [•]

[•]

29. By agreement with the College, I understand, the documents produced in this investigation are being retained by Farrer & Co. on the basis that they are confidential and will not be shared with the College. Some of the documents, such as emails, are already within the possession of AG, MS [•] and the Transformation Plan notes have already been seen by the Chair and Deputy Chair of Council.

30. I was also able to access documents on the College website relevant to governance and was provided with the Higher Education (HE) Code of Governance in both its current and new, yet to be published, forms. I also read the document “Imperial Expectations” which can be accessed on the College website and which sets out seven statements aimed at guiding the behaviour of staff in respecting and supporting each other to achieve personal goals and the College’s strategic objective.

[•]

Bullying and harassment

32. In accordance with my Terms of Reference, I approached my considerations of the allegations of bullying and harassment by reference to the College’s anti-bullying Policy.

33. The policy statement in the Policy refers to the seriousness with which the College takes harassment and bullying.¹ It states that harassment and bullying are viewed as gross misconduct and that disciplinary action, including dismissal, may follow if allegations are upheld.

¹[•]

34. The definition of harassment in the policy summarises the legal definition in the Equality Act 2010 and gives examples of harassment. It is noted that harassment: “may not be intentional but is always unacceptable whether intentional or not” and that “all forms of harassment, intentional or not” are covered by the policy. A non-exhaustive list of unacceptable behaviours linked to protected characteristics is set out.
35. I have considered whether the definition section of the anti-bullying Policy in relation to harassment is intended to cover more than just harassment which is linked to a protected characteristic but have concluded that it is not. The definition is the Equality Act definition and Appendix B of the Policy states, under FAQs, that “harassment is always linked to anti-discrimination legislation”. This also reflects Acas guidance. As the disclosure does not allege behaviours related to protected characteristics, those behaviours cannot be defined as harassment under the anti-bullying Policy.
36. Insofar as relevant to this investigation, bullying is defined in the anti-bullying Policy as: “the exercise of power over another person through persistent, negative acts, or behaviour that undermines an individual, personally or professionally. Bullying can be ...insulting...disparaging or intimidating behaviour placing inappropriate pressure on the recipient which can affect self-confidence and self-esteem or has the effect of isolating or excluding them. Bullying can take the form of.... constant criticism, without constructive support, to assist a member of staff to address performance concerns...”. It is stated that: “the distinction between good management and bullying is that, whilst the former is intended to support and develop potential and to promote desired work performance, the latter is intended to hurt, intimidate and undermine the individual”. I have referred to this last sentence for the sake of completeness although, save for a comment made by AG to [•] in 2019 in relation to whether [•] should look for employment outside academia, the matters alleged against AG, MS [•] were not defended on the basis that they constituted good management.
37. Although the definition of bullying in the Policy is stated to be a “legal definition”, it does not have any statutory underpinning. The Policy is headed “Respect for Others” and should be read in that light. The grammar and punctuation suggest that the words “persistent, negative acts” are distinct from “behaviour that undermines” but I do not consider that the Policy should be read in an overly legalistic way so that any behaviour by a person exercising power over another person which has the effect of undermining that person

should automatically amount to bullying. In its ordinary meaning, bullying often involves continuing or repetitive conduct and both the state of mind of the perpetrator and the impact on the victim are relevant. As a disciplinary matter, bullying requires some degree of fault or culpability on the part of the perpetrator.

38. The data provided by the College in relation to bullying and harassment complaints indicate that there were 24 formal complaints in 2019, of which 15 were not upheld, 5 were fully or partially upheld and 4 either went informal or were withdrawn. There were 19 complaints between January and July 2020 of which 6 were not upheld, 7 were wholly or partially upheld, 4 were ongoing and 2 were settled. I could not draw any firm conclusions from these statistics save that (1) they were not particularly surprising in an organisation of this type employing over 8,600 staff; and (2) they suggested a system where bullying and harassment complaints were dealt with through the application of a proper process.

[•]

41. In the context of the types of behaviours complained of, [•] described differences between scientific and engineering organisations which are “not known to have a high emotional IQ level” and more arts or culture based organisations. He thought that the standards of behaviour should be the same in both types of organisation but that staff expectations would be different. I could not draw any conclusions as to whether this type of stereotyping was justified and whether those in scientific and engineering institutions have lower levels of emotional intelligence than those in more arts-based institutions. However, in terms of workplace culture, basic standards of respect, decency and inclusion should not depend on the nature of the organisation and staff are entitled to expect that they will be treated in accordance with those standards, wherever they are employed.²

42. The manner in which previous complaints of bullying against others were dealt with by MS is a matter which I shall consider further below.

[•]

² For the avoidance of doubt, I did not take [•] to be suggesting otherwise.

129. In assessing whether AG bullied [•] I looked not just at individual incidents but at patterns of behaviour. I concluded as follows:

[•]

130. AG has in this way undermined [•] both personally and professionally.

[•]

132. [•] I concluded, has been treated by AG in a way which is belittling and undermining. [•] sometimes feels humiliated by the way that [•] is treated by AG but [•] has continued to perform [•] role, save in those limited instances where [•] has been prevented from doing so, independently and without significant damage to [•] self-esteem. [•]

133. AG did not deliberately treat [•] in an adverse manner but she has lacked insight into the impact on [•] (and others) of her more negative behaviours. Much (although not all) of AG's poor treatment of [•] has been in the context of the Covid-19 crisis when normal ways of operating have been thrown into disarray, with ever-changing government advice and a need to make decisions quickly and without the level of care that would normally be applied.

134. Applying the College's anti-bullying Policy as I have interpreted it, I do not consider that AG's conduct towards [•] has met the threshold of bullying. However, now those matters have been brought to AG's attention, a repetition of similar behaviours may well meet that threshold.

[•]

166. AG, as President of the College, has exercised her position in such a way as to undermine [•] both personally and professionally. [•] self-esteem and self-confidence have been badly affected and [•] has suffered from lack of sleep and weight loss.

167. AG's adverse and humiliating treatment of [•] includes the disparaging manner in which she sometimes speaks to [•] Further, if there were genuine and reasonable performance concerns about [•] these were not approached in a way that was in accordance with good workplace practices. AG expressed her negative opinions of [•] not by performance management but by excluding [•] from key parts of [•] job.

168. In addition to the disrespectful and sometimes unpleasant way in which AG has spoken to [•], matters which I considered particularly serious were:

[•]

(iii) preventing [•] from carrying out much of the role [•] is employed to perform at the College during the Covid-19 crisis.

169. I do not consider that AG deliberately set out to bully [•] but she must have known or closed her eyes to the fact that her treatment of [•] would cause [•] significant humiliation and lack of self-esteem. As a recipient of the email that referred to [•] she must have been aware of the impact of her actions in terms of [•] job role.

170. I take into account that the impact of Covid-19 required the making of rapid decisions but this cannot justify the way in which [•] was treated.

171. I have concluded, taking all these factors into account, applying the words of the anti-bullying Policy and considering the impact on [•] of [•] treatment by AG, that AG's treatment of [•] did amount to bullying.

[•]

Conclusion

181. These further incidents are consistent with other allegations of AG's adverse, abrupt and unempathetic treatment of members of staff at other times.

Such behaviours can cause real distress to individuals and did on these occasions described to me. These incidents did not, however, amount to bullying within the meaning of the anti-bullying Policy. They were one-off incidents which, however undesirable, had only a relatively transient impact on the individuals involved and did not involve the sort of culpability associated with bullying.

[•]

Conclusions in relation to MS

311. The manner in which MS behaved towards [•], in particular between about 27 February and 16 March, was undermining and, in some instances, condescending and offensive. A stark examples of this was addressing [•] as “young lady” and telling her to “watch [her] tone”. On [•] March, MS’s behaviour towards [•] was aggressive and intimidating.

[•]

313. MS’s behaviour towards them has caused significant distress to both [•]

314. MS holds a position of significant power in the College as CFO and *de facto* COO. His behaviour towards [•] was aggressive, insulting, disparaging and excluding. I consider that these behaviours, from a person in MS’s position amounted to bullying. There has been some ongoing exclusion [•] but the key behaviours relevant to my finding were between the dates given.

315. Others, including [•] have also been treated in a disrespectful and humiliating fashion by MS but I did not consider in relation to those individuals that MS’s behaviours were so persistent or serious or that their impact on the individuals concerned was such that I should make findings that these individuals were bullied.

316. MS’s behaviours more broadly should be a matter of concern for the College. I was impressed by the many positive things said about MS but he also uses language and exhibits behaviours from time to time which are

abhorrent in a modern workplace and at odds with the values of the College, as reflected in Imperial Expectations. Such behaviours have obvious implications for the workplace, whether individuals feel able to contribute and thrive within that workplace and ultimately the success of the organisation.

317. The evidence I heard also raises questions about whether MS's character and powerful role within the College, encompassing the roles of both CFO and COO, impact on good decision-making in the College.

Whether AG failed to restrain any bullying behaviours by [•] MS

318. [•] I consider this question [•] in relation to MS. AG knew from her conversations with [•] at the latest that there was some view in the College that MS was a bully. Given that this was very close to the time when Covid-19 started to have an impact on the College, I concluded that this matter was not high on her list of priorities.

319. Although AG demonstrated some lack of insight, in my view, as to what may constitute bullying and as to how certain behaviours may impact on others, I accepted that she did genuinely care that there should not be bullying in the College. From time to time, she asked about bullying allegations in the College, which arose mainly on the academic side of the College and which she needed to know about in exercising some of her functions external to the College.

320. I did not consider that AG could be criticised for failing to restrain bullying behaviours by MS. In the light of what she knew about MS, which did not include his extreme behaviours in February and March, it was reasonable for her not to involve herself in tackling any issue of bullying given her role as head of the College and the very many other matters she has had to deal with this year. This is a matter, however, which now needs to be addressed if a better workplace culture is to be created.

Whether there is a culture of bullying in the College created by or contributed to by AG, MS [•]

321. I have considered this question by taking a broad look at the evidence about types of behaviour that may fall within the scope of the College's anti-

bullying Policy and the themes that have emerged in relation to the behaviours of AG, MS, [•] and to an extent others in the College. My findings relate to those parts of the College about which I have heard evidence and should not be taken as having any wider scope, save that cultures of an institution are of course set by and ultimately the responsibility of the senior leadership team.

322. Most of the witnesses I interviewed enjoyed working at the College, even those identifying negative experiences and cultures. [•] described how he enjoyed working at the College but found, in comparison to other places he had worked, it was harder for him to “identify” with the institution. I understood this to refer to a comparison between a science, engineering, medicine and business focused institution in comparison with a more arts-based institution. Another theme was that the College demands and assumes excellence but is less good at rewarding and recognising excellence.
323. One positive part of the culture to which I was referred was the weekly HoDs’ lunches/meetings. Although one or two negative comments were made about these lunches, the weight of the evidence suggested that individuals thought that these were a good forum for discussion and well-managed by AG.
324. At the most senior level of the College, there is a culture of making disparaging comments about others who are absent and tolerating the making of such comments by others. [•]
325. This practice of making disparaging comments is something that was acknowledged by [•] when I interviewed [•]. It was striking that within hours of MS saying that [•] should “grow a backbone”, [•] was commenting that [•] had “not shown a lot of backbone”, emulating behaviours demonstrated by MS. [•]
326. These types of comments may appear relatively innocuous when written down and I recognise that probably in all organisations individuals sometimes criticise their colleagues in their absence. [•] Where disparaging comments about others become commonplace and are made at the most senior levels of management, this can set a culture in which disrespect for others is tolerated and where others may suspect that the same sorts of comments may be made about them when they are not there.

327. The comments made by MS about [•] may have been meant as a joke but they were offensive. They did not appear to be indicative of any negative behaviours in practice by MS. Indeed I found MS to be not particularly hierarchical in approach. He is better known and probably more in touch with employees across the different grades in the College than many other senior colleagues. Nevertheless, these types of comment can (reasonably) cause considerable offence and should not be made.

328. In relation to both AG and MS, several witnesses described a culture of favouritism: you are “in or out”; “the favourite child”; “a hero or zero”; or in the “in gang or out gang”. One witness described that there were a lot of employees at any one time “in the rubbish pot”. [•] There were enough witnesses making these types of comment for me to consider that this was significant. While I did not draw conclusions about the merits of the management decisions in relation to Silver³, I concluded that the selection was not entirely objective. [•] There was no very satisfactory explanation for the selection of individuals that was made.

[•]

330. There were references to “alpha male” behaviours, in particular in relation to MS and some of his FOGIT (Finance Operations and IT Group) team. Other words used in relation to MS’s behaviours included the words “manly” and “macho”. The evidence I heard and saw was insufficient to lead me to the conclusion that there was a sexist culture, which in any event was not alleged by [•] but these types of words and MS’s comment to [•] “watch your tone, young lady” – should alert the Chair of Council to a risk of a complaint of sex discrimination arising from similar comments or behaviours.

331. Similarly, comments have been referred to which could suggest negative treatment relating to other protected characteristics. [•] MS made a derisive comment, as referred to above, [•] and used the expression “[leaving] the plantation”. These types of comments have no place in a modern workplace. It is troubling in this day and age that one of the most senior employees at an institution like Imperial College should think that a comment made by a senior

³ Imperial note: Silver is a meeting/group and not a person.

employee⁴ referring to a “one-armed black lesbian” should be treated as a joke and that comments relating to disability should have been approached in the manner that they were by MS during investigation of the [•] matter.

332. Save in relation to words and behaviours that could suggest sex discrimination, and I make no finding on this for reasons already stated, there was no suggestion that MS has treated any colleague less favourably because of a protected characteristic. The sort of comments that have been made do, however, at least ring alarm bells as to whether such matters could be raised in the future if MS’s language and behaviours are not moderated.

333. The complaints made about MS are not directly comparable to those made against [•] but there are common themes that resonate as between the different situations. Matters of bullying and favouritism raised with [•] bore some significant similarities to issues of behaviour and culture that emerged during my investigation.

[•]

335. [•] observed that: “when people are bullied at work, if that is part of the culture and that is coming really from senior enough people, you’re powerless to do anything about it”. [•] made a similar comment to the effect that passing off bullying behaviours as good leadership means that such behaviours become normalised. There was force in these observations.

[•]

337. [•] spoke of a lack of collaboration in decision-making in the College. [•] gave the example of the PGTs where [•] felt there was a lack of discussion on issues such as which interdisciplinary topics might be attractive to students from China and Asia and the creation of international classrooms rather than students all from the same country. MS described this as an issue between [•] and the faculties and not an issue with him. [•]

⁴ Imperial note: this refers to a former employee of the College.

338. [•] described the culture at the College as “toxic” from the perspective of modern leadership and management, including risk management, because people do not share things or ask for feedback. “Collaboration is so much more fruitful than vicious internal competition”. Staff should not be treated like “naughty little children”. Many meetings are male-dominated and women are talked over or talked through.

[•]

340. I have not examined the detail of what [•] and whether [•] perceptions were justified but the lack of collaboration chimes with what has been said by others in relation to decision-making in the College and [•] views deserve serious consideration, not least given [•] seniority in the field of higher education.

341. [•] referred to a culture in the College where the abilities and achievements of academic staff were not fully recognised, commenting that: “I couldn’t always perform to my best abilities because of that culture. You end up treading on egg-shells and I did quite a lot of that.”

342. There is also some evidence of a dismissive culture with students. [•] described wanting to bring a paper about responsible investment to Council, in a meeting at which [•] was also present. [•] described MS being dismissive and saying that he could just “fold his arms and wait for the students to graduate”. This was consistent with other comments made by MS about students.

[•]

344. In terms of how bullying is dealt with in the College, the data with which I was provided, in relation to complaints of bullying in 2019 and 2020, suggest that complaints of bullying are taken seriously in the College and dealt with through proper process.

345. At the most senior level in the College, I recognised that it may be difficult to complain of bullying. [•] for example, said that [•] did not want to

“call out” the behaviours of MS because of what he might do to [•] budget. Because of the way in which he behaved, [•] did not know how vindictive he might be.

346. Other evidence indicated that [•] approach to MS’s behaviours went no further than a light touch approach in meetings and a quiet word with MS. This cannot have given employees confidence that complaints about MS’s behaviours would be taken seriously.

347. I received some specific evidence of incidents where one senior employee complained about another and the matter was dealt with in such a way as to avoid any determination of whether bullying had happened or not, leaving the complainants understandably aggrieved. One of these matters involved [•] who admitted conduct towards [•] which was so serious that he offered to resign. [•] MS treated this as an instance where the parties were equally to blame which plainly, on the basis of [•] admission, it was not. He suggested that [•] should go for lunch with [•] “iron it out” [•]

348. This incident chimed with another comment made to me by a very straightforward witness that MS “allows a culture of bullying to take place”. This reflects a failure to grapple with allegations of bullying and whether bullying has taken place but rather an approach which seeks a solution that will make the problem go away. This approach may be convenient from a business point of view, much as with non-disclosure agreements in sexual harassment cases, but it can lead a complainant to feel that their complaint is not being taken seriously and discourage others from making similar complaints. Plainly the early resolution of conflict in the workplace is desirable for many reasons, but bullying behaviours should be recognised, addressed and properly dealt with.

349. This failure to acknowledge and deal with bullying bears some similarity to the approach taken by MS [•] complaint about [•] although the allegations in that matter were more serious and the bullying was not admitted. There was strong evidence of [•] bullying behaviours and yet a decision was made that [•] which allowed [•] to remain in employment for many months after complaints were raised against him, even after a review by [•] had demonstrated that the complaints had real substance. MS did seek to assist with repairing relations in the department but did not tackle the fundamental problem in a way in which the complainants could feel that their complaints

had been dealt with. [•] could have brought a grievance but felt unable in practice to do so, in spite of [•] reminding [•] that this could be done.

[•]

Conclusions on culture

351. In considering issues of culture, I have taken into account not only the matters referred to in this section of the report but all of the findings I have made in relation to governance and the behaviours of AG, MS [•]

352. The recent data on bullying cases in the College do not suggest a culture of bullying. Nor could the matters I have found established properly lead to a conclusion that there is a culture of bullying in the College as a whole. However, I consider that in those parts of the College considered in this report and at the most senior level, there is a culture of making disparaging comments about, undermining and excluding others (AG and MS). There are behaviours that cross the line between strong management and bullying (MS only), aggressive behaviours (MS only) and the use of inappropriate and offensive language (MS only). These are types of behaviours that fall within the definition of bullying in the anti-bullying Policy and may lead to findings of bullying when directed intentionally or in a culpable or repetitive way against colleagues.

353. The treatment of [•] in recent months in particular, is indicative of a culture at the most senior level where personal likes and dislikes are allowed to interfere with objective decision-making. If there are serious concerns about an individual's performance, however senior that individual may be, preventing them from carrying out their role or suggesting that they should leave the organisation, without any structured discussion identifying problem areas and where those may be improved, is not only poor employment practice but humiliating for the individual concerned.

354. In short, I consider that AG and MS have contributed in their different ways to a culture of bullying. I do not find that there is systemic bullying across the College but confine this finding to the types of behaviours that I have identified in the areas where those types of behaviours have been demonstrated.

355. It is important that employees, however senior, feel that they can raise issues of bullying, if not with their line managers, for example, if their complaint is about their line manager, with HR. I do consider that there has been a problem with [•] being too close to the senior leadership team and [•] of MS, which has created a culture where employees might feel less than confident that any complaints would be taken seriously.

[•]

Bullying cultures and their consequences for the governance, culture, values and reputation of the College

Conclusion

357. There are no separate factual findings here and I move straight to my conclusions.

358. In terms of governance, I have referred to the perceived problem of power being centred in two or three individuals at the College and the exclusion from the decision-making process of those who should be included in the interests of good governance; a lack of clarity in relation to the governance structures, particularly at the top of the College; and the absence of appropriate terms of reference, minutes and records of decision-making in relation to RAB/Gold in particular.

[•]

360. In relation to the culture and values of the College, the negative behaviours found are not consistent with a good workplace culture and Imperial Expectations, as already stated.

361. As to reputation, I found little evidence that the College's reputation has been damaged by the sort of cultures and behaviours that I have found to be established.

362. Those who have felt that they did not have the information they required when attending external meetings have acted professionally and sought to conceal this where possible and, although there was some evidence that the ICU is aware that certain senior employees are not involved in decision-making, there is no evidence that this has caused any real reputational damage.

363. As senior figures [•] leave the College and move elsewhere, however, stories of how the College is run, in particular by MS, are stories that, as one witness put it, “can’t keep contained forever”. Students and employees of the College, whether on the academic or professional services side, will look to the reputation of the College when deciding whether to study or work at the College.

[•]

Recommendations

365. On the basis of my findings, I recommend as follows:

[•]

(3) The College’s Harassment, Victimisation and Bullying Policy is reviewed with a view to achieving maximum clarity in relation to the matters covered by the definition of bullying. There is currently some lack of clarity as to how matters relating to the state of mind of the perpetrator, on the one hand, and the impact of any acts or behaviours on the complainant, on the other, are taken into account when considering whether acts or behaviours amount to bullying under the Policy. The College may also wish to consider whether it intends that all acts of harassment, bullying and victimisation should be viewed as gross misconduct.

(4) [•] ensures that there are up-to-date Job Descriptions for the senior (and preferably all) employees of the College. [•]

[•]

(7) A process of proper annual appraisals for AG's direct reports, using the PRDP guidance, or such other method of appraisal as is agreed after consultation with [•] Such a process should include proper record keeping and the provision by AG to her direct reports of a document which includes any performance concerns to be addressed and objectives for the following year.

(8) The Chair of Council discusses with AG [•] together:

- a. the future provision of agendas for Council and Audit and Risk Committee meetings;
- b. the role of the Central Secretariat in producing agendas and papers for Council meetings;
- c. the role of RAB in the governance of the College and whether there should be any requirement for agendas, the taking of minutes and the publication of the minutes of RAB;
- d. any other governance issues that the Chair of Council [•] or AG consider that it might be helpful to discuss in consequence of this report.

(9) The Chair of Council considers with legal advisers and [•] whether any disciplinary process should be commenced against AG and/or MS in the light of the findings of bullying in this report.

[•]

(12) Consideration is given to providing training to senior managers on the use of settlement agreements (whether non-disclosure agreements or otherwise) and other forms of resolution of bullying or harassment complaints which may preclude any determination of whether bullying or harassment has occurred.

Jane McNeill QC

25 August 2020