

MANAGER'S GUIDE TO CONDUCTING AN INVESTIGATION

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1. Introduction

- 1.1 These guidelines are designed to assist managers carrying out investigations into matters covered by the discipline, grievance, capability or dignity at work policies, and should be read in conjunction with the relevant policy document.
- 1.2 The purpose of any investigation is to objectively establish the facts; it is not to build a case in support of, or against, a particular situation. Managers undertaking an investigation must therefore ensure an objective and thorough approach is taken.

2. Role of the Investigating Officers

- 2.1 In all cases, an investigation should be undertaken by two investigation officers. Normally this would be an appropriate line manager, or independent manager, together with either an HR Business Partner or another manager. To ensure objectivity, the manager(s) should not be closely associated with the issue prior to carrying out the investigation. Where the manager has previous involvement and this may be seen to be in conflict with the investigation, another independent manager should carry out the investigation.

Please refer to the individual policy documents for advice on appropriate levels of management for specific circumstances. For example, under the Disciplinary Policy and Procedure, cases of gross misconduct require to be investigated by a more senior manager.

Please seek advice from the HR Shared Services prior to commencing any investigation to confirm it is appropriate to proceed and that the proposed investigating officers are suitable.

- 2.2 The role of the Investigating Officer(s) will be to establish the facts of the issue being investigated, document the evidence received, prepare a written report with recommendations as to the appropriate action to be taken and present their evidence to any subsequent hearing or appeal.
- 2.3 Whilst the investigation report will make recommendations, any decision on whether to progress to a formal hearing will be taken by the more senior manager to whom the report is submitted.
- 2.4 The Investigating Officer(s) will be more senior than the employee being investigated. Support and advice will be available throughout the process from an HR Business Partner.

3. Conducting the Investigation

3.1 Timescales

In all cases the relevant facts should be gathered as early as possible, before memories fade and where possible, to avoid the incident being discussed between witnesses. The investigation process should be carried out as quickly and confidentially as circumstances permit. Ideally an investigation should be concluded within 20 working days.

3.2 Preparation

Preparation is a key aspect of any investigation. The Investigating Officer should consider the facts:

- Who is involved?
- Where and when did the issue occur?
- What has happened or is happening?
- What policy/rule/standard is involved?
- What was the impact of the issue?

This should establish a basis for gathering the facts and should allow a list of witnesses to be prepared and the order in which they should be interviewed to be determined.

A list of questions for witnesses should be prepared. This will ensure the interview remains structured and focused on the issue, and that all the key areas are covered.

3.3 Investigatory Interviews

All employees who are to be interviewed should receive written notice as soon as possible. The notice must be sufficient to allow the employee to make arrangements to cover their work and to be accompanied at the interview if they so wish. The investigatory interview should not be confused with a formal hearing and employees should be clearly advised in the letter of the purpose of the meeting.

In most cases the employee under investigation should be interviewed first. This will ensure that the employee is advised as quickly as possible of the nature of the investigation and the allegation(s), and also so that information from this meeting can inform questions for witnesses.

All employees have the right to be accompanied at any stage of the investigatory process. Employees may be accompanied by a staff representative or a colleague.

If the employee is a Union official, a full-time representative of the Union must be advised before the employee is interviewed. Advice should be sought from HR Shared Services in these circumstances.

All witnesses and parties to an investigation should be interviewed separately by the Investigating Officers. The purpose of the investigatory interview will be to take a statement from each witness and gather any relevant documentary evidence that may be available. Remember to be as confidential as possible, as the investigation may demonstrate that there is no case to answer and no further action justified.

At the meeting, the Investigating Officer should explain the purpose of the interview and the format it will take. If the employee is not accompanied, check that he/she does not wish to be represented, or adjourn to allow a representative to be arranged. The employee should be advised that notes will be taken and a written statement will be issued following the interview to confirm a record of the meeting and to ensure that the facts have been recorded accurately.

When interviewing, open questions should be used to establish the facts, and follow up questions should be used to probe any areas which are not fully explored.

3.3 Statements

The information provided at the investigatory interviews will be noted and interviewees will be issued with a written record of the meeting and asked to confirm the accuracy of the statements taken. The employee has an opportunity to suggest amendments to the statement, though it is within the Investigating Officer's power to rule those amendments inappropriate.

It is normal to request the employee signs the statement, however if they do not wish to do so the information can still be used in any further stages of the investigation as two Investigating Officers can verify the statement.

It is essential that accurate and detailed notes are kept at each stage of the investigation. These notes may be required as the basis of the case if it proceeds to formal action, or as evidence for any employment tribunal case that may arise.

3.4 Investigation Report

Once all witnesses have been interviewed and all the statements verified, the Investigating Officer will write a report outlining the findings of the investigation and making recommendations relating to whether further action is appropriate. The report should include the following:

- Background information
- Details of the allegation(s)
- Chronology of events
- Supporting evidence (including copies of witness statements and other documentary evidence)
- Mitigating circumstances
- Recommendation as to the next course of action.

The report should be submitted to the appropriate senior manager who will consider how the matter should be progressed. Options available include:

- no further action to be taken
- progress the matter informally eg mediation, counselling, training
- Progress the matter to a formal hearing.

3.9 In all cases the employees concerned must be advised in writing of how the matter will be progressed.

4. Sensitivity

4.1 Investigations can be stressful for all parties involved. In recognition of this it is recommended that Investigating Officers consider the points below:

- The lead Investigating Officer should outline the process, timescales and format of the interview at the start of the meeting and try to answer questions or allay any concerns the interviewee may have.
- If an interviewee becomes upset during the interview, a short adjournment may be appropriate to allow them to regain composure.
- Every effort should be made to respect the confidentiality of the parties involved in an investigation.
- Witnesses should be asked not to discuss the matter with any colleagues, but should be advised that if the matter progresses to a formal hearing their statement may be used as evidence.
- The investigation should be undertaken as quickly as possible, with the outcome reported back to all parties as soon as possible after the conclusion of the investigation.

- The Investigating Officer should make it clear that the investigation is a fact finding exercise and any decision to be taken will be based on a formal hearing at a later stage.

5. Senior Manager Investigations

5.1 Where an investigation requires to be undertaken due to allegations or concerns about a Senior Manager, such as a Director or National Convener/Chief Executive, the Investigating Officers will be appointed by the Chief Executive, or the Board Chair as appropriate, and will normally include HR Shared Services.

6. Assistance and Support

6.1 Human Resources advice and support is available to managers throughout the investigation process.