

FACTSHEET: MANAGING AN INVESTIGATION

Most managers, at some stage, will encounter a situation where an investigation is required within their team. This might be because of allegations of misconduct which may result in disciplinary action or it may be because a grievance or bullying and harassment complaint is received and the allegations need investigation.

In all cases, confidentiality should be maintained as far as possible, and the existence or nature of the complaint should not be communicated to anyone other than those who need to know. In all cases it is crucial that a thorough and fair investigation is carried out in order to establish the facts, prior to any formal action being taken. A well conducted investigation may prevent future claims and keep your organisation out of tribunal.

Investigations should be carried out as soon as possible after an allegation has been made to ensure that memories of events are fresh and not distorted and to prevent those involved discussing the matter and being influenced by or colluding with one other. The more complex the case, the more detailed the investigation will need to be. In straightforward cases such as repeated lateness or high levels of absence, the investigation may simply be a case of collating and examining records. More complex issues will typically involve investigatory interviews.

Wherever possible, investigations must be carried out by a manager or other person who will not be involved in the actual disciplinary or grievance hearing. This is to ensure the fairness of the investigation and that the investigator is entirely neutral in the matter. This person will be the investigation officer and should not be someone:

- against whom the employee has made a complaint
- who is involved him/herself with the allegation (e.g. a witness or complainant)
- who is personally involved with the employee (such as a friend outside of work or a relative)
- who is emotionally involved (e.g. someone who is too angry to be objective or too emotionally involved in defending the employee).

Before the investigation:

The investigation officer must clarify the precise allegations and establish details of:

- exactly what is alleged to have happened, where and when

- who was involved
- what were the correct procedures/rules which should have been followed in the situation?
- were there any witnesses?
- were other employees doing the same thing?
- has anything similar happened in the past?
- what were the consequences for the organisation?
- were there any personal issues which may have a bearing on the issue?

The investigation must establish the seriousness of the allegations and be proportionate to it; so it may range from a brief discussion with employees to establish the facts, to a detailed and complex investigation involving witnesses, documents and potentially external bodies.

Top Tips

- Don't listen to rumours, stay factual and establish the facts
- Consider whether it is necessary to invite individuals to the investigation meetings – there is no legal requirement but depending on the circumstances this may be an appropriate best practice response
- Interview all witnesses / perpetrators – prepare your questions in advance to keep the investigation on track
- If an individual becomes emotional or angry, take a break to allow for cooling down.
- Keep good records – it is a good idea to have the individual to agree and sign the notes
- You don't have to agree to the meeting being recorded – this requires the consent of both parties
- Obtain all supporting documentation – policies, procedures, documentation
- Consider whether suspension is necessary – depending on the circumstances
- Remember that it isn't a disciplinary - you should make a decision on next steps and prepare a report on the findings.

The investigation officer may wish to make recommendations for the future regarding tightening up of procedures etc. These should be in a separate report to management. However, the investigating officer should not make recommendations as to the potential outcome of any disciplinary hearing.