

Guidance for Investigating Managers

Purpose of an investigation

The role of the investigating manager is to:

- ✔ Establish the nature of the allegation/issue of concern.
- ✔ Establish the background; informal support outcomes; mitigating circumstances and events linked to the case.
- ✔ Gather and collate evidence, which may include witness statements.
- ✔ Review and consider all of the information thoroughly and recommend next steps.

When you are appointed to conduct an investigation, you will be notified of the HR representative who will support you through this process and they will inform you of the allegation(s) and/or issue(s) of concern.

It is important that you keep an open mind regarding the outcome and ensure impartiality, fairness and confidentiality throughout the process. Your role is to collate all relevant evidence so that you can recommend whether or not there is a case to answer. A thorough investigation requires careful preparation and you should consider the nature and likely scope of the investigation based on the details of the potential disciplinary matter.

Initial preparation

Investigations should be carried out without unreasonable delay to establish the facts whilst recollections remain fresh and accurate. It is therefore important to prioritise the investigation and set aside time to complete it and prepare the investigation report.

You should decide how best to conduct the investigation, taking into account what information you need to gather, from whom and the timescales for it. In most cases, this will require the planned and systematic gathering of data; it may involve interviewing or gathering written statements from relevant witnesses; and analysing relevant documents, records, policies, etc. Some investigations will simply be the gathering of facts through reviewing existing documentary evidence, for example previous in/formal management processes undertaken to address the issue. The complexity of the investigation will be dependent upon the specific circumstances of the case, whether the facts are disputed/clear and the severity of the matter.

You may choose to meet anyone you believe may contribute relevant evidence to the investigation. If it is appropriate, you should identify any witnesses to interview and consider the specific issues that you wish to explore during these meetings.

If the employee has a disability or special requirements and has asked for adjustments to be made during the investigation process, you should try to accommodate reasonable requests wherever possible, taking into account any Occupational Health advice as appropriate.

Communications

You should contact your HR representative once you have carried out the preparatory stage to confirm your diary availability and who you would like to interview and in which order.

HR will write to the employee and any witnesses inviting them to attend an investigation meeting. The letter will include details of:

- ✔ The allegation(s)/issue(s) of concern
- ✔ The right to be accompanied by an appropriate work colleague or trade union representative
- ✔ Date, time and venue of the investigation meeting
- ✔ Reminder of the Employee Assistance Programme

The Disciplinary Policy and Procedure will be enclosed with the letter along with any other relevant policies, paperwork and evidence.

The employee/witnesses will be provided with at least five working days' notice of an investigation meeting in relation to a potential disciplinary matter.

Preparation for investigation meetings

Re-read any background information relevant to the case and consider the questions you wish to ask the employee/witnesses. Be prepared to be flexible about asking additional questions or amending them as new information comes to light. It is good practice to use open questions (who, what, why, when, how etc.) with closed questions to clarify points. Useful open questions to consider could be:

- ✔ Can you take me through these events in your own words giving as much detail as possible?
- ✔ How do you feel? How did that make you feel?
- ✔ Why did you say/do that?
- ✔ Were there any witnesses to the occurrence, including anyone who may have heard but not seen what happened?

You may wish to prepare a script in advance of the meetings to ensure that you obtain all of the necessary information. This would include the key points which must be covered plus your specific questions.

☑ A template script for an investigation meeting is available within the **Disciplinary Toolkit**.

Arrange a pre-meet with your HR representative in advance of the investigation meetings to ensure that you are comfortable with the format for the meetings and to review your questions. Where appropriate, the HR representative will be in attendance at the meetings to provide support.

Right to be accompanied

Both the employee and witnesses can be accompanied at their investigation meeting by a work colleague or a trade union representative. They can confer with the employee/witness during the meeting and may present all or part of their case, respond to any views expressed and sum up the case on their behalf. However, they are not permitted to answer any questions put directly to the employee/witness at the meeting

No parties attending an investigation meeting are permitted to use a recording device. This is to encourage openness and full participation of all parties during meetings.

Conducting an investigation meeting

It is important that you cover the following points during the meeting:

Introduction

- ☑ Thank the employee/witness for attending and inform them that you have been appointed to investigate the potential disciplinary matter.
- ☑ Confirm that the investigation is being carried out in line with the Disciplinary Policy and Procedure.
- ☑ Explain that the HR representative is present to offer procedural advice and to take notes.
- ☑ Note that the employee/witness was given the opportunity to be accompanied at the meeting and that they have chosen to be accompanied OR have not chosen to be accompanied.
- ☑ Remind all parties of the expectation of confidentiality and honesty during the investigation.
- ☑ Advise that the meeting can be adjourned at the request of any party.
- ☑ Enquire if any party has any questions in relation to the process.

Investigation

- ☑ State the allegation/issue of concern/complaint being investigated. It is important when interviewing the employee under investigation that they fully understand the allegations being made against them.

- ☑ Confirm with any witnesses that their signed statement may be made available to the employee that the allegation relates to if the matter proceeds to a disciplinary hearing.
- ☑ Invite the employee/witness to respond to the allegations and if they wish they can share any evidence/information to support their response.
- ☑ Seek further information using your prepared questions plus any additional questions that you wish to ask.
- ☑ Enquire if there are any other relevant parties/witnesses that the employee/witness consider to be relevant to the case.
- ☑ If appropriate, explore possible explanations/special circumstances.
- ☑ Check if the employee/witness has any further information that they wish to provide or have any questions to ask before the meeting concludes.

Closing the meeting

- ☑ Explain that the HR representative will send the employee/witness a written record of the meeting to check and review confirming that it is an accurate reflection of the discussion. The employee/witness has the opportunity to propose amendments. If any amendments cannot be agreed, the additional comments will be added to the notes.
- ☑ Indicate next steps, for example whether you intend to undertake further enquiries or interview any other potential witnesses.
- ☑ Remind the employee/witness of the Employee Assistance Programme should they wish to access this free and confidential support service.
- ☑ Close the meeting and thank all parties for attending.

Investigation Report

Consider if there is any other relevant documentation which may be helpful to review for the investigation. For example: timesheets; absence records; OH reports; minutes from meetings; emails; letters etc. Please note that permission of the employee may be required for some of these. Also consider any wider documentation e.g. University policies, procedures or guidance documentation.

Please ensure that all documentation associated with the investigation is retained securely and confidentially.

Once you are satisfied that you have established all of the facts, you should give full consideration to all of the information that has been gathered including the employee's statement; any witness statements; any supplementary documentary evidence, and prepare an investigation report.

- ☑ A template for an investigation report is available within the **Disciplinary Toolkit**.

All relevant information contained within your investigation report will be shared with key parties so please consider tone/style when you are writing the report.

Your investigation report should include a recommendation which will be either:

- ☑ No disciplinary case to answer and the case should not progress to a disciplinary hearing.
- ☑ There is a disciplinary case to answer and this matter should progress to a disciplinary hearing.

Outcome of the investigation

If you consider that there is no case to answer you may still wish to recommend appropriate informal supportive actions which may be beneficial in the circumstances., for example attending a specific training course.

You should draft an outcome letter to the employee that confirms the decision and provides a detailed explanation of how this decision was reached. The letter will confirm that the case will not progress any further.

- ☑ A template for this outcome letter is available within the **Disciplinary Toolkit**.

If you have recommended that there is a case to answer, a different manager will be appointed to review all of the relevant documentation and chair a disciplinary hearing if they agree with your recommendation that there is a case to answer.

Concluding the process

If the matter progresses to a formal disciplinary hearing, you may be invited to present the findings of your investigation.

Once the process has concluded, please destroy all documentation securely in line with data protection principles. HR will maintain a master data file.

Please do not hesitate to contact your HR representative if you have questions at any stage of the process.