



PROACTIVE
COMPLAINTS
MANAGEMENT

TRAINING • COACHING • CASE MANAGEMENT

Workplace Investigations

A workplace investigation is stressful not only for the staff involved but also for the individual conducting the investigation.

We will now look at what an investigation is and the four (4) types of investigations that you could possibly consider undertaking.

What is the definition of a workplace investigation?

A workplace investigation is an inquiry into an issue or a complaint of behavioural misconduct which is usually raised by an employee (*the complainant*) against another employee (*the respondent*).

Types of investigations

The type of investigation to be conducted will be determined by the nature of the allegation(s) raised by the complainant and may include but not limited to the following:

1. *Preliminary Enquiry:*

- Used to assess the available evidence and the possible respondent(s) after some form of wrongdoing is uncovered e.g. misconduct;
- The information gathered may be then used to put the allegations to the respondent(s);

2. *Paper based investigation:*

- The investigator solely relies on documentary evidence in order to make a finding of fact on a matter;

3. *No finding of fact:*

- The investigator reviews a matter that has occurred in the workplace with no finding of fact e.g. an organisation may only wish to determine what has occurred in the workplace;

- You will need to be mindful that with this type of investigation you are not applying the rules of procedural fairness except where the respondent admits to a particular allegation;
- If the allegations are admitted by a respondent then you may need to consider undertaking a full investigation following the rules of procedural fairness;

4. Full investigation:

- Where the investigator undertakes a formal investigation in which they make a finding of fact based on the *Balance of Probabilities*;

What does a workplace investigation involve?

Gather evidence from the following areas:

- Interviews – either face to face, via phone or in a way that the investigator may consider appropriate;
- Reviewing employment records, HR files and any other documentary evidence as appropriate for a robust and procedurally fair inquiry;
- Assessing and weighing up the evidence collected;
- Making findings of fact as to whether the alleged behaviour is supported by the evidence or not;

What is procedural fairness?

The requirements of a fair and proper procedure to be applied when making a decision which comprises the following principles:

- ✓ A decision being made on the basis of known rules e.g. policies, procedures, code of conduct etc.;
- ✓ The procedure of the investigation being clear and understood by the participants;
- ✓ Staff involved in the investigation being treated equally and free from any bias during the investigation process;
- ✓ The right of *all* parties to present their views and evidence and for the evidence to be taken into consideration;

Proactive Complaints Management (PCM), have qualified, registered investigators who could wither undertake the investigation for your organisation or provide you with advice during your own internal investigation.

PCM are also able to provide you with advice on the following:

- ✓ Who should conduct a workplace investigation;
- ✓ How to maintain impartiality; or

- ✓ To provide training to staff on how to conduct an effective and procedural fair investigation;

Please contact Steve Aivaliotis on 0418 313 303 or via email steve@proactivecm.com.au

Copyright Proactive Complaints Management