**Guidelines for Conducting a Disciplinary Investigation**

Every allegation of misconduct should be properly and impartially investigated before formal disciplinary proceedings are started, in order to establish all the facts relevant to the case. This will be particularly important in cases of alleged or suspected gross misconduct.

As part of the investigation, the employee who is accused or suspected of misconduct may have to be interviewed. The purpose of an investigatory interview will be to establish facts only, and not to judge the employee, or make any decision about what action to take. It is important to ensure that no disciplinary action flows directly from an investigatory meeting.

The employee does not have the right to be accompanied at an investigatory meeting, but you may allow them to be accompanied, normally this would be a work colleague.

An investigation may involve interviewing other employees, customers or third parties. Any allegations made against an employee will need to be kept confidential and communicated only to those who have a role in the investigation. Some witnesses may want to remain anonymous, and if there is a good reason for this, the request should be respected. This can, however, be a difficult issue for an employer. The necessity of identifying a third party will need to be assessed and a balance struck between the witness's request for anonymity and the accused employee's right to a 'fair trial'.

Once the investigation has been completed, the manager conducting the investigation should decide on the balance of probabilities (having weighed up all the evidence), whether there is a case to answer. If so, the outcome of the investigation should be a recommendation to invoke the disciplinary procedure; if not the matter should be dropped. In both cases, the employee should be informed of the outcome in writing. If the matter is not being taken further there maybe some recommendations for either the employer or employee to action or review.

If there is a case to answer, the employee should be informed in writing of the basis of the problem and requesting them to attend a disciplinary meeting. Included with the letter should be the investigation notes and any other evidence to enable the employee to prepare to answer the case.

It is also important that the person conducting the investigation is not the same manager who conducts any subsequent disciplinary proceedings. This may be difficult in smaller organisations. But where possible, the two stages (investigation and disciplinary proceedings) should be separate and handled by different people.

**Suspension during an Investigation**

Your disciplinary procedure should state that the employer may suspend an employee on full pay pending completion of investigations. However, suspension should be considered carefully and only used if it is enables the employer to investigate a matter properly.

Suspensions can have a damaging effect on the employee therefore the suspension and the reason for it should be kept confidential. If it is necessary to explain the employee’s absence, an employer should discuss with them how they would like it to be explained to colleagues and or customers.

An employee should be provided with a suspension letter than includes:

* The reasons for the suspension and how long it is expected to last
* Their rights and obligations during the suspension e.g. if they are required to be contactable during normal working hours
* A point of contract and their contract details for the employee during suspension
* That the purpose of suspension is to investigate and is not an assumption of guilt
* That they will continue to receive their full pay and benefits during a period of suspension.

Regular contact should be maintained between the employee and their manager and/or point of contact during the suspension. It is important that the employee is able to contact someone at the workplace to discuss any concerns they may have.

**Summary of Investigation Meetings**

The following list provides suggested areas to cover when undertaking interviews.

**Opening**

* Explain who you are and outline the format of the meeting
* Explain why you are carrying out the investigation
* Clarify that your role is to establish what happened
* Advise that adjournments may be requested if required
* Highlight an expectation of honesty and confidentiality
* Advise that notes of the meeting will be provided, and the interviewee will be asked to confirm that they are accurate
* For witnesses - advise that the notes of the meeting will normally be shared with the employee accused of misconduct

**Questioning**

* Ask the interviewee to tell you what happened in their own words
* Keep questions clear, simple and use open questions; although you may use a closed question occasionally to confirm
* Let the individual speak even if they are not describing things in order
* Focus questioning on the allegations and the facts relating to these
* Only explore issues in more detail that are relevant to the case
* Do not make assumptions and interpret what they are saying
* Summarise back what you have understood / written
* Ask if there is anything else relevant that they wish to add or any additional witnesses that may be relevant
* Explain what will happen next
* Confirm if the employee is aware of any other witnesses to the incident and any other relevant documents that may be relevant

**Records of meetings**

* Notes of any interviews should be taken and should capture the responses to questions.
* Notes are not intended to be a verbatim record of the interview
* Ensure that notes are agreed as an accurate record of the meeting and that these are signed and dated
* Meetings will not normally be electronically recorded, where an employee asks if a meeting can be recorded you should advise them that they or their companion may take notes if they wish.
* Any witness statements provided should also be signed and dated as accurate.

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