

1. Know your role as the investigator

Having a clear understanding of your responsibilities as a workplace investigator is crucial in ensuring a smooth process. As an investigator your role is not to determine if some-one is guilty or innocent, it is establish the facts. The role of the investigator is to interview all of the parties, review the data and make your findings. Your findings are compiled in a report which goes to the decision maker. Acting on the findings is a separate process. This is the domain of the decision maker, not the investigator. Ensure to be clear on your responsibilities and don't blur the lines.

2. Are you Bias or Impartial?

It is important to consider who will investigate a workplace incident as the suitability of the investigator can have a profound effect on the process itself. It may be appropriate to have a manager from another business unit, a HR Officer, or external investigator be assigned to undertake the investigation. As well as giving consideration to bias or impartiality, be it real or perceived, it is just as vital to also consider the investigators credibility. For example, if there is distrust of the investigator by the client group/ parties to the investigation (despite the validity of this), you must take this into account as it will impact the validity of the process and potentially reduce respect for the outcome.

3. Emotional Stability

An investigation is draining. Despite going into it with the best intentions to reach a reasonable outcome for all parties, you will be potentially privy to a lot of emotional baggage and personal outbursts. It is important to ensure that as an investigator you have the emotional stamina to manage the emotions of the parties involved. This will ensure your investigation keeps on track.

4. Are you Prepared?

Planning is a pivotal part in any investigation. Taking the time up-front to lay out as many details as possible, prior to interviewing any employees, is critical. Some assessments to be made prior to conducting any interviews include:

- What policies/guidelines apply to this situation?
- What are the company's obligations?
- How have similar incidents been handled in the past?
- Who will be interviewed and in what order?
- What questions will you ask?
- What special expertise, if any, do you require?
- What interim action, such as suspension or transfer of the parties, is necessary?
- What are the apparent risks?

5. Basic Interview Etiquette

Approaching investigative interviews with the right etiquette can have a profound impact on the outcome of the interview itself. When interviewing affected employees and witnesses it is important to lay out the ground rules and the process you will follow before you ask your first question. Some of the basic procedural details to be communicated include:

- Assure the employee that no conclusion has been reached.
- Assure them that no reprisal will be taken for coming forth with information and if they felt they are being victimised, they should be reported immediately.
- Reinforce the importance of confidentiality.
- Let them know what will happen to the information they provide to you – that a summary will be contained in your investigation report

6. The Vitality of Procedure Fairness

Ensuring Procedural fairness during an investigation is a fundamental principle of natural justice. Procedural fairness is concerned with the procedures followed by the investigator, rather than the actual outcome itself. It is important a fair and proper procedure is followed when conducting an investigation. In most instances, an investigator who follows a procedurally fair process will reach a fair and transparent decision, eliminating potential risks and challenges to the outcome.

7. Substantive Fairness

Substantive Fairness is equally as important as Procedural Fairness. As an investigator you must ensure that you are making the correct finding, therefore referring to the correct policy, procedure or law. Some important items for consideration to ensure you are applying substantive fairness include:

- Know the principles, legislation, policies and procedures and ensure your analysis is on point
- Ensure there is a valid reason for the finding
- Make sure the reason for the finding is factual

8. Ensure your evidence is accurate

Ensuring the validity and reliability of all evidence is crucial. Any evidence obtained as part of the investigation should be carefully reviewed. It is not adequate to rely on that evidence which best fits the circumstance and provides the outcome you desire. All parties interviewed as part of your investigation should be provided with the opportunity to review their statement or transcript prior to signing. Any significant changes may indicate a need to meet with the person again, to understand their desire to make amendments and to ensure you are relying on valid and correct information.

9. Don't Forget the Action Plan!

One of the most essential components to any investigation is the implementation of recommendations or an action plan which acts as a catalyst for future change and mitigates the risk of a similar situation arising again. Failure to implement an action plan negates the opportunity for such change. It is also one of the most common criticisms of any enquiry. . Recommendations can range from an apology, to training, to policy, procedural and systemic changes. So don't forget to document and follow through on those items you deemed important as part of your investigation outcome.

10. The Learning Curve

Workplace investigations can often leave a bitter taste in an organisations mouth. It is important that we look upon the experience as the opportunity to change or strengthen our organisational policies and procedures, if it appears they are not working. It is wasteful to spend time on an investigation and fail to use the experience to enable and strengthen your workplace. An effective workplace investigation can empower the organisation and its leaders to make changes that impact on the future culture of the organisation – ideally one that is more collaborative.