

THE PATHWAYS TO RESOLVING WORKPLACE COMPLAINTS

“THE INVESTIGATION PROCESS”

You have made the determination that the complaint should be resolved by formal processes, so what do you need to consider when embarking on an investigation? The broad process you will follow is...

Meet with the complainant and detail the complaint

- ✓ Have you confirmed the complainant in writing?

Meet with the respondent and provide the allegations in writing

- ✓ Have you ensured you have provided the respondent with enough detail to allow them to respond.

Establish your investigation framework

- ✓ What are the terms of reference?
- ✓ Develop an investigation planning matrix - know the elements of proof
- ✓ Establish your investigation timetable

Interview the respondent and witnesses

- ✓ Have you followed the principles of natural justice? Want to know more read below.....

Undertake your evidence analysis

- ✓ Do I need to conduct second interviews? If so, go ahead. If not....

Draft the Investigation Report

- ✓ Appropriate manager to advise parties of outcomes & implement recommendations

In ensuring an effective and a fair process is followed you need to have good investigative skills and ensure you follow the principles of natural justice.

Natural Justice

Procedural Fairness

How do you ensure the process you follow is fair and just?

- Make sure **no pre-determined decision** is made - the investigator should have an open mind & be impartial.
- The respondent should be given the opportunity to have **sufficient notice** of the allegations prior to being asked to respond.
- **All persons** called to an interview should be given the opportunity to have a **support person** present.
- Make sure **everyone interviewed is given sufficient opportunity** to tell their side of the story.
- **Confidentiality** must be maintained.
- All parties should be provided the opportunity to review their **transcript or witness statement** and confirm it as correct.
- The investigation must be conducted in a **timely** manner.

Substantive Fairness

How do you ensure you are making the correct finding?

- There must be a valid reason for the finding you make and the reason for the finding must be based on fact.
- Ensure you are applying the correct law.
- Ensure you meet the necessary tests - 'On the balance of probabilities.'
- Apply the definitions of your organisational policies.

Investigation Skills

The Skills

What makes a good investigator?

- Has completed Workplace Investigation **training**.
- Has a working knowledge of the **applicable laws** and is able to apply the **principles of natural justice**.
- Is **organised** and has solid **analytical** skills.
- Has **no vested interest** in the matter - there is no perceived or real conflict of interest or potential bias.
- Are **emotionally equipped** to deal with the riggers of an investigation.
- Their skill sets match the requirements of the investigation. An inexperienced practitioner should not be the principle investigator of complex matters.
- Has the **time** to allocate to the investigation.
- Is an **effective communicator** and active listener.
- Ensures parties are kept abreast of the progress of the investigation.

If you need assistance with your investigation as you progress or you want to undertake training in this area, contact PEEL HR.

CONTACT PEEL HR ON: 02 4963 7373

Or email us at:

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