

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...



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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 is 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 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 Investigations 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.

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