

Guidance note for investigating officers

Reference: HRIO
Version No: 2.0
Issue Date: Nov 2015

Document Control

Document Ref:	HRIO	Date Created:	2008
Version:	2.0	Date Modified:	Nov 2015
Revision due			
Author:	Jane Milone	Sign & Date:	Nov 2015
Head of Service:	Robert O'Reilly	Sign & Date:	Nov 2015
Equality Impact Assessment: (EIA)	Date undertaken:	n/a	
	Issues (if any):	Guidance only	

Change History

Version	Date	Description	Change ID
0.1			

Related Documents

Reference	Title	Tier
	Disciplinary Procedure	
	Grievance Procedure	



Contents

1.	Purpose	3
2.	Introduction	3
3.	Role of the investigator.....	3
4.	Plan the investigation.....	4
5.	Meet the employee	4
6.	Meet witnesses	5
7.	Gather other evidence	6
8.	Plan your report	6
9.	Investigation plan template	8
10.	Interview plan template	9
11.	Investigation report template	10

1. Purpose

- 1.1. This guidance has been written to support managers carrying out investigations in the workplace, normally under the disciplinary procedure. The same principles apply to an investigation carried out under the grievance procedure.
- 1.2. Making a disciplinary decision without completing a reasonable investigation can make any subsequent decisions or actions unfair, and leave an employer vulnerable to legal action.
- 1.3. HR will provide support and training to corporate managers who carry out disciplinary investigations.
- 1.4. Schools may use this advice to support line managers, headteachers or governors carrying out investigations. References to the Head of Service should be replaced with 'headteacher' or 'chair of governors' as appropriate. References to the 'Council' should be replaced by 'school'. Advice on the interviewing of pupils/student witnesses should be sought from HR. WBC HR will provide support where the school has purchased the service.

2. Introduction

- 2.1. The Head of Service (in consultation with the Head of HR) will appoint a manager to carry out an investigation into a disciplinary allegation, where it is believed that there is enough initial evidence that a formal disciplinary sanction may be required.
- 2.2. The investigation is a fact-finding exercise to collect all the relevant information on a matter, to enable the employer to fully consider the matter and then make an informed decision on it.
- 2.3. The purpose of the investigation is to:
 - Establish the facts whilst they are still clear in the minds of those involved; and
 - Decide what further action to take, if any.
- 2.4. Wherever possible, investigations should be carried out promptly in order to ensure that events are fresh in people's minds. However, where the nature of the allegation is such that it must first be considered by the Police or Social Services, no internal investigation can begin until those agencies have given the Council permission to do so.

3. Role of the investigator

- 3.1. The role of an investigator is to be fair and objective, establishing the essential facts of the matter and reaching a conclusion on what did or did not happen. The investigator should do this by looking for evidence that supports the allegation and evidence that contradicts it.
- 3.2. The investigating officer will be supported and advised by HR throughout the process, including attendance at witness meetings, interviews with the employee, and at any subsequent disciplinary/appeal hearing.
- 3.3. In summary, you should:

- Plan your investigation (see template plan at 9);
- Interview witnesses, keep notes, and obtain signed statements;
- Review relevant documentation and any other evidence;
- Interview the individual against whom allegations are made;
- Take account of any new information or allegations that come to light;
- Summarise your findings in an investigation report (see template report at 11);
- Determine whether or not the allegations should be considered at a disciplinary hearing;
- Present evidence at any disciplinary hearing and answer questions as required;
- Attend any appeal hearing as a witness, where required.

3.4. In carrying out the investigation, you should:

- Carry out the investigation as quickly as possible;
- Be thorough and fair;
- Remain impartial and objective – do not make assumptions;
- Consider whether there are any mitigating circumstances;
- Maintain confidentiality as appropriate;
- Talk to staff and, where appropriate, clients or pupils concerned with the incident, to establish the full facts;
- Seek supporting evidence, including any that is favourable to the employee;
- Compare statements and notes and attempt to resolve any discrepancies.

4. Plan the investigation

4.1. Before you begin your investigation, the Head of Service will have framed the allegation that you are investigating. This will be key to planning and gathering your evidence.

4.2. Focus on what facts need to be established, what evidence needs to be collected and how, and within what time frame.

4.3. Use the template investigation plan at section 9 to set out:

- the allegations;
- the initial evidence;
- the issues that you want to explore and the questions that you want answered;
- the people you want to talk to or obtain statements from;
- the order in which you will see people;
- suitable venues for meetings, taking account of confidentiality and sensitivity;
- who will take notes at the meetings;
- the documentary or other evidence that you want to see;
- a timetable for the investigation;
- any other key issues.

5. Meet the employee

5.1. You should meet the employee against whom allegations have been made. The timing of this meeting in relation to that with other witnesses will depend on the circumstances of the case. Your HR support will advise you on this.

- 5.2. Provide notice of the meeting in writing to give the employee time to prepare. This notice should include a reminder of the right to be accompanied by a workplace colleague or trade union representative. HR will provide a template letter.
- 5.3. Use the template meeting guide at 10 to structure the meeting.
- 5.4. Ensure that the employee understands the allegations and ask him/her to respond to them. He or she may provide you with an explanation of events, or direct you to further evidence that you should take into account, or to mitigating factors.
- 5.5. Use open questions to gain information, and probing or closed questions to clarify or check your understanding of what has been said.
- 5.6. You should take notes of key points raised at the meetings. The notes do not need to be verbatim. No recording of meetings should be allowed. You should give a copy of the notes to the employee/witness following the meeting and ask them whether he/she would like to add anything to them. Where the employee/witness provides alternative notes of the meeting both versions should be included in the evidence supporting your investigation report.
- 5.7. If additional allegations emerge during your investigation, these may be incorporated into your original investigation, if advised to do so by the Head of Service and HR. If you have not put these allegations to the employee in your initial meeting with him/her, it will be necessary to arrange a further meeting to discuss them.

6. Meet witnesses

- 6.1. Witness evidence is usually important in disciplinary investigations. It can be helpful to ask those who have witnessed particular events to write a statement as soon as possible after the event, whilst it is fresh in their minds. However, this is not always necessary if you plan to interview them.
- 6.2. Where there are a large number of potential witnesses to the same event(s), you may decide it is not necessary to interview all of them: a written and dated statement may be sufficient from some.
- 6.3. Where a witness provides a written statement you need to be happy that you have got all the information that you require from them and that there are no unanswered questions. If you are not satisfied that you have enough information you can interview the witness.
- 6.4. Use the template meeting guide at 10 to structure the meeting(s).
- 6.5. Meet witnesses and ask them to explain what happened or, where you have asked for a written statement in advance, to gain clarification and/or further information about points that they have made.
- 6.6. Use open questions to gain information, and probing or closed questions to clarify or check your understanding of what has been said. Don't lead the witness, but do encourage them to concentrate on the main facts.
- 6.7. Advise witnesses that their statements and responses to questions may be made available to the employee and to the management side if the investigation results in

a disciplinary hearing. Witnesses also need to be made aware that they may be called to give evidence at a disciplinary hearing. If a witness is uncomfortable with their evidence being made available to the employee and/or giving evidence at a hearing, discuss how to handle this with HR.

6.8. You should take notes of key points raised at the meetings. The notes do not need to be verbatim. You should give a copy of the notes to the employee/witness following the meeting and ask them whether they/she would like to add anything to them. Where the employee/witness provides alternative notes of the meeting both versions should be included in the evidence supporting your investigation report.

7. Gather other evidence

7.1. You should consider what other evidence may support or refute the allegations. The employee and/or other witnesses may suggest sources of evidence.

7.2. You may wish to look at:

- Work rotas;
- Attendance reports;
- Shift/handover notes;
- Minutes of meetings;
- One-to-one/appraisal records;
- Emails or letters;
- Training records;
- ICT logs;
- Telephone logs;
- Financial records;
- CCTV;
- Other relevant documentary or physical evidence.

7.3. Keep copies of all relevant documentation.

7.4. Remember that you should not just consider evidence that supports the allegations but also consider evidence which undermines the allegations. You should objectively analyse each piece of evidence and consider:

- what does the evidence reveal?
- are there any doubts over the credibility and reliability of the evidence?
- is the evidence supported or contradicted by evidence already collected?
- does it suggest any further evidence should be collected?

7.5. Ensure that you also have background details on the employee, including employment dates and roles; job description; previous disciplinary record; any special circumstances.

8. Plan your report

8.1. Use the template at 11 to present your report.

8.2. Your report should be clear, concise and presented in a logical format. It should:

- Outline the allegations

- Provide full supporting evidence, including a list of all relevant documentary and other evidence considered.
- Include all the relevant facts so that it would make sense to someone unfamiliar with the case. Include those facts favourable to the employee.
- Contain a summary of events as evidenced by your investigation, referring to supporting evidence in the appendices as appropriate.
- Make a decision – based on the findings of your investigation you can recommend that the case is:
 - Dropped; or
 - Handled informally; or
 - Considered at a disciplinary hearing.

9. Investigation plan template

Investigator	
Name of employee	
Name of TU representative/colleague (if known)	
HR support	
Disciplinary allegation(s)	
Provisional time-frame: Start investigation Complete report	
Issues that need to be explored/clarified	
Sources of evidence to be collected	
Witnesses to be interviewed (including planned order of interviews)	
Investigation meetings further arrangements (When/where/notes to be taken by)	
Persons to supply own statement	
Investigation meetings to be completed by:	
Collection of evidence to have been completed by:	
Notes	

10. Interview plan template

Before the meeting takes place an investigator should:

- establish how the interviewee may be able to help with the investigation and plan initial questions accordingly
- book an appropriate time and place for the meeting
- write to the employee inviting them to the meeting and detail the right to be accompanied

At the start of the meeting an investigator should explain:

- who is present and why
- the role of the investigator
- the purpose of the meeting
- the need for confidentiality during the investigation
- that the interviewee's witness statement may be used in an investigation report
- who will see the interviewee's witness statement

During the meeting an investigator should:

- ask questions to gather the facts of the matter
- probe the interviewee without it being in an adversarial manner
- record responses and any refusal to respond
- seek evidence that may substantiate the information provided

At the end of the meeting an investigator should:

- check if there is anything else the interviewee thinks is important before ending the interview
- ask if there are other witnesses that they think should be interviewed and why
- explain that they may need to be interviewed again
- explain that the interviewee will be provided shortly with a copy of their witness statement for them to check and confirm that it is accurate

After the meeting an investigator should:

- provide the interviewee with a copy of their statement and seek agreement that it is accurate
- consider what the important facts from the meeting were and whether evidence already collected supports or contradicts these
- consider whether the meeting suggested any further evidence needs to be collected or interviews arranged

11. Investigation report template

<p>Introduction</p> <ul style="list-style-type: none">• Name and job title of the person who authorised the investigation• Name and job title of the person who conducted the investigation• Brief overview of the circumstances that led to the investigation• The specific original allegation(s) being investigated and if they were amended or added to, the specific allegations that are covered by this report.• Employee background – employment history, training, previous record etc• Workplace background, if relevant• Date investigation began
<p>Process of the investigation</p> <ul style="list-style-type: none">• how the investigation was conducted• what evidence was collected• whether any pieces of evidence could not be collected and why• names and job titles of all witnesses interviewed and why each witness was relevant to the matter• whether any witnesses could not be interviewed and why• where a witness statement has been anonymised explain why and provide any details of enquiry into their character and background
<p>The investigation findings</p> <ul style="list-style-type: none">• summarise the findings from all relevant documents or physical evidence (name and summarise each piece of evidence and how it supports your findings)• summarise the key evidence from each witness statement and how it supports your findings• what facts have been established• what facts have not been established• whether there are any mitigating factors to consider• whether there is any other relevant information to consider
<p>Summary</p> <ul style="list-style-type: none">• Deal with each allegation separately• Summarise the nature of the allegation• Emphasise any risks if applicable (e.g. to clients/pupils, finances, the Council's/school's reputation)• State the reasons why the misconduct would be unacceptable• Summarise the reasons why you believe the allegations are proven or not
<p>Conclusion</p> <ul style="list-style-type: none">• recommendation based on all evidence collected:<ul style="list-style-type: none">○ there is no or insufficient evidence to support the allegations and the matter should be dropped○ there is insufficient evidence for a disciplinary hearing and the matter should be dealt with informally by management○ the matter should be considered at a disciplinary hearing (and if, so, if it should be considered as gross misconduct)• any other recommendations related to the matter

Supporting documents

- copies of all documents and witness statements collected and referred to in the report should be included in the disciplinary bundle and clearly referenced