



6.0 Employing and Managing People

The Disciplinary Investigation

Overview

1. Introduction
2. Investigations
3. Investigation Stages
4. Investigation Report

Introduction

All disciplinary policies are based on the principle that no disciplinary action will be taken against any employee until the circumstances have been fully investigated. This information sheet gives guidance on how to conduct a disciplinary investigation.

Organisations should also make reference to [ACAS guidance](#) and, if uncertain how to proceed, may wish to consider whether they should seek professional advice before initiating a disciplinary investigation.

Investigations

The organisation will carry out an investigation of potential disciplinary matters to establish the facts of the case. The nominated investigating officer will produce a report detailing allegations, findings, relevant facts, conclusions and recommendations.

Where practicable – **based on the size and structure of the organisation**, different people will carry out the investigation and disciplinary hearing. An investigatory meeting will not by itself result in any disciplinary action.

Investigation Stages

1. Prepare
2. Prepare questions
3. Meet the employee
4. Meet witnesses
5. Gather other evidence
6. Prepare investigation report

1. Prepare

Think about your investigation before you begin; consider what information you need to gather.

- Decide how best to conduct the investigation. This will depend on the complexity of the case
- Decide on the order in which you will want to meet witnesses and the employee. Remember, you can meet with them more than once if necessary. Investigation meetings need to be held in a private place, free from interruptions. Take notes of key points raised at the meetings. The notes do not need to be verbatim and notes can be included in the evidence supporting your investigation report
- Before the meeting with the employee, think about the questions you should ask – [see section \(2\)](#)
- Witnesses – depending on the nature of the case you could:
 - Ask witnesses for a written statement (see below)
 - Meet with witnesses and write up your notes
 - Meet with witnesses but ask them to produce a statement before the meeting

2. Preparing Questions

It is important to prepare questions before you meet with the employee and any witnesses. Think about the allegations that have been made and what facts you need to gather.

Questions may include some of the following:
(the choice of questions will depend on what you are investigating)

- What did you see?
- What did you hear?
- Are there any records that confirm/refute the allegations?
- Where were you standing/sitting?
- How did you react?
- What made you react in that way?

Witness statement - should contain the following:

- The name and job title of the person giving the statement
- Details of the date, place and time of the incident being investigated
- Confirmation of the names and job titles of all those present
- The reason for the witness being able to comment on the incident
- Position in which the witness was able to see the incident
- Full details of what was witnessed, the sequence of events, names of other persons present, facts
- Sketch or plan if appropriate
- Date, time and place the statement was taken
- The signature of the witness

3. Meet the Employee

Give the employee notice of the meeting so that they can prepare. When meeting with the employee against whom the allegations have been made, remind them of their right to be accompanied by a work colleague or trade union representative.

Ensure that the employee understands the allegations that have been made. Ask them to respond to these allegations and produce evidence to support their response.

Use open and probing questions to gain information and clarify the issues. Check your understanding of what has been said.

4. Meet Witnesses

You may decide it is not necessary to interview every witness, and a written, dated and signed statement will be all that is needed. Where a witness provides a written statement, you need to be satisfied that you have all the information that you require from them and that there are no unanswered questions. If you are not satisfied you can interview the witness.

You may decide that you need to meet with a witness to gather their witness statement. You could ask witnesses to write a statement prior to the meeting or work through questions during the session to gather the evidence.

Witness statements can also be written by the investigating officer and then signed as an accurate record by the witness.

When you meet witnesses, ask them to explain what happened, or where you have asked for a written statement in advance, gain clarification and further information about the points they have made. Use open and probing questions to gain information and clarify the issues. Check your understanding of what has been said. Do not lead the witness but do encourage them to concentrate on the main facts.

Advise witnesses that their statements and responses to questions may be made available to the employee and to the disciplinary panel 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.

5. Gather Other Evidence

Remember to look for supporting evidence to substantiate information provided by witnesses and the employee. You may include copies of this evidence in the appendix of your investigation report.

You may need to look at other documents. The relevant documents will depend on the nature of the case – **examples could include attendance and absence reports, incident reports, minutes of meetings, emails or training records.**

Look at any special circumstances that need to be considered.

6. Preparing an Investigative Report

After completing the investigation, you will need to write a report, to be included in the documentation used at any subsequent disciplinary hearing. The investigation report will include the evidence that you will present at the disciplinary hearing. Your report should be clear, concise and presented in a logical format and makes sense to someone unfamiliar with the case.

It should:

- Outline the allegations
- Provide full supporting evidence. Make sure you include all the relevant facts so that it would make sense to someone unfamiliar with the case
- Contain a summary of events as evidenced by your investigation, referring to supporting evidence in the appendices as appropriate
- Make recommendations – based on the findings of your investigation you can recommend that:
 - There is no case to answer
 - The matter is dealt with informally
 - The case goes forward to a disciplinary hearing

Suggested Contents of an Investigation Report

1. Introduction

Background information relating to the employee:

- Name and job title of employee
- Length of service and hours of work
- Details of any relevant misconduct – previous warnings can only be mentioned if they are still live at the time at which the misconduct took place

Background information about the workplace, such as:

- Environment
- Staffing levels
- Type of clients
- Workload and shift pattern

2. Allegations

These should be specific:

- Date, time, place of the alleged incident(s)
- Refer to the employee by name
- Specify the nature of the misconduct/allegations

3. Investigation

- Who conducted the investigation (**Your name, job title and department**)
- How the allegations were brought to your attention
- How you carried out your investigation
- Refer to witness statements and identify why these are relevant
- What other sources of information you accessed

4. Statement of Case

From the information that you have gathered, take each allegation and present the sequence of events cross referencing to documents/statements within the appendices as appropriate:

- Highlight the salient points of statements
- If appropriate, clarify the manager's expectations of what should have happened
- Explain the correct procedures
- Demonstrate whether the employee had received sufficient training, support and information to comply with procedures and meet expectations
- Refer to any additional supporting evidence
- Consider the employee's explanation of what happened
- Consider any mitigating circumstances

5. Summary

- Deal with each allegation separately.
- Summarise the nature of the allegation.
- Emphasise any risks if applicable (e.g. to clients, the organisation's reputation, finances)
- State the reasons why the misconduct would be unacceptable
- State the reasons why you believe the allegations are proven or not (Briefly referring to witness statements, supporting evidence)
- Recommend whether or not the allegations should be considered at a disciplinary hearing



Cefnogi Trydydd
Sector **Cymru**

Third Sector
Support **Wales**

Third Sector Support Wales is a network of support organisations for the whole of the third sector in Wales.

It consists of the 19 local and regional support bodies across Wales, the County Voluntary Councils (CVCs) and the national support body, Wales Council for Voluntary Action (WCVA).

For further information contact
<https://thirdsectorsupport.wales/contact/>

Disclaimer

The information provided in this sheet is intended for guidance only. It is not a substitute for professional advice and we cannot accept any responsibility for loss occasioned as a result of any person acting or refraining from acting upon it.