

The Role of the Investigator in Practice

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What we're covering today

1. Investigation planning
2. Evidence gathering including witness interviewing
3. Report writing
4. Presenting Report



Remit of investigation

- Determine next steps, e.g. whether there is a case to be answered at a disciplinary hearing
- Not to determine a sanction or outcome



Role of investigator

- Objectivity and impartiality (e.g. identify evidence that substantiates and disproves allegations)
- Flexibility
- Devote sufficient time
- Gather and review evidence
- Write up investigation report
- Present investigation report



Planning

- Familiarise yourself with the relevant procedure
- Understand the allegations - what's in/out of scope
- Identify relevant witnesses
- Identify relevant other evidence - policies/documents etc
- Determine the order of your investigation and timescale





Let's look at a scenario

Live Action Witness interviews

Interviewing witnesses

- Try to make the witness feel calm and relaxed
- Encourage the witness to speak freely and convey their version of events
- Through open and closed questions direct witness to focus on issue



Dos and Don'ts

Do

- Allow the witness to refer to any documents to refresh their memory
- Pause the meeting if the witness needs a break, or adjourn if the witness is very upset
- Record all the pertinent facts
- Keep calm and focused
- Remind the witness to keep the matter confidential

Don't

- Be afraid to question the witness's version of events
- Encourage the witness to offer their opinion
- Offer your own opinion, be judgmental or speculate on the outcome of the investigation
- Draw hasty conclusions
- Disclose any confidential information

After the interview

- Write up the interview notes
- Written record of the questions asked and responses given
- Send copy of statement to witness to approve, date, sign and return



Concluding the investigation

- Review all the evidence
- Distinguish between facts and opinions
- Consider veracity and value of witness accounts
- Consider what policies have been breached and in what way
- Determine findings, conclusions and make recommendations
- Produce an investigation report
- Keep the employee informed of progress

Investigation report

1. Introduction
 - What does your report do
 - Brief information on employee
2. Background and context to the investigation
 - Events leading to the investigation
 - The allegations
3. Methodology
 - What evidence was gathered
 - Details of witnesses interviewed
4. Findings and conclusions
 - Based on the evidence what happened
 - Identify breaches of policy
 - Are the allegations substantiated
5. Recommendations
 - Next steps
6. Annexes
 - Witness statements
 - Relevant documents/policies

Presenting to a hearing

- Know your report
- Don't read your report line by line
- Prepare a 2-page presentation brief for yourself as an aide memoire (not for distribution)
- Highlight:
 - Your investigation remit and the allegations
 - A summary of your finding and conclusions and the key evidence
- Closing comments - the key points on which the panel must consider and make a determination

Any questions...?



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Please note

The information contained in these notes is based on the position at May 2020. It does, of course, only represent a summary of the subject matter covered and is not intended to be a substitute for detailed advice. If you would like to discuss any of the matters covered in further detail, our team would be happy to do so.

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