
Investigation Guidance

Owner	Employee Relations
Version	1.0
Date Approved	01/01/2022
Date of Review	01/01/2023

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GUIDANCE FOR INVESTIGATIONS IN SCHOOLS

1.0 Investigation

The governing body states in its policy that it requires an immediate, short, preliminary investigation of all allegations of misconduct, in order to establish that there are reasonable grounds for a full investigation.

The following guidance should be considered when a formal investigation is required.

It is recommended that investigations should be completed within a reasonable time frame taking into account school closures and other exceptional circumstances.

1.1 Role of the commissioning officer

When a complaint is received or an incident takes place which requires a formal and detailed investigation, an appropriate senior manager in the school, usually the head teacher will undertake the function of a 'commissioning officer'.

In cases in which the head teacher has been involved or are the subject of the allegation and therefore will not be impartial, another member of SLT or a member of the governing body can act as the commissioning officer.

When the head teacher's conduct is to be investigated, the procedure provides for the chair of governors to ask the appropriate officer in School and Governor Support to make the necessary arrangements.

When the head teacher has been otherwise involved, they should ask another member of the senior management team to act as the commissioning officer. If such a person is not available, the head teacher may approach School and Governor Support or the School's ER provider.

The commissioning officer will be accountable for commissioning the investigation, receiving the report which should include a summary, conclusions and agreed recommendations, and making arrangements for appropriate subsequent action.

In exceptional circumstances where there is an insufficient number of senior managers and/or governors available to separate the roles of commissioning officer and investigator, both roles may be performed by the same person.

1.2 Key activities undertaken by the commissioning officer in conjunction with the School's ER provider:

- To identify a suitable investigator
- Consideration needs to be given to the suitability of the investigator, including, availability, and impartiality. Investigators should have undertaken appropriate training and/or experienced in conducting an investigation.
- The investigation may be undertaken by a member of Senior Leadership team or by an external independent investigator (recommended for most gross misconduct

cases). Advice on the appointment of an external independent investigator may be obtained from the school's ER provider.

- To provide Terms of Reference, any key documents relevant to the case and a list of any witnesses to the investigator.
- To monitor progress of the investigation and ensure timescales are met.
- To receive the investigation report and, where appropriate, to decide whether the case should be referred to the head teacher or the governing body's disciplinary committee
- To present the case in a hearing in accordance with the disciplinary procedure.

1.3 Terms of reference

The terms of reference should include:

- Title of investigation – This section should cover whether the allegation is misconduct or gross misconduct.
- Purpose/Background – Details of specific nature of the allegations and which policies have been breached.
- Commissioning Officer – Name of Commissioning Officer
- Investigating Officer – Name of Investigating officer
- Objectives and Scope of Investigation – To fully investigate the allegations and how this will be accomplished.
- Timescales – This outlines how long the investigation is expected to last. Any extension should be explained to the employee and the commissioning officer.

1.4 Responsibilities of the commissioning officer on completion of an investigation

- Once an investigation is complete, the commissioning officer will meet with the investigator
- The commissioning officer will determine whether they are satisfied with the content of the report and it remains impartial. Where the roles of commissioning officer and investigator are combined, the person should consider their own report critically before proceeding further, taking advice from the School's ER provider if they feel that questions might be raised over the findings.
- If the commissioning officer is not satisfied with the content of the report, for example, there may be further witnesses that need to be interviewed or further evidence to be reviewed or if there are any issues requiring clarification, they will discuss these directly with the investigator.
- It is for the investigator to make the appropriate changes to the report following any reasonable recommendations from the commissioning officer.
- The commissioning officer will then take ownership of the report and is accountable for agreeing on the next steps in accordance with the relevant procedure.

2.0 Conducting an Investigation

2.1 Purpose

An investigation is a structured, impartial process of evidence gathering in response to a specific allegation(s) regarding personal conduct. It should be carried out with terms of reference as described above.

2.2 Good practice

All investigations should:

- Have reasonable timescales set in advance by the commissioning officer but these should not be restricted by a set completion date
- Be conducted as soon as possible after the date in question
- Have a balanced approach and be conducted fairly and objectively.
- Be conducted using techniques which are sensitive to the individual situation and employees involved.
- Seek to explore rather than pre-judge.
- Seek to elicit facts (find out what actually happened rather than arouse emotional reactions on what it is thought happened).

2.3 Role of the investigator

- Where possible to have received prior training in investigation skills and techniques or be experienced in having undertaken investigations
- To plan the investigation required in order to establish the facts of the case.
- To identify and gather relevant documents which provide facts concerning the alleged incident.
- To ensure relevant statements are taken which provide facts concerning the alleged incident.
- To produce and present to the commissioning officer a full report of the investigation, the facts established in order for the commissioning officer to consider

2.4 Key considerations

- Be aware of your own potential biases and assumptions and avoid any preconceived ideas.
- Develop an understanding and/or acceptance that different perspectives exist in the same situation.
- Have an understanding of equality legislation.

- Understand the policy of the school

2.5 Process

2.5.1 Ensure you have terms of reference from the commissioning officer.

- Make sure these are understood. See Section 1.3

2.5.2 Produce a plan, considering the following:-

- Are you clear about the expectations of the complainant in grievance/dignity at work cases?
- Are there any policy implications?
- What are the potential equality issues/dynamics?
- Who needs to be interviewed, in what order and where?
- Who will confirm the interview arrangements (including advising interviewees who are employees of the school of their right to request to be accompanied by a chosen representative who is either a trade union official or another employee of the school)?
- Who will ask questions and who will take notes?
- What questions should you ask and not ask?
- What other information will be helpful?
- Can you meet the expected timescales?

2.5.3 Conduct structured interviews and gather evidence (see Annex A)

2.5.4 Statements from witnesses

The investigator will consider whether it is appropriate to produce statements by recording questions and answers. In doing this you will need to have regard for confidentiality and the difficulty that may be created if these are made available to all parties. If statements are taken they must be checked, agreed and signed. Annex A gives a suggested format allowing the interviewee to confirm that the account is accurate, make amendments or attach additional comments. If the interviewee makes changes or comments which you do not recall, a record should be made to that effect on the statement. If an employee does not agree to the statements then both versions of the statement will be added to the appendices.

If there are witnesses to the allegations they should be interviewed by the investigator and will be expected to provide a signed and dated statement, except for pupils, who should be interviewed in accordance with the guidance for schools associated with the authority's Child Protection Procedures. The investigator may decide during the course of the investigation to interview more people. An employee making an allegation of harassment or with some other grievance will be encouraged to name witnesses for interview and the investigator must make every effort to ensure such interviews take place.

2.5.5 Review your plan and revise as required in the light of emerging evidence and practical considerations.

2.5.6 Collate and analyse the evidence

- Consider all the facts and evidence presented to you and analyse what can clearly be demonstrated as being factually correct.
- Make judgements on the 'balance of probability', i.e. given what you have found, how likely is it that the action(s) in question have occurred? You do not need to establish the case 'beyond reasonable doubt'.

2.6 Finalising the report

The investigation report should:

- provide background information, as it may be read by people with no prior knowledge of the case. For example, it may be used at future hearings, appeals and employment tribunals
- be based on the facts established throughout the investigation and all the evidence obtained.
- include your recommendations on the next steps and actions

Use the investigation report template to write your report. Make sure the report is marked as Strictly private and confidential.

If you asked standard or similar questions to interviewees in your investigation meetings, consider using tables to lay out their answers. This makes it easier for the reader to compare the responses.

Comply with the Data Protection Act (DPA)

If the report contains information about a third party, for example a member of the public or service user, it could be a breach of the DPA if the report is given to an employee.

Where possible, all that may be required is to simply remove the third party's name from the report and to refer to individuals as "employee a" or "person b" and so on. However, a balance must be struck between the right of the complainant or the employee under investigation to access the report, and the right of the third party to privacy.

You should write the report in a way that means the same version can be given to all parties, without the need to redact copies that will be given to certain people.