

Guidance for Managers conducting Investigations

This guidance has been written specifically for investigations into matters of misconduct and address common queries / pitfalls in managing this process.

Whilst the approach to a grievance investigation is likely to be similar, it may need to be adapted in line with the Grievance policy.

- **Appointing an investigator:** The role of the investigating officer is to determine the facts of the incident; it is not to prove the person guilty. The investigating officer should *not* have conducted the initial enquiries that led to the investigation and must be impartial. In certain circumstances, it may be necessary to seek an investigator from outside of your school to ensure that impartiality – please seek HR advice if you are unsure. This is an important task and is timebound, therefore whoever is appointed must be able to make this priority in their workload.
- **Scope:** the commissioner of the investigation (usually the Headteacher) must provide the investigator with terms of reference relating to the scope of the investigation and what is required as an outcome (usually this will be a written report).
- **Understanding:** Always read the policy anew, it may have been updated since the last time you referred to it. Mostly importantly, observe set timescales. Make sure that you have consulted with / obtained support, guidance and templates from your HR Business Partner.
- **Planning:** do make sure that you have planned out who you need to see, what evidence you need to determine is available and that you have an approximate timetable to follow. This will help you to keep on track. Your HR Business Partner can support you with this.

- **Communication:** make sure that the employee in question knows that they are under investigation (the commissioning manager should have written to them told them).
- **Collating evidence:** this could include CCTV, witness statements, policies, emails, social media or attendance information. Don't ignore possible avenues of investigation without proper consideration; your investigation may be found to be flawed otherwise.
- **Preparation:** Determine who to see and in what order (you will usually see the employee who is under investigation last – this is to minimise the need to re-interview them once you have met all the witnesses. Prepare your questions. Ensure that invitations to meetings are in writing and include the right to be accompanied (ask your HR Business Partner for a template). Prepare a meeting introduction and ensure that you stress the confidentiality of the matter. The HR template introduction on Your Charter will guide you.
- **Meetings:** Meet all relevant parties. Double check the content of any incident statements with them. Ask each interviewee if they are aware of any other witnesses that you may need to consider meeting. If you do not meet those individuals, be clear about your reasoning for doing so. Ensure that there is a notetaker for each meeting; electronic recording is not acceptable.
- **Notes:** ensure that these are typed up promptly and that the individual has an opportunity to comment on the accuracy of the notes. Ensure that the individual either signs the notes or emails their confirmation of their accuracy before the investigation report is finalised.
- **Writing an investigation report:** Collate your findings and produce a written summary. Your HR Business Partner can provide a template and support with this. The report should be objective and fact based. The best reports assume that the reader has no knowledge of the situation and so explains the process undertaken, evidence gathered, findings and conclusion. Make

it clear where statements concur or what facts are in disagreement. Attach supporting documents as appendices.

- **Recommendation:** The investigating officer may give a recommendation on next steps. The key question is whether there is a case to answer. It may be that there is insufficient basis to take the matter further. Equally, it may be possible to manage the issue informally through management guidance or the evidence may suggest the need for the matter to be considered in a disciplinary hearing. The decision about next steps sits with the commissioning manager. The investigating officer should not comment on whether a sanction should be applied.
- **Next steps:** If the commissioning manager determines that a disciplinary hearing must be convened, be aware that you may be called to attend to answer questions relating to how the investigation has been conducted.

This is a complex area of employment law that can change regularly, and the Trust does not expect you to be an expert. What we do expect is that you use the resources available to you, particularly your HR Business Partners, to ensure that your investigation is fit for purpose and minimises the possibility of procedural flaws.

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