



Why Workplace Investigations Fail Before They Start

**8 mistakes that weaken fairness,
credibility, and defensibility.**



Context

In workplace investigations, the issue is often not the evidence you have.

It is whether the process used to gather, test, and document the evidence can withstand scrutiny.

Weak process can undermine even serious findings.



Mistake #1 Starting Without A Clear Terms of Reference

If the scope is vague, the investigation can drift.

Define the allegations, applicable policy framework, investigator's mandate, confidentiality requirements, and reporting expectations before the work begins.



Mistake #2

Treating Allegations

As Conclusions

At the intake stage, the question is not whether the allegation is true.

The question is whether, if proven, it could amount to harassment, violence, discrimination, or a policy breach.

Proper framing at intake determines the direction and defensibility of the investigation.



Mistake #3 Interviewing Without Procedural Control

Interviews should be structured, impartial, and documented.

Participants must understand the process, confidentiality expectations, and their opportunity to respond to relevant information.

Maintain the same interview protocols for all parties involved.



Mistake #4 Failing To Preserve Digital Evidence

Messages, files, logs, cloud records, and devices can be altered or lost quickly.

Preserve relevant digital material early, document chain of custody, and use forensic collection where the stakes justify it.

You can't correct mishandling of evidence.



Mistake #5 Ignoring Investigator Independence

An investigator must be impartial and appear impartial.

If the investigator reports to, supervises, or has prior involvement with the parties or events, the findings may be challenged.

Perceived independence matters as much as independence itself.



Mistake #6 Failing To Give Parties A Fair Opportunity To Respond

**Fairness requires more than
collecting statements.**

**All parties must have a meaningful
opportunity to know and respond to
relevant information before
conclusions are finalized.**



Mistake #7 Misapplying Confidentiality

Confidentiality is meant to protect the integrity of the investigation and the privacy of those involved.

It should not prevent individuals from seeking support, reporting concerns, or accessing legal or regulatory processes.



Mistake #8 Unexplained Conclusions

A defensible investigation requires clear, structured reasoning.

Findings must be supported by documented evidence, consistent analysis, and a transparent explanation of how conclusions were reached.



Conclusion

Every workplace investigation is different.

But the fundamentals remain the same:

- clear mandate
- impartial process
- preserved evidence
- fair interviews
- confidentiality & timeliness and
- documented reasoning.

The goal is not just to complete the investigation, it's to make it defensible.