

Cl<sup>o</sup>ver HR



EMPLOYER GUIDE  
**CARRYING OUT  
INVESTIGATIONS**



## EMPLOYER GUIDE:

# CARRYING OUT INVESTIGATIONS

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Investigations are needed where there is a workplace disciplinary or grievance issue, an investigation allows employers to obtain all the information they can about the issue.

Investigations are covered by the ACAS Code of Practice which is the minimum an employer should follow when handling issues in the workplace.

Employers who do not carry out a reasonable investigation with an issue, are likely to have their decisions deemed as unfair, which could result in legal action being taken against them. Employment Tribunals look to see if employers have followed the ACAS code of practice in a fair manner.

Investigations are used to:

- See if there is a case or issue to resolve and answer.
- Ensure people are treated fairly.
- Obtain evidence from all parties.
- Assist an employer as to what should happen next.

During an investigation, an employer can assess whether a formal process is required or if the issue can be resolved at an informal level.

Investigations should be started as soon as possible to ensure that the employee is treated fairly, people tend to remember situations as soon as they happen rather than having to think back.

# 01

## WHO SHOULD CARRY OUT INVESTIGATIONS?

Ideally, investigations should be carried out by someone who is not involved in the case, but in smaller businesses, this may not always be possible.

In disciplinary cases, a different person should be used for each stage, the investigation hearing, the disciplinary hearing, and the appeal hearing. Ideally, the person who hears the disciplinary hearing should be more senior to the person who conducted the investigation and likewise, the appeal hearing should be heard by someone more senior to the disciplinary if possible.



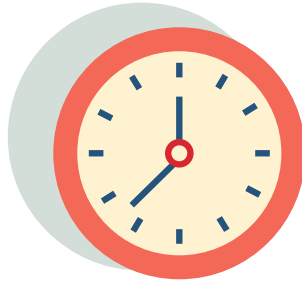
However, with grievance investigations, it is best practice for the person who is hearing the grievance to carry out the investigation into the issue.

During the investigation process the person investigating may need to get information regarding the issue from:

- The employee concerned.
- Any witnesses, these can include other employees, customers, or clients.
- Any relevant documentation, time cards for example.

# 02

## TELLING THE EMPLOYEE



As soon as an employer decides they are going to investigate an issue, they must inform the employee what the disciplinary issue or grievance issue is about. However, if there is a high risk that the individual may influence witnesses or tamper with any evidence, then they can wait to inform them of the investigation.

When informing an employee, they will need to have the following explained to them:

- Why there is an investigation being done.
- Who will be chairing the investigation?
- How long it could take.
- What will happen after the investigation?
- Everything is to remain confidential.
- Witnesses may need to be spoken to.

In any investigation process, the person chairing the investigation must ensure they are:

- Fair and objective.
- Follow the company procedure.
- Obtain as much information regarding the issue as they can.
- Get balanced evidence of the case from all parties.
- Keep all information of the case confidential.

## 03

### IS SUSPENSION NEEDED WHEN INVESTIGATING?

During an investigation process, an employee may be suspended from their job. Suspension may be required if the employer believes that it is needed to protect:

- The employee being investigated.
- Other employees in the workplace.
- The validity of the investigation.

An investigation process needs to be fair and concise, but also should be completed as soon as possible, enabling the suspension to not last longer than is necessary.

Any period of suspension is paid at full pay. Any employee who is suspended must be informed of their suspension in writing and made aware that the suspension is not a sanction but is to allow a full and fair investigation to take place.

## 04

### WHAT HAPPENS AT THE END OF AN INVESTIGATION?

At the end of an investigation, the person who has conducted the process must recommend one of the following:

- Formal action to be taken – this could be a disciplinary hearing, changes to the company's procedures, or further investigation into other matters that were found during the process.
- Informal action – such as training, coaching, mediation, or counselling.
- No further action to be taken.

# 05

## RIGHT FOR EMPLOYEES TO BE ACCOMPANIED

Employees have a legal right to be accompanied at any meeting during a grievance or disciplinary process.

The person must choose their companion from one of the following: a colleague / a trade union representative / an official employed by a trade union.

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