**Managing Investigations Guidance Notes**

Sample

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**INTRODUCTION**

[Company Name] Managing Investigations Guidance Notes aim to provide a framework, which will assist managers to carry out any internal formal investigation process fairly and consistently.

[Company Name] is committed to ensuring that all internal investigations carried out are in accordance with the relevant Policy or Procedure.

**SCOPE**

This document provides guidelines for all ‘relevant managers’ appointed to carry out internal investigations into matters relating to any member of staff within the company.

The guidelines contained within this document must be used in accordance with the relevant Policy or Procedure, as determined by the nature of the investigation.

**BENEFITS**

The existence of guidance notes in managing internal investigations will help to ensure that [Company Name] carries out all investigations fairly, consistently and thoroughly.

A fair, consistent and thorough investigation will ensure that managers can establish the facts and make appropriate informed decisions about the next steps.

A fair, consistent and thorough internal investigation will help to help fulfil [Company Name]’s legal obligations and should help avoid unnecessary Employment Tribunal claims or else improve their success when cases cannot be avoided, reducing any consequential costs and bad publicity.

**THE USE OF INTERNAL INVESTIGATIONS WITHIN [Company Name]**

Internal investigations may be required to be carried out in the following circumstances:

1. allegations of misconduct
2. allegations of bullying / harassment
3. dealing with employee grievances
4. dealing with employee capability issues

Internal investigations must always be carried out in accordance with the relevant [Company Name] policy or procedure (e.g. Disciplinary Procedure) as determined by the nature of the issue in question.

In accordance with many [Company Name] HR policies and procedures, managers are required to gather information in relation to a particular allegation or issue, and make a decision about the most appropriate action(s), which, in some cases can include proceeding to a formal hearing where appropriate sanctions or remedial action may be applied.

In such cases employers are frequently required by Employment Tribunals to demonstrate how and why they reached a particular decision, or recommended course of actions and whether or not they acted reasonably in accordance with the relevant internal policy or procedure.

A thorough investigation carried out fairly and consistently will provide managers with the necessary facts and evidence on which a decision can be made and demonstrated as fair and reasonable in line with the relevant [Company Name] policy or procedure.

Those undertaking the investigation are referred to as the Investigation Panel.

Dependant on the [Company Name] policy or procedure being used, a relevant manager or supervisor will be appointed as appropriate. The relevant person must have received appropriate training and is likely to be supported by an HR representative.

**Before Commencing The Investigation It Is Necessary To Identify:**

1. Details of the precise issue to be investigated, e.g. details of allegations made etc.
2. Suggested methodology for conducting investigations, e.g. identification of initial witnesses, copies of policy being breached etc.
3. Under which [Company Name] policy or procedure the investigation is being held.
4. For what purpose and by whom would any subsequent Investigation Report produced be used.

**CONDUCTING INVESTIGATION INTERVIEWS**

The Investigating person or panel must plan to interview any person(s) identified who may be able to provide information relevant to the investigation. This could include:

1. Other members of staff who witnessed / took part in the alleged incident.
2. Other members of staff within a department.
3. Relevant line managers.
4. Any other person who is identified to have information relevant to the investigation.

Where possible the witnesses should be interviewed in a logical manner, in which ideally the person raising the issue / allegation should be interviewed first and the person whom the allegation is against should be last. There may be a need to re-interview witnesses during the investigation process.

Additional witnesses are likely to be identified during the investigation and must also be interviewed.

The witness should be advised that the purpose of the meeting will be to discuss in detail their account of a particular incident / allegation which forms part of the relevant [Company Name] policy or procedure.

**In Preparation For The Investigation Interviews The Investigating Officer Should:**

1. Ensure that a suitable private room is available to hold the interview meeting confidentially and without interruptions.
2. Ensure that all necessary information is available during the course of the meeting. e.g. copies of policies / procedures etc.
3. Prepare a list or structure of questions in relation to the alleged incident / allegation.
4. Ensure that a nominated person is available to take detailed notes of the meeting, for use within the investigation process / report where appropriate.

**The Structure Of The Investigation Interview Should Normally Be As Follows:**

**Introduction**

Which explains the context of the interview, for what purpose the meeting notes and subsequent statement will be used, how and when they will be able to check the notes / statements and the importance of confidentiality.

**Questioning**

Involving a technique of using open questions (who, what, why, when, how, etc) with closed questions being used to clarify points. Leading questions should always be avoided.

Discussing and enquiring into any additional information / evidence presented whilst always returning to the prepared list / structure of questions.

Ensuring specific examples are provided when unsubstantiated descriptions are given, i.e. ‘bullying’ or inappropriate behaviour’ etc.

Once questioning is complete, re-cap and clarify main points of discussion, ensuring that the notes taken are accurate and answer any appropriate questions or concerns raised.

**Closing Statement**

Explain the next steps, confirming how / when the witness statement is to be prepared and verified and when the investigation is expected to be completed.

Ensure that contact details of Investigating Officer are provided, and ensure confidentiality understood.

At the end of the investigation interview the Investigating Officer should have obtained from each witness:

1. The names of those present or involved.
2. Date / time / place of the alleged incident / allegation.
3. Details of what took place, and the order in which they happened.
4. How the individual reacts to any other documents or witness evidence which is inconsistent with their account.
5. The steps taken since the alleged incident / allegation, including any steps taken to resolve.
6. The preferred solution (where appropriate).

**Notes / Witness Statements**

Any notes taken during the investigation interviews should be typed and ideally checked and signed by the witness. This is essential if a witness statement is not required / prepared.

Where possible the Investigating Officer or panel should prepare a draft witness statement for the witness using the notes from the investigation interview. The statement should record the facts, written (within reason) in the language used by the witness following the train of events. If there is any ambiguity or gap in the account these should be clarified with the witness.

The witness must be given the opportunity to review the statement and must only sign to confirm it as a true and accurate version of events. **(A template Witness Statement is provided in the Appendix)**

**PREPARING AN INVESTIGATION REPORT**

**Evaluating The Evidence**

All of the relevant evidence collated during the investigation should be reviewed and collated for use within the investigation report. This can include witness statements, notes from investigation interviews, relevant policies & procedures, custom and practice etc. This evidence should be evaluated particularly where there are contradictions or conflicts which the Investigating Officer or panel must consider.

In evaluating evidence, each case should be judged on its merits; however, the following points should be considered:

1. Direct witness evidence will usually be stronger that indirect information relating to the incident / allegation.
2. Evidence that is inconsistent with documents produced at the time is questionable.
3. Evidence that is vague, omits significant details or contains inherent contradictions is questionable.
4. Anonymous evidence is highly questionable.
5. Consideration should be given to any bias or influence individual witnesses may have.

It is important to remember that in reviewing the evidence and making decisions / conclusions, the Investigation Officer only has to show they have a reasonable belief of what happened based on their assessment of the evidence; unlike a legal case there is no requirement to prove a case ‘beyond reasonable doubt’.

**Investigation Report Structure**

An Investigation Report should be written by the Investigating Officer or panel, and should normally be structured as follows:

**Introduction / Background**

Brief introduction to the report clarifying the allegations / incidents which have been investigated, details of the person whom the allegation has been made against, including if they are currently suspended from duty and the names of the investigating team.

**Methodology**

This section should detail the process of the investigation including a list of the people interviewed specifying if witness statements / notes from meetings have been taken, details of [Company Name] Policies and Procedures reviewed, details of any other activities undertaken as part of the investigation (watching video’s etc.).

**Findings**

This will be the largest section of the report and will detail the findings from the investigation, including the facts and evidence presented, any inconsistencies found with explanations where applicable, any mitigating circumstances and any risks identified.

Where information from particular witnesses is sited, notes must be made of the relevant appendices where the notes / witness statements can be found.

**Conclusions / Recommendations**

This section should include the conclusions drawn by the Investigation panel following the evaluation of the evidence. Recommendations are not mandatory, but in the case of disciplinary investigations should indicate the recommended next steps or the initiation of any other procedure, following issues highlighted during the investigation.

**APPENDICIES**

All witness statements / notes from meetings, copies of correspondence, or policies sited during the report should be included.

**DEALING WITH DIFFICULT ISSUES**

Inevitably during the investigation process unexpected events occur, which fall outside of the terms of the investigation. These should be dealt with as follows:

FURTHER or COUNTER ALLEGATIONS ARE MADE: If the allegations relate directly to the current investigation or substantiate other information the Investigation panel must make the decision about whether to include these in the current investigation. If the allegations do not relate, or are made against other parties, these should be dealt with separately from the investigation.

CONFIDENTIALITY: The Investigating panel must ensure that all witnesses and those interviewed understand how the information they provide will be used. If a witness asks if what they disclose can remain confidential, the Investigating Officer must explain that if it is important and relevant to the investigation, it will be included in the report; however, confidentiality will be maintained where possible. It is important also that witnesses understand that there may be a need for them to attend a formal hearing.

REFUSAL TO PARTICIATE: If the employee in the centre of the allegation refuses to participate they must be informed that, unless they provide information, either in person during an investigation meeting, or in writing in relation to the allegations, a decision may be made based on the information provided to the Investigating panel. It is essential that this is communicated verbally and in writing, giving the employee time to reflect and respond appropriately.

REFUSAL TO PARTICIPATE (WITNESS): If a witness refuses to participate it is important that the Investigating officer meets with the witness to find out the reasons behind why they do not wish to participate, to discuss the process which will be followed and reassurances of the support which will be available to them.

Dependant on the case in question, it may be possible to continue the investigation even if the witness refuses to make a formal statement.

**Witness Statement**

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| **Witness Details:** |  |
| **Witness Name:** |  |
| **Position:** |  |
| **Location/Department:** |  |

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| --- |
| Details of witness statement  |

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| --- |
| **Declaration**: |
| I confirm that this is a true and accurate reflection. |
| **Name:** | **Signature:** | **Date:**  |