

# How employers should conduct an investigation

## Conducting an investigation

When an employer is carrying out an investigation, it should follow the principles set out in to the revised ACAS Code of Practice on Discipline and Grievance and the supplementary Guide to Discipline and Grievances at Work.

This should follow the following steps:

## Preparation

- The investigation should be handled promptly.
- The employer should have terms of reference setting out the scope, task, responsibilities and timescales, as well as the background to the allegations.
- The person handling it should have had no previous involvement with the matter - they must be independent.
- Any documentary evidence should be available to you.
- All relevant witnesses should be interviewed
- If the investigation involves questioning a union official the employer should make contact with the relevant full time official so they are aware of the circumstances and there are no misunderstandings.

## Arranging an interview

- A date, location and time for each interview should be arranged that is reasonable in the circumstances and which complies with any advance notice provisions in the organisation's procedures.

- If there could be any language difficulties, the employer should arrange for someone to be present who can help with interpretation.
- If the interviewee is disabled the employer should consider what reasonable adjustments may be required to ensure the individual is not placed at a substantial disadvantage in any way.
- Some who can take notes of the meeting should be present for each interview.
- A letter of invitation should be sent to each individual to be interviewed. This should include the relevant details and attach documents relevant to the interview.

## Carrying out the investigatory interview

The employer should:

- treat the employee in a fair and reasonable manner at all times.
- confirm it is an investigatory interview giving a brief overview of what will be discussed.
- make it clear that this is not a disciplinary hearing, purely an investigation.
- explain how a record will be made of the meeting.
- ask the representative of the employee to formally identify himself or herself.
- confirm with the employee that he or she has received, read and understood the letter of invitation to the interview and any documents sent it.
- explain that anything said during the interview may be used as evidence in the case.
- explain that if the employee wishes to suspend the interview for any reason, (which can include taking to their representative in private) they should not hesitate to ask.
- explain that it may suspend the interview for any reason and will explain your reasons for doing so, should the circumstances arise.
- put the essential facts of the suspected misconduct or poor performance to the individual.
- where a witness is being interviewed, summarise why they are considered to be a key witness.
- clearly establish if the individual has any documentary evidence or witnesses to refute the complaint.
- ensure that you clearly establish if the individual has any documentary evidence relevant to the matter or can point to other witnesses who may have relevant information.
- respond to any questions asked by the interviewee or statements made by their representative as appropriate.
- confirm that a record of the interview will be sent to the employee for review.
- provide an approximate indication of when the investigation is expected to be complete.

## Coming to a conclusion

- Having reviewed all of the evidence, the employer should then come to a conclusion, based on the documentary and witness evidence to determine whether disciplinary is appropriate.