

## **Employee Relations Investigations- case studies**

**Names and Company details have been removed to protect those involved**

### **Allegations of Gross Misconduct**

Clarifying the relevant policy framework

This investigation was carried out within the framework of the employer's Conduct and Discipline Policy. The allegations made against the employee were extremely serious, and if substantiated by the investigation could result in dismissal.

Agreeing the Terms of Reference

The Investigator took a clear brief from the Commissioning Manager, including which witnesses to see, the relevant paperwork to review and the initial timescale that the commissioning manager was working to. The paperwork included relevant policy documents including the Conduct and Disciplinary, Health and Safety and Safeguarding Policies, as well as other supporting information including a copy of the suspension letter detailing the allegations made.

After reviewing the initial documentation provided, the investigator clarified with the commissioning manager the number of days it was anticipated the investigation would take and agreed this, and the timescale with the commissioning manager. This formed the basis of the contract for the work of the investigation, which both parties agreed would be revisited regularly to ensure everything was on track – and to enable the investigator to raise any unforeseen circumstances immediately they became apparent which might protract the timescale of the investigation. Examples include the requirement to interview additional witnesses, sickness absence of key witnesses etc.

Gathering information

In accordance with the employer's Conduct and Discipline Policy, the employee against whom the allegations were made was offered the opportunity to bring a union rep or work colleague with him to the interview, but he declined to do so and agreed he was happy to continue without representation. The employee was also asked whether there was anyone else he thought might be useful to call as a witness or any other paperwork that should be reviewed as part of the investigation.

In addition to the employee against whom the allegations were made, 6 witnesses were interviewed. In writing to those involved it was clarified that any discussions related to the investigation were to be treated with utmost confidence, and that breach of this confidence could result in disciplinary action. The witnesses interviewed were asked whether anyone else might be able to shed light on events, or whether they knew of any additional written information that may help inform the investigation – this information would have been included where relevant and proportionate.

The employee and witnesses were interviewed, their statements transcribed and returned to them to check for accuracy – and when they were happy that the statements were accurate to sign and date these. The statements were included as appendices to the overall report and were referenced throughout.

## Writing the report

A thorough review of all paperwork was undertaken including relevant policy documents, emails, notes of relevant meetings, witness statements etc and a detailed report was then written setting out the allegations, the evidence reviewed, conclusions drawn from the evidence, recommendations made and whether the evidence substantiated the allegations made and whether the evidence supported proceeding to a Hearing. The evidence ran to 15 appendices which were cross referenced through the report.

The report clarified that the evidence substantiated the allegations and recommended that this should proceed to a Disciplinary Hearing.

## Presenting report to the commissioning manager

Although this recommendation was made in the report, it was up to the commissioning manager what action to take as a next step - they could have decided that they wanted to take no further action, but in this case the commissioning manager took the decision to proceed to a Hearing.

The Hearing resulted in a dismissal – no appeal was submitted.

## **Investigating a Grievance**

### Clarifying the relevant policy framework

This investigation was carried out under the employer's Grievance procedure.

### Agreeing the Terms of Reference

The Investigator took a clear brief from the Commissioning Manager, including which witnesses to see, the relevant paperwork to review and the initial timescale that the commissioning manager was working to.

The paperwork included the Grievance procedure and the letter the employee had sent to the HR Director setting out their complaints.

After reviewing the initial documentation provided, the investigator clarified with the commissioning manager the number of days it was anticipated the investigation would take. Both parties agreed the number of days and the timescale for the investigation and this formed the basis of the contract for the work of the investigation, which both parties agreed would be revisited regularly to ensure everything was on track – and to enable the investigator to raise any unforeseen circumstances immediately they became apparent which might protract the timescale of the investigation.

However, on interviewing the complainant as part of the process it became clear that there were additional issues the complainant wished to have considered, so these were added to the list of complaints that formed the basis of the grievance. This extended the scope of the investigation, so this was agreed with the commissioning manager along with a revised timescale.

## Gathering the information

The complainant was interviewed ahead of other witnesses and was supported by a union representative. At this meeting they (the complainant) were given the opportunity to clarify the complaints raised, and to direct the investigator to further written information in support of the complaints. The investigator also asked the complainant whether there were further people that should be interviewed as part of the investigation. The complainant suggested 4 other people, but the investigator took the decision to see 2 of these people only. The reason for this was that of the 4 of them, 2 were suggested as character witnesses, and 2 because they were present at the time of the complaints and could speak directly about what they saw.

In addition to the complainant a further 5 witnesses were interviewed, two of whom were the subject of the complaints.

Following the interviews, the statements were transcribed and returned to interviewees to check for accuracy - and were returned signed and dated when interviewees were satisfied they were accurate. The statements formed appendices to the overall report and were referenced throughout.

The complainant and witnesses also directed the investigator to further written information which included notes of meetings, performance review documentation, emails etc which was used in the investigation.

## Writing the report

A thorough review of all evidence was completed - this included the witness statements, notes of meetings, emails, absence information – including dates of and reasons for absence during the time of the complaints. A detailed report was then written setting out the allegations; reviewing and cross referencing the evidence submitted; setting out conclusions and making recommendations.

The investigation found that one of the allegations was partially substantiated and proposed recommendations around this, and that there was no evidence to substantiate the other allegations made. The evidence ran to 24 appendices which were cross referenced through the report.

## Presenting report to the commissioning manager

The report was submitted to the commissioning manager, who on reading the report agreed with the conclusions made and put in place the recommendations suggested.

## Next steps

The complainant appealed against the outcome of the grievance on the basis that the investigation was unfair, but the appeal panel took the view that the investigation was fair and thorough and as such did not uphold the appeal.

**Kathleen Anne Begen**  
**June 2020**