

# CHECKLIST

## Guidelines for Workplace Investigations

| <b>Procedure</b>   | <b>Yes/N/A</b> |
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| 1. Have both employees (i.e. complainant and person against whom allegations have been made) been made aware of the relevant employer's rules and procedures relating to the investigation and the potential consequences if the issue complained of is found to have occurred e.g. bullying and harassment policy, disciplinary policy? |                |
| 2. At a minimum is the relevant investigation procedure in line with the WRC Code of Practice on Disciplinary and Grievance Procedures?  |                |
| 3. Has the relevant person under the policy been appointed to carry out the investigation? If there is a deviation from the normal protocol has the employee been advised of the reason for this (and is it reasonable to deviate from the protocol)?  |                |
| 4. Have the employees been notified of the person appointed to carry out the investigation?  |                |
| 5. Has the employer set out the proposed timeline estimated for the investigation?   |                |
| 6. Are the persons carrying out the investigation familiar with the policy under which the investigation will be carried out and the requirement for fair procedures?  |                |
| 7. Has the investigator appropriate training and experience to carry out the investigation?  |                |
| 8. Is the investigator an independent party? If not will he/she be impartial and objective?  |                |
| 9. Have any specific terms of reference relevant to the particular investigation been set out to the employee? The terms of reference should outline who will be involved in the investigation,  |                |

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| what information will be examined and the methods involved in examination.  |  |
| 10. Is it clear what the potential outcomes of the investigation may be and what the investigators role is i.e. the investigator's role is to ascertain whether the issue complained of occurred and not to impose any sanction?  |  |
| 11. Have the employees been informed of the right to be accompanied to an investigation meeting (if this is in line with the employer's procedures)?  |  |
| 12. Have the employees confirmed who will be attending the investigation meeting with them and in what capacity? If the employees are seeking to bring a solicitor to the meeting it should be clearly outlined that this is not in accordance with normal procedure but if allowed the solicitor is there in a support capacity only and the employee must directly answer the questions |  |
| 13. Have the employees been provided with all evidence and documents including any witness statements that will be subject to investigation or form any part of the investigation?  |  |
| 14. Has the investigator reviewed all relevant documentation e.g. complaint in advance of meetings and prepared a list of relevant questions?   |  |
| 15. At the outset of the meeting have the procedures and agenda for the meeting been clearly explained to the employees including the need for confidentiality? You may need to confirm that the employee understands that they cannot use any recording devices in the meeting.  |  |
| 16. Has the employer arranged for a discrete person to take notes of the meeting?   |  |
| 17. If the matter is a potential disciplinary issue, then ensure detailed notes are taken of any evidence or mitigating factors being offered by the employee. There should be no prejudgment on these issues at the meeting or in the notes.   |  |

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| <p>18. Start with open questions and then use more specific follow up questions – ask when something happened and who else may have been present.</p>  |  |
| <p>19. After the meeting have the meeting notes been circulated to the employees?</p>  |  |
| <p>20. Are there are any other matters arising out the meeting that require further investigation by the investigator before a decision can be made?</p>   |  |
| <p>21. If a full-scale investigation is required then the following steps must be followed:</p> <ul style="list-style-type: none"> <li>a. The complainant has been interviewed</li> <li>b. The person against which the complaints have been made has been interviewed</li> <li>c. Any relevant witnesses have been interviewed</li> <li>d. The notes of all meetings have been circulated to the complainant and person against whom the complaints have been made</li> <li>e. The parties should be given an opportunity to give any final comments</li> </ul> |  |
| <p>22. Has the decision maker taken an appropriate amount of time in which to make the decision in accordance with any time frames set down in the policies and procedures?</p>  |  |
| <p>23. Does the investigators report clearly set out the following:</p> <ul style="list-style-type: none"> <li>a. The issue that was investigated</li> <li>b. The relevant definitions under the appropriate policy e.g. bullying</li> <li>c. Whether on balance of probabilities the incident complained of occurred</li> <li>d. Whether the complaint for each incident is upheld</li> <li>e. Whether overall the conduct complained of has occurred</li> <li>f. The right to appeal the findings of the investigation</li> </ul>                              |  |
| <p>24. If appropriate, have the relevant employees been given an opportunity to comment on a draft report before a final report issues?</p>  |  |

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| 25. Has a further meeting been arranged to advise the employees of the outcome of the investigation process if relevant?   |  |
| 26. Has the decision and full particulars been communicated fully to the employees in writing either at or immediately after the decision meeting?   |  |
| 27. Have the employees been advised of the right to appeal the decision including the timeframes and procedures for such appeal and the person who will hear the appeal?<br><br>N.B. ensure the person hearing the appeal is impartial and has not been involved in the process to date as much as possible. |  |