

**LOCAL
GOVERNMENT
STAFF COMMISSION**

**CONDUCTING
INVESTIGATIONS
TOOLKIT**

MARCH 2023



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1. INTRODUCTION

1.1 Toolkit overview

This toolkit has been devised by the Local Government Staff Commission (LGSC) to provide guidance to staff who are undertaking the role of an investigating officer in a workplace investigation. This can be an investigation conducted under a Disciplinary, Grievance, or a Dignity at Work policy and procedure. Once a primary need to conduct an investigation has been identified the member of staff who will be conducting the investigation should consult with the local HR team to confirm which policy and procedure applies.

The diagram below outlines the key stages of an investigation process within the LGSC framework.



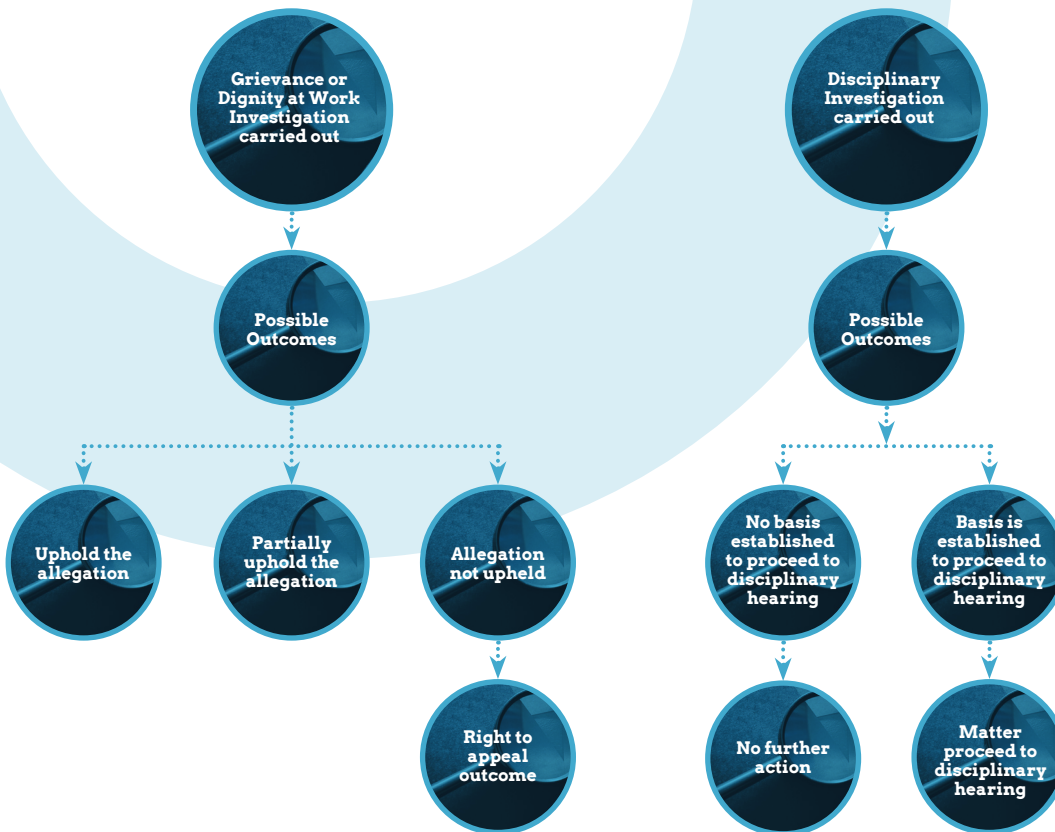
1.2 When is an investigation required?

There are two main instances when an investigation may be required which are:

- *When an employee raises a **grievance** or a **dignity at work** complaint which requires investigation.*
- *When a concern has been raised about the actions of an employee and a **disciplinary investigation** is required.*

There are a number of similarities and differences between the two processes. This toolkit will provide staff with all of the important information required to support them through conducting the two different types of investigations.

The purpose of both disciplinary and grievance or dignity at work investigations is to establish the facts of what has happened (to the extent possible) and to determine next steps. How this sits within each respective policy is set out below.



2. PURPOSE AND PRINCIPLES OF AN INVESTIGATION

2.1 The role of the investigating officer

In all investigations the role of the investigating officer is to establish the facts of the case (to the extent possible) and to reach a conclusion based on the information available in a **fair and impartial manner**.

In a **grievance or dignity at work investigation** it is key that the investigating officer establishes information in whatever forms are available (written, verbal, digital, visual) which either confirms the allegations being made or contradicts the allegations. In the case of a dignity at work or grievance investigation, the investigating officer needs to reach a conclusion as to whether the allegations being raised **should be upheld in full, in part, or not at all** and the reasons why.

In a **disciplinary investigation** it is the role of the investigator to **establish the facts** (to the extent possible) and to reach a decision as to **whether they consider there is a disciplinary case to answer**, setting out the reasons why.

The role of the investigator in a disciplinary investigation stops at this point and they **should not recommend** sanctions or warnings. If the investigator concludes that there is a disciplinary case to answer then a separate disciplinary hearing will be convened (conducted by a different member of staff acting as the disciplining manager) after which a decision will be taken by the disciplining manager about appropriate sanctions (if any) in accordance with the disciplinary procedure.

2.2 The role of HR

During an investigation the investigating officer will be appointed a case manager from within the internal HR team. The HR case manager will support the investigating officer in the following ways:

- *Through the provision of template documents for use during the investigation process.*
- *Through the provision of advice and guidance on the application of the policy and procedure relevant to the investigation.*
- *Through the provision of note taking in the investigatory meetings*
- *Through acting as a point of contact and sounding board for any policy or procedure queries that arise during the investigation.*
- *Through providing a first review of the draft investigation report to ensure that the investigation has satisfied the agreed Terms of Reference.*
- *The role of HR in an investigation is to act in an advisory capacity only. The investigating officer owns the investigation process and is responsible for the decisions in the investigation report. In carrying out a first review of the investigation report it is important that the role of the case manager does not exceed its remit or cross over into active involvement in the investigation or in the report's conclusion.*

2.3 The role of an accompanying person

At investigation meetings the individual who is the subject of a complaint or who has raised a complaint has the right to be accompanied by a workplace companion (this person must be a current colleague and not someone who has subsequently left the organisations) or a certified trade union representative.

The role of the accompany person is to support the individual and it is permissible for them to address the meeting and to make representations on behalf of the person they are accompanying, provided they have permission to do so.

Accompanying persons cannot, however, answer questions put to the person who is the subject of the meeting. Should this occur, the accompanying person should be reminded of their role in the first instance. In extreme cases where answering on behalf of the person being represented persists despite a reminder, it may be appropriate to adjourn or stop the meeting completely and seek advice.

In the event of a request to deviate from the accompaniment rights set out above for disability related reasons appropriate advice should be sought from the human resources department.

2.4 Why carry out an investigation?

The reasons for carrying out an investigation vary according to the type of investigation that is being conducted.

In the case of a **grievance or dignity at work investigation** the investigation will usually have been prompted by a member of staff making a formal complaint about their alleged treatment. In these circumstances the organisation **has a duty of care** to the member of staff (and others who may be affected) which requires them to investigate and to establish if there is any wrongdoing or malpractice that requires further action or remedy.

On occasions an investigation may still be instigated by an organisation without a formal complaint being raised. This happens when serious concerns become known which the organisation considers it must investigate because it 'cannot unknow' that something has potentially happened which requires further investigation.

In the case of a **disciplinary issue** there is a **legal requirement** to carry out a **reasonable investigation** to establish the facts before reaching a decision to proceed to a disciplinary hearing. What constitutes a reasonable investigation depends on the facts of an individual case but should always be proportionate and avoid any significant gaps.

3. INVESTIGATION PLANNING AND PREPARATION

In the section below we explore the various elements of conducting an investigation including the key skills required and the different investigation planning and preparation stages.



Well Prepared



Rigorous



Confidential



Neutral



Detailed



Record Keeping

3.1 Key skills in investigating properly

There are a number of key skills that an investigating officer requires to conduct an investigation properly as set out below.



WELL PLANNED AND PREPARED - investigating officers need to take a planned approach to an investigation and to make sure they allow sufficient time for the preparation stages before commencing the process. This includes spending adequate time on agreeing the terms of reference and the investigation plan before going any further (see section 3.2 and 3.3).



RIGOROUS - A robust investigation is one where the issues are rigorously examined and where information is sought which either affirms or contradicts the allegations being made (in the case of a grievance or dignity at work complaint) or affirms or contradicts initial concerns (in the case of a disciplinary investigation). For it to be considered a reasonable investigation the information provided does need to be tested and challenged, although this should not be done in an aggressive or confrontational way.



CONFIDENTIALITY - Investigating officers must be discrete and maintain the confidentiality of the investigation process at all times. This means only speaking to other people about the investigation within a defined remit and not discussing the investigation with others who are not involved either during or after an investigation has been completed. To breach confidentiality undermines the credibility of the investigating officer and has the potential to seriously jeopardise the outcome of an investigation process.



NEUTRALITY - It is essential that an investigating officer is in a position to act in a neutral capacity and that they remain objective in their assessment of the case whilst an investigation is underway. Therefore, any possible conflict of interests (perceived or otherwise) which have the potential to effect the neutrality of an investigating officer should be declared and resolved before any investigation commences. For more detailed guidance in this area, please refer to the Code of Conduct for Local Government Employees.

Where a potential conflict of interest exists, the issue is not about satisfying the conscience of the individual. Public perceptions, and also those of others involved, must be considered and, in such cases, it may be appropriate for the individual to withdraw from the process.



DETAILED - The investigation and its subsequent investigation report needs to be sufficiently detailed so as to satisfy the terms of reference agreed up front and to meet with the definition of a reasonable investigation.



RECORD KEEPING - Records should be kept of all formal meetings and other information obtained during the investigation process. These should be stored in a confidential location with access strictly limited to those who need to access in accordance with the GDPR.

3.2 Understanding the brief and agreeing terms of reference

Upon commencing an investigation, the investigating officer needs to determine the precise purpose and scope of the investigation. In order to do this the investigating officer will need to establish in the first instance the nature of the investigation i.e. is it a potential misconduct allegation (investigated under the disciplinary procedure) or grievance or dignity at work complaint (investigated under either grievance or dignity at work procedures) and any other relevant background information such as whether any of the key people are off sick, on holiday etc.

It is vital that the investigating officer clearly understands the nature of the investigation to allow them to draft their terms of reference.

Once the investigating officer is clear on what they have been asked to investigate, the terms of reference can be drafted and agreed. The terms of reference are the foundation of an investigation and set out parameters around what, where, who etc. will be investigated.

Terms of reference should clearly state what the investigating officer's role and responsibilities are throughout the investigation process.

The terms of reference should include:

- ✓ What the specific allegation(s) or complaint(s) are to be investigated;
- ✓ Who the allegations or complaints are about;
- ✓ What policy/procedure is alleged to have been breached (if applicable) and which policy the investigation is being held under;
- ✓ The extent of the role of the investigator and where that starts and ends;
- ✓ Who the investigation report is to be provided to;
- ✓ Approximate time frames for completion.

The terms of reference should not include any assumptions or opinions on the potential findings or outcome of an investigation. The investigating officer should agree terms of reference with [insert details - HR team] before taking any further steps.

3.3 Updating the terms of reference

It is recommended that the investigating officer regularly reviews their agreed terms of reference throughout the investigation process and in particular the allegations under investigation to ensure they are operating within the agreed terms of reference and not diverging into investigating other matters outside the scope of their role.

If a new matter does come to light during an investigation which was not known at the time terms of reference are agreed the investigating officer should discuss expanding their remit with an appropriate person (generally their line manager or a representative from the HR team) before incorporating any new matters into an existing investigation. Depending on the circumstances it may be appropriate to expand the original terms of references or for a new matter to be investigated separately.

3.4 Creating an investigation plan

Investigation plan

Once the terms of reference have been agreed it is important to create an investigation plan (see appendix 1 for a template investigation plan). This sets out a structured approach the investigating officer should follow to carrying out the investigation. The agreed terms of reference should either be appended to or referenced in the investigation plan.

The investigation plan should include:

- *The key people involved in the investigation including the complainant (in the case of a grievance or dignity at work complaint) and the respondent(s) or the person who is the subject of the investigation (in the case of a disciplinary investigation).*
- *Details of any witnesses or other staff identified as being relevant to the investigation.*
- *Details of any possible sources of information relevant to the investigation.*
- *Details of the planned order for collecting information.*
- *Details of any provisional timeframes to complete the investigation and any limiting factors.*

Identification of possible sources of evidence

There is no pre-determined order to carrying out an investigation. Where a matter is particularly complex an investigating officer may wish to collect and review other information in the first instance before holding investigation meetings. Some types of physical or written information may help an investigating officer to fully understand the matter under consideration and to help them to plan appropriate questions to ask at the investigation meetings.

Identification of possible parties relevant to the investigation

The investigating officer should identify and consider which individuals might be able to provide information relevant to the investigation and to decide whether to interview them and/or whether to ask them to provide a witness statement. In general terms interviews are usually conducted when there is a requirement to ask a witness a number of questions rather than just establishing their version of events. In some cases a witness statement might be provided in the first instance and the investigating officer may then decide that they wish to conduct an interview to ask further questions about the witness statement provided.

Proportionality and reasonableness

Where a large number of people witness the same incident it may not be necessary or proportionate to interview every single individual separately. In these circumstances the investigating officer should give consideration to the relative seriousness of the matter(s) under consideration and they may wish to interview a sample of witnesses in the first instance before determining whether other interviews are necessary. Investigating officers should remember there is a requirement to carry out a **reasonable** investigation but this has to be proportionate to the circumstances.

Determining the amount of investigation meetings

In some cases an individual who has either raised a complaint or is the subject of a complaint may direct an investigating officer to interview a specific individual (s). Whilst it is important that the investigating officer listens and considers the reasons for the request, the ultimate decision as to who to interview throughout the investigation process lies with the investigating officer.

3.5 Preparing for investigation meetings

Stage 1 - Administration in advance of investigation meetings

Written invitation letter

Further to drafting the terms of reference and the investigation plan, the investigating officer should proceed to invite the initial parties to attend an investigation meeting. Appendix 2 contains a template investigation invite letter.

The invitation letter will need to set out the time and date of the meeting as well as providing the individual with sufficient details about the potential allegation(s) and/or complaint(s) to be discussed for them to be able to understand and prepare for the meeting and to be able to respond.

The invitation letter should advise the employee of their right to be accompanied to the meeting by either a workplace companion (i.e. a current colleague) or a certified trade union representative. In most instances these two groups of individuals are the only categories of individuals legally entitled to attend a formal meeting under a disciplinary or grievance or dignity at work procedure unless there is a disability related reason for an adjustment which should be discussed and agreed with the HR case manager in advance. Requests for legal representation will be refused in all circumstances.

Order of investigation meetings

The order of investigation meetings has to be determined by the facts of the investigation, however, in the majority of cases when conducting a grievance or dignity at work investigation the complainant will be interviewed first in order that the investigating officer can establish at the outset a comprehensive view of what is being alleged. By contrast in the majority of disciplinary investigations the subject of the complaint will be interviewed last or at least towards the latter stages of conducting investigation meetings. This is to ensure that all of the available information has been collected so that this can be put to the respondent to allow them a full opportunity to respond.

During the course of an investigation further individuals may be identified and may need to be interviewed as part of the investigation process. This is a normal part of an investigation process although this should prompt the investigation plan to be updated.

Stage 2 - Preparation for investigation meetings

Preparing questions

Investigation meetings are conducted to allow investigating officers to:

- Ask questions to gather the facts/information and clarify any ambiguities
- Probe the employee for further information where appropriate
- Record responses and any refusal to respond (should this occur)
- Seek out any further information that may be available and would not be immediately obvious.

The investigation officer should prepare for the investigation meeting by developing an individual set of questions to ask during the meeting. Questions will vary according to the role of the person being interviewed. Investigating officers will need to ask questions that test the information being provided in a robust manner but this should remain professional at all times.

3.6 Different questioning styles and techniques

There are a number of different types of questions an investigating officer may use during an investigation meeting to help them gather information. A recognised methodology is the funnelling technique which is set out below.

Funnelling technique

Wide Open

Specific Open

Closed

The 'funnelling' technique is a questioning methodology that can be used for any subject matter being explored in an investigation meeting. The funnelling technique starts with a wide open question, moving on to specific open question(s) and finishing with a closed question(s).

The investigating Officer will start with asking a framed open question, which provides the interviewee with an opportunity to recall their version of events in their own words.

As the response is received, the investigating officer builds an initial picture of events which can be probed further using specific open questions in order to gather more detail before they finally move to closed questions to summarise and end that particular section of questioning.

An example of using the funnelling technique being used to explore an issue is set out below:



Open questions

Open questions encourage an interviewee to open up and provide a detailed account that an investigator can then go on to explore in more detail.

- *Explain to me exactly what you saw?*
- *Describe exactly what happened?*
- *Talk me through what you heard?*

Specific open questions

Specific open questions still seek an opinion, but in response to a narrower point.

- *Tell me more about what you mean when you say ...*
- *Why do you think Mr Bloggs said that to you in an inappropriate way?*

Probing questions

Probing questions can test the strength of an interviewee's account and cross reference or constructively challenge any inconsistencies or gaps in the information presented. However, it is important to frame these questions in such a way as they are not seen as the investigating officer being unnecessarily aggressive or interrogative.

One technique to assist when needing to ask probing questions is to start by saying *"You will understand that in my role as the investigating officer I have to cross reference the information provided to me. In relation to the information you have just provided I can't understand... can you explain that to me again please."*

Recognising the role of the investigating officer at the outset helps to remind the individual being interviewed that the investigating officer is only doing their job.

Clarifying questions

Clarifying questions provide an opportunity to check that the correct information is recorded. They also allow the interviewee to reflect on what they have said, to correct any inaccuracies and to give further details where there are gaps.

- *So, can I clarify that what you are telling me is that you left your workplace at 10am because there was a problem at home and you did not return to work. Have I got that right?*

Closed questions

Closed questions generally illicit a yes or no response. They can be helpful to clarify specific facts and can help to focus a particularly talkative individual. However, the investigating officer should be mindful to not ask too many closed questions as this is likely to limit the amount of information gathered.

- *What time did you leave your workplace?*
- *How many times did that happen?*
- *Did you speak to your manager about that?*
- *Who else was there?*

4. CONDUCTING INVESTIGATION MEETINGS

4.1 PEACE Model of investigative interviewing

An investigation meeting is simply an opportunity for an investigator to ask questions of someone who is involved in or who has information about the matter under investigation.

The PEACE model of investigative interviewing provides a good framework for carrying out investigation meetings.

Prepare

ensure there is a plan of what questions need to be asked and what information needs to be gathered.

Engage and explain

build a rapport with the individual and remember that first impressions are important. Keep your language plain and simple and explain formalities such as the format of the meeting, and the roles of everyone present.

Account

when the facts are presented during the meeting, the investigating officer will need to consider the appropriate questioning styles to gather information.

Closure

once the investigating officer is content that all matters have been explored the meeting can be brought to a close.

Evaluate

following the meeting the investigating officer will need to examine the quality and sources of the information that has been presented in terms of credibility and reliability.

4.2 Creating a meeting aid document

Once the investigating officer has developed their set of questions, it is recommended good practice to capture these on a document which can then be used during the investigation meeting as a memory aid. This document should also include details of key information which needs to be shared with individuals at the start and end of each investigation meeting. Appendix 3 contains a suggested template meeting aid document.

At the start of an investigation meeting it is recommended that the information set out below is shared with all parties and it is included on the meeting aid for the investigation meeting:

- Introductory information including the investigating officer's name and role, and what they have been asked to investigate.

Example: My name is Joe Bloggs and I am a Service Manager within the Planning department; I have been asked to investigate the concerns you have raised under the Dignity at Work procedure.

- Acknowledgement of any workplace companions or trade union representatives that are present and reference their role.

Example: Jessica you are very welcome to the meeting. You know that your role is to support Jane and you may make representations on her behalf if she wishes, but you will understand that you must not answer questions put to Jane.

- Explanation that non-verbatim notes of the meeting will be taken.

Example: David is also present and he will be taking notes of the meeting. These will not be word for word verbatim minutes but rather a record of the main points of discussion. These will be typed up and you will be provided with a copy which we would be grateful if you would review to ensure you are happy with their accuracy. Notes can become discoverable to all parties in the event of legal proceedings.

- Explanation that any audio or visual recordings are not permitted.

Example: For the avoidance of any doubt this meeting is not being recorded, can I ask everyone to confirm that their phones are on silent/switched off and they are not recording the meeting?.

- Discuss the timeframe for the meeting and taking breaks

Example: It is difficult to know exactly how long the meeting will last but I suggest we check how we are all feeling in an hour. However, if you feel you need to take a break at any stage before then please let me know.

4.3 Asking additional probing questions during the meeting

When conducting an investigation meeting, prepared questions should be used to start gathering the required information. However, it is important that pre prepared questions are not used as a narrow script and that the investigating officer listens and explores the information provided at the time.

There are likely to be instances where new information is introduced during a meeting which the investigating officer had not envisaged at the outset and therefore they will not have questions prepared which cover this in advance. New information should be probed when the opportunity arises during the meeting as otherwise there are likely to be gaps in the information established and a second meeting may be necessary, which is not ideal.

4.4 Closing investigation meetings

Once the investigating officer has asked all of their questions and gathered as much information as is appropriate they should start to close the investigation meeting. Before fully closing the meeting it is good practice to ask the interviewee if there is any further information they wish to provide and to check whether they have any questions or points of clarification before the meeting is closed.

Once any questions or clarifications have been dealt with, at the end of an investigation meeting, it is recommended that the information set out below is shared with all parties and it is included in the memory aid for the investigation meeting:

- *Explain that the notes of the meeting will be shared with the individual following the meeting and that they will have an opportunity to review the notes and check email addresses to be used for this purpose.*
- *Remind all parties in attendance about the need for confidentiality and that they should not discuss the investigation or the details of the meeting with outside parties.*
- *Explain that you will contact them if any further information is required.*
- *When the person is the subject of the complaint or has raised a complaint try to provide a timeframe, if possible, for the investigation to be completed or if not possible advise the person how you will keep them apprised of the progress of the investigation (without going into details) whilst the investigation remains live.*

5. REVIEWING INFORMATION AND REACHING OUTCOMES

5.1 Reviewing the investigation plan and terms of reference

Before moving on to analysing and evaluating the information gathered during the investigation, it is recommended that the investigating officer **reviews their investigation plan** to ensure that all areas have been covered and there are no outstanding meetings to be held or other information to be collated.

At this stage the investigating officer should also **review the terms of reference** for the investigation to check that they have conducted the investigation within the remit set out in this document.

When the investigating officer is satisfied that the investigation has been conducted in line with the investigation plan and terms of reference they can proceed with the analysis of the information gathered and reaching outcomes.

5.2 Analysis and evaluating evidence gathered



What does the information show?



Are there any concerns over the credibility and reliability of any of the information?



Is the information consistent or contradicted by other information collected?

When analysing the information that has been gathered the investigating officer should be mindful that their role is to establish the facts of the matter (to the extent possible). This means that investigating officers should be objective and not just consider information that supports the allegation(s) but also information which potentially contradicts or undermines the veracity of the allegations.

The type of information obtained and its relative weighting in the context of reaching overall conclusions also needs to be considered. This does depend on the circumstances of each individual case, however, some general principles when assessing the relative weighting of information gathered are set out below:

- *Information that cannot be disputed such as CCTV evidence, email records or an audio recording carries the highest level of weighting overall.*
- *Information that has been written contemporaneous generally carries more weight than information that is written retrospectively.*
- *First-hand accounts carry greater weight than information reported second hand by others who were not present at the time in question.*
- *Where possible (and subject to the overall number) first-hand accounts should be gathered from those present and areas of discrepancy probed.*
- *Verbal information provided during investigation interviews which contradicts contemporaneous written documents is generally less reliable and will require further probing.*
- *A portrayal of a certain situation by an individual where it is subsequently found that they have omitted significant details is likely to call into question the reliability of the account overall.*
- *Information provided by current staff is generally more reliable than approaching people who are no longer with the organisation. Therefore, approaching former staff should only happen if deemed absolutely necessary and vital to the investigation.*
- *When there are contradictions in different accounts of an event it is important to look for a motivation from any of the parties to not give an entirely honest and truthful portrayal of what has occurred.*
- *Weighing up evidence is not 'a numbers game' where the majority account wins. Even when there is a general consensus amongst a group of staff other information that confirms that their account is accurate (such as notes or emails) should always be requested where possible.*

5.3 How to reach a conclusion

Where there is undisputable information which has been checked and verified in the course of the investigation it may be possible to make a clear finding of fact.

In other circumstances investigating officers should aim to reach conclusions about what they believe did or did not happen taking into account all of the circumstances.

Investigating officers should ensure:

- *There is a clear conclusion for each allegation or group of allegations under investigation*
- *Conclusions are based on information obtained and not assumption*
- *Conclusions reflect the allegation under consideration and do not deviate from this*
- *Conclusions are clear, concise, logical and relevant.*

While it is desirable to conclude on a matter with absolute certainty in many investigations, particularly those based on verbal testimony, there is 'no smoking gun' and this will not be possible.

In such circumstances the main test to be applied in reaching conclusions is the balance of probabilities test. Further information on the use of these test is set out below.

5.4 Balance of probabilities

In circumstances where no categorical conclusion can be reached through indisputable information gathered during the investigation the investigating officer will need to decide what they believe has happened using 'the balance of probabilities' as their basis for reaching this conclusion. This requires the investigating officer to weigh up all the evidence and then reach a conclusion as to whether it is 'more probable than not' that a certain event or set of circumstances has occurred and the reasons why.

The balance of probabilities and the test of an event or set of circumstances being '**more probable than not**' is the standard of proof utilised in a workplace investigation. This is different to criminal law, where an investigation needs to find proof beyond all reasonable doubt that the matter took place. Therefore during a workplace investigation the investigating officer only needs to go as far as deciding that on the balance of probabilities an incident or set of events is more likely to have occurred than not, provided the investigating officer can explain how they reached that conclusion.

6. DRAFTING AN INVESTIGATION REPORT

Once an investigating officer is content that they have established the facts of the matter as far as is reasonably possible, an investigation report will need to be produced that explains findings and conclusions. A template format for an investigation report is contained at Appendix 4.

An investigation report should provide an overview of all the facts that were and were not established, and whether there were any mitigating circumstances that also require consideration. It is important to include all key information relevant to the investigation in the report.

The investigation report should be written and produced by the investigating officer. While it is acceptable for an investigating officer to seek advice from an appropriate third party such as the HR team, the conclusions should be their own.

6.1 Structure of an investigation report

The recommended structure for an investigation report is set out below. A consistent structure to the investigation report will ensure that all issues that were agreed in the terms of reference are covered and all of the investigation's findings are included.

Introduction	<ul style="list-style-type: none"> • Name and job title of the person who conducted the investigation. • A background of the circumstances that led to the investigation including the names of the individuals involved.
Terms of Reference	<ul style="list-style-type: none"> • The agreed terms of reference of the investigation.
Methodology	<ul style="list-style-type: none"> • Who attended an investigation meeting and when. • If anyone could not attend or take part in the investigation state why. • What information was collected. • Whether any pieces of information could not be collected and why. • Whether notes were agreed or otherwise.
Allegations / Areas of Complaint	<ul style="list-style-type: none"> • Set out the allegations under consideration. • Summarise the key information obtained from each individual/witness under each allegation. • Summarise the findings from all relevant documents under each allegation including what facts have been established and not established. • Set out whether there are any mitigating factors to be taken into consider. • Set out a clear conclusion for each allegation.
Overall Conclusions and any recommendations	<ul style="list-style-type: none"> • Provide an overall conclusion based on all information collated. • Provide any other recommendations related to the matter if within the agreed terms of reference to do so.
Next Steps	<ul style="list-style-type: none"> • Confirm the next steps following the completion of the investigation report.
Appendices	<ul style="list-style-type: none"> • To include a copy of notes of investigation meetings and any relevant information needed to support the findings which is not already detailed in the report.

6.2 Report writing language and style

When writing the investigation report it is essential to use clear, impartial and unambiguous language.

The report should also:

- *Be concise and not stray off topic*
- *Explain any acronyms used*
- *Be written in an objective, unbiased style*
- *Avoid nicknames and jargon*
- *Use the same form of address for all people referenced*
- *Be kept as simple as possible.*

The report should also include appropriate referencing of all information considered so that it is clear where the information has come from.

It is also necessary to use appropriate punctuation including speech marks when quoting directly from information that somebody has provided so that this is clear it is information being conveyed and is not the opinion of the investigating officer.

6.3 What to include in appendices

The appendices should include any documents that the persons reading the report may need to reference to understand the contents of the report. They typically include notes of investigation meetings, and any other written information such as statements, reports, or emails etc.

Where written information such as emails or text messages have been referred to in full the body of the report it is not necessary to reproduce these again within the appendices.

6.4 Retaining draft reports and confidentiality

Where possible it is recommended that the investigation report is maintained as a 'live' document during drafting where it is amended and updated until the final version is ready to be issued. This means there is only one document which reduces the risk of issues with version control. Where this is not possible, draft versions of reports should be clearly referenced and securely disposed of when the final report is completed.

The investigation report will include confidential and sensitive information therefore it is important that the report is stored securely and access is restricted to those individuals who have a specific reason to need to access it in order to satisfy data protection or other legal requirements.

The investigation report should be securely disposed of once it becomes irrelevant or out of date in accordance with the organisation's agreed document retention policy.

7. COMMON ISSUES ARISING IN INVESTIGATION MEETINGS

In this section we have set out some of the common issues that arise in the course of conducting an investigation. It is not designed to be an exhaustive list. If in any doubt as to how to proceed the investigating officer should seek appropriate advice.

7.1 Recording device presented at the meeting

Recording investigation meetings is only permissible if there is the express consent of all participants to be requested in advance. Covert recording of a meeting (i.e. without seeking the consent of all meeting participants) is likely to be considered a separate disciplinary matter.

In the event that an individual attends an investigation meeting and presents a recording device that they wish to use, the investigating officer should explain that audio/visual recordings are not permitted without consent (which is not being granted) and that the note taker present will capture the salient points of the meeting.

7.2 Accompanying person seeks to control the meeting

A workplace companion or trade union representative has a clear remit within an investigation meeting. If the companion is conducting themselves in a way that is obstructive to the investigation, for example, answering questions on behalf of the individual, raising their voice to express their opinion, shutting down questions from the investigating officer before a response can be given, the steps set out below are recommended:

- *Remind the companion of their role, explain that they cannot answer on the behalf of the individual and warn them that a continuation of the same behaviours is likely to result in the meeting being terminated.*
- *Request an adjournment and speak to the companion about their role and the purpose of the meeting in private and seek their cooperation in order for the meeting to continue.*
- *If the behaviour continues and the companion is obstructing the meeting, explain to the employee that you have no option but to bring the meeting to a close and seek appropriate advice.*

7.3 Management of extreme emotions

It has to be recognised that investigation meetings may be uncomfortable for certain parties involved (particularly if they are the subject of a complaint or the subject of a disciplinary investigation) and it is understandable that at times employees will be anxious or upset during meetings.

In the event that an individual becomes upset it may be appropriate to seek a temporary adjournment and then to establish if they are fit to carry on and/or to terminate the meeting for the day and reconvene at a later stage.

However, any behaviour that is considered to be overly rude, aggressive or disrespectful should not be tolerated as this is likely to lead to a continuation of the behaviours which only makes the matter unnecessarily stressful and uncomfortable for all concerned.

If angry or aggressive emotions are causing difficulties within a meeting the below recommended steps can be taken:

- *Acknowledge that the person appears to be angry and that a certain level of heightened emotion is understood, however remind them that the meeting is being conducted in a workplace environment where angry or aggressive behaviour cannot be allowed to continue when the investigating officer is only doing their job.*
- *Offer a short adjournment to allow the individual to regain composure whilst reminding them that any continuance of that behaviour when they return to the meeting cannot be tolerated. Explain to the individual that any continuation of the same behaviours are likely to result in the meeting being terminated which may not be in their best interests and could also result in a separate disciplinary matter.*
- *If the individual(s) withholds co-operation or does not behave in an acceptable manner further to an adjournment the investigating officer should terminate the meeting and seek further advice.*

7.4 Employee raises new issues outside of agreed terms of reference

If an individual raises issues within their meeting that are not within the terms of reference of the investigation it should be explained clearly to the individual that this is not within the scope of the investigation being conducted. Common examples include raising issues on behalf of other people.

7.5 Employee requests other witnesses or external parties are approached

During the course of an investigation meeting individuals may name further employees that they believe should be spoken to as part of the investigation. The investigating officer does not need to automatically proceed to meet with the additional employees. First, the investigating officer should consider what relevance they have to the investigation and make the final decision on whether to hold meetings with them.

Where a decision is made that it is not appropriate to speak to the further witnesses named, this should be addressed in the investigation report to explain the rationale behind this.

8. HOLDING VIRTUAL INVESTIGATION MEETINGS

There may be occasions when it is considered appropriate for the investigating officer to conduct an investigation meeting 'virtually' i.e. via an online platform such as MS Teams or Zoom.

Whilst the meeting will follow the same premise as a face to face meeting, there are some additional considerations needed in advance of a virtual meeting, particularly in relation to planning and preparation.

8.1 Planning and preparation

Before the meeting takes place the investigating officer should ensure that the meeting details have been sent out to all participants.

The investigating officer should also ensure that they are able to conduct the meeting in a confidential area free from distraction and interference where there is a reliable internet connection.

It is advisable for the investigating officer to log on and start the virtual meeting approximately 5 minutes before the planned start time to ensure the microphone and camera are functioning correctly and there are no other technical issues which will impede the progress of the investigation meeting.

As with face to face meetings, audio/visual recordings of investigation meeting are not generally permitted (unless permission is granted in advance) and this should be made clear to everyone at the start of the virtual meeting.

8.2 During the meeting

Other recommended tips for conducting virtual investigation meetings include:

- *Check at the start of the meeting that the employee being interviewed is in a room where he/she can speak to you confidentially. If the employee is in a shared workspace or with other people present (except a companion) ask them to re-locate to a different room or area before continuing.*
- *Ask the employee to confirm that no one else is present in the room (save their right to have a workplace companion or certified trade union representative present as per normal accompaniment rules).*
- *Ask everyone to have their cameras turned on throughout the meeting. It is polite to be able to see each other and it will help the investigating officer to read body language and build rapport.*
- *For confidentiality reasons it is recommended that the investigating officer is the meeting host and they should always ensure that the meeting is closed and all participants have left the meeting at the end.*
- *It is recommended that the investigating officer keeps a mobile telephone handy during the meeting in case of a lost connection or other issue that needs to be remedied quickly.*

9. FURTHER INFORMATION AND ADVICE

Further information about conducting workplace investigations can be found in the Labour Relations Agency (LRA) Code of Practice on discipline and grievance procedures.

www.lra.org.uk/resources

For further advice and guidance on conducting investigations the investigating officer should refer to their local HR team.

APPENDICES



1. TEMPLATE INVESTIGATION PLAN

Name of investigator	
Agreed terms of reference	
Provisional timeframe	
Policies and procedures to review and follow	
Outline of issues/allegations that need to be explored and clarified	
List of evidence to be sourced and collected	
Name(s) of persons to be interviewed <i>(including planned order of interviews)</i>	
Investigation meetings further arrangements <i>(Time/location/details of notetaker)</i>	
Persons to supply own statement <i>(if applicable)</i>	
Investigation meetings to be completed by	
Collection of evidence to have been completed by	
Further considerations to be made	

2. TEMPLATE INVESTIGATION MEETING INVITE LETTER

Strictly Private and Confidential

[Name]
[Address 1]
[Address 2]

[Date]

Dear [name],

RE: RE INVITE TO INVESTIGATION MEETING

I am currently conducting an investigation into allegations of [detail of allegations or areas of complaint] that have been raised against you/raised by xxx person [delete as applicable] under [insert details of policy being utilised]. I am writing to invite you to attend an investigation meeting on [date] at [time] at [location] so that I may discuss the matter with you.

In attendance will be myself and [insert as applicable] who will take a non verbatim note of the meeting. Please bring with you any information that you think might be useful to the investigation.

If you wish, you may be accompanied by a trade union representative or a current work colleague. Your companion will be permitted to address the hearing and to confer with you during the hearing but they will not be permitted to answer questions on your behalf.

To ensure that the investigation can be conducted as fairly as possible I request that you keep the matter, and anything discussed at the investigation meeting, confidential. Any breach of confidentiality may be considered to be a disciplinary matter.

Please confirm by [date and time] your availability to attend, and the name of your chosen companion, if applicable. I would also ask that you notify me if you or your chosen companion have any special requirements for the meeting.

Yours sincerely,

Signed.....
[insert name and role]



3. TEMPLATE INVESTIGATION MEETING AID

Template Meeting Aid (amend as appropriate for each investigation meeting)

Introduction

- Explain who you are and that the purpose of the meeting is a fact finding exercise (select as appropriate):
 - Employee raising complaint** - Explain that the purpose of the meeting is to confirm the concerns being raised and to ask questions in and around these matters;
 - Employee being investigated** - Give an overview of the allegations against them which are being investigated;
 - Witnesses** - Explain in broad terms that you are undertaking an investigation under the Disciplinary, Capability, Grievance or Dignity at Work Policy and you believe that they may be able to provide some relevant information. In the case of witnesses this should be limited to whatever part of the investigation you believe they can assist with. You do not need to give other details to witnesses that they do not need to know for confidentiality reasons.

Roles in the meeting

- Explain the role of the investigating officer is to ask questions and gather information from the interviewee;
- Explain the role of the companion is:
 - *To provide support to the employee during the meeting;*
 - *To sum up the employee's case and elaborate on what the employee says (if desired);*
 - *To seek an adjournment and speak privately with the employee during the meeting, if required;*
 - *However, they cannot respond to questions that are asked of the employee.*
- For those employees who attend without accompaniment - remind them that they have been advised of their right to have someone present at the meeting and confirm their agreement to proceed without accompaniment.
- Explain that the role of the note taker present is to take a record of the meeting, and the notes will not be verbatim.

Key information to share

- Remind all parties in attendance that what is discussed during the interview is confidential and the matter should not be discussed outside the investigation.

- Remind all parties that the information gathered during the interview can become discoverable in the event of legal proceedings and can form part of Subject Access Requests and may be seen by third parties.
- Explain that the meeting will not be recorded audio or visually as notes will be taken and ask everyone present to confirm they are not recording the meeting.
- State that all mobile phones or other devices should be turned off during the meeting to avoid distraction or interruption.
- Explain that it is impossible to say how long the meeting will last and come to an agreement about when a break will be taken (often after 1-1.5 hrs). Explain that the person can make request for a break before this time if required.

Format of the meeting

- Advise that you will ask questions in order to obtain the employee's account of events and the individual will be given full opportunity to respond.
- Explain that when you have finished asking questions the employee and their companion will be given the opportunity to add anything which they feel is relevant which has not already been covered.

Agreement to proceed with interview

- Confirm the employee has understood the information provided above and is happy to proceed.

Questions (*Set out in advance the main questions you need to ask each individual*)

- 1.
- 2.
- 3.
- 4.
- 5.
- 6.
- 7.
- 8.
- 9.
- 10.

Closing the meeting

- Thank the employee and their companion for their time.
- Summarise back to the employee the main points covered during the meeting.

- Explain next steps and advise when the investigation is likely to be completed (approximate timescale) and/or what information can/will be shared in the meantime regarding progress. If providing a timeframe is not possible [this is only applicable to the person(s) who are the instigator and the subject of a complaint in a grievance or dignity at work investigation and the person who is the subject of the investigation in a disciplinary investigation – witnesses do not require additional information).
- Explain that it may be necessary to arrange a further interview if necessary (although in most cases this won't be necessary).
- Check the most appropriate email address for notes to be sent to and ask whether they are to be copied to a Trade Union Representative simultaneously or not.
- Remind everyone present about the need to maintain the confidentiality of the process.

4. TEMPLATE INVESTIGATION REPORT FORMAT

Introduction	Investigation authorised by: [Name and role]
	Investigator: [Name and role]
	Date investigation began:
	Name and details of the person who is the subject of the investigation
	Brief Summary of what the investigation is about and under which policy it is being conducted
	Any relevant background information about what has led to the investigation, circumstances leading up to it

Terms of Reference	What is being investigated
	What is not being investigated (if applicable)

Methodology	List of people interviewed and how this was done, when it was done
	If anyone didn't attend interviews and if so, why
	Whether other information was collected (doesn't need to be written in full here but should be listed)
	Whether notes were agreed with all parties or otherwise

Allegations / Areas of Complaint	Summary of allegations: [Set out and list the allegations under consideration in the report]
	Summary of key information: [Summarise the key information provided by each individual or witness, and piece of evidence under each allegation]
	Findings: [Summarise the findings from all the relevant documents under each allegation including what facts have been established and not established]
	Mitigating factors: [Detail if there were any mitigating factors uncovered that are relevant to the investigation]
	Conclusion: [Set out a clear conclusion for each finding/allegation]

Overall Conclusions	Overall conclusions: [Provide an overall conclusion based on all information collated. In disciplinary investigations this will set out whether there is a case to proceed to a disciplinary hearing. In grievance and dignity at work cases this will go as far as whether the allegations being made should be upheld in part, in full or not at all]
	Further details of any other recommendations: [Provide any other details on the recommendations related to the matter if within the agreed terms of reference to do so. For example, retraining, policy review. (N.B In disciplinary investigations, the investigating officer should not recommend a possible sanction. This should only be considered at a disciplinary hearing)]

Appendices	[List all documents collected as part of investigation and included in report if not set out in full in the report]
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