



Do you employ staff?

Do you have difficulty understanding your legal and contractual responsibilities as an employer?

Do employment problems keep you awake at night?

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Conducting Investigations Correctly

What is an Investigation?

An investigation is a fact finding exercise which should be undertaken any time an employer is looking for answers to situations such as poor performance, poor attendance, or sensitive issues. Most people would assume that an investigation is only part of the disciplinary and grievance procedures, but there are informal uses as well. Whenever you are meeting with an employee to discuss a situation i.e. a return to work meeting, you are investigating the situation. An investigation is a process which allows you to develop a better understanding and have a clearer view of a situation, therefore providing you with the knowledge of what future steps you should take.

What Not to Do

If an investigation procedure is not carried out correctly this could lead to an employer finding themselves in a difficult situation in front of an employment tribunal. It is important when conducting an investigation that you leave your emotions at the door and view the situation objectively. Treat the investigation as what it is – a fact finding exercise, not a disciplinary. Don't go to an investigation with your mind made up about an employee's "guilt" or wrong doing, you will not know all the facts before you speak to the employee in question.

It is very important that you don't surprise an employee with an investigation. By providing an employee with no forewarning of what is

about to happen they can find the situation surprising, unsettling and emotional. In some circumstances they may be so surprised that they may not be able to properly explain their actions or behaviour. Also, an employer should not start discussing a subject that the employee is not informed about i.e. witness statements.

Finally, an employer must always ensure that the member of management conducting the investigation is not carrying it out alone. There should always be the investigator, the employee being investigated, and a note taker. If there are only two people in the room it can very quickly turn into a "he said/she said" scenario.

Best Practice

When conducting an investigation you should first of all set the correct tone, make sure the employee is comfortable in their environment. Provide the employee with at least forty-eight hours' notice so they can emotionally prepare themselves for something which may be stressful or hard. Make sure you come to the investigation prepared. You will need to produce a list of questions to make sure your investigation is thorough; if you leave all topics to your memory it is likely you will miss something that could be important.

Ask open questions. These will allow the employee to give the strongest answers and deliver the employer the best understanding. Open questions are questions such as "why, what, when, where, how and who." They don't lead the employee's answer in one specific direction.

Allow your employee to see and defend themselves against anything which has been said against them i.e. other employee's witness statements. An employee has the right to dispute something if they feel it is incorrect, if you don't allow them access to all of your information they may not have a full understanding of what they are being questioned about. Sometimes if something is disputed more information may be offered, an employer may find themselves hearing a side to the story they never knew, and they must then always ensure they look in to this. There doesn't have to be only one investigation per situation.

Finally, the most important thing to do in an investigation is to take notes and keep records. By keeping accurate notes you are providing yourself with evidence of what was discussed in the investigation, and this can then be used as a reference point for future action.

How We Can Help

We can help you by providing you with information, guidance and training on the best way to conduct an investigation.

If you have any queries relating to any of the subjects raised within this newsletter then please don't hesitate to contact us at hradvice@hasslefreehr.co.uk

For clarification of any of the above updates or for advice and guidance on any HR and/or Health and Safety Concerns contact us by emailing hradvice@hasslefreehr.co.uk or by calling 02476 664092.

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