



OVERVIEW - WORK INSIGHTS INVESTIGATIONS

At Work InSights Investigations, we help businesses investigate all types of matters that arise in the workplace (such as complaints about bullying), leveraging our considerable experience to provide you with immediate guidance on a suitable way forward. In particular, because of our link with Harmers Workplace Lawyers, we have significant experience and expertise in the area of complaints about sexual harassment, and can bring that expertise to our investigations unit.

We understand the need to react quickly, carefully and discreetly to provide peace of mind that any matter is managed in a procedurally fair manner to minimise risk.

WHAT IS AN INVESTIGATION?

The purpose of an investigation is to determine, assess and report on workplace issues. A workplace investigation is not a formal trial. The strict rules of evidence do not apply, although it is advisable to at least keep in mind some of those rules, and it is certainly necessary to maintain natural justice throughout an investigation.

Investigations may arise as a result of any of the following:

- workplace conduct;
- disciplinary matters;
- workplace inefficiencies;
- underlying workplace issues; and
- where a complaint (for example, about bullying or sexual harassment) has been made.

No two investigations are ever the same.

WHY CONDUCT AN INVESTIGATION?

Not every issue requires an investigation, and even where some investigation is needed, not every matter requires a formal investigation. Whether an issue requires a more formal investigation will depend on a number of factors, and should be assessed by a practitioner experienced in issues arising in the workplace. A more formal investigation should be conducted where there is a significant impact on any or all of the following:

- the person making the complaint;
- the person who the complaint is made against;
- the workforce; and
- the wider business.

WHY IT IS SO IMPORTANT TO GET IT RIGHT?

All employees are entitled to both substantive and procedural fairness, as well as other legal rights in respect of an investigation. There are numerous examples of where businesses have attempted to manage an issue, only to run into subsequent difficulty where the matter has not afforded a “fair go” all round. We have a detailed understanding of the law and how to effectively run investigations to help you avoid such pitfalls.

DIAGNOSTIC

With any matter that arises in the workplace, our first step is to meet with you to understand the nature of the issue; and to consider the impact to your business.

We use a diagnostic tool to assess the severity and

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potential impacts with respect to the issue raised, and therefore recommend a way forward that mitigates risk and creates a plan to minimise the impact on the business.

Depending on the nature of the issue we may recommend any of the following:

- guided investigation;
- complete investigation;
- facilitated discussion;
- mediation; or
- training.

What workplace issues do we help solve?

We assist in solving workplace issues that relate to bullying, harassment, discrimination, serious misconduct, systemic issues and fraud.

GUIDED INVESTIGATIONS

We can work with you by providing an independent resource in a consulting capacity to assist you or your team to ensure the investigation can withstand legal scrutiny.

Our guided investigations involve an initial discussion with you to determine the minimal amount of work necessary to best assist you with your investigation.

Whilst you have the in-house expertise, we recognise that you may not wish to commit resources to the time intensive process of analysing and collating evidence, conducting interviews and writing reports. In this regard, we can offer a few different alternatives including providing you with a Lead Investigator to conduct such work on an hourly basis.

Our team work in a consulting capacity to advise on the process; and to act as the expert during the investigation to ensure procedural fairness. We can provide you with an overall plan or we may assist you with just one component of the investigation, for example, conducting interviews.

Best practice standards for conducting interviews

Interviews are a critical part of virtually every investigation. Witnesses and potential respondents



have the facts – the who, what, where, when and why – and how successfully interviewers obtain those facts can make or break the investigation.

Work Insights Investigations understands best practice standards when conducting effective witness interviews. Thorough preparation, focused questions and analysis of documents can ensure that the relevant substantive topics are covered during the interview.

It should be clear that each interview in each investigation is a distinctly unique event deserving of careful planning and its own strategy, tailored to the interviewee.

COMPLETE INVESTIGATIONS

We can work for you conducting a thorough, detailed and independent investigation into your workplace issue from beginning to end.

When a business is confronted with evidence or allegations of potential wrongdoing, the company is well served to respond deliberately and thoughtfully by making sure it understands all the facts.

In addition, when an investigation focuses on conduct that potentially implicates management, it is especially important that the investigators be viewed as independent.

Work Insights investigators have extensive experience when conducting workplace investigations. We understand that businesses may have the resources to conduct an investigation but not necessarily the experience or sound methodology. Where a matter arises in a workplace to such a degree that an independent investigation

is warranted, we can manage the process from start to finish for you.

MEDIATION

There may be times when an investigation is not required. In these instances, we can assist you with proven alternatives to an investigation and help by facilitating a discussion or providing mediation.

With expertise in the area of Workplace Law, we recognise and understand that mediation can often be the best approach to resolving a matter that arises in the workplace.

The mediator's role where conflict arises is to restore confidence ("empowerment") and responsiveness to others ("recognition"), shifting the interaction from destructive to constructive.

In effect, mediation sees conflict as a problem to be solved, and the mediator's role is to generate an agreement between the parties in conflict.

Most importantly, success should be measured by the ability to not only produce a resolution but to also improve the relationship between the parties. Where this is achieved there are significant benefits to individuals and a flow on effect to their co-workers.

TRAINING

We run half day and/or one day workshops to assist companies who need to better understand the ins and outs of conducting a workplace investigation.

There is a significant body of legislation now covering workplace behaviour, from discrimination and harassment to bullying and victimisation. Complaints of harassment, discrimination and bullying continue to increase, but as organisations develop appropriate procedures for dealing with



issues, and continue to train staff in how to make an internal complaint and deal with it in a fair, impartial and prompt manner, more and more complaints can be resolved internally without the need for recourse to a more formal/legalistic external process.

The success of complaints managed in-house therefore depends to a large extent on the quality of the training given to those involved in resolving the complaints and the accessibility of the internal resolution process.

The internal investigator plays a crucial role in maintaining the integrity of an internal resolution process. In particular, in ensuring that a fair, impartial, prompt and confidential process is followed and the principles of natural justice applied. This takes skill and judgment.

Our training course teaches these skills and provides investigators with the confidence and knowledge necessary to be able to conduct investigations into workplace bullying, harassment, discrimination and other types of inappropriate behaviour.

Our programmes are designed for those staff who have been selected to undertake the role of investigator/complaints resolution officer. Generally, these staff are senior in an organisation and have the authority to implement a recommended outcome – for example, a member of HR, a senior manager, supervisor or team leader.

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