



Breakfast Briefing 6 July 2022 Investigation

How to Conduct Investigations



- What evidence should be considered
- How should you document the investigation
- Potential outcomes

Disciplinary Procedure



3 separate and distinct stages which should be followed



Separate personnel required to deal with each stage

Disciplinary Procedure



- Supported by the [ACAS Code on Disciplinary and Grievance Procedures](#)
- Potential for an uplift of up to 25% on Employment Tribunal Awards

Starting the Investigation



- Familiarise yourself with company policy & ACAS Code
- Prepare in advance of meetings
- Keep an open mind, do not assume anything

Starting the Investigation



Every issue of conduct or performance must be investigated before disciplinary procedure is instigated – ACAS Code

If there is an allegation of gross misconduct the employee may be transferred to other duties or suspended on full pay to allow investigation to be completed

This is not a disciplinary penalty

Suspension should be as short as possible a last resort

Suspension should be with full pay



Initial Planning



How did the complaint come to light and when?

Who requested the investigation and why?

Check company procedure and ACAS Code – how should it happen?

Who should conduct?

Is that person impartial?

Do they have sufficient experience?

Who is conducting –line manager/role of HR?

Preparation



What are the allegations?

What questions need to be asked?

What witnesses need to be interviewed in the first instance?

What evidence needs to be considered and gathered?

Do witnesses need to sign statements?

Gathering the Information



Should there be a standard form?

Take witnesses in sequence – remember the person accused

One at a time

Prepare your questions

Establish relationship

What if witnesses requests anonymity?

Questions

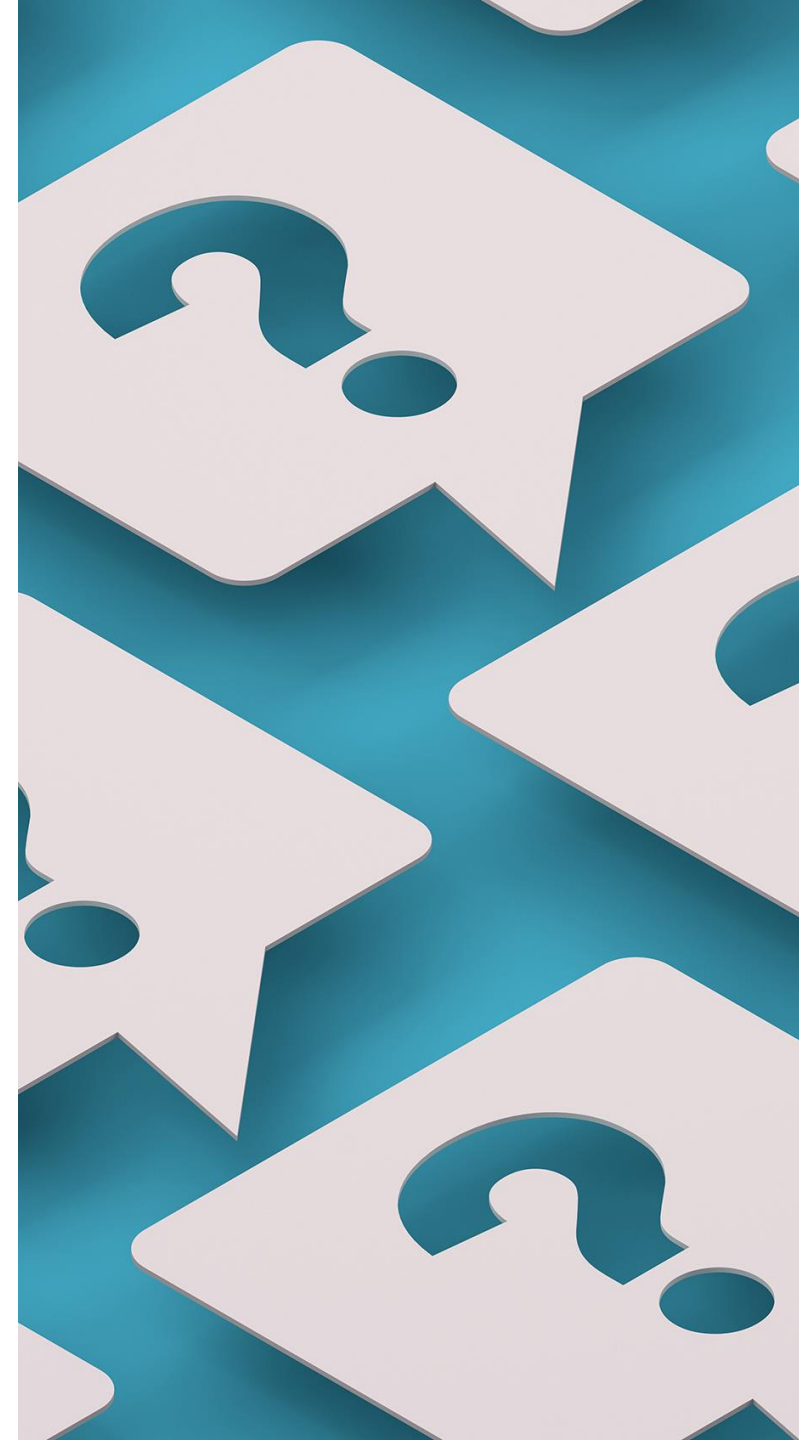


Open questions

Relevant questions

No leading questions

- Who?
- When?
- Where?
- What?
- Why (opinion)



Investigation Case Study



- You have been asked to act as the investigating officer in a case where the details are as follows. The employee does not work directly for you but you managed him several years ago.
- The allegation has been raised by the employee's line manager who reported that employee X had dropped a gearbox component from his hands on to the concrete floor which has resulted in the part having to be scrapped with a potential loss of £60K. The line manager reports that X knows that the part required a 2 person lift or use of the crane if 2 people are not available. In his initial review of the situation, the line manager says that X denied he was aware of the 2 person/crane lift rule and that his training for slinging had expired so he'd been told he could not use the crane. X alleges that the part was to be scrapped anyway and that the part had slipped for his hands because oil had leaked during pressure test which would mean it would be scrapped. He was taking it to Quality who would condemn it. The line manager also stated that X constantly flouted health & safety rules and that he had asked HR to intervene. He did not know if any of the 16 people in his team witnessed the incident, but believed that some would have overheard their exchange after the part was dropped.

Case Study – Discussion Points



- Who will you need to speak to and in what order?
- Are there any other documents you might ask to see?
- What are your questions for the line manager?
- What are your questions for X
- What questions might you ask any other witnesses
- If X admits dropping the part what additional evidence might you be looking for?

Questions for X?



Tell me what happened? Where were you taking the part? Why? How far away? You know the part is heavy why did you not ask for help or use the crane? Have you lifted this component on your own before? What safety measures did you take to reduce the chance you might drop it? Do you know the value? What else could you have done? Why not wait? Are all gearboxes which fail test scrapped? Who decides? Do you have authority?

Can you tell me about the Risk Assessments surrounding this task? When did you last read them? Where are they kept? What information is there about lifting this component? Is lifting this component by hand common practice? When did you last undertake manual handling training? How did you know your slinging training had expired?

Tell me about the health & safety regime in the workplace? When did you last complete health & safety training? What PPE is required for your role and when do you use it? What conversations have you had with your line manager about health & safety?

Questions for Line Manager?



Tell me what happened? What did you see? Were there any eye witnesses other than you and X? X suggests this part was to be scrapped anyway – what is your view? Can X make the decision to scrap the part? Did the part fail quality check? Why? What would that normally mean?

Can you tell me about the Risk Assessments surrounding the task? How do you make sure staff are aware of them? Where are they kept? What information is there about lifting this component? Is lifting this component by hand common practice? When did your team last complete manual handling training?

Tell me about the health & safety regime in the workplace? When did you last check your staff had completed health & safety training? What PPE is required for your team's role and when do they use it? What conversations have you had with your team about health & safety? Where have you intervened in the past on the alleged health & safety issues?

How did you react to the accident? What did you do? Did you record it as a near miss? What conversation did you have with X?

Questions for any other Witnesses?



Tell me what happened? What did you see? Were there any eye witnesses other than you and X?

Is this normal practice? Do you know what steps should have been taken to avoid this outcome? What would you have done? Why would you have taken a different decision?

Where are the risk assessments for the job kept? Are they up to date? When did you last receive training? Are you required to do any mandatory training? If so, is it in date? How do you know when refresher training is due? How would you characterise the health & safety management in your department? How would you evidence that?

Investigation Report



- Findings of fact – be clear this is a fact finding exercise and not a decision in relation to what the person accused did/not do
- Does it appear that a company rule or policy may have been breached?
- Is there a case to answer on behalf of the employee accused and what action should flow from that? (not penalty)

Investigation Report - Recommendation



- Have wider issues been identified which require action by others eg HR, OH, H & S?
- Is this a case where a line needs to be drawn in the sand for all employees re future conduct?
- Can't reinvestigate simply because you don't get the outcome you want

Investigation Report - Completion



- Ensure investigation has been completed and all statements obtained before decision is reached in relation to progress
- If further information emerges later, further investigation can be carried out at disciplinary/appeal stages but better to gather all at investigation stage
- Be clear what documents are sent on to disciplinary manager and employee if that is the next step
- Detail in a footnote or prepare a list and ensure sent to both parties

Investigation - Delays



- If an employee goes off with stress/anxiety/depression during or at the conclusion of an investigation
- Refer reasonably promptly but in accordance with normal practice to OH
- Seek specific advice about fitness to deal with disciplinary issue, ability to attend investigation/disciplinary hearing as well as routine questions
- Be patient
- Follow up with OH and consider seeking advice about alternative methods of dealing with matters e.g. by correspondence

Investigation - Conclusion



- Investigation is a crucial part of the process
- Anything which is missed or goes wrong at the investigation stage can and often does have a detrimental effect on the later stages
- Even if it appears to be a 'cut and dried' case, don't cut corners
- Deal with all investigations in a consistent manner
- Do not delay process unreasonably

Meeting Notes



- Keep detailed and accurate notes of any formal interviews
- Preferably should be signed and dated by the statement giver
- Keep detailed and accurate note of any informal conversations which take place
- Follow up and review past cases for learning and process change



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ANY QUESTIONS ?



Thank you



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