



Investigating corruption and misconduct – tips from the experts

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Overview

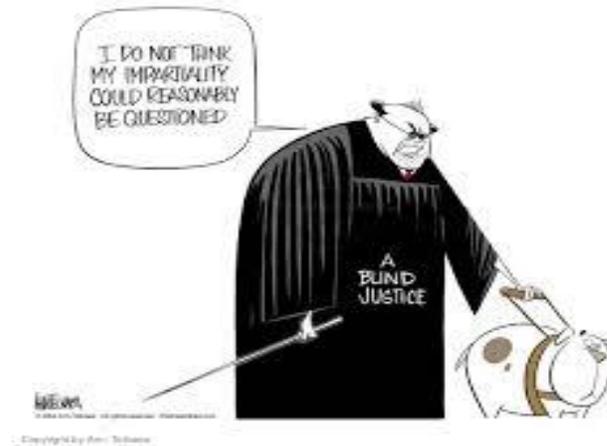
1. Importance of an effective investigation
2. Receiving and assessing allegations
3. Planning the investigation
4. Record keeping
5. Procedural fairness
6. Confidentiality.

Effective investigations

- ensure those who have engaged in corruption and misconduct are identified and dealt with appropriately
- clear the names of those who have been wrongly suspected
- clarify the boundaries of acceptable behaviour
- foster confidence in workplace investigations.

An investigation is not a trial

- workplace investigations are not trials – you are not a prosecutor or plaintiff
- you are impartial
- your duty is to collect and assess relevant information and reach a finding on the facts
- if you have a conflict of interest, remove yourself.



Receiving allegations

- ask yourself – should this matter be reported to IBAC?
- interview the source of the information
 - time and place that makes source comfortable and minimises inconvenience
 - allow time to obtain the details
 - assess the credibility of the source and the reliability of the information
- record the interview or ask them to check a written summary
- ask what outcome they want – manage expectations
- other useful questions.

Assessing allegations

- make discreet preliminary enquiries, as required
- assess the information and determine whether to proceed to a full investigation
 - investigation is likely to be sensitive and may be resource-intensive
 - if handled poorly, an investigation can have serious ramifications for individuals and for the organisation
 - if an investigation does not proceed, there can be serious ramifications
- is there another more suitable option?



Confidentiality

- maintain confidentiality of the source
- protect your source during the investigation
- confidentiality of the subject and witnesses
- ask people to keep information confidential
- share information on a 'need to know' basis.

Planning the investigation

Establish your responsibilities

- obtain written delegation or authority from the principal officer
- ensure you are delegated necessary powers
- consider who in and out of the organisation can help you – audit, HR, IT, legal, finance...

Planning the investigation

Define scope and purpose

- the scope details the boundaries of the investigation
 - Investigate the circumstances surrounding [the performance of a specific function] for the period 1 Jan 2015 to date.
- the purpose is what the investigation is trying to achieve
 - To determine whether the contract with X should be terminated.
- balance the need to confine the investigation with the need to be flexible.

Planning the investigation

Identify potential avenues and sources of information

- documents or things
- people who may have witnessed events, created documents or handled things
- focus broadly on all possible sources of information, not proving or disproving something.

Planning the investigation

Prepare the investigation plan

- defines what you do, why you do it and when you do it
- keeps your investigation focused
- before you complete a task, see where it fits in the plan and when you have finished a task, mark it off
- format and detail of the plan is up to you
- key features: scope and purpose; resources; timeframes; responsibilities; and risks.

Planning the investigation

Identify where you can find information

- identify possible outcomes
 - possible criminal offences or referrals
 - disciplinary matters
 - administrative issues
- identify core factual issues
- identify investigative activities
- consider the order of activities.

Record keeping

- establish a secure electronic and/or paper filing system, which can only be accessed by authorised people
- ensure records and things are properly stored to avoid loss, damage, contamination and to preserve integrity
- issue receipts for documents
- record access to, and transfer of, possession
- maintain a record of information or items received.

Investigating

- try to gain everyone's cooperation
- conducting interviews
 - plan
 - give affected person notice of the nature of the allegation and how the investigation result could affect them
 - record key details at the start of the interview
 - ask open ended and non-leading questions
 - use the TED method
 - Tell me, explain to me, describe to me...
 - at the conclusion, ask if they have anything to add
 - provide interviewee a copy of the recording, unless there are good reasons not to.

Investigating

- taking statements
- making information requests and conducting searches
- conducting surveillance
- using experts
- ongoing reporting to supervisor.

Procedural fairness

- impact of poor process v good process
- requirement for objective and comprehensive investigation
- requirement to afford procedural fairness
- interviews
 - give notice of the interview and allegations
 - give the officer an opportunity to have an observer
 - provide interpreters as required

Procedural fairness

- treatment of affected persons
 - minimise harm
 - give affected persons an opportunity to present information and arguments
 - ensure investigation is, and is seen to be, conducted impartially.

Analysis and reporting

- what are the determinations that need to be made?
- resolving core factual issues
- relevant standards of evidence
- writing the report.

Further information

Investigations guide – Conducting internal investigations into misconduct

Available at www.ombudsman.vic.gov.au
www.ibac.vic.gov.au