



Workplace Investigations: Key Considerations

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What is a workplace investigation

- A fact-finding exercise with three main objectives:
 - Determine what happened
 - Prevent reoccurrence
 - Ensure compliance with internal practices (hiring, discipline, and termination policies) and/or legislation requirements
- Risk management tool:
 - Mitigate liability risk for: human rights complaint(s), wrongful dismissal, or grievance

Three stages

1. Pre-investigation planning
2. Conduct of the investigation
3. Post-investigation issues

Stage 1: Pre-investigation planning

- Why investigate?
- Handling requests for anonymity
- Internal vs. external?
- Determining scope of investigation
- Developing the investigation plan
- Implementing interim measures

Stage 2: The investigation

- Minimum requirements
- Issues of confidentiality
- Right to representation?
- Interviewing witnesses
- Evidentiary considerations

Stage 3: Post-investigation

- Communication of results
- Final report
- Corrective actions – discipline

Common pitfalls

1. Failure to provide procedural fairness to Respondent
2. Not taking complaint seriously
3. Wrong choice of investigator
4. Failure to follow policy
5. Failure to properly document
6. Failure to advise complainant of outcome



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The materials should not be relied upon as a substrate for consultation with a lawyer with respect to the reader's specific circumstances. Each legal or regulatory situation is different and requires review of the relevant facts and applicable law.

If you have specific questions related to these materials or their application to you, you are encouraged to consult a member of our firm to discuss your need for specific legal advice relating to the particular circumstances of your situation.

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