**HUMAN RESOURCES DIVISION**

**GUIDE on conducting**

**a discIplinary investigation**

1. **Purpose of document**

The purpose of this document is to provide a guide to Heads of Departments/managers/supervisors (hereafter referred to as managers) with guidelines when conducting a disciplinary investigation. The reason for conducting an investigation is to determine if there is sufficient evidence to support an allegation of misconduct on the part of the staff member. In some cases, disciplinary investigations will be very formal and detailed because of the nature of the misconduct. This may involve specially appointed investigating officers. In other cases, the investigation may be more informal and conducted by the manager.

1. **Principles**

The following principles apply in conducting the investigation:

* Ensure that the investigation is carried out as soon as possible so that people’s memories do not fade and document is not misplaced;
* The investigation must be thorough and fair and consider all evidence (including that which is favourable to the employee), not just that evidence that may support preconceived notions of guilt;
* Evidence collected must be recorded and filed as this will be referred to in the event that the matter proceeds onto a disciplinary hearing;
* Confidentiality, as appropriate, must be maintained;
* Avoid reliance on hearsay and other “lightweight” evidence and information irrelevant to the allegation being looked at;
* The staff member under investigation should be notified of the investigation. The template in Appendix 1 may assist in this regard. If there is concern that the staff member may destroy evidence or intimidate potential witnesses and/or harm others or University property, then suspension of the employee should be undertaken. Refer to the protocol in this regard.

1. **Process**

The manager is advised to follow this process:

* 1. Plan the investigation carefully considering:
* what information will need to be gathered and in what order. It is advisable to plan the questions that will be asked of the employee and other witnesses. Also decide if you will access every witness’ statement or just key witnesses;
* how you plan to gather this e.g. will you get the witnesses to make a statement or will you interview them etc.

Depending on your plan, do the following in the order determined:

* 1. Set up a meeting with the employee, giving due notice thereof (see template in Appendix 1). This is not a disciplinary hearing in that the employee has not been charged;
  2. Meet with the employee concerned and ask the employee to give their side of the story. Ask the necessary questions. The purpose of this meeting is to gather facts, not to make accusations or argue against what the employee says. Keep careful notes. These are your notes and are not an official record of the meeting. If you want a record of the meeting, you are advised to tape the meeting with the employee’s permission. In this case, you will need to provide the employee with a copy of the matter proceeds onto a disciplinary hearing. Gather any necessary documentation from the employee;
  3. Gather information about the employee in terms of their employment record, disciplinary record, personal circumstances that may need to be taken into account;
  4. Set up necessary meetings with the witnesses or ask the witness to submit a statement (see template in Appendix 2 that you can send to the witness) with the option to meet with them if anything is unclear;
  5. When meeting with witnesses:
* advise them that they may be called to give evidence at a disciplinary hearing
* lead them in their responses. Ask open[[1]](#footnote-1) questions
* keep notes of what the witnesses have said
* ask them for any documentary evidence to support their statement/claims
* do not share witness statements with the employee
  1. Access other relevant information e.g. documentation such as attendance reports, student complaints, emails, letters, etc. Make copies of the original documentation for your own record. These are matters of public record and therefore copies will need to be provided to the employee if the matters proceeds onto a disciplinary hearing;
  2. If necessary, meet again with the employee and/or witnesses to clarify matters;
  3. Prepare the necessary investigation report (be sure to write this so that it makes sense to someone unfamiliar with the case) that will be used to argue the case at the hearing:
* Person/s involved
* Nature of incident(s): brief outline
* Date(s) of incident(s)
* Where incident(s) occurred
* Why incident(s) occurred
* Process followed in investigation with dates: witnesses approached/interviewed/statements gathered; employee meeting (indicate if representative was there or not), other documentation sought
* List of actual documentation gathered and your notes
* Facts gathered from the investigation: all facts including those favourable to the employee, any discrepancies in the information gathered
* Employee’s version of the incident
* Summary (summarise allegations, outline prima facie evidence that exists to support (or not support) allegations referring to support evidence) and Recommendation based on investigation (e.g. no evidence of wrong-doing or insufficient evidence of wrong-doing – drop the case; sufficient evidence of wrong-doing – proceed to disciplinary action).

The investigation report is a confidential report for use by the investigator/manager/University representative in the disciplinary hearing. It is not a report that is shared fully with the employee.

* 1. Then send only the summary and recommendation to the manager who needs to make a decision on whether or not to proceed with disciplinary action. The reason for not giving them the full report is because the manager may be the Chairperson of the disciplinary hearing. The full report will then be presented at this hearing.

**Notice of a Disciplinary Investigation**

|  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- |
| **STAFF MEMBER’s DETAILS** | | | | | | | | |
| **Surname** |  | | | | **First name** |  | | |
| **Preferred name** |  | | | | **Employee no** |  | | |
| **Job title** |  | | | | **Department** |  | | |
| **Grade/post level** |  | | | | | | | |
| **NOTICE OF AN INVESTIGATION** | | | | | | | | |
| **Please note that certain allegations have been brought to my attention as regards your conduct. These allegations require that I conduct an investigation. Part of this investigation is meeting with yourself to hear your side of the story.**  **The allegations are:** | | | | | | | | |
| **PLEASE NOTE THAT THESE ARE NOT DISCIPLINARY CHARGES**  **and this notice is not a notice to attend a disciplinary hearing.**  **In order to give you an opportunity to give your side of the story, you must attend a meeting** | | | | | | | | |
| **Date** |  | **Time** | |  | | **Venue** |  | |
| **You may bring a representative with you to this meeting.**  **The purpose of this meeting is to hear your side of the story and to decide whether**  **further investigation is warranted. If such an investigation indicates that there**  **is evidence of wrong-doing then a disciplinary hearing will take place.** | | | | | | | | |
| **SIGNATURES** | | | | | | | | |
| **Signature of Supervisor/Manager/HoD who is investigating the alleged conduct** | | |  | | | **Date** | |  |
| **Signature of employee to acknowledge receipt of this notice** | | |  | | | **Date** | |  |

**Appendix 2:**

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**Witness Statement**

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **WITNESS DETAILS** | | | | | | |
| **Surname** |  | | | **First name** |  | |
| **Job title** |  | | | **Contact Details including place where you work** |  | |
| **REASON FOR BEING ABLE TO COMMENT ON INCIDENT** | | | |  | | |
| **DETAILS OF INCIDENT:** date, place, time, names of those present, what was witnessed (in the sequence in which it happened), sketch or plan if appropriate | | | | | | |
|  | | | | | | |
| **SIGNATURE** | | | | | | |
| I believe that the facts stated in this witness statement are true. | | | | | | |
| Signature | |  | Date | | |  |
| Place where statement was written and signed | |  |  | | |  |

**Witness statement:**

The witness statement should contain the following:

* Witness: Name, job title and place where they work
* Details of incident: date, place, time, names of those present, what was witnessed (in the sequence in which it happened), sketch or plan if appropriate
* Reason for witness being able to comment on incident e.g. was present, was in office and overhead conversation, received email from employee
* Date, time and place of statement being taken/written
* Signature of the witness that the statement is accurate reflection of the truth

1. An open question is one in which the person needs to provide a more expansive response e.g. “What happened then” rather than “So then you saw the employee take the x?” The latter is an example of a closed question where the witness answers “yes” or “no”. [↑](#footnote-ref-1)