

HELP! I'm under investigation

Guidance for UNISON West Midlands Community members

Investigation meetings may sometimes be referred to as fact-finding meetings and may form part of many organisations' disciplinary procedure and policies.

The purpose of an investigation may arise from issues relating to misconduct, capability (performance or absence) right through to harassment/bullying or grievance matters. An employer is required to clarify allegations to **establish relevant facts**.

Staff, working in the Voluntary and Community sector can often be asked to participate in investigatory meetings. The sector requires employers to satisfy statutory and legal duties under safeguarding responsibilities and responsibilities.

Remember: You may be asked to provide information which could possibly lead to disciplinary action being taken against you or someone else.

There are no legal/statutory guidelines on how investigations should be conducted. How your employer conducts investigations, may be set out in your organisations disciplinary procedure/staff handbook. In some cases, an informal chat to establish the facts usually takes place and from there matters can sometimes be easily resolved.

It is important to be aware; that there is **NO statutory right to be accompanied to an investigatory meeting**- this is entirely dependent on what your employment contract/ policy states- which may include entitlement to be accompanied on a contractual basis.

If an employer were to start an investigatory process, then it may more than likely proceed along the following route:

Verbal request to attend Fact-Find/ Investigation meeting

- Request a private area to hold the meeting.
- Check your contract and policy on whether you have a right to be accompanied to investigation meetings – Request a postponement and **CALL UNISON DIRECT 0800 0857 857** for advice if your contract/policy entitles you to Trade Union representation.
- You may be asked to provide a written statement or verbal account, immediately following an incident or issue (such as medication error or customer complaint). You should always state the facts as you recall them; request clarification relating to incident or issues you are unsure about. Failure to comply with reasonable management

instructions may be considered as insubordination. Be polite yet firm when requesting information.

Written invitation to attend Investigation meeting

- You may be invited to an investigatory meeting following suspension from duty. (**See Suspension Guidance**)
- The invite letter should contain all relevant policies and list the issues/concerns/allegations your employer wishes to discuss.
- Be prepared: You should write down everything connected to the allegation/issues; detailing events, times, dates, actions and witnesses. (See template on Page 4)
- Unfortunately, a written invitation for investigation meetings does **NOT automatically entitle the employee the right to representation**- Contact UNISON DIRECT on 0800 0857 857 for advice and note the following information will be requested:-
 - UNISON membership number and the date you joined UNISON.
 - Your full contact details plus a non-work email address if you have one.
 - Date/s of the incident/issue referred in the invite letter.
 - Full details for the investigation meeting (date, time, address)
 - Employer contact details plus HR email and phone number
 - Request for legal assistance for members facing criminal charges arising out of their employment.
 - Accessibility requests

It is common for UNISON members to attend investigation meetings unaccompanied and unrepresented. Dependent on your contract/individual circumstances, if you are accompanied by a rep/caseworker to an investigation meeting, they cannot make any representations on your behalf or answer any questions at investigation meetings.

Use the checklist and timeline template below to assist you and contact the branch if you have any queries.

Investigation Meeting – Checklist

- If your policy/contract entitles you to a work colleague to attend, request a work colleague and ask them to make notes.
- If your policy permits a work colleague to attend with you- they are restricted in participating at the meeting to only taking notes.
- Investigation meetings are **not** disciplinary meetings -many result in no case to answer and for informal processes to be followed as outcomes.
- Check your policy on whether the manager conducting the investigation meeting holds the appropriate authority.

- Do not lie or distort details, stick only to the facts. If you are unsure of something, then say so
- Request copies of any policies/procedures relating to the incident/issue that you are being questioned about.
- Do not be tempted to use covert recording on digital or mobile devices- permission should be sought if that is something you would like to use-Do try to make notes of what is discussed.
- If you are asked a question relating to documentation or evidence such as mileage claim, medication form- Request a copy to be provided so you can check the facts.
- Request a copy of any statement you provide and minutes of the meeting. Check that your statement accurately reflects the answers you have given- you should **NEVER** sign anything you disagree with or are unsure of. Initial anything you are unsure or disagree with.
- Don't talk to other employees if you have been cautioned/asked not to-again adherence to any suspension policy is important.
- The **investigation meeting** should **NOT** result in any formal sanction such as a warning on file.
- Ask the investigation officer to explain in writing- what happens next and how you will be updated.
- Ask who will make the decision if the matter progresses to a disciplinary hearing.

An investigation meeting could result in no further action; in which case the matter is concluded and you should request details of how the matter will be recorded and logged? **The purpose of any investigation is to clarify allegations, establish facts and gather any evidence.** As an employee you should be given the opportunity to respond to the allegations, explain your conduct and put forward any mitigating factors.

It is only after that process is completed that an employer may establish whether or not there is a formal disciplinary case to answer.

If an investigation meeting results in a invitation to a disciplinary hearing – contact UNISON DIRECT on 0800 0857 857 immediately.

References

UNISON- Get help with issues at Work

<http://www.unison.org.uk/get-help/help-with-problems-at-work/>

ACAS Disciplinary and Grievance Code

<http://www.acas.org.uk/index.aspx?articleid=2179>

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