

## Resource: Preparing for a Workplace Investigation

**Step 1: Gather information in a confidential manner relating to the complaint** from the reporter or complainant (person making complaint), which may involve:

1. Taking **detailed and dated notes** during conversations with the complainant regarding **incidents and behaviour of concern** in relation to the respondent (person with alleged behaviours of concern).
  - a. If any specific incidents are noted, creating a **timeline** of events is advised.
  - b. Ascertaining **factual details** of key alleged incidents is beneficial, including:
    - i. location,
    - ii. date/time (or rough timeline),
    - iii. the nature of the behaviour, and
    - iv. anything that was said or done that may indicate misconduct or behaviour of concern
  - c. Note any peripheral witnesses that may have directly observed any incidents or the behavioural dynamics over time.
2. Determining the **impact** on the complainant, and assessing the current **psychosocial risk**. Supporting **psychosocial safety** through referral to **EAP**, determining **supports**, and/or adopting other **mental health first aid** processes is recommended.
3. Asking the complainant to keep the matters **confidential** and advising them not to discuss the matters with anyone else in the organisation.
4. Encouraging the complainant to submit a **formal complaint** in writing.

### Step 2: Conduct a preliminary assessment

1. Conduct a preliminary assessment in an unbiased manner to determine whether the complaint has **substance or validity**, and whether it justifies a formal investigation.
2. Classify the nature of the allegations and categorise the reported behaviour based on organisational and legal definitions (e.g., Bullying, Harassment, Fraud, Theft, Code of Conduct).
3. Assess if there are any imminent **psychosocial risks** for employees involved in the complaint, and consider if **actions** may need to be taken such as separating or reassigning parties, or, if deemed to be of a serious nature, suspension with full pay for the respondent.
4. Assess if there are any imminent psychosocial risks for other employees.
5. Assess if there are other **potential key witnesses** that may be likely to submit a formal complaint as an **additional complainant**.
6. Identify **potential peripheral witnesses**.

## Step 3: Consult workplace policies and procedure

1. This may include gathering policies and procedures related to:
  - a. Complaints/Grievances,
  - b. EEO,
  - c. Code of Conduct, and/or
  - d. any other policies relevant to the nature of the alleged misconduct.
2. Ensure **compliance** with Complaints/Grievances procedure.
3. Assess compliance with procedures of employees involved in the complaint.
4. Determine any potential policy **breaches** of employees involved in the complaint.

## Step 4: Appoint investigator

1. Engage the investigator through the organisation, or through a legal firm if the report is required to be under legal and professional privilege.
  - a. Discuss **scope** and **budget**
2. Contact the investigator for an initial briefing meeting (30-60 min).
  - a. Provide information on the **timeline** and **nature** of the grievances, using the information gathered during phase 1, 2 and 3.

## Step 5: Seek participation of key and peripheral witnesses

1. Complainant:
  - a. Discuss with the complainant the **need for a formal investigation** to occur, given the nature and severity of the grievances, and that the process will lead to formal findings that will enable the organisation to attend to the concerns and recommend steps for remediation.
  - b. Reassert the requirement for strict **confidentiality**. They can seek legal or professional mental health support, or personal support.
  - c. Outline what the **process** will involve, which would involve an interview with the investigator to ascertain further details of the matters under investigation.
  - d. Attain the complainant's **consent** to participate in the investigation process and be contacted by the investigator.
2. Other witnesses: you may wish to delay advising any potential peripheral witnesses or the respondent(s) that a complaint has been made or investigation underway until deemed necessary. Notification should be appropriately timed to protect the integrity of the investigation process while upholding procedural fairness and supporting the wellbeing of parties involved in the matter. Once engaged, all parties should be briefed on the process, the requirement for confidentiality and their right to seek support or further information.

### Step 6: Gather and submit additional supporting information

1. Locate and submit any **written or visual evidence** related to the complaint e.g., emails, letters, documents, CCTV, etc.
2. Where relevant, request that IT preserve or back up relevant email logs, server access records, or messaging app data, in accordance with organisational policy, to ensure evidence is not deleted or altered once the parties are notified.
3. Submit **organisational policies** for review in the investigation.
4. Collate any **file notes or previous actions** relating to the employee (respondent and complainant) including items such as **warnings, performance concerns**.
  - a. Submit any other relevant materials as discussed in the briefing meeting.
  - b. Gather and submit **contact details** for potential witnesses, and any clauses on consent to contact or general availability.

## Definitions

Term	Definition
Complainant	The person who raises or lodges a concern or complaint about alleged conduct or behaviour in the workplace.
Reporter	A person who reports a concern or alleged misconduct but may not be directly impacted by the behaviour.
Respondent	The person whose conduct or behaviour is the subject of the complaint or allegation.
Witness	A person who may have directly observed the alleged behaviour, relevant interactions, or workplace dynamics, or who may otherwise hold relevant information.
Peripheral Witness	A person who may not have directly observed the alleged incident(s) but may have relevant contextual information or insight into workplace behaviours or patterns.
Bullying	Repeated and unreasonable behaviour directed towards a worker or group of workers that creates a risk to health and safety.

Harassment	Unwelcome conduct that a reasonable person would expect to offend, humiliate, or intimidate another person.
Fraud	Dishonest or deceptive conduct undertaken to obtain an unauthorised benefit or to cause a loss to the organisation, including falsification of records, misuse of resources, or deliberate misrepresentation.
Theft	The unauthorised taking, use, or removal of the organisation's property, funds, or resources, or the property of another person, without permission or lawful authority.
Psychosocial Risk	A risk to a person's psychological health arising from workplace factors such as behaviour, work design, interactions, or systems of work.
Procedural Fairness	The requirement that decisions and processes are fair, unbiased, and transparent, including giving all parties an opportunity to be heard.