

# GUIDANCE ON INVESTIGATIONS

<b>Last Review</b>	April 2017
<b>Next Scheduled Review</b>	
<b>Last Updated</b>	September 2020

## Temporary Changes to Policies During Covid 19

There are temporary changes to employment policies during the coronavirus pandemic Please refer to the FAQ's/guidance on George which refer to :-

- Arranging meetings remotely

Where policies refer to meetings/hearings these will generally be conducted via video conference, however, in some circumstances face to face meetings may be appropriate, or hybrids of both face to face and video conference. Please see guidance on George

Please contact HR if you have any queries on the above

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## **INTRODUCTION**

The purpose of the investigation is to determine all the facts associated with the allegations and establish whether there is a case to answer. Dependent on the case the investigation may be lead by management, the Counter Fraud and Investigations team (CFIT) or, exceptionally, an external Investigator.

The Investigator must be allowed to follow reasonable lines of enquiry in order to satisfy the investigation objectives. Each investigation is different and the approach taken will be dependent upon the nature of the allegations. The process outlined in this section is designed to be a guide and is not prescriptive.

## **ROLES AND RESPONSIBILITIES**

### **LEAD MANAGER**

The Lead Manager is responsible for commissioning the investigation and for making decisions in relation to the employment issue(s) to be investigated, including the outcome of the investigation. The Lead Manager is also jointly responsible with the Investigating Officer for ensuring that all documents are redacted accordingly in line with the Council's Redaction Guidance. The Lead Manager is responsible for presenting a management case at any subsequent hearing, as may be required within the appropriate employment policies.

### **HR ADVISER**

The HR Adviser is responsible for providing advice and guidance to the Lead Manager and also to the Investigating Officer on the application of the relevant employment policies.

### **INVESTIGATING OFFICER**

The Investigating Officer is responsible for conducting a fair and reasonable investigation into the matters arising and ensuring that individuals subject to investigation are provided with a fair and reasonable opportunity to respond to the issues being investigated.

The Investigating Officer is responsible for presenting findings and conclusions in a report to the Lead Manager and potentially presenting to any subsequent formal hearings which may be required as part of the appropriate employment policies.

The Investigating Officer is responsible jointly with the Lead Manager for ensuring that the investigation report and any documents referenced, are stored in accordance with the data protection regulations and that these should be redacted in line with the Council's Redaction Guidance.

To provide fortnightly updates to the Lead Manager and HR Adviser.

### **EMPLOYEES**

Employees involved within scope of an investigation are encouraged to participate and provide responses to any matters/ issues arising from the investigation.

## **INVESTIGATION BRIEF**

The [Investigation Brief](#) will be completed by the Lead Manager in conjunction with the HR Adviser. The most important aspect of the Investigation Brief is clarity of the investigation objectives. The Investigation Brief should be accompanied by all relevant documentation/evidence e.g. documentary evidence already obtained during the preliminary investigation.

The Investigation Brief should not be used to influence the Investigator. The overriding objectives for the investigation are to establish the facts of the matters being investigated and to determine what if any evidence there may be to support the allegations, or alternatively to determine what evidence may be available contrary to the allegations. The objectivity of the investigation must be protected. The investigation will not commence until the Investigation Brief, together with a copy of any letter(s) to the employee concerned (advising of the specific allegations and/or suspension/temporary redeployment), have been provided to the Investigator.

## **MANAGING THE INVESTIGATION**

The Lead Manager and the HR Adviser will be updated by the Investigator on a fortnightly basis on progress. Following any updates on the investigation, the Lead manager should review any suspension or temporary redeployment decisions, consider any new allegation(s) which may have arisen and discuss any problems impacting upon the investigation and timescales with the Investigator as appropriate.

This can take place through Strategy Review Meetings or by another agreed means. The HR Adviser will confirm agreed actions via confidential email and update the Support Officer where appropriate.

It is the manager's responsibility to communicate with the employee, either directly or through the Support Officer, regarding the progress of the investigation. Where an employee has been suspended, it is the manager's responsibility to communicate fortnightly with the employee, with regards to the necessity for the suspension continuing or whether this is no longer required.

The Investigator should not be required to disclose detailed findings during any subsequent review meetings and the Lead Manager and/or HR Adviser should not use any such meetings for this purpose.

## **INFORMING A PROFESSIONAL BODY**

At any point during an Investigation, the Lead Manager with advice from the HR Adviser would be required to consider whether any professional bodies need to be informed of any allegations of misconduct. Where required, the HR Adviser will inform the relevant bodies, eg The Teaching Agency or the Health and Care Professions Council that an employee is subject to an investigation due to allegations of misconduct. The HR Adviser will ensure that professional bodies are updated accordingly in terms of progress with the Council's procedures and that they receive copies of any documents as appropriate.

## **ADDITIONAL ALLEGATIONS**

Should additional allegations be suspected or come to light during the investigation, consideration should be made by the Lead Manager (or the Strategy Meeting Group) whether the scope of the investigation needs to be extended. The Investigator will

inform the HR Adviser immediately when any additional concerns arise. The Lead Manager, HR Adviser and Investigator can consider the new allegations and the Lead Manager with advice from the HR Adviser will determine whether they should be added to the scope of the current investigation

In the case of investigations being undertaken by CFIT, any new concerns should be reported immediately to the Audit Manager who will then liaise with the relevant HR Adviser. If it is not possible or practical to arrange an emergency meeting, the HR Adviser will discuss the new allegation(s) with the Lead Manager and a decision will be made via telephone/email. A record of this decision should be made by the Lead Manager and communicated to the Investigator. Should the Investigator or Audit Manager (for audit led investigations) have concerns about any decision not to expand the scope of the investigation, a Strategy Meeting should be held at the earliest opportunity to resolve these concerns (this includes an escalation process to the next level of management in the event of disagreement).

The HR Adviser will notify the employee in writing of any additional allegations that will be investigated (template [Letter 4 Further Allegations Notification](#) may be used for this purpose).

### **No Case or New Information**

Where the Investigator is able to quickly establish that there is no evidence to support the allegation(s) and considers that the findings may not justify continued suspension or temporary transfer, or establishes evidence that now supports the suspension or temporary transfer of the employee concerned, this must be reported immediately to the Lead Manager and relevant HR Adviser. Where necessary a meeting should be called to discuss any such findings to enable the HR Adviser and the Lead manager to review the suspension or temporary transfer and agree a way forward; if a strategy group has not been used, the HR Adviser will discuss with the Lead manager the new information and review the suspension or temporary transfer. The Lead manager should not wait for the completed investigation report before reviewing the suspension or temporary transfer.

If the Investigator identifies conduct issues involving other employees (e.g. malicious actions, collusion or other misconduct) a Strategy Meeting should be called to consider the preliminary evidence and decide on the way forward with regards to the other employees (e.g. formal investigation/ suspension/ management action etc).

### **Documentary Evidence**

It is essential to keep accurate records of all stages of the investigation, including the planning of the investigation and the sources of evidence gathered.

The [Investigation Log document template](#) is a tool available for Investigating Officers to use to record all stages of the Investigation and should be kept as a working record of all activities associated with the Investigation, including recording decisions made and your rationale. You are advised to ensure that this document is kept up to date, for reference at any later stages if questioned on the reasons for particular action/ reasons for not progressing with particular lines of enquiry. Particular care should be taken to identify any possible witnesses and obtain statements/ evidence from them as soon as possible after the event.

When collecting documents for reference purposes, please ensure that you also record the source, including dates/ locations from where these have been obtained. Any witness statements/ written statements from the subject should be signed and dated by the investigator/ individual as an accurate record.

For the purposes of any Employment investigation, the Investigating Officer should consider any relevant evidence which may assist in drawing conclusions on the balance of probabilities. Any records/ documents held by the Investigating Officer will be kept in accordance with the relevant data protection regulations and the Council's Information Governance policies.

## **Personal Data**

Investigating Officers would be expected during the investigation to have:

‘...access at all reasonable times to premises, personnel, documents and assets that is considered necessary for the purposes of the work associated with the investigation.’

This includes personal data of staff, which could include:

- personnel files and supervision records
- payroll data
- absence records
- diaries / electronic calendars provided for business use
- files held on secure computer networks
- email and internet accounts
- telephone and mobile phone data
- CCTV recordings on Authority sites
- service user files (where absolutely necessary and approved in accordance with any relevant guidelines)

Investigators should only access data when it is justifiable and proportionate to do so – unnecessary access of personal data of staff could amount to a breach of the Council's [Code of Conduct](#) and [Information Governance Framework](#).

Investigators must be compliant with the Information Commissioner's Employment Codes of Practice which state:

"...information kept about workers should not be accessed merely because it might have some relevance to a disciplinary or grievance investigation if access or use would be either incompatible with the purpose(s) you obtained the information or disproportionate to the seriousness of the matter under investigation"

## **Sensitive Personal Data**

Sensitive personal data (e.g. medical records) should only be requested where it is absolutely necessary. Data protection legislation provides the following lawful basis for processing sensitive data in the context of employment:

*"processing is necessary for the purposes of carrying out the obligations and exercising the specific rights of the controller or the data subject in the field of employment and social security and social protection law in so far as it is authorised by Union or Member State law...providing appropriate safeguards for the fundamental rights and the interests of the data subject"*

In practice this means that sensitive personal data may only be accessed in relation to an investigation where that investigation is being conducted in accordance with UK employment law. Where it is deemed necessary to access such information, Investigators should clearly document their justification for doing so within the Investigation Log. If there is doubt as to whether an Investigator should have access to sensitive personal data, advice should be sought from the Council's Data Protection Officer or Legal Services before access is permitted.

It may be necessary during the course of an investigation, to disclose information to the Investigator which has been provided by occupational health. This may be in circumstances where the content is pertinent to the investigation and allegations and particularly where there may be reasonable adjustments required during interviews/ the investigation process.

All documents utilised as part of the investigation pack and further distributed to other parties, should be redacted by the Investigator, in accordance with the Council's guidance on Redaction. Further information can be found in the Council's Redaction Guidance.

Whilst an Investigating Officer may review numerous documents as part of the Investigation, only those documents which add to the case should be included within the final pack of information which will be shared with all parties attending any formal hearings if required as an outcome from the Investigation.

### **Investigation Log**

Investigators must maintain an [Investigation Log](#) – handwritten or electronic. This should record all enquiries, correspondence, interviews, decisions etc. and must be stored in the electronic case file at the end of the investigation.

Investigators should also use the Log to record problems / barriers regarding progress and must note the efforts made to resolve them. This will inform any later queries regarding the conduct of the investigation including delays, failure to secure evidence, witnesses etc.

The log incorporates a record of any significant decisions made on the investigation such as reasons why a particular line of enquiry was or was not pursued or delayed.

### **Investigation Procedures and Absence**

If an employee, who is subject to an investigation, is absent on sick leave he/she may be referred to Occupational Health for advice on assisting their return to work or participation in the investigation process. Whilst an employee may feel “stressed” and anxious under such circumstances, issues will not be put on hold indefinitely awaiting an employee’s return to work. Consideration will be given to what adjustments may be available to ensure that the employee is able to participate in the investigation, including alternative methods of interview, such as telephone or by letter if appropriate.

Having an unresolved issue is likely to prolong any anxiety the employee may be experiencing and delaying a return to work. Therefore the sooner such issues are addressed the sooner a potential cause of the stress will dissipate. In such circumstances the Lead Manager should seek further advice from their HR Adviser.



## **Investigation File**

The case file should be organised to enable review and future reference. The case file would be expected to include the following documents:

- Investigation report
- Investigation Brief & Correspondence
- Investigation Log (Template)
- Interview statements (signed by employees)
- Documentary evidence
- Policy and Procedures
- Working papers
- Copies of all letters to employee(s) concerned
- All other correspondence

The Investigator should keep the Investigation File secure until the decision regarding the way forward has been made and if applicable any disciplinary / appeal process is complete.

Once the case has been concluded, including any appeal, the case file should be returned to the HR Adviser who will ensure that this is retained and destroyed in line with the Council's Retention of Records Policy and Schedule of Disposal.

Serco HR will hold securely a copy of the investigation file and any actions relating to the case.

## **INVESTIGATION INTERVIEWS**

### **WHO TO INTERVIEW**

The Investigator will need to interview the complainant(s), people who have directly witnessed incidents or are believed to have experienced behaviours similar to those alleged by the complainant(s). During their investigatory interview the subject will be given the opportunity to identify any potential witnesses in support of their explanations and the investigator will consider the need for further interviews. The Investigator will generally not interview people for the purposes of a character reference, unless there is good reason to do so. The Investigator will keep a written record on the case file of the reasons why certain lines of enquiry have not been pursued or why individuals have not been interviewed. This should be recorded on the Investigation log.

### **WITNESS INTERVIEWS**

Investigators will generally approach witnesses and arrange an interview at a mutually convenient time but on some occasions it may be necessary for managers to be asked to organise the interviews on the Investigators behalf e.g. to ensure least disruption to the service. Where necessary, Investigators will liaise with the relevant manager to facilitate interview at the earliest opportunity. The Council considers it a reasonable instruction to ask a witness to attend an interview and witnesses are expected to cooperate. This may involve changes to rotas and/or on occasion, require interviews to take place during normal non- working time.

Investigators will ensure that all electronic appointments or contact via email is sent under private cover.

When arranging the venue, Investigators should consider whether the venue is suitable and clarify whether the interviewee and/or their supporter have any special requirements e.g. wheelchair access.

Where there is difficulty in obtaining agreement to attend interviews the Investigator should advise the individual concerned that this will have to be reported back to the Lead Manager and the issue may be escalated.

## **INTERVIEWING THE SUBJECT OF THE INVESTIGATION**

The main subject of the investigation will generally be interviewed towards the end of the investigation. However, it is recognised that they may be anxious to provide information early on in the investigation. The subject will always be interviewed and they can request an early interview. Investigators need to carefully consider any such request. Similarly investigators will need to consider whether it would be useful to interview the subject early on in the investigation. It should be noted that if the subject is interviewed early it is very likely that they will need to be interviewed again at the end of the process, for clarification purposes.

Investigators will usually telephone to arrange a mutually convenient date and time either directly with the employee or with their chosen support which they have the right to accompany them at the interview(s). This can be either a Council work colleague, recognised trade union officer or recognised trade union representative. The arrangements will then be confirmed in writing (unless otherwise agreed). Template [Letter 3 Investigatory Interview Notification](#) may be used for this.

Investigators will ensure that all electronic appointments or contact via email is sent under private cover. Investigation interviews are an important source of evidence in most investigations. The primary purpose is to obtain accurate and reliable information to establish the facts about matters under investigation.

Investigators must have the necessary skills and resources to secure accurate and detailed information from their interviewees.

Interviewees can be employees, contractors, service users, members of the public (including children and vulnerable adults). It is important that the experience is a positive one and that investigators do what they can to explain the process (in advance) and put the interviewee at ease.

The conduct and records of interviews are frequently subject to scrutiny. This may be at disciplinary, appeal or court hearings by managers, councillors, union representatives or lawyers.

### **Interview Selection**

A schedule of interviewees should be identified at the start of an investigation and recorded on the Investigation Plan. Any significant diversion from the intended witness list should be discussed with the HR Adviser.

Interviewees listed on the [Investigation Brief](#) are generally the starting point – investigators must use their professional judgement when expanding the list of interviewees and be able to explain their rationale for interview / non-interview. A written record should be maintained in the investigation log to record the rationale, including why certain lines are not pursued / individuals were not interviewed.

When interviewing individuals external to the organisation, the issue of confidentiality should be considered. The risk of reputational damage (staff and/or the client) should be balanced with the potential value of the interview. This consideration should be recorded on the [Investigation Log](#).

Care should be taken if interviewing ex-employees – investigators may need to establish (with HR, where appropriate) the circumstances around their departure as there may be issues which could affect their ability to participate and answer any questions.

### **Witness Interviews**

**Venue and Attendance** – there is an expectation (in the [Code of Conduct](#)) that employees will cooperate and assist in all investigations openly and honestly. Staff should not refuse to attend an interview reasonably arranged during working time. Any staff refusing to take part in the investigation process should be reported to the HR Adviser/ Lead Manager, who will liaise with the appropriate line manager, to resolve the issue.

Investigators should work with employees to arrange mutually convenient interview times to avoid any undue delay in the investigation process.

There is a responsibility to consider staff welfare and investigators should take into account that employees have other responsibilities and priorities. In some cases, interviews may be arranged through a service manager, particularly where there are a number of witnesses and the process is likely to impact on service delivery. Investigators should be clear on estimated duration, venue requirements and process.

Many interviewees find the interview process alien and stressful – approach and handling of witnesses should be sensitive and proportionate. Some interviewees may not wish colleagues to know they are meeting with an investigator – establish whether there are any concerns and agree a suitable venue. Ensure that witnesses are provided with a copy of the [Employee Guidance on Employment Investigations](#) document prior to the interview.

Employees should not usually be contacted or interviewed at their homes unless they have given approval.

**Explaining the process** – investigators should explain the purpose of the witness interview in advance, remind them of the need for confidentiality, inform them of the areas you intend to cover and ask them to bring along any documents that may be useful. This should be confirmed in writing either by letter or by email. A standard template [Letter 3 is available for Investigatory Interview Notification](#).

**Important** – explain how interviews are recorded, who will be present, how their evidence may be used and subsequent access to recordings and transcripts.

**Support to witnesses** – witnesses (as well as subjects) may be accompanied by a work colleague or trade union representative at interviews (though not essential). During an investigation interview, the role of the colleague or representative is as "silent support". Such individuals should not take part in the interview and cannot

answer questions on behalf of the employee concerned. Friends and family should not be allowed to attend unless there are special circumstances.

## **RIGHT TO BE ACCOMPANIED AT THE INTERVIEW**

The subject of the investigation is entitled to be accompanied by a Council work colleague, recognised trade union officer or recognised trade union representative. During an investigation interview the role of the colleague or representative is as 'silent support'. Such individuals should not take part in the interview and cannot answer questions on behalf of the employee concerned.

There is generally no requirement for witnesses to be accompanied to their interview but they can bring along a Council work colleague, recognised trade union officer or recognised trade union representative if they wish. The colleague or representative cannot take part in the interview and cannot answer questions on behalf of the witness.

All persons accompanying the subject of the interview will be bound by the same confidentiality requirements.

## **REFUSAL TO BE INTERVIEWED**

There is an expectation for all Council employees to cooperate with Investigators and to provide full, open and honest answers to all questions. Failure to cooperate with Investigators could be considered a conduct matter, as could the provision of false evidence. The Council understands that it may be difficult and distressing for some employees to go through the interview process and that some may be reluctant to cooperate for fear of reprisals. Investigators experiencing refusal to co-operate or where there is difficulty in obtaining agreement to interviews should advise the individual concerned that this will have to be reported back to the Lead Manager and the issue may be escalated.

Investigators will do everything in their power to support individuals through the interview process, the [Employee Support and Counselling Service](#) is available to all employees.

## **INTERVIEW INTRODUCTION**

For all investigatory interviews the investigator should set the scene by: Briefly explaining the type of investigation and the purpose of the interview is to obtain information pertinent to the investigation.

Explaining that a witness does not need to know the allegations facing the subject of the investigation; just the area which the Investigator believes the individual may be able to assist with.

Clarifying the role of all parties present including note taker (if using one) and, if accompanied, the role of the 'supporter' is to act as 'silent support' and not to take part in the interview.

Establishing that if the individual is not accompanied, he/she is happy to continue on their own (this is particularly relevant when interviewing the main subject). Stating that notes will be taken using the [Record of Interview](#) sheet(s) (for written statements) which all parties will be asked to read and sign (see below for more detail).

Where the interview is being recorded, then the process in [Interviews](#) must be followed:

- Explaining to interviewees that although the evidence they provide may be used within the Investigation Report, their statements will not be released unless the matter is to be considered at a hearing. It should also be clear that the Investigation Report is confidential and will only be considered initially by management, HR and where appropriate, Legal Services. The report will, however, receive wider distribution if a formal disciplinary hearing is considered necessary.
- Explaining that occasionally the Council receives a Data Protection Subject Access Request which it is legally obliged to respond to. In these circumstances each statement will be released.
- Informing the interviewee of the need for confidentiality and of the possible consequences should a breach of confidentiality occur.
- Making it clear that it is fine to request comfort breaks or to speak privately with their supporter. If necessary the interview can be suspended or adjourned until a later date.

Some witnesses may be apprehensive because their evidence is damaging to colleagues or managers. Employing Authorities protect staff from victimisation or harassment and witnesses should be referred to the relevant police and encouraged to report any issues arising as a result of their attending an interview.

If an interviewee requests support outside the investigation process they should be referred to a manager and the Employee Support and Counselling Service.

**Interview Plan** – investigators must prepare sufficiently for their interview. A structured approach will enable the investigator to anticipate and deal effectively with the interviewee's possible responses including no comment interviews and prepared statements.

All planning material should be retained on the file with the working papers which may be subject to disclosure at a later stage.

Investigators should consider the overall length of the interview, including scope and purpose. The interview should be confined to obtaining information to:

- prove or disprove the allegations
- give them opportunity to explain the allegations or facts
- corroborate or test known evidence

All interviewees are to be dealt with fairly and objectively, in a non-accusatory manner. This means whilst robustly challenging the subject's explanations, the investigator is required to listen and explore even when responses appear unlikely.

Interview plans should use open questions as much as possible, encouraging the subject to explain their version of events, clarifying and challenging the account (where necessary).

Subjects frequently nominate witnesses – the investigator should always establish what evidence the subject anticipates – it is not necessary to pursue these witnesses if the anticipated evidence has no bearing on the case or are simply character witnesses.

If the subject indicates a witness can provide relevant evidence (e.g. that may exonerate them or reduce the seriousness of an allegation) they should be interviewed. Decisions not to interview witnesses nominated by a subject should be recorded in the investigation log, along with the rationale.

### **Opening the Interview**

Investigators should open the interview by explaining:

- the purpose of the interview and the process.
- the roles of all present including the note-taker, trade union representative or work colleague – to act as silent support and not to take part in the interview
- how the interview will be recorded – digital recording (the norm) or written using the [Record of Interview Sheets](#).
- access to transcript and digital recording
- who will see the records
- how the evidence may be used within the final report
- that the Investigation Report is confidential and will only be considered initially by management, HR and where appropriate, legal Services. The report will, however, receive wider distribution if a formal disciplinary hearing is considered necessary
- the rights available to the interviewee under data protection legislation (for example, the right of access – see the corporate [Individual Rights Guidance](#) for more information)
- need for confidentiality and consequences should a breach of confidentiality occur
- subject's right to be supported (if unaccompanied) – confirming that the subject is happy to continue on their own
- comfort breaks (every hour, unless agreed otherwise)
- right to speak privately with their representative (suspending interview)

Interviews should not be oppressive and investigators should take care to ensure they are not exposed to such an allegation.

**Breaks** – 5 minutes every hour plus an adequate meal break (agreed with attendees) whether the interviewee wants these or not. Respond to any special needs or reasonable requests.

### **GENERAL INTERVIEW TIPS**

Although interviewees are there to answer questions, they should also be free to have recorded any statements they want to make. At the end of the interview the Investigator should always ask if there is anything else the interviewee would like to add. In the unlikely event that the interviewee should admit to committing a criminal offence, the Investigator should record the comment, sign off the notes in the usual manner, suspend the interview and seek guidance from HR and Lead Manager.

Investigators should inform all interviewees that if they later remember something important that they have not included within their statement, they should make contact and arrange a further meeting or telephone interview (subject to the timescales for completion of the investigation).

Consideration will be given to the venue and interviews will be held at a neutral location if necessary and/or requested by the interviewee.

## **ALTERNATIVE TYPES OF INTERVIEW**

### **Telephone and Email Interviews**

Telephone interviews should only be used in the following circumstances:

- Interviewee does not live within the country and the estimated length of interview does not justify the travel
- Time constraints
- Clarification (following face to face interview)
- Interviewee has something to add to their statement
- Small number of questions

A telephone interview should be typed up and sent to the interviewee for checking. The interviewee should be asked to confirm accuracy of the record, and be given a date by which it should be returned.

If this cannot be done by email, then a written record should be sent, together with a request for a signed confirmation that it has been agreed.

**Written Interviews** - In very exceptional circumstances the Council will make arrangements for an interview to take place via written questions and answers (e.g. via email). This is a last resort and will be considered on a case by case basis to ensure the completion of the investigation. It is not an option automatically available to the employee; there must always be good reason why the employee cannot attend a face to face interview. If this approach is followed, the Council reserves the right to clarify the answers via a face to face interview, where required and if practicable.

## **INTERVIEWS**

The Council has access to tape recording equipment and its use will be assessed on a case by case basis.

Where tape recording equipment is used, the process to be followed is:

1. The Investigating Officer will take a declaration with them to the interview which explains the process and will ask the witness if they would like a copy of the transcribed interview. The employee will then sign and date the declaration at the interview and this will identify if they requested a copy at the time. This will be used in the bundle if the case goes to a hearing. If the employee is the subject of the investigation then they will automatically be given a transcript of the interview and they will also sign and date the declaration at the time of the interview.
2. The conversation about the process and the declaration will be taped as part of the interview

Where tape recording equipment is not used, following the interview employees will be provided with a copy of the statement they have given during the interview and invited to confirm this as a true and accurate record of the interview.

## **TIPS FOR THE NOTE TAKER**

Where investigation interviews are not recorded written notes will be taken.



It is not possible to capture what is said verbatim but the note taker will attempt to write down as much as they can during the interview. The interviewee will have the opportunity to check the notes and make amendments (within reason) should anything be missed or recorded incorrectly. The amendments will be agreed by those present.

Statements should be taken in the first person e.g. "I told her to stop shouting at me..." There is a column to insert either the initials of the investigator and interviewee or 'Q' and 'A' can be inserted to make it clear where the question ends and the answer begins. To save time initials can be used when the full name has been written once. Unused lines should be ruled through and all pages should be numbered. The interviewee's name should be inserted at the top of each page (in capitals) and every page should be initialled and dated by everyone present. The front page should be fully completed and the investigator or note taker should draw attention to the declaration before it is signed off as a true record by all attendees. The interviewee is entitled to a copy of their statement and one will be provided, if required.

## **CONCLUSION OF INVESTIGATION**

During the course of the investigation the Investigator will constantly evaluate the evidence. At the end of the investigation all interview statements and documentary evidence will be analysed and all relevant facts extracted for the [Investigation Report](#). The subject of the investigation must not assume that the investigation is complete after their final interview. In addition to evaluating the evidence and providing recommendations/ conclusions, the Investigator will also need to ensure that these outcomes are referenced to specific facts/ evidence collated during the investigation.

## **OUTCOME OF INVESTIGATION PROCESS**

### **THE REPORT**

A written Investigation Report will be produced at the end of the investigation which will:

- Show all the facts / evidence obtained.
- Highlight any circumstances relevant to the allegation (including mitigating factors e.g. system or management failings).
- Explain what and why evidence does or does not support the allegation/s.

The investigation report should be prepared in accordance with the [Investigation Report Template](#). There is no set format for the findings section of the report as this will be dependent upon the nature of the allegations. This will generally dictate the report structure e.g. incidents in chronological order or subject areas. As a minimum the findings should be recorded under each allegation. Advice on preparing an Investigation Report may be sought from CFIT.

Once finalised, the report is sent to the Lead Manager and the HR Adviser. Where necessary, a meeting will take place with the Lead manager, the Investigator and the HR Adviser to help clarify any points of fact or evidence and for the Lead Manager to decide what the next steps will be. The outcome of the investigation will then be confirmed in writing to the employee by the Lead Manager.



## **CASE FILE/ DOCUMENTS SCHEDULE**

The Investigator should retain their working papers/ case file until such time as the formal process (including any appeal) has concluded.

The Investigator is required to ensure that all documents to be included within a final pack to be utilised during a disciplinary process are redacted in accordance with the Council's Redaction Guidance.

The pack of documents which should be sent to the Lead Manager/ HR Adviser on conclusion of the investigation for consideration should include (but is not limited to):

- Investigation Report
- Witness statements
- Documentary evidence (including details of the source of documents)
- Policy/ procedures related to the allegations