

Take the Stress out of Workplace Investigations

Webinar

3rd November 2021

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1

Objectives

- Explore alternatives – is there another way?
- Ensure that the report and investigation stand up to scrutiny.
- That those involved feel that they have been listened to.
- Understand the skills and techniques required.
- Manage competing interests and expectations.


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Before you get going...

- Are there alternatives
- Consider informal approaches/triage
- Explore pros and cons fully
- Clarify outcomes and do some reality testing
- Manage expectations



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Effective investigation is...

- Rigorous
- Fair
- Structured
- Sensitive
- Transparent
- Consistent with people's rights
- Neutral
- Timely
- Follows process



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Clarifying and agreeing the remit

- Background
- Terms of reference
- Details of grievance/complaint/alleged misconduct
- Clarify relevant procedure
- Commissioning

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Planning the process

- Review and gather documents
- Identify witnesses
- Schedule of interviews – timelines
- Ensure transparency around process
- Note-taker

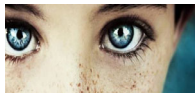
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6

Investigation Skill Set

- Active listening
- Impartiality
- Objectivity and withhold judgement
- Discretion/confidentiality
- Organisation
- Analytical/evaluating evidence
- Clear report writing



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Neutrality and independence

- Not being affiliated with either side
- Maintaining the process in a way that is mutually acceptable to both sides
- Having no personal interest in the outcome
- Approaching the proceedings with an open mind
- Putting aside your own prejudices and values

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PEACE Model of Investigation Interviews

- P**reparation and planning
- E**ngage and explain
- A**ccount
- C**losure
- E**valuation



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Testing evidence



- Dealing with evidential inconsistencies
- Establishing truth?
 - Open ended questions
 - Gradual disclosure of evidence?
 - Unanticipated questions

10

Managing Witnesses

- Rapport
- Avoid being overly formal
- Open questions
- Clear/simple language
- Don't interrupt
- Go off script if need be



11

Challenging Witnesses

- Reluctant
- Angry
- Emotional
- Anxious
- Overly talkative
- Manipulative

12

The legal stuff!

➤What the tribunal will look at:

- Belief
- Reasonable grounds
- Reasonable investigation
- Balance of probabilities



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Evidential difficulties

- Direct v hearsay
- Corroboration
- The Luis Suarez test!
 - Demeanour
 - Inconsistencies
 - Probabilities
 - Credit



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Seeing the wood for the trees



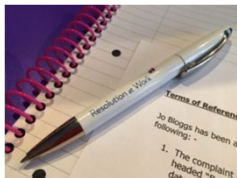
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15

Preparing the report

- Background
- Terms of reference
- Summary of investigation
- Summary of evidence
- Assessment
- Recommendations
- Appendices



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Top tips

- Act quickly but not in haste
- Be clear about procedure and TOR
- Gather evidence
- Plan and prepare
- Manage witnesses
- Clear report
- Don't sit on the fence!



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17

Future Webinars & Training

Foundation in Workplace Mediation – 16,17,18 & 23.24 November 2021

<https://www.resolution-at-work.co.uk/events/2021/11/16/foundation-in-workplace-mediation-3/>

CMC Webinars

- 25th November – Managing Hybrid Working
- 7th December – The Grievance is Dead
- 20th January – Team conflict on the rise

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18

**Mediation and Conflict Resolution
Services and Training**

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19
