

## CHECKLIST:

### Ensuring your investigation is procedurally fair

The steps below are essential to ensure that your process is procedurally fair:

- The respondent knows all the allegations made against them in sufficient detail for the allegations to be understood;
- The respondent is given a reasonable opportunity to respond and adequate time in which to prepare a response;
- Details of the possible disciplinary actions (including termination of employment if relevant), together with the allegations, are made known to the respondent;
- The investigation is conducted within a reasonable time frame, and unreasonable delays are avoided;
- The parties, and ideally the witnesses, are given the right to have a support person of their appropriate choice;
- All participants are required to maintain confidentiality and reasonable efforts are made to ensure breaches of confidentiality do not occur;
- All relevant witnesses are interviewed and given an opportunity to relate their version of the events, including those nominated by the complainant and respondent where judged to be relevant by the investigator;
- The investigator and any decision-maker are impartial and independent, have no personal interest in the matter being investigated, and any issues of perceived bias are addressed;
- The investigator is impartial in assessing the credibility of the complainant, respondent and any witnesses and all the evidence collected;
- Each party is given the opportunity to respond to contradictory evidence;
- The investigator makes reasonable, diligent enquiries, and ensures that there is sufficient evidence before making findings on the balance of probabilities; and
- The parties are informed of the outcome of the investigation and given enough information to understand and accept the outcome.

## CHECKLIST:

### Unknown or anonymous complainant

- Do not proceed with a formal misconduct investigation unless the allegations are sufficiently clear and specific to be understood by the respondent;
- If your complainant elects to remain anonymous and their complaint meets the criteria to be considered a whistleblower complaint in accordance with applicable legislation special requirements apply when managing the identity of the complainant. Penalties apply for a failure to apply the legislation and those requirements correctly. Check Chapter 1, page 16.
- Explain to the respondent that the organisation has decided to investigate the allegations, even though the complainant is anonymous/unknown, but this does not change the respondent's (or the other participants') obligations of confidentiality with respect to the matter;
- Tell the respondent that you understand it is frustrating not to know who made the complaint, but it is better not to speculate about who it is;
- Explicitly direct the respondent not to try to find out from other employees who made the complaint (even though this should follow from the direction to maintain confidentiality about the investigation and the matters involved in the complaint);
- Tell the respondent you believe that the allegations are clear enough to be understood, without the complainant's identity;
- Describe your decision about anonymity in the report and note that you believe that procedural fairness was afforded to the respondent, even though the complainant's identity was not known; and
- When analysing the evidence in your report, discuss what impact the anonymity may have had on the evidence collected.

## CHECKLIST:

### What to explain to participants at the start of the investigation

#### You will need to explain:

- The scope of your instructions, for example: *“I am investigating allegations of bullying made by Charles Hamilton against you. Those allegations have been provided in writing to you. It is my job to determine whether those allegations are proven or not, on the balance of probabilities. If I find that you did engage in the conduct Charles Hamilton claims, I will also make a decision about whether those actions were a breach of policy”*;
- The organisation has asked (or required) the participant to assist in the investigation;
- The procedure in the investigation, its expected timing, and your role as the investigator;
- The participant is expected by their organisation to: participate in good faith; provide relevant and truthful information to the best of their knowledge; and comment only on what they themselves witnessed (which can include relevant hearsay evidence) but not what they guess, speculate or suspect has happened;
- The participant’s right to have an independent support person of their choice accompany them during the interview process, (subject to the support person not being a witness or known to the investigator or the parties) and the support person’s role;
- The participant can request a break at any time in the interview;
- The participant may refuse to answer a question or can request to stop the interview at any time. If they do not provide information, however, the investigation will continue without the benefit of the participant’s evidence;
- The participant (*complainant and respondent only*) can nominate any relevant witness), though the investigator will have final say over what witnesses are interviewed;
- All participants have a legal right not to be victimised as a result of making allegations, responding to allegations, or participating in an investigation. You

should state the repercussions should any such victimisation occur, and what participants can do if victimisation occurs;

- How you will protect the confidentiality of the information they give you;
- How the information provided in the interview will be recorded, how it will be used in the investigation, where it will be stored and who will have access to it, and that you will give them a copy of the recording, transcription and/or notes of interview;
- Nothing is off the record, and all comments made (including before and after a recording device is turned off) will be noted and, if relevant, included in the investigation;
- Their evidence may be put to any other party for a response (as a part of the contradictory evidence process) and if so, they will be identified by name;
- The strictly confidential nature of the process – get all participants to agree to maintain confidentiality, and to not speak about the investigation to any other staff;
- Follow-up or second interviews may be required, and if so, you will contact them;
- How the participant can contact you after the interview to provide any further information;
- If the participant provides information or evidence, they must confirm that they have the legal right to have that evidence and to disclose it to you , and that you as the investigator have the legal right to rely on and otherwise use that evidence for the purpose of conducting this investigation; and
- Details of the Employee Assistance Program (EAP) or other available supports in the organisation.

## Sample Verbal and Written Communications

*Please note:* Communications to the parties should cover the following topics, however, the level of formality required will vary from organisation to organisation. The suggested communications can be tailored to suit your organisation.

### **SAMPLE WRITTEN COMMUNICATION FOR COMPLAINANT (to be tailored for each matter as appropriate)**

Dear [complaint name]

I refer to your complaint **dated**. [Employer] takes all workplace complaints seriously and in this instance, it has been decided that an investigation will be conducted into the complaint(s) you have made. Until the investigation is completed [employer] will form no opinion as to whether inappropriate conduct has occurred.

#### **Investigation Process**

This investigation will be conducted by **[name]**.

In order to conduct the investigation in a procedurally fair way, it is necessary that your complaint is particularised, coherent and complete so that [respondent] is clear what actions they are alleged to have taken, when and where this occurred. These allegations will then be provided to [respondent] for a response.

The investigator will contact you shortly to arrange an interview to commence this process *OR* **[name HR]** will assist you in particularising your allegations and thereafter [investigator] will contact you to arrange an interview about them.

You are entitled to **union representation or** a support person during this process. However, your support person cannot be a person who was present on any of the occasions when the behaviour is alleged to have occurred. Please let the investigator know who you will be bringing to the interview if anyone.

You will be given an opportunity to explain your complaint in a **recorded/noted** interview and you will be provided with a copy of those interview notes. You will be asked to respond to specific questions designed to assist in the determining the facts regarding the allegations.

As part of the process, the investigator may also interview relevant witnesses if s/he considers this necessary and collect any other relevant evidence. You will have the opportunity to suggest relevant witnesses. The investigator will then make findings of fact on the balance of probabilities as to whether the allegations made by you are proven or not.

You will be given the opportunity to comment on any information collected which conflicts with what you have said, where this is material to establishing what has occurred.

From the facts established, on the balance of probabilities, the investigator will also determine whether there has been any breach of workplace policy/policies by [respondent].

You will be provided with verbal feedback by [role] in regard the findings of the investigation.

### **Confidentiality**

This is confidential matter. All parties to this complaint and all witnesses interviewed are bound by confidentiality, and you, and all participants are required not to discuss this matter, or your involvement in an investigation process.

This means that you should not discuss your allegations or subsequent interviews, in or outside of work, either directly or indirectly, unless you speak to [contact person in organisation] about the process, a medical professional or to your support person if you wish to have one. This will ensure the privacy and dignity of those concerned. It will also enable you and others to give evidence free from the influence of others.

*OPTIONAL: During the investigation process [respondent] has been asked not to contact you.*

Any breach of confidentiality will be considered a wilful breach and you will place you at risk of disciplinary action.

### **Stand down [if appropriate and in accordance with policy]**

Given the nature of this matter, you are not required to/you are requested not to attend the workplace until the investigation and the outcome are resolved. You will continue to be paid during this period. If you have any personal property or resources that you wish to have available to you in order to respond to the

allegations, please contact [insert contact details] who will ensure that your property is provided to you.

### **Medical clearance**

As you are currently on sick leave/have indicated that you are unwell, we will require a medical certificate from your GP, confirming that you are fit to participate in the investigation process and outlining and special arrangements that we need to make to enable your participation.

### **Support**

We appreciate that investigation processes can be stressful for all concerned. Please note that you are encouraged to make full use of the support services available to you, including the Employee Assistance Program (EAP). Contact details are below. If you have any questions now or at any stage in the process, please contact [contact details in organisation] or raise them with the investigator.

Yours sincerely

Attachments: EAP details

## **SAMPLE WRITTEN COMMUNICATION FOR RESPONDENT (to be tailored for each matter as appropriate)**

Dear [respondent name]

I am writing to formally notify you that I have received a complaint from [name of complainant(s)] alleging inappropriate conduct by you in breach of workplace policies.

[Employer] takes all workplace complaints seriously and in this instance, it has been decided that an investigation will be conducted into the complaint made. Until the investigation is completed [employer] has no opinion as to whether any inappropriate conduct has occurred.

*Either:* Detail of the allegations made against you are attached to this letter.

*Or:* We are in the process of determining from the complaint, the detail of the specific actions you are alleged to have taken and will provide you with that detail as soon as we are able, so that you have a fair opportunity to respond.

You will be provided with sufficient time to consider these allegations prior to being interviewed about them.

### **Investigation Process**

This investigation will be conducted by [name].

The investigator will contact you to arrange an interview at an appropriate time in the investigation process and will at that stage provide further detail about the process.

You are entitled to union representation or a support person during this process. However, your support person cannot be a person who was present on any of the occasions when the behaviour is alleged to have occurred. Please let the investigator know who you will be bringing to the interview if anyone.

You will be given an opportunity to respond to the allegations in a recorded/noted interview and you will be provided with a transcript of the interview/copy of those interview notes. You will be asked to respond to specific questions designed to assist in the determining the facts regarding the allegations.

As part of the process, the investigator may also interview relevant witnesses if they consider this necessary and collect any other relevant evidence in order to make findings of fact on the balance of probabilities as to whether the allegations made against you are proven or not.

You will be given the opportunity to comment on any information collected which conflicts with what you have said, where this is material to establishing what has occurred.

From the facts established, on the balance of probabilities, the investigator will also determine whether there has been any breach of workplace policy/policies.

If it is found proven that you have breached any workplace policies, [employer] may take action consistent with the disciplinary policy and process, up to and including termination, depending on the seriousness of the matters proven.

### **Confidentiality**

[Employer] treats this matter as confidential. All parties to this complaint and all witnesses interviewed are bound by confidentiality, and you, and all participants are required not to discuss this matter or your involvement in the investigation process.

This means that you should not discuss this document or subsequent interviews, in or outside of work, either directly or indirectly, unless you speak to [contact person in organisation] about the process or to your support person if you wish to have



one. This will ensure the privacy and dignity of those concerned. It will also enable you and others to give evidence free from the influence of others.

Any breach of confidentiality will be considered a wilful breach and may place your continued employment at risk.

**Suspension of employment** [if appropriate and in accordance with policy]

In order for an investigation to occur/Given the nature of this matter, your employment is suspended with pay until the investigation and the outcome are resolved. This suspension takes effect immediately. During your suspension with pay, you may not attend the workplace. You must not contact any member of staff except through [insert appropriate contact details]. If you have any personal property or resources that you wish to have available to you in order to respond to the allegations, please contact [insert contact details] who will ensure that your property is returned to you. This is a formal direction and any breach by you will place you at risk of disciplinary action.

Your access to work email, intranet [or other online resources] is also suspended until this matter is resolved. If you require information from those sources to prepare your response, please contact [contact details in organisation].

**Support**

We appreciate that investigation processes can be stressful for all concerned. Please note that you are encouraged to make full use of the support services available to you, including the Employee Assistance Program (EAP). Contact details are below.

If you have any questions now or at any stage in the process, please contact [contact details in organisation] or raise them with the investigator.

Yours sincerely

Attachments: Statement of Allegations/EAP details

## SAMPLE WRITTEN COMMUNICATION TO A WITNESS

**(to be tailored for each matter as appropriate)**

Dear [Witness name]

[Employer] has received a workplace complaint. We take all workplace complaints seriously and, in this instance, have commenced an investigation into the allegations made.

You have been identified as someone who may be able to assist the investigator in determining the facts of the complaint. **No allegations have been made against you and you have been identified as a witness only.**

We are asking you to participate in this process as it is important for fairness to everyone involved that we are able to accurately establish what happened.

[Investigator name] is conducting the investigation. They will be in contact with you over the **next week** to arrange an interview time with you.

You will be asked to respond to specific questions relating to the complaint. There is nothing to bring to the interview or to prepare in advance. You will be provided with more detail about the matters being investigated at the interview.

Until the investigation is complete, the organisation has no view about whether anything inappropriate has occurred or not.

As a participant in the investigation, you are required to maintain confidentiality. This means that you should not discuss this email or your subsequent interview, in or outside of work, either directly or indirectly, unless you speak to me about the process or to your support person if you wish to have one. This will ensure the confidentiality, privacy, and dignity of those concerned. It will also enable you to give evidence free from the influence of others.

The information you provide to the investigator is likely to be used to help determine what has happened. It may also be provided in part to other participants if it conflicts with what they said and if it is important to determining what happened.

If you have any queries about the investigation process, please contact me directly. Thank you in anticipation of your assistance.

Regards,

**[Employer]**

## **SAMPLE OPENING COMMENTS IN INTERVIEW WITH PARTICIPANTS IN A WORKPLACE INVESTIGATION**

**Assuming you have previously explained the process to the participants along the lines set out above, the following matters should be explained again at the start of the interview, on the record and the participant should be provided with an opportunity to ask any questions.**

**The language and level of formality can be adapted to suit your organisation.**

### **Purpose**

In order for employer to uphold its employment policies, it is important that this investigation discovers the facts of what has happened. Therefore, your complete and honest information is important.

### **Breaks**

You can ask for a break at any time, including to speak to your support person privately. You can also ask that we reconvene at another time.

### **Assessment**

Although I may say things like, 'yes, right, okay, thanks' in the course of our conversation, I am not actually evaluating what you are telling me. I will do that after the interview when I have collected all the information.

### **Documents**

If you provide with documents in support of what you are saying, please mark the parts that are relevant and also note which allegation they are relevant to.

### **Witnesses**

If there are witnesses to the matters you are describing, please name them as you go along.

### **Additional questions**

It is likely that when I have considered your information, I may have additional questions or find I missed something. In that case, I will either pick that up by phone or request another interview.

### **Notes**

Likewise if on reading the interview notes I will provide to you, you realise that you have missed something or want to correct any data, please let me know. Please

note that I will add any additional comment or corrections to the notes, but I will not delete anything from the original notes.

**Contact**

Please provide me with a contact email address that you are comfortable for me to use for material relating to this investigation.

**Confidentiality**

Just to remind you again that you must not discuss this interview or the content with anyone else in the workplace.

Do you have any other questions or are you OK to begin now?

**SAMPLE CLOSING COMMENTS IN INTERVIEW WITH PARTICIPANTS IN A WORKPLACE INVESTIGATION**

Are there any further matters relating to the allegations that you feel we have not covered adequately and which you would like to add now?

**Transcript/Notes**

I will send you a transcript of this interview/copy of the notes of this interview [when]. These are for your own reference and not to be provided by you to anyone else. *NB You may elect to hold all the notes back until you have had the initial interview with all parties.*

**Next Steps**

Once I have considered all the material from other interviewees, I will determine whether there is any contradictory evidence: i.e., material that conflicts with what you have said and which is important to determining the facts of this case. I will then either speak to you again so you can respond to that material, or I will email the relevant material to you for comment. It is likely to be at least [1/2/3 weeks] before I get to that stage of the process.

Do you have any further questions?

**Checklist:**

**When to put contradictory evidence to the parties for comment.**

- The evidence contradicts a key part of the complainant's or the respondent's evidence or their claimed version of events.
- The evidence is likely to be used to make a finding of fact against a party.
- It is necessary or helpful to put to the party to test the accuracy of the evidence and the credibility of the witnesses.
- The party's response could assist in a meaningful way to weigh up the evidence you have collected.

If *any* of this applies to your case, you should put the evidence to that party for their response and expressly consider that response in your analysis. This will show how you have not only provided an opportunity to respond but have also taken into account that response.

## Communicating the contradictory evidence

If the evidence is to be put to the party in writing, it should be marked 'Strictly Private and Confidential'. Before sending the evidence in writing, it is a good idea to first ask the party for a confidential email address or mailing address.

The covering letter or email might state:

"Some of the evidence that I have collected in this case was not consistent with your evidence. I have set out that evidence below to give you the opportunity to respond to it, should you wish to do so. If you would like to provide any comments on the evidence below, you can do so in writing, or in an interview, or over the telephone to me, on or before [date]. If you will require more time to consider and respond to this evidence, please let me know. This evidence is provided for the purposes of this workplace investigation only and is strictly confidential."

If you seek a party's response to contradictory evidence in an interview, the following explanation at the start of the interview (tailored as appropriate for your organisation's culture and context), explains this part of the process:

"The main purpose of this interview is to provide you with an opportunity to respond to any contradictory evidence from participants in this investigation.

Contradictory evidence is evidence I have collected that is not consistent with your evidence. Providing you with an opportunity to respond to contradictory evidence is an important part of the investigation process.

I will be putting that contradictory evidence to you and inviting your comment. I may also ask some questions for you, to clarify your evidence and the allegations/responses you have made. If you need more time to consider and respond to the contradictory evidence I ask you about today, please let me know and I will allow you to take a break to consider the evidence and your response."

## Sample standard items of an investigation report

The standard items that may be included in a formal written investigation report are set out below.

There are many ways to write your analysis and findings, and the level of detail will be determined by the seriousness of the allegations and the risks to your organisation.

- Cover page marked 'Strictly Private & Confidential' (and "Subject to Legal Professional Privilege", if appropriate) and dated;
- Executive summary of the allegations, investigation process and conclusions;
- The allegations;
- How and when the allegations came to the organisation's attention;
- The methodology for the investigation, including statements about:
  - If you were 'appointed' by another person in your organisation, how you were appointed and when;
  - Whom you interviewed, and how you did so (for example, in person);
  - How you recorded the interview;
  - What other evidence you collected and how;
  - Whether you did a site visit; and
  - Any other enquiries you made;
- What interviews were conducted, how the witness was considered relevant, for example, "*Van Nguyen, who was identified by the complainant as a witness to allegation 5*". Include here a list of any relevant witnesses who did not participate, why they did not, and what, if any, impact this had on the investigation;
- A description of the documentary evidence and other evidence you have considered, including the written complaint, written responses, transcripts of interview and documents provided by the parties and other documents you sought. If the material provided is voluminous, you can summarise such as '*Folder of documents provided by complainant as set out in Appendix A*';
- Any other evidence that was collected and considered; and
- A description of any 'issues arising' such as delay, parties' objections, or procedural issues you considered.

Then for each allegation:

- The allegation;
- Any agreed facts (such as *“The complainant and respondent agreed that the sum of \$4312.88 was withdrawn from the company’s cash account on 3 November 2019”*);
- Details of the evidence collected, including any responses to contradictory evidence;
- Analysis of the relevance, credibility, and reliability of the evidence, and the weight given to it;
- A finding of fact for each allegation (see more detail in Chapter 19);
- Where you make adverse findings against any person, confirmation that the person was given the opportunity to respond to the allegation, and fair inclusion of their defence; and
- A consideration and succinct conclusion about whether the proven conduct amounts to a breach of policy.

Things that should not be included:

- Unless specifically instructed to do so, the report should **not** contain any opinion about the motives of the parties.
- Any comment on matters that are outside of the scope of your investigation’s terms of reference.



## Remaining effective under pressure

The following tried and true tips will help you to look after yourself and remain professional in your role as workplace investigator.

### *Your own well-being*

- Be aware of your own stress levels and emotional responses.
- Build a strong foundation of wellness from sufficient sleep, healthy food, good personal and professional relationships, meditation, regular exercise, and involvement in meaningful activities outside work.

### *Spend time preparing for a potentially stressful situation*

- Before a potentially stressful interview or meeting, spend some time preparing yourself and thinking about what you might encounter.
- Remind yourself of how you can practically address process challenges and manage aggressive behaviour (see Chapter 14).
- Remind yourself that the investigation process you are following is planned and procedurally fair. Have confidence in the process and remember this issue is not about you personally.
- Remind yourself that the person you are meeting may be upset, angry, blaming, or helpless; however, that this is not your problem to solve.

### *In the interview or meeting*

- **Focus on matters that you can control.** In your job, how participants behave when they are upset, angry and stressed is largely outside of your control so there is not much point trying to grasp control of those reactions. You can, however, control *how you respond*, what you do next, and how you choose to engage with such participants.
- **During the interview, if the participant becomes distressed or begins to cry, give them time and space to feel the emotion and express themselves.** Do not try to hurry them along or change the subject. They are upset because the subject matters to them. While difficult to witness, responding empathetically and reasonably can build rapport and trust in the investigation process. It may ultimately lead to a more productive and less emotional participant. Acknowledge their emotion, saying, *“I can see how painful/difficult/upsetting this is for you and that you are doing your best to explain this to me. You can take whatever breaks you need”*.

- **Remain professional and calm even in the face of extreme emotion.** The participant will pick up on your emotional state. Your composure can calm them, and they are more likely to mirror your behaviour back to you. Speak slowly and gently. It will lower tension.
- **Try to diffuse stress levels** by making it clear how long the interview may take, how many more questions/allegations/topics you have or how much longer it will take.
- **Take breaks yourself, every hour.** Say, *“To get the best evidence, we need to take a break every [hour], let’s take a break now.”*
- **You cannot and should not step into the role of counsellor or therapist,** but you can have information about the employer’s Employee Assistance Program (EAP). Mention that it is common for people in workplace investigations to use this service for support. Identify what other support is available if it is clear that the EAP service is not going to be used.
- **If a participant expresses an intention to self-harm, or to harm others, take action immediately and do a well-being check.** Do not proceed with the investigation until the person has a medical clearance to participate and you are comfortable it is safe to continue.
- **If you are strongly agitated by a participant** or experience a strong “fight or flight” response, remember to breathe, slow down, and take a break.
- **Be aware of any antipathy you may develop towards a participant.** Talk with someone else about it to maintain your impartiality.

## Checklist:

### Should similar fact evidence be taken into account?

Work through this checklist to determine if the evidence should be considered in your analysis. You should be able to tick every box for the similar fact evidence to be acknowledged.

- Is the similar fact evidence relevant to the allegations being investigated? *(relevant)*
- Does the similar fact evidence really help me to know whether the respondent behave as alleged, or not, and in the way alleged? *(probative)*
- Is the evidence of good quality? That is, it should show more than a vague tendency, a coincidence of no real significance or be a personal opinion about the respondent's character. *(reliable)*
- Does this evidence do less damage to the respondent than it does help me to make the right decision about the alleged conduct? *(not overly prejudicial)*
- Did I give the respondent an opportunity to respond to that evidence before I took it into account?

**Be Aware:** *Due to the potential risks associated with this sort of evidence, it is always preferable to obtain direct evidence about the allegations at hand.*

## Key points in assessing and analysing evidence

- When you make findings of fact, apply the civil standard of proof — the balance of probabilities. Having considered all the evidence, ask whether the alleged conduct is more likely than not to have occurred.
- In assessing the evidence, you have gathered, consider whether it is relevant to the allegations, probative, and not overly prejudicial to the respondent. Consider how much weight to give this evidence, compared to all the other evidence.
- Evidence of past similar misconduct can be considered but be aware of the risks. You need to satisfy yourself that it is relevant to the allegations, and more probative than it is prejudicial.
- Give more weight to first-hand, direct evidence. It is more reliable than hearsay evidence.
- You can consider hearsay evidence if you have little other useful evidence. Remember that it is not evidence of what occurred, it is only evidence of what a person told someone else.
- Consider whether evidence is corroborated by other evidence, to assist you in your analysis.
- Analyse carefully poor recollections, evidence of lying, inconsistencies, and evidence of motive to bring a false complaint.
- Motive of the complainant in making the allegations may be relevant to your analysis, but an honest complainant should not be denigrated for having raised valid concerns of a breach of policy, no matter what motivated them to raise their concern.
- You may need to make your findings of fact based on assessments of the participants' respective credibility. If so, explain clearly in your report the basis upon which you have found a witness's evidence to be credible or not credible.

## THE INTERVIEW

### Before the interview: Notes to the participant

- Email allegations to participants
- Advice on recording
- Set up a quick trial run if the interview will be conducted via videoconferencing
- Advice on support person/special needs if appropriate
- Interpreter services if needed
- Instruct that there is no such thing as 'off the record'
- What can be expected: i.e., there will be questions, evidence, you can take breaks etc.
- Approximate time frame
- When and where, and who will be in the room
- If any special provisions have been made

### Before the interview: What you need to do

- Check your recording devices and make sure everything is working and you have back-up
- If you cannot record the meeting, organise for a notetaker
- Organise an interpreter or special needs person if applicable
- Find a private room for the interview and a break room that are away from the workplace
- Check that your videoconferencing is working
- Organise the evidence you may share. Have copies of everything, as you do not want to hand out originals
- Have a system set up how you will receive evidential documents, so you can file them properly
- Prepare your interview structure
- Prepare questions or topics to cover

### Start of interview

- Turn recording device on straight away
- Mention all the people in the room, time, and purpose of interview
- Instruct the interpreter, if using, that they
  - Only translate what is asked and not engage in discussion, except to clarify
  - Remain impartial
  - Treat the interview with utmost confidence
- Communicate the rules of the interview
  - There is no 'off the record'
  - Instruct the support person about when they can and cannot interrupt
  - Inform about the break room and taking breaks
  - If the company has policies re: lying, make participant aware of it
- Tell them they will receive a transcript of the interview
- Make sure they are comfortable, and reassure them, if they do not seem to be
- Tell them about the structure of the interview
- "In this interview, if I say, "I understand" or acknowledge what you have said by saying "Yes", this doesn't mean that I accept or agree with your evidence. I will not be making that assessment until after I have collected all the evidence. Do you understand that?"*
- Ask if they have any questions

### During the interview

- Be aware of special needs participants, i.e., traumatised subject, children
- File provided documentation appropriately and mention it, so it is recorded
- Be aware of how you may handle confrontation or a disruptive support person
- Ask every hour or so, if a break is needed, or if they are okay to continue
- Call for a break if you feel it is needed, or you need it
- Use context reinstatement where necessary
- Silence can work in your favour

### Some basic questions to get started

- What did you observe happen?
- When did this happen (include the date, time, and duration)?
- Where did it happen?
- Who did or said what? In what order did this occur?
- If you responded, how did you respond?
- Have you reported this to anyone else? If so, to whom? When? Where? What was said? What was their response?
- Do you know of any relevant context?
- Are there any relevant notes, documents, or other evidence that I should have, which are consistent with what you have told me?
- Were there any witnesses? Who was within earshot/nearby?
- Who else may have relevant information?

### After the interview

- Ask if there is anything else they wish to add
- Explain about the next steps
- Tell them they will get a copy of the transcript that they can comment, if they feel there is an error, or something may be misunderstood. Instruct them that they cannot 'rewrite' what was said
- Give them an approximate timeframe as to when to respond with comments, usually about three days, depending on length of transcript
- Tell them that there may be a follow-up interview, if anything arises that may be of importance
- Ask if they have any questions
- Thank the participants for their time
- If you are working with a statement. You would give the participant a copy of your notes and the statement as hard copies

- If you want to email the transcript, etc., ask which email it should go to, as you many only have their work email, and participants might want it to be sent to a private one
- Consider that all your interviews and evidence will be part of your final report. Consider writing things up, so you can easily incorporate the parts later, saving you some time