

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.