Disciplinary - Role of the Investigation Manager

NHS Blood and Transplant

Background

- When an incident occurs or an allegation arises, local management of the colleague involved will complete the initial “fact finding” exercise – that is to speak with colleagues immediately involved or impacted.
- This is done as soon as possible whilst memories are fresh – gathering initial recollections and confirming these in writing.
- The possible outcome of this stage could be a local resolution which is normally discussed with the local HR Consultant or if more serious, referral to the Disciplinary Triage Panel with a recommendation to progress to a formal investigation. The specific allegation(s) will be framed at this stage.
- If the allegation is very serious, suspension may need to be considered to protect colleagues or to allow for an investigation free of interference.
- These are actions which take place before you are brought in as the Investigation Manager

Considerations

- Any conflict of interest which may impact on you carrying out a full and unbiased investigation – do you have prior knowledge of historical incidents or a personal relationship with any involved parties? Will you be perceived as neutral and fair by those involved?
- Whether you are able to prioritise time to complete a full and fair investigation quickly.
- Are you trained and confident to take the investigation forward? Do you have access to support and guidance if needed?
- An appropriate colleague will support you with conducting the investigation. This will normally be an HR professional, but could be another manager or a subject matter expert.

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Prior to the investigation

- The investigation team members will meet to discuss and develop the Terms of Reference (TOR) and Scope of the investigation.
- Clear allegations will be outlined and confirmed with the Commissioning Manager (senior colleague who acts as the link with the directorate for progress and developments in the investigation).
- An Investigation Planner will be completed to identify key milestones and timelines for completion. Any challenges / blockers identified should be addressed at this early stage.
- A case Commissioning Meeting will be held with the Commissioning Manager, Senior HR colleague for the Directorate and any specialist input required. The meeting will ensure all parties are clear on plans and expectations and a Commissioning Checklist will be completed to ensure additional details and steps have been addressed (such as support for colleagues involved in the process).
- Please see Case Commissioning Guidance and Checklist to support preparation for this meeting.

Preparation

- Review initial information gathered: fact-finding information and Disciplinary Triage Referral Form.
- Identify the key issues and circumstances to be investigated.
- Discuss with operational management the availability of witnesses and arrange formal meetings. Notify relevant parties in writing, using the relevant disciplinary letter templates (available on People First).
- Note: if an employee's representative is unavailable, timings may have to be amended within reason and by mutual agreement
- Outline key question areas and prepare questions to be asked, using initial statements as a framework.
- Arrange a note-taker for investigation interviews, if possible.
- Confirm who is supporting individuals and keep them updated.

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Investigation

- Meet first with the manager/employee bringing the allegation and the colleague responding, to be clear of the circumstances of the allegation – advising there may be a follow up meeting to respond to information and testimony put forward during the investigation.

- Continue with other witnesses or colleagues relevant to the investigation - Some witnesses may feel nervous or anxious, check they are accessing their nominated support colleague and remind them of EAP. It is not usually possible for witnesses and statements to remain anonymous and these details will be disclosed should the case progress to a formal hearing. The Investigating Officer may need to consider what steps they can take to ensure that the witnesses' concerns are allayed and if they can remain anonymous.

- Gather relevant information e.g. training records, SOPs, previous documented discussion or previous sanctions, CCTV, PDPR, emails, letters, etc.

- Hold as many follow up investigation meetings as necessary for clarification, ensuring any new details or allegations have been presented to the colleague responding and that they have the right of response to these.

- Probe and follow up on information provided to ensure a full and fair investigation - balanced for all parties - is carried out.

- Review and consider impact of information gathered on the original allegation(s)? Have the terms of reference or scope changed? Are there new or revised allegations?

- Continually check-in with the original terms of reference and allegation. Has anything changed or been revealed or disproven? Can you respond from the lens of all parties involved? Is the responding colleague's 'voice' clearly heard?

- Provide summary updates to the Commissioning Manager, where there are changes, delays or findings requiring action.

- Ensure individuals involved are kept updated by the investigators or their support person.

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Outcome Summary Report

- An initial summary report confirming key findings and facts established leading to recommendation for progression is prepared for presentation to the Commissioning Operational Manager and senior HR colleague to determine next steps.
- What are the conduct issues - who, what, how impacted? Is it deliberate? Is there a case to answer or lack of awareness/training?
- Are there any Dignity at Work impacts on complainants?
- Management responsibilities - did the management/leadership team fulfill their responsibilities in these circumstances, were there warning signs, how did they respond?
- Any general working environment or team behaviours/issues which impact?
- Any recommendations to be made for interventions or remedial/preventative measures, other than the disciplinary process itself?
- Ensure findings are clear and evidenced and allegations are confirmed.

Disciplinary Hearing

- If it is agreed by the senior/commissioning manager that the matter should progress to a formal disciplinary hearing, a full and detailed Management Statement of Case (template on People First) will be developed for presentation by the Investigation Team.
- This full report should contain all information referenced during the investigation which has led to the outcome decision, including appendices (e.g. meeting notes, statements etc).
- See guidance on What to Expect at a Disciplinary Hearing for further information; found on People First.
- Alternatively, it may be that the senior/commissioning manager approves the offering of a sanction (up to First Written Warning). The responding colleague would have the option of accepting this sanction (and should seek advice on this if they are unsure). If the sanction is not accepted then the case will proceed to a disciplinary hearing.