



Workplace Investigation Policy

Background

A workplace investigation is an inquiry into an issue or complaint of behavioural misconduct, usually raised by an employee against another employee but can also include allegations raised by third parties against employees or Board Members.

Allegations that commonly lead to workplace investigations include claims of:

- bullying, discrimination or harassment;
- improper conduct, fraud and corruption;
- drug taking;
- breaching safety provisions;
- breaching a policy, procedure or code of conduct;
- misusing or damaging HLNT property.

Irrespective of what is being investigated, HLNT must ensure there is procedural fairness throughout all stages of the investigation process.

Procedural fairness requires that a fair and proper procedure be applied when making a decision. It is necessary for the findings of the investigation to be defensible and legally sound.

Policy Objective

The purpose of this policy is to provide clear guidance on the process to manage workplace investigations of the behavioral conduct of individuals arising from a complaint or allegation from an internal or external party.

Policy Scope

This policy applies to all workplace investigations into the behavioural conduct of an individual (or group of individuals) conducted by HLNT including investigations conducted by an internal or an external investigator appointed by HLNT.

This policy does not apply to:

- the investigation of allegations that HLNT formally refers to external agencies such as NT Police or a professional conduct body for detailed examination and/or action
- investigations regarding HLNT's governance or conduct as an organisation as a whole i.e. complaints or allegations are about the organisation and not against a specific individual. (The outcomes of organisational investigations may result in further investigations into individuals.)



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		Page 1 of 5		

Policy

To ensure that procedural fairness is afforded to all participants, HLNT will incorporate the following eight key principles into any workplace investigation:

1. Ensure the investigation process is clear and understood by all participants

It is important to inform all participants, including complainants, respondents and witnesses:

- what they should expect to occur during and at the conclusion of the investigation; and
- how long the investigation is likely to take.

It is also important that participants understand concepts such as confidentiality and victimisation. Victimisation occurs when a person treats an employee unfairly because that employee has made a complaint and is expressly forbidden under HLNT's Whistleblower Policy.

2. Set the scope of the investigation

Prior to commencement of an investigation, it is important to clearly establish its scope by preparing an investigation plan that includes the following information:

- the allegations to be investigated;
- the nature of the complaint, i.e. which laws and workplace policies may have been breached;
- what the investigation is setting out to determine;
- the names, contact details, availability and location of parties and possible witnesses;
- the location of interviews;
- the timeline to completion; and
- the steps that will be taken to maintain confidentiality, e.g. using private meeting rooms for interviews and ensuring that all participants sign a confidentiality agreement.

3. Offer each participant a support person

All participants are entitled to have a support person with them during their interview. A support person can be a friend, colleague, family member, lawyer or union official.

Ideally, the support person will not be another employee — this is to ensure there is absolute confidentiality. If this is unavoidable, ensure that the employee support person signs a confidentiality agreement.

Importantly, the role of the support person is to provide support during the interview, not to act as an advocate for the participant or to interrupt discussion between the interviewer and the participant.

An advocate may speak on behalf of the employee and represent them in a formal capacity. A lawyer or union official, for example, may act as an advocate.

4. Give the respondent a fair opportunity to respond to the allegations

The allegations should be clearly communicated to the respondent, who should be given sufficient time to respond.

HLNT will also communicate the possible outcomes of the investigation to the respondent, e.g. that a finding against them could result in disciplinary action, including and up to dismissal and/or notification and/or referral to an external agency.

5. Maintain confidentiality

The investigation should be kept strictly confidential. This means that participants should not discuss the investigation with anyone inside or outside the workplace (except for immediate family members, such as a spouse or parent).

All participants, including support persons, should be advised of this and should agree to maintain confidentiality by signing a confidentiality agreement before their involvement in the investigation commences.

6. Ensure the investigator is impartial

Irrespective of whether HLNT uses an internal or external investigator, the investigator must be — and be perceived to be — impartial and independent. This means they must not:

- have any prior knowledge of the issues being investigated;
- be a witness to any of the alleged behaviour; or
- have been involved in past disciplinary matters involving the parties.

An external investigator is preferred if:

- the complaint involves senior employees, executive employees and/or members of the board;
- there is any risk that the investigation process or investigator will be challenged on the basis of impartiality if an internal investigator conducts the investigation;
- the respondent elects to have advocate representation;
- the matter is complex; or
- the matter could result in legal action.

7. Make findings on the balance of probabilities

Any findings of fact must be made on the balance of probabilities. This means that to be found proven, an allegation needs to be 'more likely than not' to have occurred. Each conclusion must be based on factual evidence specific to that allegation.

8. Communicate the findings

The investigator should produce a written investigation report that is sufficiently detailed and comprehensive to allow the decision-makers within HLNT to decide what action, if any, to take.

Irrespective of the investigator's findings, the decision-maker must make their own decision as to the nature of the behaviour and whether or not that behaviour is tolerated in the workplace.

For allegations that are substantiated, i.e. are found to have occurred, the employer should then take appropriate action based on the severity of the proven behaviour. Such action could include a warning, further training or dismissal. Any serious case of improper conduct, whether suspected or proven, shall be reported to the relevant and appropriate authorities such as the police and the NT ICAC.

Generally, the full investigation report will not be given to the participants. However, the findings of the investigation should be communicated to the respondent and complainant. Witnesses should be thanked for their assistance and advised that the investigation has concluded.

Responsibility for Policy

The Board of Diabetes Association of the NT Inc. is responsible for ensuring this policy is up to date and complied with.

Approval

Submission Date: Board Meeting 4/19 of 24 August 2019

Approval Date: Board Meeting 4/19 of 24 August 2019

Circulation: Board and Staff

Sign off by: Chair of the Board

A handwritten signature in black ink, appearing to read 'Ron O'Brien', with a large loop at the end.

Signature: Ron O'Brien

Related Documents, References and Resources

- HLNT Legislative Compliance Register
- Improper Conduct Prevention and Management Policy
- Compliance Authority Investigations Policy
- Whistleblower Policy

