

INVESTIGATION POLICY

INTRODUCTION

1. Carmarthenshire County Council undertakes internal investigations in response to a range of incidents and events. This policy lays down the procedure to be followed when an internal investigation requires witness statements from staff as part of an investigation or from those who are or may become the subject of the investigation.

2. This policy is to ensure that all investigations are carried out promptly, in a fair manner to the individuals concerned, allowing individuals to respond to the allegations made against them. It also respects their rights to confidentiality and explains the role of the companion at the informal investigation stage.

SCOPE

3. This procedure covers all employees including centrally employed school staff but excluding staff on the complement of locally managed schools.

4. This policy is intended to cover all internal investigations however they arise, e.g. disciplinary, capability and grievance; whistle-blowing disclosures; allegations of fraud, harassment or bullying; investigations as a result of an incident/accident reported on an Accident and Incident Form; investigations arising from Road Traffic Accidents involving council vehicles.

5. This policy is to ensure that if it subsequently becomes necessary for formal procedures to be invoked against an employee either internally or externally, the statements taken as part of the investigation may be used in this process. This is intended to avoid the need for employees to be interviewed more than is necessary and to ensure matters which may later be the subject to formal procedures, is documented as soon as possible after the event.

PROCEDURE

Purpose of the investigation

6. The objective of an investigation is to obtain all relevant information to establish the facts of the case. This will include interviewing the employee(s) being investigated and all relevant witnesses, taking statements or notes of meetings, obtaining documentary evidence, e.g. employment records, and contacting outside agencies, bodies and individuals as appropriate.

Appointing an investigating officer

7. An investigation officer will normally be appointed by the Director or nominated Head of Service in accordance with the relevant policy* (see below). Wherever possible, the investigating officer will be independent of the

incident and employee in question, and be experienced in conducting investigations. In some circumstances it may be necessary to appoint an investigation officer professionally qualified, e.g. where the incident involves vulnerable adults.

* Any case of suspected fraud or corruption by any officer or member of the Council must be reported immediately to the Head of Audit, Procurement and ICT. Where cases are logged on the Whistle Blowing Database, the Monitoring Officer will be responsible for formally referring the case to the Head of Audit, Procurement and ICT. No internal investigation should be attempted by any Department. The Head of Audit, Procurement and ICT will arrange for the necessary investigation to be carried out. Where, as a consequence of the investigation, there appears to be reasonable grounds to indicate that an officer has been guilty of fraud or corruption, the Head of Audit, Procurement and ICT will discuss the matter with the Director of Resources who will be responsible for deciding whether the matter should be formally referred to the Police.

Where cash or items are stolen, all such incidents, regardless of value, should be referred to Internal Audit prior to reporting to the Police. If it is suspected that a member of staff may have been involved in the theft advice must also be sought from a HR Advisor.

8. The investigation will not be conducted by the officer responsible for taking any formal action that arises from the investigation. Where possible, the investigating officer should not have been previously involved in counselling the employee for a related incident.

People Management - HR Advisor

9. Once an investigating officer has been appointed an HR Advisor will be allocated to advise and support the investigation officer by the Assistant Chief Executive (People Management and Performance) or a nominated representative, who will liaise with Internal Audit as required.

Employee responsibilities

10. In line with the general requirements outlined within the statement of main terms and conditions an employee 'may reasonably be required' to provide factual statements and comply fully with the internal investigation process and any subsequent procedures as outlined below:

"...You will be held responsible for ensuring that the accountabilities of your post (Job Profile available on request) are fulfilled and your performance in doing so may be assessed from time to time. You will carry out such work and duties as are usual or necessary in connection with your appointment or such work as may reasonably be required. You are required to invoke the Council's/School's established processes and procedures to challenge and

report dangerous, abusive, discriminatory or exploitive behaviour and practice. You will be responsible for your own actions, behaviour and any subsequent consequences. All employees are expected to recognise the limits of their competence and be responsible for limiting their actions to those which they feel competent to undertake. You will have due regard for economy and use of resources whilst maintaining standards at all time.”

11. The investigation officer will be responsible for ensuring that the employee under investigation has every opportunity to respond, taking into account the nature and severity of the allegations. In the event that the employee fails to respond the investigation officer will proceed on the basis of the information available. Failure to co-operate with an investigation without a valid reason may lead to disciplinary action.

Sickness absence during an investigation

12. Absence from work through sickness does not necessarily mean that an employee is unfit to give a statement. It may be necessary to seek the advice from an Occupational Health Advisor (OHA) to assess the employee's fitness prior to being interviewed. The employee will be asked to consent to the release of information by the OHA after the referral. In cases where an employee is considered unfit by the Council's OHA to be interviewed or to make a statement, s/he will be entitled to nominate a recognised trade union representative or a work colleague to speak on his/her behalf or to submit a written statement. In the event that the employee fails to attend the occupational health appointment or declines to give consent to the release of information, a decision will be made to proceed on the information available.

Notification of an investigation

13. Any employee who is to be interviewed as the subject of an investigation should be given details of the reasons for the investigation at the outset. The employee concerned must be informed in writing that an investigation is to be carried out and the subject of the allegations(s). This should be done within 3 working days of the decision to conduct an investigation and a copy of the investigation policy enclosed. If in the course of the investigation further allegations come to light which form part of the investigation then the employee must be made aware of this in writing as soon as this becomes apparent.

14. In cases where it is not immediately apparent whether actions are likely, an employee who is later identified as possibly facing action must be advised in writing as soon as it becomes apparent.

Representation

15. An employee who is the subject of an investigation can make a request to be accompanied by a suitable companion (independent of the investigation) at the investigation stage. A companion can be a trade union representative or a

work colleague. The employee will be given an appointment with reasonable time to arrange such support. (Please refer to the Role of the Companion in Disciplinary and Grievance Process)

16. In situations where it appears to the investigating officer that there is an unreasonable delay of more than 7 calendar days in seeking a companion, the investigating officer can insist on an interview and offer an independent person as an observer.

Statements

17. An employee who makes a statement as part of an investigation will be required to sign the statement as a true record, having the opportunity to amend it with the agreement of the investigation officer and to add further information. Ideally this should be undertaken at the end of the investigatory meeting.

Timescale

18. It is not possible to be prescriptive about the time taken to undertake an internal investigation. However, investigations should aim to be completed within 28 calendar days wherever possible but this is dependent on the complexity of the case. If this is not possible the investigating officer will inform all parties of the delays, the reason for the delay and the likely date of completion of the investigation.

19. In the event that contradictions come to light during the investigation the investigating officer should ensure these are clearly identified and attempts made to determine why these have arisen and resolved where possible. The investigating officer will in these circumstances re-interview employees at the investigation stage rather than the contradictions coming to light during a hearing.

20. On completion of the investigation, the Investigating Officer will provide the investigating report with recommendations to the Commissioning Manager.

It is the Commissioning Manager's responsibility to consider the investigation report and recommendations and determine if any further action is required. The Commissioning Manager is responsible for communicating the recommendations to the employee within 7 calendar days of completion of the investigation and where appropriate makes arrangements for convening a disciplinary hearing.

Support for employees

21. All employees who are taking part in an investigation, either as the subject, or as a witness, may seek support from the Occupational Health Unit.

22. Any internal investigation that is later required as part of a police, coroner or other external body will be will be shared with them.

Ensuring equality of treatment

This policy must be applied consistently to all irrespective of race, colour, nationality, ethnic or national origins, language, disability, religion, belief or non belief, age, sex, gender reassignment, sexual orientation, parental, marital or civil partnership status.

If you have any equality and diversity concerns in relation to the application of this policy and procedure, please contact a member of the HR Team who will, if necessary, ensure the policy/procedure is reviewed accordingly

If you require this publication in an alternative format please contact People Management and Performance on 01267 246100 or email

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