
Edge Worldwide Limited

Internal Investigation Policy & Procedure

1. Purpose:

The purpose of this policy is to provide guidance in conducting an investigation into internal affairs to determine whether organisational policies, laws and/or regulations have been violated. The policy applies to handling allegations of misconduct, whether they are internally managed or outsourced to an independent organisation and gives the organisation the resources to identify weaknesses, discipline personnel wrongdoers and protect clients and employees.

2. Scope:

This policy is designed to support management staff in conducting an internal investigation into employee, volunteer, contractor or organisation misconduct. If at any time during the commencement of an investigation circumstances call for the involvement of an external body such as the Victorian Police, CCYP, DHHS or CAV then management should defer to the appropriate body to conduct or guide the investigation. For policy and procedures relating to Reportable Conduct or Mandatory Reporting refer to Edge Worldwide Limited's *Child Safe Policy*, *Mandatory Reporting Policy* and *Process and Procedure Manual*.

2.1 STEP 1: ASSESS: Assess the misconduct allegation(s)

1. Obtain a full account of the allegation from the complainant. Start by interviewing the complainant to better understand what they are alleging and to plan how to undertake the investigation. Other interviews may be arranged during the *CONDUCT* phase of the investigation and should be carried out promptly to reduce the risk of incident details being forgotten. Reducing time between witness interviews also helps to prevent or reduce cross witness discussion which may cloud, confuse or influence witness evidence.
2. Identify what is fact and what is suspicion, opinion or possible exaggeration.
NOTE: It is important NOT to disclose the complainant's identity to anyone, especially the person who has been accused of misconduct.
3. Determine if there is a single or multiple misconduct(s) and if there is multiple, separate each so separate findings can be made for each.
4. Consider any relevant Legislation (ie. *Childrens, youth and family Act 2005*) and if needed seek legal advice.
5. After initially assessing the matter, determine whether or not to proceed with investigation. Ensure decision is appropriately documented (include the process that was applied to reach that determination, any advice provided to the principal officer who made the final determination and the reasons for choosing whether to proceed). The decision not to conduct an investigation should be confidentially communicated to the complainant who originally provided the information and any other relevant parties (ensuring the confidentiality of the original complainant).
6. Notify relevant external bodies (ie. DHHS, CCYP, Victorian Police, CAV, Health Complaints Commissioner). In the case that the Police are investigating the matter

any internal investigation should not be commenced or if commenced be put on hold until the matter has been discussed with Police and the Police have given permission to commence internal investigation.

2.2 STEP 2: PLAN: Establish and Plan an Investigation

1. *Appoint an investigator:*

Determine the best available person to investigate the misconduct, this may be someone within or external to Edge Worldwide Limited. Ensure the investigator does not have a conflict of interest that could give rise to a perception of bias, or actual bias in the way they investigate. It is important to disclose any actual, potential or perceived conflict of interest to the head of the organisation. If there is an *actual* conflict of interest or any *perceived or potential* conflicts of interest then the investigator should NOT be appointed to conduct the investigation. Once an appropriate investigator has been appointed determine what powers and access the investigator will have. Access includes documents, files, staff/individuals and physical areas/spaces in the organisation.

NOTE: Ensure the powers of the investigator and what they are being asked to do is clearly documented.

Conflict of Interest

There are three different types of conflict of interest:

- *an actual conflict of interest:* where a conflict of interest actually exists
- *a potential conflict of interest:* where a conflict of interest could happen in the future and steps should be taken to stop that from happening
- *a perceived conflict of interest:* where a reasonable person might think that an investigator could be influenced by a personal interest, regardless of whether the investigator is actually being influenced or not.

A table setting out examples of these different types of conflicts of interest is below, together with suggestions on how these conflicts can be managed.

Type of conflict of interest	Example	Actions
Actual conflict of interest	An investigator is responsible for investigating an allegation of reportable conduct made against a member of the investigator's family.	The investigator should not conduct the investigation.
Potential conflict of interest	An investigator is responsible for conducting an investigation into a reportable allegation when the alleged victim and the investigator's child are on the same football team.	The investigator should report the potential conflict of interest to the head of the organisation and steps should be put in place to manage the potential conflict of interest or the investigator should not conduct the investigation.
Perceived conflict of interest	An investigator is asked to investigate a reportable allegation when there is a rumour that the investigator doesn't like the subject of the allegation.	The investigator should report the perceived conflict of interest to the head of the organisation and steps should be put in place to manage the perceived conflict of interest or the investigator should not conduct the investigation.

2. *Scope and Purpose of Investigation:*

A *Terms of Reference* document must be created (*for an example see 'Example - Terms of Reference.pdf' in dropbox*). This must be focused, with a clear purpose. It must be relevant,

realistic, achievable and within the investigator's power. Ensure the subject of allegation is treated with respect and given procedural fairness. Identify what questions need to be answered, what evidence is required to answer those questions and the best way to obtain that evidence.

3. Prepare an Investigation Plan:

This must be completed before any investigation commences. The *Investigation Plan* template is available in Dropbox.

The plan is to include:

- matter details
- an investigation overview
- a description of each allegation
- details of the subject of allegation
- risks (including any conflicts of interest)
- details of the scope of the investigation
- the final decision-makers details
- current information
- possible witnesses
- possible evidence
- an investigation action plan

4. Create a Timeline:

Include Key tasks and person responsible for carrying out task (ie. evidence gathering, interviews, reporting to appropriate external bodies). A timeline template is available in Dropbox.

5. Risk management and Welfare considerations:

Edge Worldwide Limited staff, volunteers, clients (past and present) are among the individuals who may be affected as a result of an investigation. Consider the wellbeing of all people you interact with during preliminary inquiries or the investigation (including the subject of the complaint). Outline what risks are associated with the allegation and what measures should be taken to reduce or eliminate the risk. Consider the nature and seriousness of the allegation, the vulnerability of the people affected, the position of the subject of allegation within the organisation and the work that they do. A risk assessment will aid in determining what action (if any) should be taken in regards to the subject of allegation while the investigation is being carried out. For example placing them under supervision, preventing access to certain staff or clients or in very serious cases suspension from the workplace. A risk assessment template is available in dropbox.

Sharing information about the Investigation process with the relevant parties involved:

At the commencement of an investigation both the complainant and alleged should be informed about the process of the investigation, how the matter will be dealt with and what information can and will be provided throughout the process to relevant persons.

All relevant allegations made during the investigation must be made known to both the complainant and the alleged, with an opportunity to respond.

It is important that the wishes of the complainant and others involved in the complaint are considered when making decisions concerning confidentiality. The complainant should be advised that their matter may need to be discussed, escalated or referred to other relevant persons and only those who have a direct need to know should have access to information.

A decision on the types of information provided should have regard to Edge Worldwide Limited's privacy policy, the need to treat allegations confidentially (for the sake of both the alleged and the complainant), occupational health and safety obligations, and to ensure other investigations (for example an investigation being undertaken by Victoria Police or CCYP) are not prejudiced. Where criminal or external investigations are being conducted advice should be given from the external agency about what can be shared and the types of information that can or should be provided.

Sharing information at the conclusion of an investigation:

What and how much information can be provided to parties at the conclusion of an investigation must consider the rights and interests of the complainant against that of the alleged. The rights of the complainant to know that their complaint has been dealt with appropriately should be balanced against the interests and rights of the alleged.

Generally, if reasonably practicable and appropriate, the following information should be provided to the complainant:

- whether an investigation was conducted;
- if the matter was not investigated, why not;

If the matter was investigated:

- the nature of the complaint investigated;
- any allegations substantiated in relation to the complaint;
- whether a discipline outcome was applied;
- where reasonable and appropriate, what, if any, discipline outcome was applied; and
- any further recommendations/action taken.

Procedural Fairness:

It is not required that a subject of allegation be notified straightaway. However it is important that the procedures an investigator applies are 'fair' and 'reasonable', this will mean that before any findings are made or any disciplinary action is subsequently considered the subjects is:

- is provided with a letter of allegation prior to any interview being undertaken
- is put on notice of the nature and scope of the allegations
- is provided with an opportunity to have a support person present with them

- is provided with an opportunity to respond to the allegations and any relevant evidence that has been obtained during the course of an investigation
- is made aware of the consequences of the investigation in the event that any adverse findings are made
- has a reasonable opportunity to respond to the relevant evidence
- has a reasonable opportunity to give their side of the story the responses provided by the subject of an allegation are considered by the investigator, organisation or head of the organisation before any final decision is made.

Record Keeping:

Keep an accurate written record of all conversations and interviews that are conducted. The investigator should document everything they have done in the investigation and why, they should make records of all evidence collected.

When noting the allegations, provide a clear and succinct description of:

- the exact nature of the conduct, including the functions and policies of the organisation that are affected.
- who is involved
- the time, date and location of any conduct described by the complaint

9. Confidentiality:

The details of the investigation should be kept confidential and all records kept in line with Edge Worldwide Limited's relevant privacy and record keeping policies. In some cases an organisation may wish to, or be required to, disclose some information about the reportable allegation, for example where a view is formed that a child is in need of protection, or parents are concerned about the safety of their children. Edge Worldwide Limited may also wish to disclose some information relating to the investigation or the findings once the matter has been completed. This might be to help manage future risks to children or others. Before disclosing any information about an investigation or findings consider getting advice regarding legal obligations and privacy laws.

2.3 STEP 3: CONDUCT: Conduct a thorough and fair investigation

1. Letter of Allegation:

A letter of Allegation must be written by an appropriate person in the management team. It must clearly communicate to the subject of allegation the details of the allegation/s made against them. The letter of allegation acts as a record of the information that has been provided to the subject of the investigation and helps to ensure the subject of the allegation is clear about what has been alleged against them. The letter should clearly set out each allegation and contain enough information for the subject of allegation to be able to understand exactly what the allegations are so that they can respond to them.

Careful consideration should be given to the best timing of a letter of allegation. While the subject of allegation is entitled to know the details of a reportable allegation and be provided with an opportunity to respond, the subject of allegation might not be told about the allegation or the investigation until the evidence has been collected, including witness statements, documentation and any physical evidence. The letter of allegation should inform the subject of allegation that they are entitled to nominate any person whom they consider should be interviewed as part of the investigation.

The subject of an allegation should also be told that they will be given an opportunity to tell their side of the story, to respond to evidence the investigator identifies and to have a support person of their choosing present in any interview. The subject of an allegation should be invited to respond either in writing or by way of an interview. Investigators should keep in mind that the requirements of procedural fairness mean that the allegations must, at an appropriate time before any adverse findings are made, be put to the subject of allegation.

NOTE: For an example letter see '*Example – Letter of Allegation.pdf*' in dropbox.

2. *Gathering Evidence:*

Evidence collected should be relevant to the investigation, reliable and probative (providing proof of something). The investigator should ensure the evidence gathered is the best available and is stored and documented properly. The investigator should refer back to the Investigation Plan as a reminder of what allegations they are considering and therefore what evidence is needed to substantiate allegations.

NOTE: The Investigator should keep their powers in mind when it comes to collecting evidence and all evidence collected should be clearly documented.

Types of evidence:

- *Physical evidence*, including documentary evidence such as emails or photos; or records such as rosters or incident reports; or objects such as mobile phones or computers
- *Site inspections*, which may lead to an investigator taking photographs of locations or making a diagram
- *Direct evidence* from the alleged victim, the alleged victim's parents or carers, from witnesses about what they saw, heard or did as well as from the subject of allegation themselves
- *Expert evidence*, including technical or specialist advice from, for example, a doctor, psychologist or a computer expert.

Storing evidence:

- Investigators should ensure that original documents and other evidence collected during the investigation are stored securely in their original condition.
- It is helpful to record how the evidence was collected and who has handled the evidence before it came into the investigator's possession.
- It is good practice to place each piece of evidence in a resealable bag or envelope with a label stating what the evidence is, where it was gathered (including the date and time), and who provided the evidence to the investigator.

3. *Conducting Interviews:*

All relevant witnesses should be identified and, where possible, interviewed.

Interviews should be conducted face to face. Ideally record the interviews, if this is not possible or if the interviewee does not agree to be recorded ensure detailed notes are taken (verbatim where possible). Ensure date, time and location of interview is also recorded and ask all witnesses if they have discussed the case with anyone and record their response. If a child needs to be interviewed, an investigator should consider seeking expert advice about how and when to interview a child, both to avoid causing harm to the child and also to ensure that the best evidence possible

can be gathered from the child. The complainant should be interviewed first, followed promptly by other witnesses and lastly the subject of allegation. This gives the subject of allegation an opportunity to respond to all of the relevant evidence.

NOTE: The information you collect during an investigation should be kept confidential, this includes explaining to the complainant at the initial interview that they should keep the allegations and interview confidential to maintain the integrity of the investigation process (exclusions may include talking to a counsellor, doctor, lawyer or WorkCover)

4. *Assessing the evidence:*

When assessing the evidence, a decision-maker must make an evaluation of the strength or weight of the evidence. The more weight that can be placed on a piece of evidence, the more persuasive it is. In order to determine how much weight to place on a piece of evidence, the decision-maker should consider:

- How reliable is the evidence?
- Is there another piece of evidence that either supports or contradicts the evidence in question?
- How plausible is the evidence in all of the circumstances – does it have a ‘ring of truth’ about it?
- What is the source of the evidence? Is the evidence objective, such as CCTV footage, or is it just a rumour?
- Do relevant witnesses give consistent accounts?
- Was the person who is the subject of the allegation given an opportunity to comment on the evidence and were they given an opportunity to tell their side of the story?

A decision-maker should base their findings on evidence of weight and not on suspicion, rumours or hunches.

2.4 STEP 4: REPORT: Complete an Investigation Report

The information contained in the report should allow any reader to understand how the investigation has been conducted and see that the investigation has made fair findings based on the evidence obtained during the investigation. The evidence should be set out in such a way that it clearly explains to a reader how and why the investigator reached his or her conclusions. An Investigation Report should reflect the terms of reference and should set out, as a minimum:

- Each reportable allegation (clearly and separately identified and particularised)
- A summary of the investigation (including the approach adopted by the investigator, the evidence obtained, a summary of the evidence, the investigator’s assessment of the evidence and the importance the investigator gave to each piece of evidence and why)
- The findings of fact made by the investigator about whether or not the allegations are proved or disproved and the evidence relied upon in reaching those conclusions
- Recommendation(s) of the investigator

Other elements to include:

- Executive Summary

- Introduction/background about the complaint and investigation (be clear if there are multiple misconducts being investigated)
- Document powers of Investigator and their outlined task

See 'Example - Investigation Report.pdf' in dropbox

2.5 STEP 5: FINDINGS: Make or recommend findings

Some investigations might require the investigator to make findings while other investigations will require the investigator to make a recommendation to help another decision-maker within the organisation to make the findings. This is something that should be included in the investigator's letter of engagement or other scoping document. Once the findings have been made and a course of action decided upon, these actions are to be carried out in a prompt manner and recorded at the end of the Investigation Report. Depending on the decided course of action, further advice or support from external agencies may be required to carry out all of or elements of the appropriate action.

Types of Findings:

Finding	Definition
Substantiated	The evidence provided adequately supports or proves the allegation to be true.
Unsubstantiated - insufficient evidence	There was significant strong evidence that supports the allegation, but the evidence falls short of being able to make a substantiated finding.
Unsubstantiated - lack of evidence of weight	A lack of evidence made it too difficult to fully investigate an allegation despite the investigator's reasonable efforts.
Unfounded	A positive finding, on the basis of being more likely than not, that the alleged conduct did not occur.
Deferred to external body	Evidence or findings during the investigation made it necessary to hand the investigation over to an external body (ie. Victorian Police or CCYP)

For any questions regarding this document, please contact EDGE WORLDWIDE LIMITED Worldwide Limited.

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