The guidance in this section is designed as a refresher for individuals who have already received formal training on how to conduct an internal investigation. This guidance is not exhaustive or comprehensive enough to be used as a standalone resource and should be used in conjunction with formal training and organisational procedures.

Internal investigations are usually carried out if the alleged perpetrator is a member of staff. An organisation may also decide to carry out an investigation if an alleged perpetrator has strong links to the organisation, such as a partner, community leader or donor. Investigation procedures need to be adapted to the particular circumstances of each case.

I. Who should carry out the investigation?

Trained investigators or investigation committees should carry out an internal investigation with support from relevant departments, including HR, security and senior management, in line with confidentiality requirements and protocols.

Investigations require a proper skill set and mindset. They should not be treated like add-ons to job descriptions, nor should they be delegated to departments that lack staff members trained in carrying out this type of work. Assigning untrained staff to carry out an investigation increases the risk of inadvertently re-traumatising the survivor and causing harm to the alleged perpetrator. The consequences of poorly conducted investigations can be severe and even fatal.

Properly trained investigators do not get caught up in trying to prove guilt; instead, they concentrate on gathering the facts surrounding an allegation in order to piece together what happened.

If a case is referred to the police, an organisation’s investigation could become the subject of legal proceedings. Therefore, individuals in charge of internal investigations should have appropriate training and competencies.

II. Six steps to conducting an investigation

Step 1: Assessment

After an incident is reported, the organisational focal point – such as the safeguarding focal point or an informed senior manager – should document the reasons why a decision is taken to carry out an investigation or not to do so. Any of the following issues could lead to an investigation:

* an allegation of sexual violence (such as harassment, rape or other form
of sexual assault);
* a possibility that the alleged offence may be criminal in nature or damage the reputation of the organisation; and
* a grievance or complaint from a staff member.

Step 2: Investigation plan

Before starting an investigation, the independent investigators should prepare an investigation plan in consultation with a staff member with HR expertise. As part of this plan, they should consider and document:

* the allegation;
* relevant sections of the code of conduct, disciplinary policy and any
related requirements;
* which other bodies or authorities are notified, as appropriate;
* witnesses who can support, corroborate or refute the allegation;
* what evidence is needed and how to collect evidence;
* timeframes (the scope and extent of an investigation will depend on the nature and seriousness of the allegation and will vary from case to case);
* the availability of witnesses;
* confidentiality (who should know what when);
* the range of possible outcomes; and
* a review of investigation procedures.

If the independent investigators need assistance in drawing up a plan, they should seek help from qualified professionals, whether in-house or externally.

Step 3: Investigation process

The organisation should send prompt, written notifications to the survivor and the alleged perpetrator, if the latter is also a staff member, to let them know:

* the grounds on which a complaint or allegation has been made;
* that an investigation is taking place;
* who will be conducting the investigation; and
* the likely timeframe of the investigation.

**Suspension from work.** If the alleged perpetrator is a staff member, suspension or administrative leave might be necessary pending the outcome of the investigation if:

* the alleged perpetrator has been accused of serious misconduct, which, if proven, would result in summary dismissal;
* there are grounds to believe that the alleged perpetrator might pose a threat in the workplace;
* the alleged perpetrator’s continued presence at work might prejudice the investigation in some way, for example, if there is a risk that they might intimidate witnesses;
* the alleged perpetrator has acted in a violent manner or has threatened violence;
* the alleged perpetrator has been accused of serious bullying or harassment; or
* the matter under review is of a highly sensitive nature, such as an incident of sexual assault.

A suspension is not a declaration of guilt. In case an alleged perpetrator is suspended, the organisation should communicate this message clearly to the individual as well as other staff members who are aware of the suspension.

**Gathering evidence.** Investigators gather facts related to an allegation. Collating and reviewing documentation typically makes up the bulk of their work. They may need to gather information or documents, such as:

* documentation of misconduct, such as letters of complaint, previous warnings on file and police reports;
* CCTV, computer and telephone records, which should be collected in accordance with applicable IT policy and laws on data protection (whether within local or international legal frameworks) that require staff members to be informed of the reasons for monitoring;
* statements from the survivor, alleged perpetrator, witnesses and others; and
* physical evidence, if possible.

**Refusal to disclose evidence.** In some cases, a staff member may refuse to disclose evidence such as documents, letters or emails. Investigators should not compel individuals to disclose personal documents or data, such as text messages on their personal mobile phone. However, investigators can request the disclosure of work-related emails and letters belonging to the employer. This includes work files whether on paper or held on the organisation’s computer systems or work mobile phones. Staff members may face disciplinary action for refusing to follow a reasonable request and retaining the organisation’s property.

**The rules of evidence.** Investigators should focus on asking people to convey what they know, as opposed to what they have heard from someone else. They should seek to verify any hearsay by contacting the primary source – that is, the person who was directly involved – and should take comprehensive notes of both first-hand and second-hand accounts.

**Maintaining confidentiality.** Investigators must ensure that the investigation is conducted in a confidential manner. Confidentiality protects the survivor, the alleged perpetrator and witnesses. It also encourages others to come forward and answer questions honestly.

To maintain confidentiality, investigators should:

* talk privately and in confidence to any staff members who may have evidence relating to an alleged perpetrator’s misconduct or who may have been a witness to any relevant incident;
* produce accurate written summaries of such evidence;
* ask interviewed staff members for their consent to use such summaries (in the form of a signed, written statement); and
* warn witnesses that they are not to discuss the issue outside of the interview.

Investigators should NOT:

* share one witness statement with another witness;
* tell one witness what another has said; or
* share findings or opinions with anyone outside of the investigation committee.

Individuals who are involved in an investigation must understand that confidentiality may be breached if a serious safeguarding issue is discussed. They should be informed that the organisation may take action in such cases. Senior management should discuss what constitutes a serious safeguarding issue as part of the organisation’s preparatory work.

**Procedural fairness.** Investigators are responsible for ensuring that an investigation is objectively fair and perceived as fair. They should document all statements, any actions and reasons for any decisions taken during the course of the investigation. They are advised to check facts with people they interviewed so as to ensure rigour in the investigative process. Conflicting views will help to expose any potential weaknesses in the investigation or identify other major issues.

To be procedurally fair, investigators should:

* inform individuals if a grievance or complaint has been filed against them, specifying on what grounds;
* provide people with a reasonable opportunity to make their case, whether in writing or during an interview as part of the investigation;
* listen to all parties;
* carry out a reasonable inquiry or investigation before making a decision;
* ensure no parties with direct interest in the case influence the investigative process or make a decision on the outcome;
* act without bias; and
* conduct the investigation without undue delay.

Investigations at the country level are likely to involve language issues. Careful consideration should be given to the selection of a translator, if required. Cultural differences and perceptions – particularly around sexual harassment, rape and other forms of sexual assault – can affect how questions and answers are translated.

**Information management.** Investigators should maintain an investigation file. Such files contain a complete record of the investigation, with documentation of every step, all major discussions, relevant telephone calls, interviews, decisions and conclusions. They should be stored in a secure place for as long as is appropriate and in accordance with applicable legislation. Organisational policy should inform investigators on what type
of information they should pass on to HR to be included in a staff member’s HR file.

Step 4: Interviews and witness statements

**Preparation and planning.** Investigators should prepare for each interview and have a clear sense of what they wish to achieve. In planning for interviews, they are advised to:

* draft a list of key open-ended and closed questions;
* remain flexible enough to ask additional questions or amend prepared questions as new information comes to light; and
* be familiar with the main points of the case and the sequence of events.

The first people to be interviewed are the person who filed a grievance or complaint and the alleged perpetrator. These interviews help to establish key facts and indicate what other evidence should be gathered; they also serve to identify or confirm what other persons may have witnessed the incident and might thus be able to provide information relating to the case.

Before conducting interviews, investigators should contact the selected people to inform them that they are to be interviewed and to specify the nature, time, date and place of the interview, as well as who will be conducting it.

Interviewed staff members should be made aware that the issues discussed during interviews are confidential and that they must not discuss the subject matter with anyone else. Exceptions to this may be made for the survivor supporter.

**Conducting the interview.** During interviews, investigators should try to ensure that interviewees, including the alleged perpetrator, feel calm and relaxed. They should encourage interviewees to speak freely and convey their own version of events. However, the investigators should employ a series of open-ended and closed questions to direct an interviewee to focus on the issue at hand.

In cases of misconduct, investigators should be very careful to ensure that interviews do not turn into disciplinary hearings. An investigation interview is not the same as a disciplinary interview. The purpose of an investigation interview is to establish what happened, while the purpose of a disciplinary interview is to decide what to do about it.

Guidance for investigators

Investigators should:

* allow interviewees to refer to documents to refresh their memory;
* pause the meeting if an interviewee needs a break or adjourn it if the interviewee is very upset;
* record all the pertinent facts, such as dates and times, names, and the context of behaviour, or request that a separate note-taker attend the interview;
* keep calm and focused;
* remind the interviewee to keep the matter confidential and that the organisation will do the same;
* be sensitive and seek advice as needed.

Investigators should NOT:

* engage in victim blaming;
* encourage the interviewee to offer their opinion;
* offer their own opinion, be judgmental or speculate on the outcome of the investigation;
* draw hasty conclusions;
* disclose any confidential information; or
* continue the interview regardless of the response of the interviewee.

On completion of an interview, investigators should produce a written statement summarising the information provided by the interviewee and ask the interviewee to read and confirm the accuracy of the facts by signing the statement.

Interviewees do not normally have the right to bring anyone to an investigation interview; however, if this rule conflicts with local legal requirements, investigators should defer to the law of the land. It may be advisable to allow a companion to be present if that person can help the interviewee to overcome a difficulty caused by a disability, or any difficulty in understanding the working language of the context.

Special arrangements should be made for the survivor, including with respect to the profile of the individual carrying out the interview. A survivor should be offered the chance to bring their supporter to the interview.

*See ‘Tool 6: How to conduct a factual debrief’ in the RedR UK, Insecurity Insight, EISF ‘Security Incident Information Management Handbook’.*

**Confidentiality issues.** Witnesses occasionally ask to remain anonymous and this is their right. However, alleged offenders may argue that they have a right to know the identity of the witnesses, saying that individuals have complex motivations for their accounts. Investigators should aim to not disclose the identity of the witness to an alleged offender, in accordance with applicable legal requirements.

Alleged offenders should be given access to any witness statements, so long as they have been anonymised (meaning that all names and identifying information have been removed). If the statements cannot be disclosed for a particular reason, the organisation must, at a minimum, make the accused aware of the contents of the statements.

If the alleged offender demands to know the identity of an anonymous witness, the organisation should:

* obtain a detailed written statement from the anonymous witness;
* investigate further and seek to corroborate what is in the statement;
* make tactful enquiries into the background of the informant;
* decide, having carried out the steps above, whether to proceed on the basis of the evidence provided by the informant;
* ask the manager who is responsible for the hearing to interview the informant separately, should the case proceed; and
* keep full notes of the proceedings.

While each case has to be considered on its own merits, it would be difficult to prove allegations of misconduct in circumstances where the only evidence was uncorroborated testimony from a witness who may not be willing to be identified.

Step 5: The investigative report

**The report format.** Once investigators have gathered all the information and completed all the interviews, they consider all the documentation and findings and prepare a report for the appropriate organisational focal point.

The report should be prepared using a report template and constructed in such a way that a person who is not involved in the process can understand it. The report should include the following elements:

* the complaint;
* background;
* the investigation plan;
* interviewees and signed statements;
* any other documentary evidence (such as organisational procedures);
* assessment of the evidence;
* findings; and
* recommendations.

**Access to the information.** Subject to applicable laws, careful consideration must be given to what information to provide to the accused. That determination depends largely on investigators’ recommendations and is essentially a matter of judgement.

In arriving at a decision, an organisation is advised to consider the following competing interests:

* the right of the accused to know the case against them;
* the wishes of third parties to have their identity kept confidential;
* the right of the accused to access anonymised witness statements or summaries thereof if disciplinary proceedings are instigated following an investigation; and
* the organisation’s right to conceal the identity of any or all of the parties involved if there is a legitimate reason to do so, such as where there may be a risk to the safety and security of others if the identity of witnesses is disclosed. In such circumstances, the organisation should provide a summary of the information to the accused staff member.

Step 6: Completing the investigation

**Concluding the investigation.** Investigators should meet with the appropriate organisational focal point and an HR professional to answer further questions, clarify points and establish whether there are any gaps in the information.

In cases of misconduct, investigators should present all the evidence to the focal points who are in charge of conducting formal disciplinary hearings. They should submit a recommendation to the focal points, who then decide whether disciplinary action is appropriate.

**Investigation outcomes.** An investigation will yield one of the following outcomes:

* a recommendation for disciplinary action, if the facts are substantiated;
* dismissal of the claim, if the facts are not substantiated; or
* dismissal of the claim and filing of a record of the allegation, to be kept in accordance with legal requirements, if there is insufficient information to substantiate allegations.

If disciplinary action is to be taken, the organisational focal point should supply copies of the evidence (including all witness statements, bearing in mind any promises to maintain anonymity) to the perpetrator, and ask them to attend a formal disciplinary hearing.

Alternatively, if the person to whom the evidence has been presented concludes that disciplinary action is inappropriate, they should inform the accused staff member in writing. If the staff member was suspended or placed on administrative leave, they should be allowed to return to work.

If the investigation was the result of a concern raised informally, the organisational focal point should meet with the staff member who raised the concern and discuss the outcome.

If an allegation of sexual violence is not substantiated, a plan must be put in place to support the survivor before a decision is communicated to those involved.

The investigator may face security threats if an investigation leads to disciplinary action. This risk should be factored into the planning for disciplinary procedures.

Regardless of the outcome, a ‘debrief’ to capture learning is always useful.

**External authorities.** If the allegations are of a serious nature and the facts are substantiated by an internal investigation, the organisation’s leadership should meet to decide whether to involve appropriate local or international authorities to address future safeguarding concerns. This referral to external authorities should be done in consultation with the survivor, where possible. However, where there is a serious risk of harm to others, the organisation may need to involve external authorities even if this would go against the survivor’s wishes.

**Records.** The HR team should keep confidential records of the investigation for the duration of any disciplinary proceedings, in accordance with the organisation’s disciplinary policy.

If no disciplinary action is taken because it is determined that the allegations are unsubstantiated, then the records should be destroyed. If, however, no disciplinary action is taken due to a lack of evidence rather than a clear decision on guilt, then the incident file may need to be kept in case of future allegations of misconduct. Any such decision must be taken in accordance with the organisation’s disciplinary policy and legal obligations on data retention.