



**WORKPLACE  
COMPLAINTS:  
HOW TO MANAGE  
THEM EFFECTIVELY**



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A man with dark hair, wearing a blue and white plaid shirt, is seen from the back, sitting at a wooden desk. He is looking at a laptop computer. The background is a workshop or office with shelves filled with various items, including bottles and containers. The lighting is warm and natural, suggesting an indoor setting with windows.

# THE IMPORTANCE OF MANAGING COMPLAINTS

Every business, big or small, has to deal with complaints or workplace allegations at one point or another. That's why knowing how to manage complaints effectively is a must for every business owner.

From what to do the moment an allegation hits your desk, to handling the aftermath of a workplace investigation, this ebook guides you through the process of diffusing unpleasant situations and turning them into valuable lessons for your business.

## STEP 1

# ENSURE SAFETY AND SECURITY



Your first concern when a delicate situation arises at work should be the safety of your customers and employees. If a complainant has identified a potential safety risk, take immediate action to remove any danger. Depending on the nature of the complaint, this might involve evacuating the premises or suspending trade as you tend to the problem.

You should also consider the mental and emotional wellbeing of your customers and employees. If they have witnessed an accident or traumatic event, you may need to ensure there is appropriate support available to them.



## STEP 2

# MAKE A PRELIMINARY ASSESSMENT





If there's no immediate safety or security risk, you can take a deep breath and make sure you understand the nature of the allegations and its possible consequences.

At this point, it's important to remain open-minded and not to make any rash judgements about the validity of the complaint. Every complaint should be treated as true and real, so it's your responsibility to fully consider the implications this could have:

**A)**

*Is it a minor situation that could be diffused with an informal chat?*

— or —

**B)**

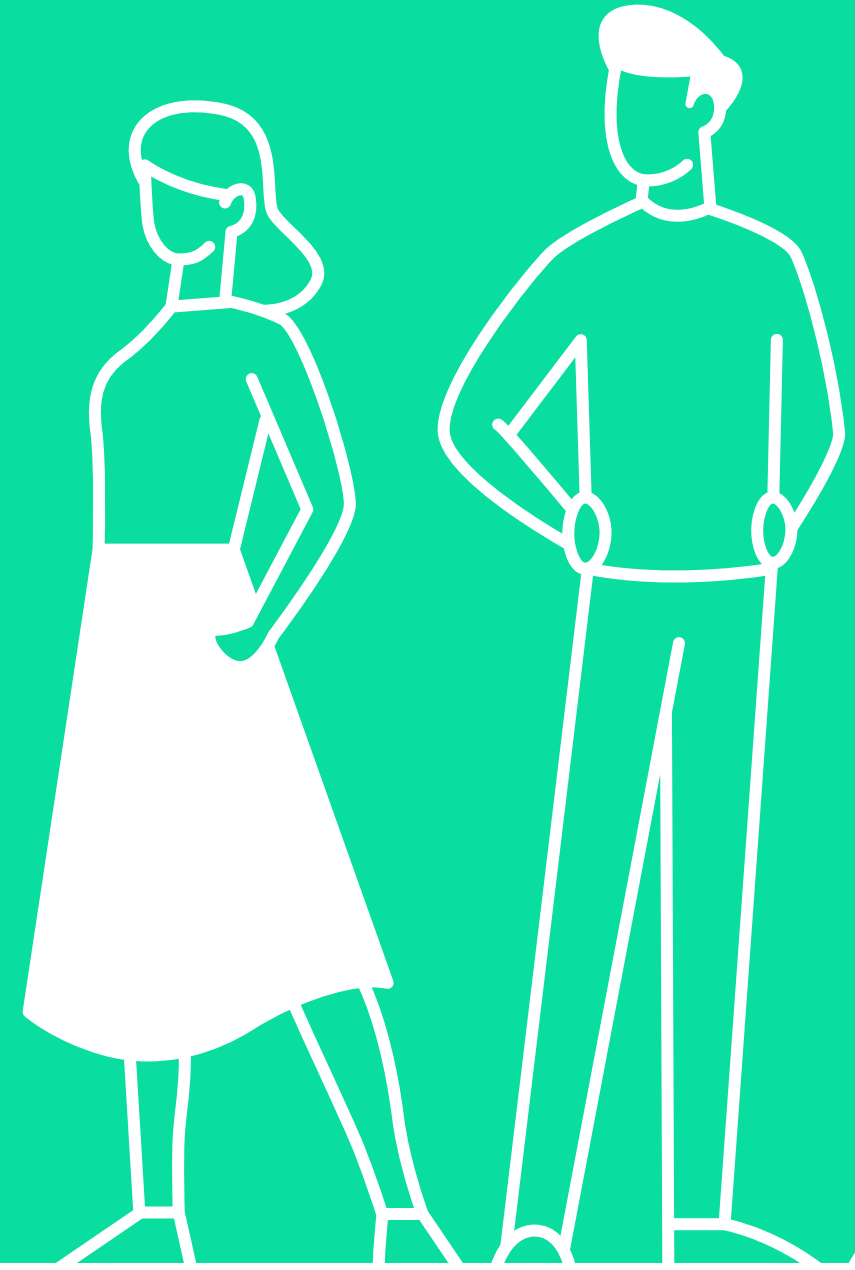
*Is it a more serious matter that requires a formal investigation?*

The answer to these questions can help you determine what your next steps should be. However, it's important to keep in mind that a minor incident could still snowball into something bigger that requires a more thorough investigation.



## STEP 3

# ASSIGN AN INVESTIGATOR





If the allegation is too complicated to resolve with a simple discussion or poses a risk to the reputation of your company, you may need to conduct a formal investigation. This is also the case if an employment contract or company policy has been violated.

The first decision you'll have to make is whether you'd like to have the matter investigated internally or involve an impartial third party to do the job. Here, a competent consultant, such as a lawyer who specialises in workplace law, may be able to help.

#### **Engage an external investigator when:**

- ✔ Complex allegations require specific expertise
- ✔ Legal action may arise from the complaint
- ✔ A senior executive is implicated in the allegation
- ✔ There is an internal conflict of interest
- ✔ You lack suitable internal HR experts
- ✔ There is a need for legal professional privilege\*

\*Legal professional privilege protects confidential communications and documents between a legal service provider (e.g. a lawyer) and a client.



## STEP 4

# DEFINE THE SCOPE OF THE INVESTIGATION



Your next step is to set the scope of the investigation. This includes defining the matters to be investigated, setting out a process and timeline that the investigation will follow, and gathering evidence from everyone involved. You'll also need to identify any witnesses to interview, and decide how you will record the evidence.

If the complaint is against one of your employees, it's also important to allow them to tell their side of the story and hear them out. Any counter-allegations should be taken seriously and you should do your best to keep an open mind.

If you feel the respondent should stand down until the investigation is concluded, it's best practice to suspend them with pay. This is often the case in allegations of sexual harassment or physical assault. However, you should still keep them involved in the process.

As more information comes to light, you may also need to expand the scope of the investigation.

When recording evidence, it's important to choose a method and remain consistent throughout the investigation.

| <b>METHOD</b>                       | <b>PROS</b>   | <b>CONS</b>  |
|-------------------------------------|---|--|
| <b>Taking notes</b>                 | <ul style="list-style-type: none"> <li>✓ Least threatening to witnesses for better engagement</li> <li>✓ Least expensive</li> </ul>                       | <ul style="list-style-type: none"> <li>✓ May be biased to the note taker</li> <li>✓ Open to dispute in legal proceedings</li> </ul>        |
| <b>Preparing witness statements</b> | <ul style="list-style-type: none"> <li>✓ Signed by witnesses to confirm accuracy</li> <li>✓ Considered more robust evidence than note taking</li> </ul>   | <ul style="list-style-type: none"> <li>✓ Not an immediate response</li> <li>✓ Witnesses have time to reconsider their testimony</li> </ul> |
| <b>Recording interviews</b>         | <ul style="list-style-type: none"> <li>✓ Accurate word-for-word record of the interviews</li> <li>✓ Most valued by judges and tribunal members</li> </ul> | <ul style="list-style-type: none"> <li>✓ Witnesses may not be as forthcoming</li> <li>✓ Transcribing interviews can be costly</li> </ul>   |

## STEP 5

# SEND AN ALLEGATIONS LETTER





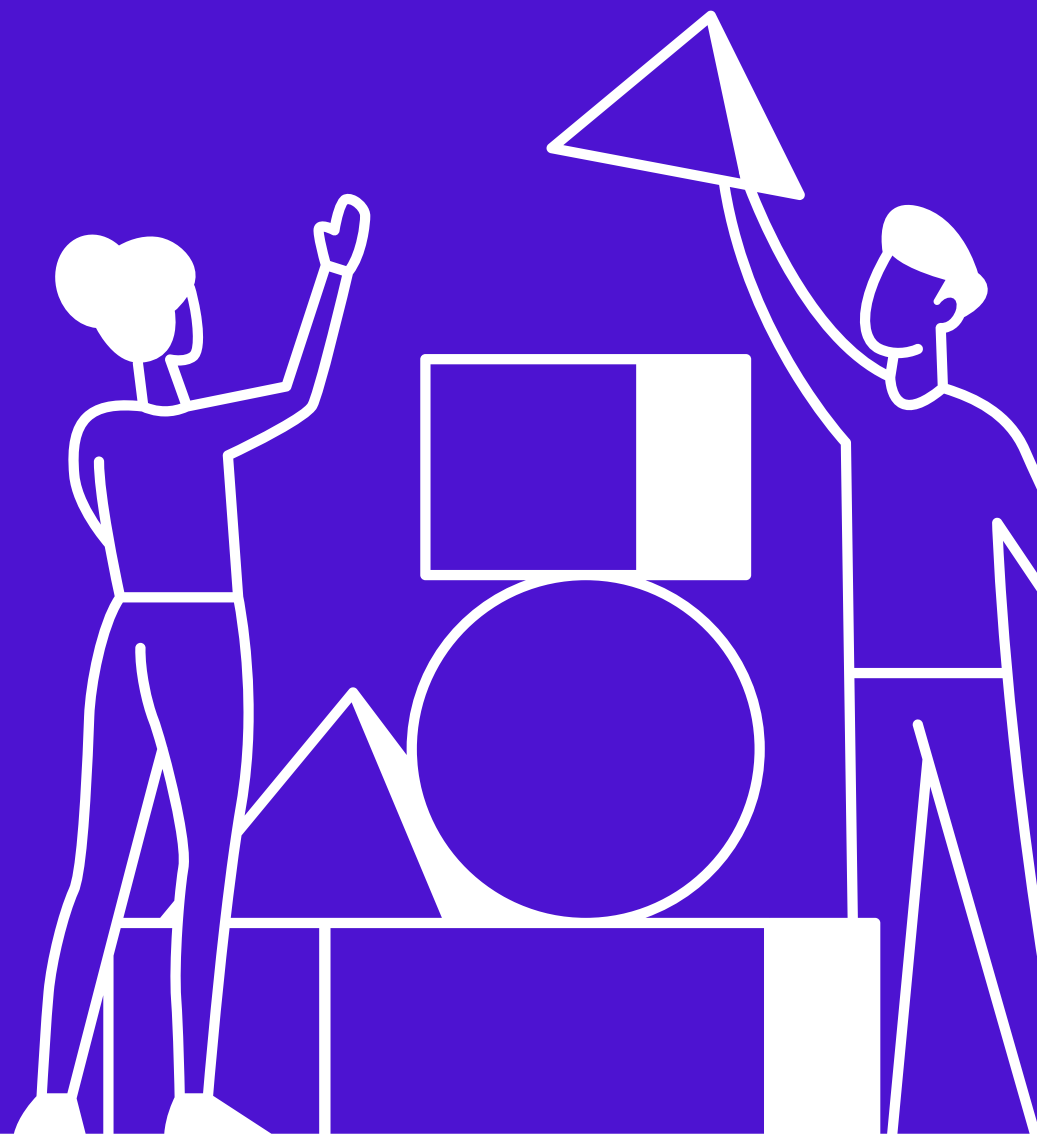
A good investigation is a transparent one. This applies to both the complainant and the respondent. That's why you should send an official letter to the respondent, informing them of the allegations made against them the first chance you get.

In some cases, the respondent may ask for a copy of the witness statements to support the allegations. Whether or not to disclose these is entirely up to you, as long as you clearly explain the details of the complaint made against the respondent in your letter. In addition to detailing the allegations, it should also set out the investigation timeline and give them the opportunity to respond.



## STEP 6

# INTERVIEW THE WITNESSES



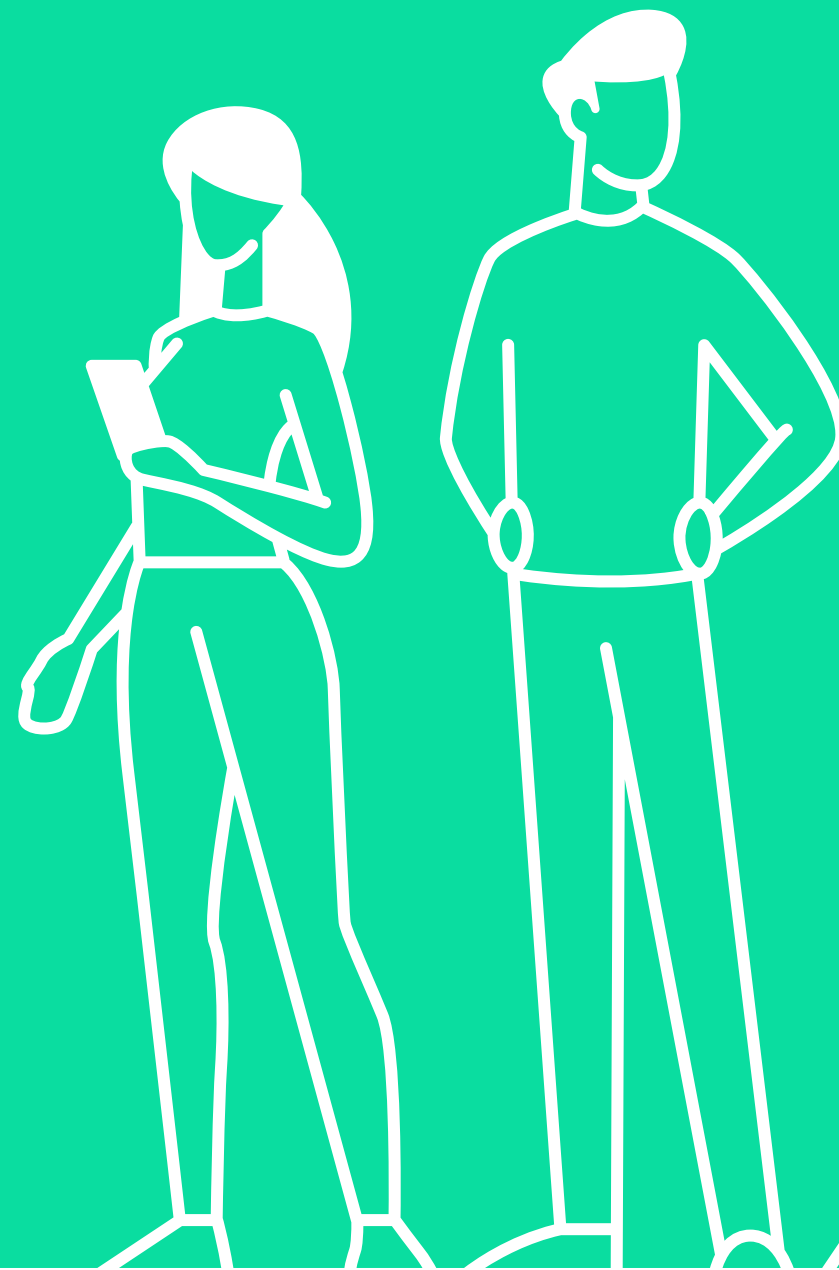
Here's where you begin to assemble the pieces of the puzzle. Schedule face-to-face interviews with all witnesses associated with the allegation, and ensure you have a consistent recording method in place (see Step 4).

However, always remember that this isn't a court of law or a hostile cross-examination. Try to remain impartial and make the witnesses feel as comfortable as possible. Choosing a neutral place to meet and inviting the witness to bring a support person with them can help with this.

**TIP** | *You can start the interview with open questions that encourage the witness to tell their story freely and in their own words. As you move along, you can become more specific with closed questions that seek to pin down all the details of their account.*

## STEP 7

# ASSESS THE EVIDENCE





You should now have a clear picture of the circumstances of the allegation and have collected sufficient supporting evidence. As you assess your documentation, consider the most likely scenario – that is, you're not required to prove the allegations beyond all reasonable doubt. Rather, you must show it's likely that the conduct occurred.

However, in very serious cases – like fraud, theft or assault – the Briginshaw standard may apply. This simply means that a greater standard of evidence may be required to prove the respondent's guilt.

**When analysing the evidence, you can look beyond the black-and-white of the witnesses' testimonies. You can also consider:**

- ✔ The demeanour of the participants
- ✔ How credible you believe the witnesses are
- ✔ Past conduct of the witnesses and the respondent
- ✔ Patterns of behaviour that are consistent with the allegation
- ✔ Supporting material such as emails and text messages

## STEP 8

# DRAFT THE REPORT



Your final report should go beyond a simple list of the allegations, witness testimony and supporting material. Instead, it should demonstrate how you reached your conclusion. This includes any relevant background information of the parties involved and explaining how the pieces are connected.

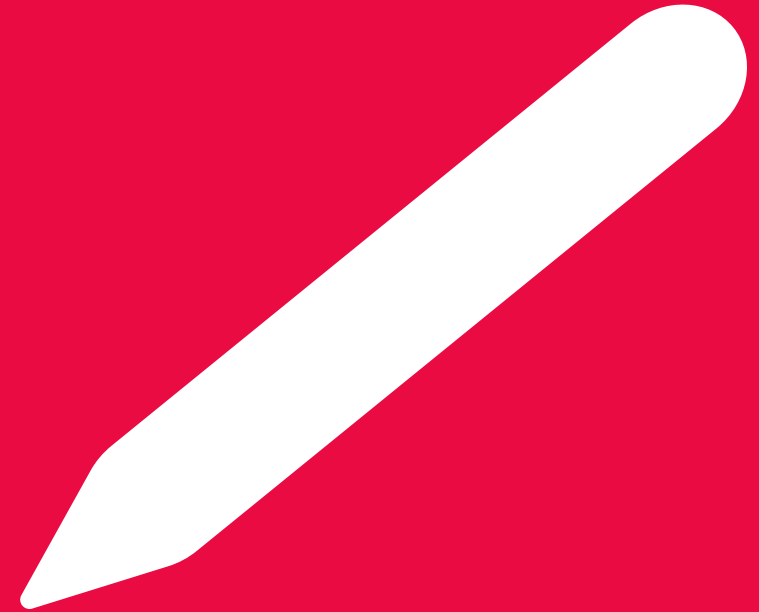
Finally, conclude your report by making reasonable recommendations regarding the action you believe should be taken.

#### **Your investigation report should include:**

- ✔ An outline of all the allegations and counter allegations made
- ✔ Full descriptions of incidents surrounding the allegations
- ✔ Any relevant background information that adds context to the allegations
- ✔ Full disclosure of the investigation process and methodology
- ✔ Your findings and the reasons you came to those findings
- ✔ Recommendations for any actions to be taken or next steps

## STEP 9

# MANAGE THE AFTERMATH





Your job doesn't end after the investigation is concluded – you also need to carefully manage the aftermath. As a starting point, this will include sending notifications to the complainant and respondent that clearly set out the investigation findings and subsequent actions.

Then, you should think about if and how you're going to communicate outcomes of the investigation to your employees and any customers who may have been affected. While you may choose to keep the specifics of the investigation confidential, it can be a good idea to communicate any overall learnings or general outcomes to your greater team. How you handle this process will likely impact on your workplace culture, so you may want to use it as an opportunity to set new standards.

**TIP** *Your main concern should be ensuring that your employees and customers feel confident that you can provide a safe workplace. You also need to clearly explain what is expected of them, and reassure them you will listen if they have an issue to raise in the future.*



## 1 Acknowledge the complaint immediately

It's important to show the complainant that you've heard them, and are willing to look into the matter.

## 2 Review relevant policy and procedures

Ignoring formal procedures in the heat of the moment – even if well-intended

## 3 Safety first

Make sure you remove any hazards that could cause physical or psychological harm to you and your employees.

## 4 Protect your systems and workplace

Lock down your operations where required to prevent further damage.

## 5 Conduct a desktop review

This helps you determine the wider nature or the allegations.

## 6 Take notes

Make it a habit to document everything you uncover in the process for potential legal reviews later.

## 7 Set up an investigation

- Select an investigator
  - A lawyer specialising in workplace law
  - An independent reviewer
  - An in-house person (e.g. HR or a business executive)

- Scope your investigation
- Write an allegations letter to the respondent
- Give the respondent an opportunity to respond to the allegations
- Provide the respondent with a witness statements or a copy of the written complaint if requested (optional)
- Conduct interviews with witnesses
  - Arrange a support person if required

## 8 Analyse your evidence

What conclusion does your evidence lead you to? What's the balance of probabilities?

## 9 Write up your report

What conclusion does your evidence lead you to? What's the balance of probabilities?

## 10 Communicate your findings to

- The respondent
- The complainants
- Your employees

## 11 Arrange PR and comms (if required)

- Engage a PR specialist (if required)
- Develop and implement a communications strategy to respond to media or other public enquiries regarding the incident

Complaints within the workplace, whether internal or external, can be delicate matters that require careful and precise handling. Managing them correctly can uncover valuable learnings for your business that may even result in growth opportunities you hadn't yet thought of.



To learn more about dealing with  
workplace complaints and allegations  
[become a member for free.](#)

The advice this ebook is based on information provided in the Australian Business Lawyers & Advisors' webcast  
*What to do when a complaint hits your desk.*