

Australian Workplace Investigation Field Guide

A practical manual for commissioning, conducting and reviewing fair, rigorous and defensible investigations.

An investigation must show its working.

A conclusion is only as defensible as the process that produced it.

This guide is written for boards, executives, people and culture teams, legal advisers, integrity officers and managers. It is designed to be used before a complaint arrives, while a matter is active, and when a completed investigation is reviewed.

What disciplined practice looks like

A serious workplace investigation begins with a settled mandate. Allegations are framed as factual propositions, volatile evidence is preserved, interviews are sequenced deliberately and every adverse matter is put fairly.

The report then connects the commission, the material, the reasoning and each finding. It does not substitute confidence, polish or volume for an evidence pathway.

How to use this guide

- Use the numbered stages as a matter plan.
- Adapt the implementation tools to the applicable policy and jurisdiction.
- Record departures and reasons while they are current.
- Obtain matter-specific legal advice where required.

Choose the process before the process chooses you.

Formal investigation is one response, not the automatic response. The decision should be recorded and proportionate to the disputed facts, possible consequences, seniority of participants, safety risks and reporting obligations.

A formal investigation is commonly justified when

- Material facts are disputed and findings may lead to disciplinary action.
- The matter concerns serious misconduct, fraud, harassment, reprisal, senior personnel or multiple complainants.
- An independent factual record is needed for a board, regulator, insurer or later decision-maker.

Immediate controls

- Assess physical and psychosocial safety.
- Preserve email, chat, access logs, CCTV and other volatile material.
- Prevent reprisal and witness contamination.
- Check notification and mandatory reporting duties.
- Use neutral controls where possible; do not impose a disguised penalty.

The safest first action is often preservation, not interrogation.

Friday, 4:40 pm: an allegation arrives.

A procurement analyst alleges that evaluation records were altered after a preferred supplier scored poorly. The analyst also says their manager removed them from a meeting after they questioned the change.

First 24 hours

- Preserve the procurement platform audit trail, native email and chat exports, access logs, versions of the evaluation matrix and calendar records.
- Assess reprisal risk and remove the manager from control of relevant records without assuming wrongdoing.
- Identify whether internal audit, police, a regulator or a protected-disclosure process may need to be engaged.

What not to do

- Do not begin with a confrontation that alerts a person who can delete or influence evidence.
- Do not promise absolute confidentiality. Explain need-to-know handling and its limits.
- Do not combine welfare, investigation and disciplinary decision-making without defining the roles.

Document the gateway decision

Record the allegation received, immediate risks, alternatives considered, reasons for the selected pathway, preservation steps, interim controls, decision authority and the date for review.

Write the mandate before collecting the answer.

The terms of reference are the investigation's control document. They prevent scope drift, role confusion and retrospective changes to the question.

Minimum commission

- Purpose and decision to be informed.
- Separately numbered allegations.
- Authority to obtain records and vary scope.
- Investigator, commissioner, adviser and decision-maker roles.
- Applicable policy and legal framework.
- Deliverables, exclusions, deadline and referral triggers.

Independence

Record prior involvement, reporting relationships, personal connections, earlier advice and exposure to disputed material. Independence is a documented assessment, not a label.

Scope variation

New allegations do not silently enter the final report. The commissioner authorises the variation, affected people receive adequate particulars and the investigation plan is revised.

Separate investigator, adviser and decision-maker functions wherever practicable.

Turn narrative into propositions that can be answered.

Weak allegation

“You bullied Jordan and created a toxic workplace.” This states conclusions. It identifies neither the conduct nor the time, context or policy provision said to be engaged.

Workable allegation

“On 14 March 2026, during the weekly operations meeting, you allegedly said [words], raised your voice and struck the table. It is alleged this conduct was contrary to clauses 4.2 and 6.1 of the workplace behaviour policy.”

Allegation design test

- Who is alleged to have done what?
- When and where did it occur?
- What words or actions are alleged?
- What rule or standard may apply?
- What factual propositions must be proved?
- What alternative explanations must be tested?

Particulars should enable an answer without disclosing irrelevant personal information or prejudging the finding.

Preserve the original context, not merely a screenshot.

A later reviewer should be able to identify what was obtained, from where, by whom, by what method and whether it changed. Keep controlled originals and work from copies.

Evidence lifecycle

- Identify repositories and custodians.
- Issue targeted preservation directions.
- Collect native files and relevant metadata.
- Record source, date, method and collector.
- Hash or otherwise control critical originals where proportionate.
- Record every transformation, redaction and export.

Digital example: Teams

A cropped screenshot can omit the channel, timestamp, edits, reactions, surrounding messages and identity information. Prefer a native export. If a screenshot is all that exists, record who captured it, when, on what device, what falls outside the crop and whether the source was viewed.

Evidence classes

- People: interviews, contemporaneous notes and explanations of perception or memory.
- Documents: policies, rosters, native email, chat exports, HR records and logs.
- Physical and visual: CCTV, photographs, site plans, devices and documented observations.

Map the issues, sources and sequence before interviewing.

A plan records why each line of enquiry is relevant, how it will be tested and why other lines were not pursued. It should be revised when the evidence changes the reasonable direction of enquiry.

Plan each issue

- Issue: the fact or policy element to determine.
- Source: the people or records capable of addressing it.
- Method: interview, export, inspection, request or analysis.
- Sequence: what must be preserved or understood first.
- Risk: welfare, reprisal, contamination, privilege or privacy.
- Decision: who authorises scope change or referral.

Sequence example

For suspected expense fraud and retaliation: preserve system and messaging data; particularise the complaint; understand the control process; test transactions; interview direct witnesses; then put the allegation and material inconsistencies to the respondent.

Interview sequence should protect evidence quality, not reward hierarchy.

Interview for evidence, not confirmation.

The question funnel

- Open: "Tell me what happened from the beginning."
- Clarify: "What did you personally see or hear?"
- Locate: "Where were you in relation to the doorway?"
- Test: "Your email called the meeting calm. Help me understand the difference."
- Complete: "What have I not asked that could materially change my understanding?"

Memory

Ask what refreshed the account, whether the event was discussed with others, what notes were made and whether any part is reconstruction rather than recollection.

Avoid leading form

Avoid: "He was shouting aggressively, was he not?" Use: "Describe his volume, words, tone and physical actions. What makes you characterise it that way?"

Interview record

- Explain role, purpose, process and confidentiality limits.
- Confirm support person and adjustment arrangements.
- Distinguish direct observation from inference and hearsay.
- Put significant inconsistencies fairly.
- Invite corrections and additional material.
- Record refusal, interruption and follow-up.

Give a real opportunity to change the outcome.

An invitation to respond is not genuine if the adverse decision is already settled. Procedural fairness is practical: the person must understand the substance of the case and have a usable opportunity to answer it.

Notice and opportunity

- Put each adverse allegation in plain language with sufficient particulars.
- Allow reasonable time having regard to complexity and available support.
- Provide accessible formats, language assistance or other reasonable adjustments.
- Disclose the substance of adverse material, subject to lawful limits.

Open mind

- Consider the response before forming the final view.
- Pursue material new leads and correct factual errors.
- Deal with explanations in the reasons, rather than simply noting disagreement.
- Separate factual findings from the later decision about consequence.

Fairness asks whether the response could realistically affect the result.

Build findings from propositions, not impressions.

Distinguish agreed fact, disputed fact, hearsay, inference, credibility assessment and policy characterisation. Test competing explanations and actively look for material that could disconfirm the preferred account.

Reliability factors

- Opportunity to observe and contemporaneous record.
- Internal consistency and independent corroboration.
- Plausible explanations for discrepancies.
- Objective chronology and independently verifiable detail.
- Motive or interest, assessed cautiously.
- Demeanour, treated as a weak stand-alone measure.

Competing hypotheses

For an altered record, test deliberate alteration, permitted recalculation, another user acting through shared access and differences between the displayed report and the audit history. Identify the evidence capable of distinguishing each.

Briginshaw in practice

The standard remains the balance of probabilities. The seriousness and inherent likelihood of an allegation inform the strength and clarity of evidence needed for reasonable satisfaction. It is not a mechanical 51 per cent calculation.

Show the evidence pathway.

Allegation A1 concerns words and physical action during the 14 March meeting. The outcome below illustrates how a mixed finding can be explained without overstating the evidence.

FINDING	Substantiated in part.
AGREED FACT	The respondent addressed Jordan and accepted saying Jordan might not be suited to the account.
DISPUTED FACT	The exact quoted words, whether the respondent raised their voice and whether they struck the table.
ASSESSMENT	Two witnesses independently recalled a raised voice. A contemporaneous message described the meeting as “very loud”. Audio contains an impact but does not identify its source. Witnesses differed on whether a hand or folder contacted the table. The respondent accepted placing a folder down firmly.
CONCLUSION	More likely than not: raised voice and forceful folder placement. Insufficient evidence: a hand struck the table. Exact words are not established, but their substance is.
POLICY STEP	Characterisation is assessed separately against the policy wording, context, repetition and objective reasonableness.

Write for a reader who was not in the room.

Recommended structure

- Executive summary.
- Commission, scope, investigator and conflicts.
- Framework, standard and methodology.
- Evidence controls, limitations and variations.
- For each allegation: case, response, analysis and finding.
- Authorised systemic observations.
- Evidence schedule, chronology and appendices.

Quality review

- Does every finding answer the commission?
- Is material contrary evidence addressed?
- Are fact, submission and inference distinct?
- Are credibility reasons evidence-based?
- Were all adverse matters put?
- Is sensitive information necessary?
- Can every relied-upon item be found?

A polished report is not a substitute for transparent reasoning.

Historic decisions show where process fails.

1938 / BRIGINSHAW V BRIGINSHAW

The civil standard remains the balance of probabilities, but reasonable satisfaction is informed by the seriousness and inherent likelihood of what is alleged. Practical lesson: grave findings require clear, cogent evidence and reasons, not a mechanical percentage.

1996 / WADEY V YMCA CANBERRA

An employee must receive a genuine opportunity to answer the relevant allegation before the decision is made. Practical lesson: notice is not enough if the response cannot realistically influence the result.

2002 / DIMOVSKI V HOWE & CO

A formally available process may still be unfair when language, comprehension or accessibility prevents meaningful participation. Practical lesson: assess interpreters, accessible material, support and extra time at the outset.

2012 / MELOUNEY V ACM GROUP

Fairness does not invariably require every document to be handed over, but the substance of adverse material must be disclosed sufficiently to permit an effective answer. Record the disclosure decision and its reasons.

2016 / JIMENEZ V ACCENT GROUP

Procedural formality cannot cure conclusions that extend beyond the evidence actually established. Practical lesson: separate allegation, factual proposition, policy threshold and consequence, and show the reasoning between them.

2019 / SUZARA V ST VINCENT'S

A person should be given the substance of the material reasons that may support adverse action before the decision is final. Practical lesson: put material inconsistencies and new adverse propositions, then consider the response with an open mind.

Build readiness before the complaint arrives.

DAYS 1–30 / FOUNDATION

- Nominate commissioning and decision roles.
- Map escalation and reporting pathways.
- Approve conflict, preservation and secure-storage protocols.

DAYS 31–60 / CAPABILITY

- Train HR, integrity, legal and executives.
- Test email, chat and system-log exports.
- Establish investigator panels and welfare controls.

DAYS 61–90 / ASSURANCE

- Run a tabletop scenario and audit a closed matter.
- Review retention, privacy and participant communications.
- Brief the board on gaps, delay and rework.

Seven controls ready for adaptation.

01 / COMMISSIONING BRIEF	Purpose, authority, roles, scope and deliverables.
02 / TRIAGE RECORD	Risk, pathway, preservation and interim controls.
03 / ALLEGATION MATRIX	Propositions, evidence, response and status.
04 / EVIDENCE REGISTER	Source, collection, handling and location.
05 / INTERVIEW PLAN	Objectives, sequence, questions and adjustments.
06 / FINDING WORKSHEET	Evidence for, evidence against, assessment and conclusion.
07 / REPORT REVIEW	Fairness, reasoning, scope, privacy and traceability.

Primary Australian reference points.

- Fair Work Commission guidance on opportunity to respond, evidence and internal investigations.
- Fair Work Ombudsman guidance on workplace investigations, evidence evaluation, reasons and outcomes.
- Australian Human Rights Commission good-practice guidance for internal complaint processes.
- High Court of Australia: *Briginshaw v Briginshaw* (1938) 60 CLR 336.
- Fair Work decisions discussed: Wadey, Dimovski, Melouney, Jimenez and Suzara.

Important limitation

This guide is general information current to 12 August 2026. Workplace investigations may engage employment, discrimination, work health and safety, privacy, surveillance, corporations, public-sector, whistleblower, criminal and professional-obligation regimes. Obtain advice for the matter and jurisdiction.

The truth has a trail.