



Bartlett Workplace Investigations (BWI)

Capability Document
Conducting, Advising and Training



thinking differently

bartlett
workplace



| investigations |

Bartlett Workplace Investigations (BWI):

Why conducting Workplace Investigations well, helps your business and your people

Dealing swiftly, proportionately and appropriately with workplace issues such as employee complaints and potential employee misconduct/serious misconduct, is crucial and can both save an organisation time, money and contribute to its reputation as a fair and reasonable employer, furthermore there is an increasing call in the modern workplace for investigations to be carried out in order to establish whether or not complaints or grievances are well founded or to reliably establish the facts about certain matters before important decisions are made. If workplace investigations are to serve their purpose, it is imperative that they are conducted efficiently and the reports emanating from them are coherent and sound; essentially that they and the investigatory procedure behind them can stand up to critical scrutiny including sometimes in a court or tribunal setting.

Our team have strong experience in dealing with difficult and culturally sensitive workplace investigations across Australia and have extensive experience providing workplace investigation services across a wide range of industry sectors.

Bartlett Workplace Investigations offers a full range of workplace investigation services and we are experts when it comes to:

- Conducting workplace Investigations;
- Advising on workplace investigations and outcomes to ensure results are robust, accurate and legally defensible;
- Helping organisations set up or review their internal processes for legal compliance and best practice (including policies, procedures, and guidelines) related to employee complaints, grievances, conduct management and workplace investigations; and
- Upskilling investigators, managers, and decision-makers in workplace investigations capability.

Our Integrated Approach

Our approach to workplace investigations is directed at achieving those objectives. We do this by integrating practical, mature experience in the actual conduct and techniques of workplace investigations, together with high level legal expertise concerning investigations to make sure our investigations and their results are robust, accurate and legally defensible when you need them to be. **We make a point of keeping you informed of issues arising and progress over the course of the investigation.**

Our Workplace Investigators

We understand that every organisation has its own features and that a sound investigation must be informed by an appreciation of contextual factors. Accordingly, when we select an investigator to work with you, we look at both the matters to be investigated and the context in which the matters arise to make sure that the investigator nominated is well fitted to conducting the investigation required. Our Workplace Investigators have extensive experience conducting workplace investigations providing advice and training across a wide range of industry groups:

Public Sector Entities	Oil and Gas	Security	Communications
Local, State and Commonwealth Government	Energy and Resources	Marine	Sports and Entertainment
Education and Higher Education	Utilities and Retail	Consumer Retail	Media and Broadcasting
Health/Emergency Services	Rail	Hospitality	Advanced Manufacturing
Construction	Agribusiness	Professional Services	Technologies
Transport and Logistics	Aviation and Aeromedical	Banking and Finance	Start Ups

Advisory Services for Workplace Investigations and related Policies and Procedures

Apart from conducting or overseeing the conduct of workplace investigations, Bartlett Workplace also provides legal and human resources advice on:

- How to deal with the results of an investigation conducted by other investigators;
- Helping organisations set up or review their internal processes for legal compliance and best practice (including policies, procedures, and guidelines) related to employee complaints, grievances, conduct management and workplace investigations; and
- Issues relating to organisational culture and change.

Our experience has taught us that many organisations make critical errors before they even begin a workplace investigation by not having appropriate, practical investigation guidelines to be consistently followed in workplace investigations. Bartlett Workplace has extensive experience in formulating best practice, practical processes and procedures that are adapted to the organisation concerned.

Because of the combination of practical workplace investigation expertise and legal expertise, Bartlett Workplace Investigations (BWI) is especially well placed to evaluate investigation reports, to advise on the taking on the next steps by reference to them and on the legal issues associated with them such as their disclosure to others, legal privilege and the like.

Additionally, if a workplace investigation report discloses cultural issues in the organisation, Bartlett Workplace can conduct a thorough cultural review, identify the issues, and advise on practical steps to address them.

Having well trained people is the first step towards conducting a successful Workplace Investigation

Our Workplace Investigation Education & Training Solutions provides your people with the tools and practical training they need to better manage employee behaviour and to investigate and make decisions with respect to matters involving serious misconduct.

Our customised education programs and workshops are the best way for you to ensure you have in place a best practice model for workplace investigations in place. We can work with you to design training tailored specifically to your needs to fill skills gaps and make sure each workplace investigation you conduct is consistent, addresses the issues that matter to you, follows a legally robust process and achieves your strategic goals.

Bartlett Workplace also provides **public workshops and webinars** for workplace investigators and human resources managers, a workshop tailored for decision makers and a best practice workshop focusing on best practice disciplinary processes and procedures including workplace investigations.

Our 3 foundation Workplace Investigation Education and Training Programs cover the following for your Managers, Workplace Investigators and Decision Makers

1. Workplace Investigation Training for Workplace Investigators;
2. Workplace Investigation Training for Decision Makers; and
3. Workplace Investigation and Disciplinary Processes Best Practice Workshop.

1. Workplace Investigations Officer Training:

Train your workplace Investigators to improve and increase capability and reduce risk

Conducting a successful investigation is a challenging and often difficult task for any investigator. The purpose of this training is to provide managers responsible for conducting workplace investigations and investigator officers with the tools and practical training to better prepare and carry out the process of conducting workplace investigations.

This workshop covers the fundamentals of conducting an investigation including; proper referrals/delegated authority, principals of natural justice, investigating techniques, including obtaining statements and other evidence, required standard of proof, and the meaning of important legal phrases such as **'without prejudice'**, **'legal professional privilege'** and **'discovery' of documents** in a legal process.

The anticipated learning outcomes from this training will include

Gain a full understanding of how to plan a serious misconduct investigation and how to obtain as much information as possible from witnesses;
Have a practical understanding of essential workplace investigation skills including audio recording meetings, drafting witness statements and preparing investigation reports;
Understand and be able to identify misconduct, serious misconduct & when suspension is required;
Understand natural justice and what is required for a fair and defensible workplace investigation;
Understand and be able to manage the key legal and human resources risks associated with investigating allegations of serious misconduct;
Appreciate and know how to avoid key things that can go wrong when interviewing employees and collecting evidence;
Be able to respond to 20 crucial "curve balls" that difficult employees and their representatives can use to undermine a workplace investigation;
Understand the different sanctions that can be imposed after a finding of serious misconduct;
Be able to write consistent and useful investigation reports;
Know more about your legal obligations in a hands-on training environment; and
Be able to run a serious misconduct investigation, including: <ul style="list-style-type: none"> ✓ Preparation and use of the tools provided; ✓ Interviewing witnesses and taking statements; ✓ Audio recording interviews ✓ Dealing with difficult witnesses and their representatives; and ✓ Writing investigation reports.

Who is the training for?

We have found that HR professionals, including; managers/supervisors and workplace investigators gain the most benefit from this course. We recommend that anywhere between 8-12 participants is the ideal number to work with to maximize the benefits of the training.

Format of training

The training is conducted in an interactive and practical manner. Participants engage in practical activities and role play real life workplace investigation situations. This allows them to test their knowledge and gain confidence in their ability to manage difficult workplace investigations and also be able respond to the various curve balls that inevitably arise when investigating allegations. For example, participants will be trained on how to audio record interviews, prepare statements and prepare their investigation reports.

Included are practical resource materials for participants such as

Our clients and past participants have found the practical materials to save both time and cost when later conducting their own serious misconduct investigations.

- Practical field manual for investigating officers for practical use and guidance;
- Checklists for investigating officer interview;
- Sample witness statement;
- Suggested interview checklist and script;
- Draft format for investigator’s report.

2. Workplace Investigations Training for Decision Makers

Providing the right training for the decision maker can be critical to a successful outcome

While the processes can be confronting and uncomfortable, it is important to address workplace investigations early and in an organised and efficient manner, so as to prevent them from escalating into a messy time consuming and costly disputes.

The **decision maker** makes the decision about the outcome of a workplace investigation. They are the person responsible for the investigation process and they determine:

- whether or not an investigation should take place;
- whether the investigation should be done by an internal or external investigator;
- what is the scope of the investigation;
- how long the investigation should take;
- what is communicated to the respondent employee about the investigation;
- whether the respondent is to be suspended pending the investigation; and
- whether any other lawful or reasonable directions will be given.

A **decision maker** cannot make a good decision without a proper investigation. But a great deal of legal risk depends on the decision maker performing their role well. Having properly trained decision makers is therefore key to reducing the legal risk associated with workplace investigations.

The anticipated learning outcomes from this training will include

Understand and be able to identify misconduct and serious misconduct and when suspension is required;
Know how to assess if an investigation is necessary;
Know how and when to appoint an internal or external investigator;
Understand natural justice and what is required for a fair and defensible workplace investigation;
Know how to set and manage the time frame for an investigation process;
Know how to draft the scope for the investigation and appropriate terms of reference;
Know how and what needs to be communicated to the respondent employee and when;
Understand and be able to manage the legal and human resources risks associated with investigating allegations of serious misconduct;
Be able to respond to 15 crucial “curve balls” that difficult employees and their representatives can use to undermine a workplace investigation;
Know how to consider all the relevant circumstances and make a robust and defensible decision on the outcome of an investigation;
Understand the different sanctions that can be imposed after a finding of serious misconduct;
Know what to do when extraneous issues arise during the investigation process; and
Know how to keep and manage confidential documents and reports.

Who is the training for?

We have found HR manager/supervisors and inhouse legal counsels who are responsible for the management of workplace investigations gain the most benefit from this course. We recommend that anywhere between 8-12 participants is the ideal number to work with to maximize the benefits of the training.

Format of training

The training is conducted in an interactive and practical manner. Participants engage in practical activities and role play real life workplace investigation situations. This allows them to test their knowledge and gain confidence in their ability to manage difficult workplace investigations and also be able respond to the various **curve balls** that inevitably arise when investigating allegations.

Included practical resource materials for participants such as

In addition, we are able to develop simple and easy to follow flowcharts and plain English guidelines for both investigators and decision makers tailored to your organisation.

- Tailored simple and easy to use guidelines for decision makers;
- Draft file notes and Draft referral letters; and
- Sample letter for immediate action and disciplinary action for serious misconduct.

3. **Workplace Investigations: ‘Best Practice’ Policies, Complaints Procedures, Management Guidelines and Disciplinary Processes**

Having the right approach to workplace investigations along with having the best practice policies, complaints procedures and management guidelines in place is fundamental in preventing employee issues escalating to messy disputes

Our Workplace Investigations and Disciplinary Processes Best Practice Workshop is an interactive workshop that allows your HR teams and managers to review what is and is not working effectively when it comes to workplace investigations and disciplinary processes.

During this workshop we explore best practice workplace investigation processes, including a review of your organisation’s current investigation policies and procedures.

The purpose of the review is to provide your team with

- Information about the strength and limitations of your organisation’s disciplinary/investigation policies and procedures;
- Recommendations for possible improvements; and
- Alternative policies, procedures and management/investigators guidelines to optimise results

This workshop covers the following

All stages of the investigation process from identification of the problem through to the conduct of the investigation and conclusion of the matter;

Alternative approaches that could be used to effectively resolve misconduct issues, implemented through enterprise agreements, policies, procedures and guidelines;

Options for any appeals against the current process as well as the use of any external advice and review throughout the process, including how to optimise business outcomes throughout the process; and

Best practice options and recommendations for change including the provision of simple guidelines and template documents to assist investigators and decision makers.

Who is the training for?

Our training is perfect for all human resources professionals, including HR managers, supervisors, workplace investigators, decision makers as well as team leaders and managers.

We recommend that no more than 16 people attend the training, but anywhere between 8-16 participants is ideal to maximize the benefits of the training.

Format of training

The training is conducted in an interactive and practical manner. Participants engage in practical activities and role play real life workplace investigation situations. This allows them to test their knowledge and gain confidence in their ability to manage difficult

What do participants receive?

Top quality training and advice from leading workplace lawyers and workplace investigators with plenty of real-life examples, tips and tricks in how to manage curve balls in real life situations.

Each participant also receives appropriate checklists, templates, guides, flow charts and how -to manuals to assist them and their organisations perform and deal with these challenging employment issues.

We work with you to tailor to your needs

We have a number of real-life case studies where decision makers, HR managers and supervisors have handled situations positively and ways in which there is room for improvement.

We would also discuss with you any specific case studies that you would like us to include in the materials to make the training more realistic for those involved.

To discuss any of your Workplace Investigations and or Education/Training needs, or to find out more about our services and products
please call us on 03 9603 5000 or email victoria@bartlettworkplace.com

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