

People & Culture Leader Guide – Fact Finding

Fact finding is an important step in ensuring that we gather all relevant information prior to a decision being made regarding an outcome for employee performance or behaviour. We need to ensure that all relevant information to a matter is considered, ensuring natural justice and procedural fairness for all involved. Do not make the mistake of assuming what has occurred – take the time to investigate fully.

1. Be prepared

- a. Spend time getting clear on the matter –try to answer:
- b. What do we know about the matter? What evidence is available? Compile all available information on the matter (ie Riskman, reports, statements).
- c. What occurred – it can help to map out a timeline of events
- d. Is there context we need to understand? What happened before? What happened after?
- e. Who do I need to speak to? Who was involved? Who may be a witness? Make a list of people you may need to speak to in relation to the matter. Speak to key people first.
- f. What do I need to understand and ask? Prepare questions prior to discussion. Ask each witness the same questions.
- g. Plan for any discussions to be held in a quiet, confidential setting where risk of interruptions is reduced.
- h. Schedule discussions, affording at least 24 hours' notice where possible. This allows those involved to also prepare.

If in doubt as to how to approach any given situation – seek support from the People Experience team on (07) 3900 5460.

2. Don't delay any fact-finding activities

- a. Fact finding should commence within 24 hours of when you are notified of the matter.
- b. People forget – don't delay people will not remember the facts accurately and in detail.
- c. This demonstrates that we are committed to resolving the matter.
- d. Delaying causes stress and tension. It's not appropriate or professional to keep employees waiting.
- e. Any reasons for delay should be genuine and documented.

3. Talk to the right people at the right time.

- a. Start with employee who reported the matter.
- b. Then the employee being accused
- c. Next, any witnesses to the incident, this might be others that were rostered at the same time

Remember: You are able to meet with the employee being accused in an informal setting for the purposes of fact finding. Based on what happens you may then need to meet with the employee to formally present the matters to them.

Please contact your People Experience Advisor to get support with developing a notice to attend letter to issue to the employee.

4. Fact finding meetings

Explain that you are meeting with them to gather information in relation to a matter;

- i. That they have reported; or
- ii. They may have witnessed; or
- iii. That has been reported about them, and you want to understand what they remember

Emphasise confidentiality.

Emphasise that you are meeting with them to fact find. Your role is to ask questions – not to provide answers / assessment of situation

Offer Benestar EAP support if appropriate

5. Use standard fact-finding protocols and questions

- a. Thank people for participating.
- b. Your process must be unbiased with all parties treated in a similar manner. Don't make assumptions and ask each witness the same questions.
- c. Using a consistent process demonstrates fairness and credibility.
- d. Emphasise confidentiality,
- e. Reassure people that retaliation is not tolerated, and will be taken seriously, including discipline.
- f. Provide a clear overview of next steps and their timing.
- g. Make sure people understand where to go for further help.
- h. Be prepared to ask additional questions to ensure all facts obtained, use probing questions such as "Could you tell me more about that?" or "Please explain what you mean?"

6. Document findings

- a. Note of the details of the discussion, - who, where and when.
- b. Take thorough notes of questions and responses.
- c. Include details such as body language and the tone of people's responses.

7. Follow EF Procedures

- a. Managing Unsatisfactory Performance Disciplinary Procedure (QP 5249)
- b. Grievance and Dispute Policy (QD 5274)
- c. Grievance and Dispute Settlement Procedure (QP 5274)

Sample fact finding questions

Conducting workplace fact-finding exercises involves gathering a lot of firsthand information from employees who are involved or are witnesses to the subject of the complaint / matter. Every fact-finding exercise will vary according to the specifics of the matter and so must be conducted as such.

Below is a list of questions to use as examples.

1. In your own words, what happened?

This question considers both what was witnessed and what was perceived. An overview of the incident from the mind of the person interviewed can be helpful to understanding future answers.

2. Where and when did this take place?

Pinpointing timing and location is crucial to construct a timeline. This can lead to further information.

3. What did you personally witness?

This drills down from the first question and tries to separate perception from reality. Depending upon the answer, varying degrees of follow-up questions should be asked to construct an A-Z picture of the occurrence.

4. Who else was present?

Witness testimony that is corroborated by multiple parties is more reliable than the recollections of a single witness.

5. What was your response or what actions have you taken since the incident?

It is human nature to react spontaneously when offended or in a place where a defense feels necessary. While responses or reactions may or may not exacerbate a situation already being investigated, any occurrence must be documented.

Remember...

- *A key principle you'll want to maintain during fact-finding is consistency.*
- *Ask each witness the same questions.*
- *If a follow-up with one witness leads you down an unexpected trail, it's okay to go back to other witnesses to ask those same types of follow-up questions.*
- *To protect the integrity of the fact-finding activity, ask open-ended instead of leading questions.*
- *And always consider the dignity of all involved – this can never be overstated for its importance to maintaining healthy employee relations.*
- *Show urgency in looking into matters, but do not rush.*
- *Work with your leader or peers in addressing matters where possible, to promote consistency of decision making and actions.*
- *Reach out to the People Experience team if you require support*