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Small Business Guide to Workplace Investigations
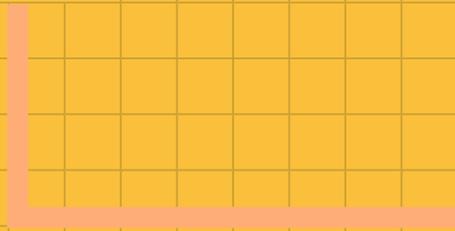
Introduction

Reports about workplace issues can be difficult to manage, especially for a small business. If left unresolved or mismanaged, even small issues can turn into big liabilities.

This guide will cover foundational strategies for a small business to conduct a good investigation and build a better culture by effectively managing reports.

> **Employers should devote sufficient resources so that workplace investigations are prompt, objective, and thorough.**[1]
>
> U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Conducting a Good Investigation

Reports based on someone's inclusion in a protected class (e.g., race, sex, religion) trigger your duty to conduct a prompt and thorough investigation. While not legally required for some other types of reports, following the same process is a best practice. It shows employees that you're serious about improving the workplace.

Here are your goals for any investigation:

Work promptly

Serious reports need a quick response from you. Research shows that the quicker a report is addressed, the less blowback occurs.[2] And in the case of reports involving legally protected characteristics, a "prompt" response is legally required.

Conduct a complete investigation

- **Follow a standardized procedure.** In conducting an investigation, standardize what steps you'll take beforehand. It helps make execution easier and the investigation more objective.[3] This is an excellent reason for having (and following) policies about your reporting process.

- **Choose an investigator.** An investigator must be credible in the eyes of employees and upper-level management. They should have a high level of personal integrity and the time to conduct a thorough investigation. Many organizations choose someone internal to do the investigation, like someone in human resources. But for very serious reports, other organizations hire an outside party.

Quick Facts About Reporting

You first need to receive a report before investigating it. Here's a recap of some research:

- Employees report more often in small and large business environments, mid-size they report less.

- 28% of employees choose to report anonymously

- For every 10% increase in reports, there's an associated 2% decrease in the dollar amount of government fines received and a 1% decrease in legal settlement amounts in subsequent years.

Stubben, S. & Welch, K. (February 29, 2020). "Evidence on the Use and Efficacy of Internal Whistleblowing Systems." Found at https://ssrn.com/abstract=3273589.

- **Interview.** The investigator should identify and interview individuals with a relationship to the contents of the report, such as the reporter or people who have reported similar experiences or issues.

- **Document.** Document everything. This includes verbal communications, supporting documents, witness statements, investigation summaries, and your organization's responses. Again, you want to be thorough.

> **While a lot goes into a good interview, being thorough, finding facts, reaffirming company policies, and corroborating evidence are your high-level goals.**

Conclude the investigation

Based on the evidence you gather, your business needs to determine whether a company policy or law was broken. If so, you need to craft a response and communicate it to the reporter and accused (if applicable). If not, you still need to follow up with the reporter about the findings of the investigation and your organization's response.

To be sure, many small businesses are dealing with limited resources and are concerned about what's in front of them right now. At some point, however, employee reports will come in. Planning ahead, and managing reports, helps you avoid liability.

Wondering if you have the resources to conduct a good investigation?

HR Compliance Library includes expert-crafted assets, like comprehensive investigation guides, that can help you develop standardized procedures and execute them.

Learn also offers a "Workplace Management: Employment Laws and Regulations" online course for HR professionals.
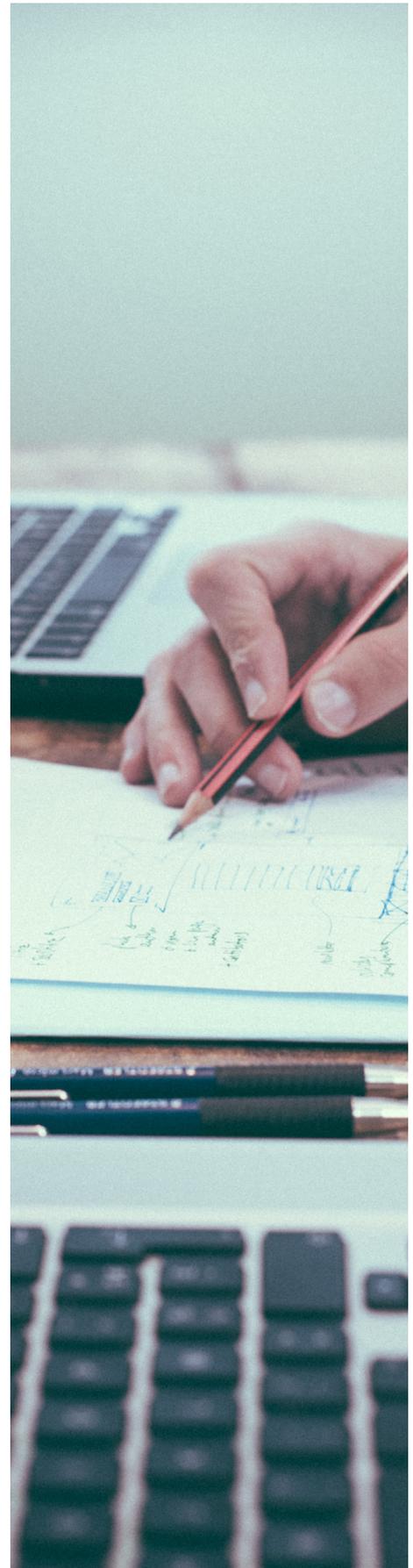
Investigation Best Practices to Improve Culture

Button up your compliance efforts, and culture will follow. Let's look at a few ways to make the most out of workplace reports and investigations.

Try to respond to every report

Not all reports merit an investigation, but ideally they would get a response. Doing so creates a positive feedback loop where employees feel heard. The more employees that feel heard and that their opinion matters, the more they trust you with future, possibly critical, issues. That positive feedback loop is critical to building a culture of trust in your organization.[4]

Check for bias

Bias is natural, and can arise with any person involved in the reporting process. However, bias is not objective and erodes not only a good investigation[5], but workplace trust and culture.[6]

Here are a couple of ways you can help employees and investigators be aware of their biases throughout the workplace reporting process:

1. **Provide training.** Understanding what bias is, and how to address it in the workplace, are important skills for all employees to have. Applying that knowledge could improve the quality of reports that come in and your ability to look at reports through different lenses. Bias training also complements your organization's overall anti-harassment and diversity efforts.

2. **Get a second opinion.** Taking a step back and getting another person's perspective before a decision is made can reduce bias.[7] This is especially true if the second person thinks and acts differently than the person managing a report. Experts and outside parties may fulfill this role if resources are tight.

Respect anonymity

Some small employers wonder how it's possible to address reports from employees when they're made anonymously. Research shows that it is both possible and worthwhile. Statistically, anonymous reports contain more information about the alleged activity. Employees also feel safer when they believe the reporting system protects anonymity.[8]

Of course, anonymous reports are harder to follow up on.[9] But it's important to do your best with what you get. In the end, addressing anonymous reports speaks volumes about your organization's commitment to a safe, equitable, and healthy workplace.

> **A reporting system that allows employees to file a report of harassment they have experienced or observed, and a process for undertaking investigations, are essential components of a holistic harassment prevention effort.**[10]
>
> EEOC

Do you need a way to organize and manage reports that come in?

Anonymous Reporting provides employees a simple and safe way to report, and employers a way to review and resolve them. Visit our Product Page to learn more.

Conclusion

Investigating employee reports are an important part of reducing your susceptibility to liability as well as developing a good workplace culture. To be effective, your workplace reporting system needs to optimize the quality of reports that come in and provide a platform to document, track, and follow up with issues as they arise.

Request a Demo to learn how Mineral's Anonymous Reporting can streamline the reporting and investigation process for your small business.

HR Compliance Library
Understand human resources or compliance issues better.

Learn
Build employees' skills and awareness of key subjects

Smart Employee Handbook
Create policies to show employees which issues are important.

Anonymous Reporting
Allow employees to talk about critical issues.

About

Mineral is the HR and compliance leader for growing businesses. Through a combination of data, technology and human expertise, our proactive solutions take the guesswork out of HR and compliance, giving clients peace of mind. To learn more, visit trustmineral.com.

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Sources

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2 Stubben, S. & Welch, K. (February 29, 2020). "Evidence on the Use and Efficacy of Internal Whistleblowing Systems." Found at https:// ssrn.com/abstract=3273589.

3 The following steps are an example of a standardized procedure: (1) Identify documents for review (2) Identify potential interviewees (3)Evaluate the need for supplementary interviews (4) Determine interview order (5) Determine format. See "How to Conduct a Harassment Investigation." ThinkHR. Found at https://apps.thinkhr.com/en-us#!/comply.

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