

What to Expect in a Workplace Investigation: A Guide for the Public

If you are a member of the public, such as an employee, jobseeker, or employer, at some point in your professional life you may be involved in a workplace investigation. Since there is a high risk of potential harm if a workplace investigation is conducted incorrectly, HRPA has developed a Practice Standard on Conducting Workplace Investigations that all registered HRPA members, firms and students have to comply with. We have developed the FAQs below to answer important questions you may have around what you can expect in a workplace investigation being conducted by a registered HRPA member, student or firm. You can determine whether your workplace investigation involves a registered HRPA member, student or firm by searching our [Public Register](#).

DISCLAIMER: The information provided in this resource is in respect of the law of the Province of Ontario and is intended for general information only. This resource is not provided for the purpose of providing legal advice or a complete statement of the law on the particular topics. Every situation is unique and involves specific legal issues. Please seek legal advice, as applicable, if needed on the topic of workplace investigations. Further, this resource to be read in conjunction with the applicable employment standards, occupational health and safety, and human rights legislation and does not supersede or replace the legal requirements set out in the legislation.

What is a workplace investigation and what can cause an investigation to happen?

For the purposes of this Practice Standard, workplace investigations are defined as employer-based investigations into complaints, allegations, or incidents of misconduct occurring in the workplace, including but not limited to harassment, discrimination, bullying, privacy breaches, substance use at work, theft, vandalism, retaliation, threats of violence, and assault.

In Ontario, everyone is entitled to a healthy and safe workplace, under both [the Occupational Health and Safety Act](#) (OHSA) and the *Human Rights Code* (the “Code”). Where applicable, employers have the duty to investigate complaints and incidents of workplace harassment and workplace violence, whether or not there has been a formal or informal complaint (ex. If the employer becomes aware, or ought to be aware, of an incident of workplace harassment and/or violence, this must be investigated).

What are your rights if you're being investigated or if you are the complainant (the alleged victim)?

Regardless of whether you are being investigated or are the complainant, you can expect a registered HRPAs member, student or firm who is part of the investigation team to:

- **Have the appropriate training and competencies:** This includes having the ability and knowledge to gather evidence, interview relevant parties, assess credibility, and make conclusions based on the facts in a neutral and objective manner.
- **Respect confidentiality:** No information relevant to the investigation or incident should be shared to anyone unless it is necessary to properly investigate and respond to the incident to protect employees/the general public, or if required by law. If there is a breach of confidentiality, this must be reported and acted on.
- **Safeguard sensitive or confidential information:** Documentation, evidence, notes or any other materials related to the investigation will be kept in a secure location and only accessible to those who require access.
- **Promote fairness:** Those being investigated (respondents) should always be provided with the full allegations prior to being interviewed and be given a full and fair opportunity to respond to the allegations and provide any evidence or witnesses to support their defence. Both complainants and respondents should be provided with any evidence that is probative and be granted the opportunity to respond to that information. Investigators must remain impartial, objective, and mitigate any internal biases.
- **Disclose conflicts of interest:** Investigators must recuse themselves from being involved in any part of the investigation if they have a close relationship with any parties involved or are the subject of the complaint or allegations.
- **Gather all relevant information and documentation:** All potential sources of information or evidence should be considered and identified in an investigation, including through interviews, documents, witness statements, surveillance, phone records, etc. Investigators should always seek to validate the credibility of any documents or evidence.
- **Bring timely resolution, where possible and communicate the outcomes:** Investigations should begin promptly and be completed promptly, unless there are extenuating circumstances. All parties to the investigation should be informed of the

outcomes of the investigation and any actions being taken, in writing, once the investigation has concluded.

This is not an exhaustive list. You can find more details in the actual Practice Standard on Conducting Workplace Investigations, which you can access [here](#).

What should you expect if you're being interviewed as part of a workplace investigation, including as a witness?

If you are being interviewed by a registered HRP A member, student, or firm as part of a workplace investigation, you can expect your interviews to:

- **Include details of the investigation**, the processes being taken, and your rights.
- **Be scheduled in advance**, with notice at a mutually agreed upon time.
- **Be private and separate** from any other parties involved in the investigation.
- **Be objective and respectful**, with no aggressive language or confrontational tone.
- **Provide full opportunity to ask/answer questions** and to provide information in your own words. Leading questions should not be asked by the investigator.
- **To have notes taken during the interview**, which you should have the opportunity to review and sign off on to ensure accuracy.

How can I submit a complaint if a registered HRP A member, student or firm is acting unethically during a workplace investigation?

We understand that potential professional misconduct by an HR professional can be extremely challenging. If you believe that an HR professional has acted unethical or unprofessional, then we would strongly encourage you to consider filing a complaint with HRP A.

First, check the [public register](#) to confirm the HR professional is registered with HRP A. Unfortunately, HRP A can only accept and investigate complaints against a registered member, student or firm.

Second, review the *Code of Ethics and Rules of Professional Conduct* and our *Practice Standard on Conducting Workplace Investigations* and note any sections that you believe may have been breached by the registered HR professional's actions.

Third, complete the professional complaints form to share your experience – what happened, when did it happen, who may have witnessed the situation and what supplementary documents do you have that may support your statements. You can find a copy of the professional complaints form [here](#).

Once you've written out your experience, link your allegations and any supporting documents or witness statements to the sections of the *Code of Ethics and Rules of Professional Conduct* you had previously identified as having been breached.

Finally, submit your assembled complaints package to registrar@hrpa.ca.