

11 July 2024

**Confidential**

[employee name]  
[address],

**Hand Delivered**

Dear [name],

**Notice of allegations and invitation to participate in a confidential interview**

[company name] ([Employer short name]) received information disclosing alleged conduct by you, which, if proven, may constitute misconduct.

**Annexure A** to this letter sets out the particulars of the alleged conduct.

[Employer short name] must ensure its employees' health and safety, including a duty to prevent bullying or harassment of any kind. Employees of [Employer Short Name] must take reasonable care that their acts or omissions do not adversely affect the health and safety of other people at work.

To discharge those duties, and in accordance with [cite relevant policy] [Employer Short Name] has decided to conduct a confidential workplace investigation and direct you to participate in an interview with the investigator.

[Employer Short Name] has appointed [Investigator Name] of [investigator company] to conduct the workplace investigation. You are directed to attend an interview with [Investigator Name] at the time and place specified below. During the interview, you should answer [Investigator Name]'s questions truthfully and to the best of your knowledge and belief.

**Location:** [ideally this is a private meeting room or office with a laptop or other conferencing facilities (camera, monitor and speaker)]

**Date:**

**Time:**

[Optional:] The interview with [Investigator Name] will take place via MS Teams.

You can bring an independent support person to the interview if you would like to; however, you must advise me in advance of your support person's name. Your support person cannot be a person who is also a potential witness in the investigation.

You (and your support person) must keep confidential and not disclose to any other employee of [Employer Short Name] or any other person:

- a) this letter;
- b) the investigation;
- c) the information you have that is relevant to the investigation; and
- d) the information you provide to the investigator.

During the interview, [Investigator Name] will seek your response to the allegations and ask questions relevant to the issues raised. You may provide any information you consider relevant to the issues raised and identify any witnesses you believe have relevant information.

**Enclosed** is further information about the investigation process and answers frequently asked questions.

We understand this is a difficult process and encourage you to take advantage of [EAP benefits] during this time.

If you have any questions or concerns during this time, please contact [contact person] at [contact number].

Yours faithfully,

[Name]  
[Position Title]  
[Company]

[Employer letterhead]

**Annexure A**

<b>Allegation</b>	<b>Particulars</b>

## Annexure B

### INVESTIGATION FAQ - SUBJECT EMPLOYEES

This fact sheet relates to the investigations being undertaken in relation to information referred to an external independent investigator at IRIQ Law.

#### What is the general investigation process?

- The investigator will review the information disclosed and determine whether he/she needs to conduct an interview with the disclosing employee/s to ascertain any further information or ask any questions specific to the information.
- The investigator will then identify the allegations and particulars of allegations, based on the information.
- The investigator will make contact with you (the Subject Employee) to arrange a time for the interview. Interviews may be conducted in person or by telephone. Prior to the meeting, your employer will provide with you a written document setting out the allegations and particulars of the allegations.
- You may bring a support person to the interview, but you need to advise your employer in advance who this is. Your support person must be independent, they may not be a person who is likely to be a witness in the investigation.
- During the interview, the investigator will seek your response to the allegations and ask questions relevant to the information and issues raised. The investigator may prepare a statement or a record of interview. If a statement is prepared, you will be given the opportunity to review it and make any changes prior to signing it.
- The investigator may also ask that you provide any documentary evidence that is relevant, such as emails, diary notes, calendar records etc.
- After your initial interview, the investigator may need to ask you some follow up questions. This may take place in person or via telephone or email. You may also contact the investigator at any time during the course of the investigation to provide additional relevant information that was not disclosed during your interview.
- Once your interview has taken place, the investigator will determine whether there are any other persons he/she needs to speak to. The investigator may ask you for names of witnesses or persons you believe can provide relevant evidence in relation to the allegations put to you. The investigator will ultimately determine who is a relevant witness

for the purpose of investigating the allegations raised. You should not contact the witnesses directly or speak to them about the complaint or grievance.

- The investigator will then determine any witnesses they need to speak with and undertake interviews with any persons the investigator deems relevant to the allegations raised.
- Once all the relevant evidence has been collected, the investigator will make findings of fact about the allegations that have been made. This means the investigator will determine, on the balance of probabilities, whether each allegation or issue has been substantiated.
- The investigator will then prepare a report that will be provided to your employer.

**Will I receive a copy of the information disclosed or the record of interview with any witness or disclosing employee/s?**

No. You will be provided with a list of the specific allegations raised against you, but you will not be provided with a copy of the information or disclosure or any witness statement or record of interview.

**Is the investigation confidential?**

It is important that all persons who participate in an investigation (employee/s, support persons, and witnesses) keep the investigation completely confidential in order to protect all persons involved.

You must not discuss the investigation with anyone other than your support person, the investigator or your employer's nominated person. This includes the fact that an investigation is occurring, the reasons for it and the people who are involved. Any breach of this obligation of confidentiality may result in disciplinary action.

The confidentiality of the investigation into the allegations will be maintained as far as possible. However, it may be necessary to speak with other persons in order to determine what happened, and to resolve the complaint or grievance. All persons involved in the investigation will be required to maintain confidentiality.

### **Who can be my support person?**

A support person is someone removed from the issue (e.g. a friend, partner or family member). The support person must not be someone who is involved in the investigation as a witness or disclosing employee.

The support person cannot take an active role in the meeting and should only observe and take notes. The role of the support person is not to represent or advocate for the individual and they should not speak on their behalf.

### **Will the investigator tell me who else they will be speaking with during the investigation?**

No. It is not appropriate to ask the investigator which witnesses they will be speaking with. To maintain the confidentiality of witnesses you will not be informed of the identity of other persons involved in the investigation.

### **Can I record my interview with the investigator?**

No. You must not record any meetings in the workplace without each parties' express permission. If a statement is prepared during the course of your interview, you will be given an opportunity to review it and make any necessary amendments before being asked to sign it.

### **What happens at the end of the investigation?**

When an investigation is complete, the investigator provides the investigation report to your employer. The relevant decision maker will consider the investigation findings and all relevant circumstances and make a decision in relation to any outcomes (including any disciplinary action).

Your employer will inform you of the outcome of the investigation to employees, only to the extent directly relevant to the employee.

### **Will I get a copy of the investigation report?**

No. The investigation report will not be released to any employee. The investigation report will only be provided to the relevant decision maker.

### **I believe the allegations are baseless, what action will be taken against the disclosing employee/s for making these allegations?**

All information disclosing a risk to work health and safety, or conduct in breach of or likely to breach the employer's code of conduct are taken seriously, and your employer is responsible for assessing and determining if information disclosed requires investigation. Even if all allegations raised are unable to be substantiated, this does not mean the complaint is frivolous. Where your employer has reasonable evidence that information disclosed is frivolous or vexatious, they will take appropriate action, which may include investigating that conduct.

### **This is really stressful for me, how long will this take?**

The investigator will endeavour to have an investigation finalised within 4 weeks of receipt of the instructions, however, this will be dependent on the availability of all relevant parties for an

interview. To ensure the investigation is completed in a timely manner, you should exercise flexibility in terms of availability for meetings.

### **How will findings be made?**

The evidence will be assessed based on the civil standard known as the 'balance of probabilities'. This means when looking at all the evidence, is it more likely than not that the alleged conduct occurred. In reaching a finding and/or decision, only relevant matters are taken into account.

### ***Disclaimer***

*This fact sheet sets out the general approach taken to undertake an investigation. This process is a guide and each case has its own unique circumstances, therefore at times the investigator may, at their discretion, take a different approach given those circumstances them from time to time.*