



# TERMS OF REFERENCE

*Drafting Note: Ensure that the terms of reference are written in a neutral tone, without suggesting any particular outcome. The investigator should be able to conduct the investigation independently and without undue influence.*

<b>Date:</b>	<i>[insert]</i>
<b>Investigator Name and Details:</b>	<i>[insert name of investigator, the company (if any), and contact details]</i>
<b>Employer's Name and Details:</b>	<i>[insert employer name, who is the contact point, and details for contact]</i>
<b>Respondent's Name and Details:</b>	<i>[insert name, position]</i>
<b>Complainant's Name and Details:</b>	<i>[insert name, position]</i>

## 1. Introduction

### **Background:**

*Provide a brief overview of the background information related to the investigation. Include details about the nature of the allegations, the context in which they arose, and any relevant policies or procedures that apply. Mention the parties involved and the reason for the investigation.*

### **Purpose:**

*State the purpose of the investigation, including what the investigation aims to achieve. Clarify whether it is a fact-finding mission or if it involves making determinations about misconduct or breaches of policies.*

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## 2. Scope of the Investigation

Define the specific issues and circumstances to be investigated. Include the following points:

- *Focus:* State what the investigation will focus on, such as the alleged conduct of specific individuals.
- *Limitations:* Mention any limitations on the investigation, such as individuals who are not compelled to participate or restricted sources of evidence.
- *Additional Matters:* Outline the process for amending the scope if new issues arise during the investigation.

## 3. Objectives

List the primary objectives of the investigation. Include specific goals such as:

- *Identify the allegations to be put to the respondents.*
- *Make factual findings about the alleged conduct.*
- *Inform advice to the employer about potential disciplinary actions.*

## 4. Methodology and Investigation Plan

Detail the methodology and steps to be followed in the investigation. Include the following points:

- *Initial Evidence Collection:* Describe how initial evidence will be gathered, including any specific documents or statements needed.
- *Interviews:* Outline the process for conducting interviews, including how they will be requested, conducted, and recorded.
- *Evidence Review:* Explain how the gathered evidence will be reviewed and analyzed.
- *Allegation Formation:* Describe the process for forming specific allegations based on the evidence collected.
- *Respondent Interviews:* Detail how and when the respondents will be invited to respond to the allegations.
- *Findings:* State how findings will be made based on the balance of probabilities and the seriousness of the allegations.
- *Report Preparation:* Explain the structure and content of the final report, including who it will be submitted to.

## 5. Relevant Policies, Procedures, or Legislation

Identify and list all relevant policies, procedures, or legislation that will guide the investigation. Include specific references as needed.

## 6. Sources of Evidence

Describe how evidence will be obtained, including:

- *Electronic Evidence:* Methods for collecting and reviewing electronic evidence.
- *Documentary Evidence:* Types of documents to be reviewed.

- *Oral Evidence: Process for collecting oral evidence through interviews.*

## 7. Communication Protocols

*Set out any special communication protocols to be followed during the investigation, such as:*

- *Legal professional privilege considerations.*
- *Confidentiality requirements.*
- *Reporting requirements for sensitive information.*

## 8. Findings and Recommendations

*Specify what types of findings and recommendations are required, such as:*

- *Findings of fact only.*
- *Findings regarding breaches of policies or laws.*
- *Recommendations for disciplinary actions or organisational changes.*

## 9. Content of Report

*Outline the expected content of the final report, including:*

- *Summary of evidence.*
- *Detail of allegations.*
- *Outline of investigation process.*
- *Assessment of allegations and findings.*
- *Recommendations, if required.*

*See Template Investigation Report.*

## 10. Timeframes

*Insert realistic and achievable deadlines for the investigation, taking into account the urgency of the matter and available resources.*