



Australian Government

Department of Education, Employment and Workplace Relations

PSPWPI503C Investigate possible breaches of workplace legislation

Revision Number: 2

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Modification History

PSPWPI503C Release 2: Layout adjusted. No changes to content.
PSPWPI503C Release 1: Primary release.

Unit Descriptor

This unit covers the ability to conduct investigations into a range of workplace contexts specifically relating to OHS, workers compensation, injury management and/or workplace relations legislation. It includes conducting an initial assessment of the situation, initiating and conducting an investigation, examining the available evidence, identifying potential witnesses and recording initial statements, assessing investigation material and information gathered, conducting formal interviews, and completing an investigation report.

In practice, investigating possible breaches of workplace legislation may overlap with other generalist or specialist public sector work activities, such as acting ethically, complying with legislation, providing leadership, undertaking research, conducting evaluations, negotiating, and managing conflict.

No licensing, legislative, regulatory or certification requirements apply to this unit at the time of endorsement.

Application of the Unit

This unit applies to investigators conducting workplace investigations into possible breaches of a range of workplace legislation, which may arise as a result of complaints, incidents or targeted campaigns.

Licensing/Regulatory Information

Not applicable.

Pre-Requisites

Not applicable.

Employability Skills Information

This unit contains employability skills.

Elements and Performance Criteria Pre-Content

Elements describe the essential outcomes of a unit of competency.

Performance criteria describe the performance needed to demonstrate achievement of the element. Where ***bold italicised*** text is used, further information is detailed in the range statement. Assessment of performance is to be consistent with the evidence guide.

Elements and Performance Criteria

ELEMENT	PERFORMANCE CRITERIA
1. Conduct initial assessment of situation	<p>1.1. <i>Type of investigation or situation</i> is identified.</p> <p>1.2. Situations are <i>assessed</i> with regard to personal safety and the safety of others, and <i>safeguards</i> are put in place.</p> <p>1.3. <i>Persons are contacted</i> according to organisational policies and procedures.</p> <p>1.4. Integrity of situation is established and maintained according to organisational policy and procedures.</p>
2. Initiate and conduct investigations	<p>2.1. Directions/instructions are issued to persons involved according to organisational policy and procedures.</p> <p>2.2. <i>Resources</i> required for the investigation are identified and accessed.</p> <p>2.3. Investigations are conducted according to organisational policy and procedures.</p>
3. Examine the situation	<p>3.1. <i>Details of the situation</i> and all those involved in possible breach are recorded in line with organisational policies and procedures.</p> <p>3.2. Potential <i>evidence</i> is located, <i>collected, packaged, recorded</i>, labelled and stored to ensure <i>preservation of integrity of evidence</i> and for further examination in line with the rules of evidence and organisational policy and procedures.</p> <p>3.3. If no breach has occurred or no action is to be taken, the reasons and justification are documented according to organisational policy and procedures.</p> <p>3.4. If breach is confirmed, appropriate and timely action is recommended within the officer's discretion according to legislation and organisational policy and procedures.</p> <p>3.5. Record of evidence is maintained in accordance with legislative requirements and organisational policy and procedures.</p>
4. Identify potential witnesses and record initial statements	<p>4.1. Potential witnesses are identified and their <i>details</i> recorded.</p> <p>4.2. Statements are taken and recorded according to organisational policies and procedures.</p>
5. Assess investigation material and gathered information	<p>5.1. Information and evidence gathered are reviewed against legislation and other relevant material according to organisational policies and procedures.</p> <p>5.2. Information and evidence gathered are evaluated and weighted for relevance and strength of proof.</p>

- 5.3. Further proofs are identified, prioritised and scheduled for action.
 - 5.4. Further evidence is obtained when required.
- 6. Conduct formal interviews**
- 6.1. Interview is conducted according to legal requirements and organisational policy and procedures.
 - 6.2. Information is reviewed and clarified to ensure its relevance and sufficiency prior to concluding the interview.
 - 6.3. Record of interview is completed that meets legal and organisational requirements.
- 7. Complete investigation report**
- 7.1. Report is compiled according to organisational policies and procedures.
 - 7.2. Report is forwarded to appropriate personnel for review and action according to organisational policies and procedures.
 - 7.3. Additional information and evidence identified from review are gathered and compiled in report.
 - 7.4. Final report is forwarded through *appropriate channels* for processing.

Required Skills and Knowledge

This section describes the skills and knowledge required for this unit.

Required skills

- literacy skills to:
 - undertake legal research
 - record statements
- analytical skills to evaluate information in investigating breaches
- self-management skills to:
 - apply principles of natural justice and procedural fairness
 - apply legislative requirements and organisational policies and procedures in all investigations
 - apply risk management principles to investigative procedures, including personal safety
- communication skills to use a range of communication methods and strategies, including:
 - negotiation
 - dealing with conflicting information
 - dealing with conflict
 - interviewing and questioning
- observation and analysis skills to ensure due consideration of information and evidence
- planning and organising skills to ensure the coordinated and thorough investigation of possible breaches of workplace legislation
- decision-making to reflect deliberation of the evidence and the risk assessment

Required knowledge

- federal and state workplace legislative framework applying to workplace inspections, including legislation relating to OHS and workplace relations
- risk management principles relating to personal and workplace safety
- common law principles applying to inspection of workplaces
- powers of workplace inspectors under jurisdictional legislation
- functions and roles of other professionals and experts who may be called in to advise on possible breaches or to act as witnesses
- organisational investigation procedures
- rules of evidence and evidence management

Evidence Guide

The Evidence Guide provides advice on assessment and must be read in conjunction with the performance criteria, required skills and knowledge, range statement and the Assessment Guidelines for the Training Package.

Critical aspects for assessment and evidence required to demonstrate competency in this unit

Assessment must confirm the ability to:

- undertake comprehensive planning of investigative responses
- conduct detailed examination of potential or reported breaches
- prepare resources required to conduct investigations
- carry out a range of information-gathering activities to substantiate recommendations
- prepare reports on a range of breaches.

Consistency in performance

Competency should be demonstrated by undertaking a range of relevant investigations.

Context of and specific resources for assessment

Assessment must comply with:

- organisational investigation-management procedures and relevant health and safety procedures
- applicable legislation, regulations and codes.

Access may be required to:

- a workplace environment or one that closely resembles normal work practice and replicates the range of conditions likely to be encountered when investigating possible breaches of workplace legislation, including coping with difficulties, irregularities and breakdowns in routine
- legislation, policy, procedures and protocols relating to the investigation of possible breaches of workplace legislation
- case studies and workplace scenarios to capture the range of situations likely to be encountered when investigating possible breaches of workplace legislation.

Guidance information for assessment

The following assessment methods are suggested:

- oral questioning about the legislative framework, risk management principles, common law principles, powers of inspectors under jurisdictional legislation, functions and roles of other professionals and experts, legislative requirements, organisational investigations procedures, rules of evidence and evidence management
- observation of the candidate undertaking a variety of assigned investigation tasks in a workplace environment or one that closely resembles normal work practice
- feedback from peers and/or supervisor that the candidate

consistently applies relevant procedures

- documentary evidence of a range of previous and current investigations with, where a team has been involved, identification of the specific contribution of the individual being assessed.

In all cases, practical assessment should be supported by questions to assess underpinning knowledge and those aspects of competency that are difficult to assess directly. Questioning techniques should suit the language and literacy levels of the candidate.

Holistic assessment with other units relevant to the industry sector, workplace and job role is recommended, for example:

- PSPETHC501B Promote the values and ethos of public service
- PSPGOV502B Develop client services
- PSPGOV503B Coordinate resource allocation and usage
- PSPGOV504B Undertake research and analysis
- PSPGOV512A Use complex workplace communication strategies
- PSPGOV517A Coordinate risk management
- PSPWPI501B Evaluate workplace legislative compliance.

Range Statement

The range statement relates to the unit of competency as a whole. It allows for different work environments and situations that may affect performance. ***Bold italicised*** wording, if used in the performance criteria, is detailed below. Essential operating conditions that may be present with training and assessment (depending on the work situation, needs of the candidate, accessibility of the item, and local industry and regional contexts) may also be included.

Type of investigation or situation may include:

- non-compliance with legislation
- workplace fatality
- injury or incident
- dangerous occurrence
- workplace relations issues
- workers compensation issues
- complaints
- public safety
- workplace illnesses
- change to targeted campaigns
- safety of workers and public

Assessment of matters affecting incident situation and investigation may include:

- preservation of life or property
- prevailing weather, which may require additional resources to preserve and protect incident situation
- climatic conditions
- human interference
- language barriers
- right of entry and access
- minimisation of business disruption
- dangerous or unpleasant conditions, such as:
 - hazards
 - injured or deceased persons
- stressed or traumatised individuals
- cultural issues
- union issues

Safeguards may include:

- clear brief as to who has access to situations
- physical barriers
- entry limited to essential personnel
- delegation of authority to control entry
- record of all persons who enter/leave the situation and reasons
- personal protective equipment
- following procedures to work in pairs
- trauma counselling

- Persons contacted*** may include:
- technical and scientific experts
 - legal experts
 - witnesses
 - victims
 - union representatives
 - workplace relations officers
 - employers and employees
 - police and emergency services
 - human resources staff
 - media
 - coroners
 - employee representatives
 - OHS committee
 - company representatives
 - management
 - health and safety representatives
 - health and safety officers
 - relevant government departments
- Resources*** may include:
- technical and scientific experts
 - experienced investigators
 - research database
 - legal information
 - legal request
 - subpoena
 - advice sheets
 - legislative framework
 - equipment, such as:
 - camera
 - sample kits
 - other organisations
- Details of the situation*** may include:
- time, date and location
 - jurisdiction
 - sequence of events
 - possible causes
 - people involved
 - property involved
 - victims
 - witnesses
 - damage, including damage to property
 - injury
 - historical information

Evidence may be:

- injury to persons
- physical details of situation
- evidence
- organisation personnel and non-employees involved
- other organisations involved
- current status of investigation
- action taken to date
- adjoining properties and activities
- physical, such as:
 - plant
 - containers
 - fibres
 - samples
 - tool marks
 - chemical and biological
 - identifying numbers
 - record books
 - dangerous goods and hazardous substances
- documentary, such as:
 - witness statements
 - employer or employee documentation
 - safety management records
 - workplace agreements
 - employment contracts
 - company records, including:
 - attendance records
 - maintenance records
 - time and wage records
 - training records
 - industrial instruments
 - union documents
 - government records
 - expert reports
 - work method statements
 - standard operating procedures
 - log books
 - contracts
 - policy documents
 - workers compensation claims information
 - register of injuries

- first aid treatment book
- Methods of evidence *collection* may include:
- recording interviews
 - formal legal request for documentation
 - subpoena
 - photographing/videoing
 - photocopying documentation
 - requisitioning documentation
 - using items in sampling kit
 - appropriate environmental monitoring
- Methods of *packaging* evidence may include:
- metal and plastic containers
 - plastic bags
 - paper bags
 - glass vials
 - items in sample kit
- Evidence may be *recorded* by:
- receipts
 - photocopying and certifying 'true copy'
 - photography
 - audio and visual recording
 - using notebook
 - identifying samples
 - seizing property logs
- Preservation of integrity of evidence* may involve:
- controlling site access and egress
 - covering evidence
 - recording chain of evidence handling
 - removing evidence to ensure its protection
- Relevant *details* from potential witnesses include:
- name
 - age
 - contact details
 - roles and responsibilities
 - qualifications
 - details of organisation's operating procedures
 - workplace and training practices
 - information about the situation
- Appropriate channels* may include:
- Coroner's Court
 - other relevant state or federal court or tribunal
 - special investigation units
 - arbitration
 - state or territory Industrial Relations Commission
 - departments of public prosecution
 - internal review committees/units and management
 - legal units

- Crown Law
- prosecuting authorities

Unit Sector(s)

Not applicable.

Competency field

Workplace Inspection.