Managing Your Responses to Allegations of Employee Misconduct

Dealing with employee misconduct is a very difficult challenge. The process of identifying, investigating and confirming can be onerous enough and then there is the concern over the appropriateness and consequences of any disciplinary actions taken in response to the misconduct.

The most important steps in addressing employee misconduct should be put into place before an employee every joins the organization. The steps of having a well-composed employment contract which lays out expectations and consequences and the step of having solid policies and procedures for investigating and responding to employee misconduct in place can have a strong impact on the entire process. Taking the time to create policies that lay out how the organization will respond, investigate and then react in response can help avoid many problems down the road.

However, even with well-composed policies, procedures and clear employment contracts allegations of misconduct are very difficult to address because at the end of the day people and their emotions are sitting in the middle of the problem. Rarely do allegations of misconduct have clear-cut evidence that leaves no doubt during the process. As a result it is important to understand that when people are involved so are peoples biases and emotions.

A Measured Response To Employee Misconduct

Responding to allegations of employee misconduct needs to be a **structured, appropriate, consistent, and objective**. Structured requires you to have those processes in place; appropriate means previously have considered and thought through possible response; consistent follows from the first two but also requires consideration of the 4th, remaining objective.

Often the first response to an allegation of employee misconduct is an emotional one; ‘I can’t believe it’ or ‘I am not surprised”. These reactions are less frequently tied to the actual facts of the situation as they are to the emotional connection and status of the responding person, usually a manager or supervisor or HR representative.

These responses are often a factor of three things – 1) previous experience with the person against whom there is an allegation, 2) the relationship between the employee and the organization (or responding person such as a supervisor or HR) and 3) the emotional status of the person receiving the complaint. It is important to clarify during the response and investigation process to what extent these factors are in play as they may impact the investigation and subsequent response. Being mindful in response can help gain objectivity in the application of policies and procedures.

The ability to look objectively at the situation does not mean that the person doing the investigation cannot take into consideration past experiences with the people involved. There can be value in understanding past patterns of behaviour. However, past behaviours and relationships can also be misleading. This is why it is often very important that a person asked to conduct an investigation is most often a neutral 3rd party who is aware of potential biases others may hold.

Emotional Reactions to the Situation

Our brains are wired to try to take the easy route in perceptions and decision-making and we tend to use stereotypes to facilitate this easy route. There can be some validity in the application of past experiences with an individual to the decision making process but this can also lead to mistakes.

It is in particular difficult to be objective when there is any perceived power imbalance between parties involved in a dispute. This power imbalance could be structurally tied to the hierarchical relationship at work, demographically (based on factors such as gender, culture, physical size, intelligence) or personality (a person with a stronger personality) . An employee who is more vulnerable tends to be believed more readily when the allegation has any connection to a power imbalance.

When faced with an allegation it is useful to look at both the complainant and the person being accused with new and objective eyes. Considering the possible motives of a complainant may enable the investigator or manager to step back and gain objectivity.

Managing the Manager’s Reaction

One of the more common problems when faced with an allegation against an employee is the over or under reaction of supervisor or manager. A manager or supervisor may react to an allegation against an employee by refusing to believe it or believing it to fully and quickly. Often this reaction is not based on the facts of the situation but on their own concern about how they will be viewed. If the person against whom the allegation was made is someone they trusted they could blindly refuse to consider the allegation as true or they could over react and toss the person under the proverbial bus. These reactions generally have to do with the manager/supervisors own issues of trust and betrayal, current emotional state and feelings of security. This is very difficult to compensate for as most managers want to believe they are keeping their personal reactions and feelings out their work decisions.

The reaction of the manager is vitally important as they can impact the investigation process significantly in either direction. If the manager has a strong reaction this can be a sign that the manager is not objective. They manager may not be able to acknowledge this but sometimes the step of having a manager clarify their relationship with the people involved by talking it out or asking them to write down their thoughts and beliefs (even if they do not provide this note to anyone but themselves) can help offer perspective and increase mindfulness.

Sometimes a manager or supervisor may need to be removed completely from the process. The sooner this is identified the better. Having an un-objective manager asking questions of other employees can taint the entire process.