

# 1205 CONSULTING INC.

*Beyond Advisory. Into Action.*

## Workplace Investigation Readiness Checklist

Ontario Compliance Guide

### SECTION 1: INITIAL COMPLAINT ASSESSMENT

#### Document the complaint in writing

- Complaint received and documented (date, time, method)
- Identify all parties (complainant, respondent, witnesses)
- Record specific allegations and conduct descriptions
- Note dates, times, and locations of alleged incidents

#### Identify complaint type

- Harassment (OHSA Section 32.0.7 / Code)
- Discrimination (Ontario Human Rights Code)
- Health & Safety (OHSA Section 32.0.7)
- Policy Violation
- Reprisal or Retaliation (ESA)

#### Determine statutory triggers

- OHSA Section 32.0.7 applies (workplace harassment/violence)
- Ontario Human Rights Code applies (protected ground)
- Bill C-65 applies (federally regulated sector)
- ESA Section 74 applies (reprisal risk)

#### Assess urgency & interim measures

- Determine investigation urgency (immediate / 7 days / 30 days)
- Assess risk of further harm or escalation
- Identify interim measures (workplace separation, schedule change)
- Document rationale for any interim measures

## SECTION 2: LEGAL OBLIGATION CHECK

### Ontario Health & Safety Act (OHSA) Section 32.0.7

- Complaint involves workplace harassment or violence
- Employer has duty to investigate (not simply respond)
- Investigation must be thorough and impartial
- Timeline: Reasonable without unreasonable delay (typically 30-90 days)

### Ontario Human Rights Code (Protected Grounds)

- Complaint involves protected ground (race, colour, ancestry, etc.)
- Duty to accommodate applies (if applicable)
- Document any accommodation requests or barriers

### Federal Jurisdiction (Bill C-65)

- Employer is federally regulated (banking, telecom, transportation, etc.)
- Federal Labour Code Part II applies
- Federal Part 2 investigation requirements met

### Employment Standards Act (ESA) Section 74 (Reprisal)

- Complainant protected from reprisal for raising complaint
- No adverse action taken due to complaint (hours, role, termination)
- Communicate no-reprisal commitment to all parties

### Company Policies & Collective Agreements

- Review applicable policies (harassment, discipline, investigation)
- Check union agreement (if applicable) for investigation requirements
- Confirm investigation timeline aligns with policy & statute

## SECTION 3: INVESTIGATOR SELECTION

### Internal vs. External Decision

- Assess internal capacity and impartiality
- Consider sensitivity and complexity of allegations
- Evaluate reputational or severity factors
- Decision documented (internal / external / hybrid)

### Conflict of Interest Screening

- Investigator has no personal relationship with parties
- Investigator has no reporting line to respondent
- Investigator has no prior involvement in complaint
- Investigator has no financial stake in outcome

### Qualifications & Training

- Investigator trained in workplace investigations
- Investigator understands Ontario employment law
- Investigator understands privilege (solicitor-client, etc.)
- Investigator has experience with similar complaints

### Engagement & Terms of Reference

- Engagement letter or contract signed
- Scope, timeline, and deliverables defined
- Confidentiality obligations stated
- Fee structure and payment terms confirmed

## SECTION 4: INVESTIGATION PLANNING

### Define Scope & Allegations

- Specific allegations documented and prioritized
- Scope boundaries set (what will/won't be investigated)
- Related incidents within scope identified
- Investigation objectives documented

### Identify Witnesses & Evidence

- Potential witnesses listed and categorized (direct, corroborating, background)
- Document types identified (emails, texts, calendar, records)
- Document retention holds issued (if applicable)
- Physical evidence preservation plan created

### Establish Timeline & Milestones

- Target completion date set (30-90 days depending on complexity)
- Key milestones identified (interviews, evidence review, report)
- Review points scheduled with decision-maker
- Status update frequency established

### Confidentiality & Non-Retaliation Plan

- Confidentiality statement prepared for all parties
- No-retaliation commitment communicated
- Need-to-know restriction documented
- Consequences for breach of confidentiality outlined

## SECTION 5: DURING THE INVESTIGATION

### Conduct Interviews with Procedural Fairness

- Interview notice provided to respondent (date, time, purpose)
- Respondent right to representation explained
- Complainant interviewed first (detailed account)
- Witness interviews conducted promptly
- Respondent given full opportunity to respond
- Follow-up interviews scheduled if needed

### Document Evidence & Interviews

- Interview notes prepared contemporaneously
- Witness statements signed or confirmed
- All documents collected and organized
- Chain of custody maintained for sensitive materials
- Digital evidence collected per best practices

### Maintain Fairness for All Parties

- No bias or predetermined conclusions evident
- Both parties have opportunity to respond to evidence
- Inconsistencies explored neutrally
- Credibility assessed objectively (not based on demographics)

### Communication & Status Updates

- Regular updates provided to decision-maker
- Timeline adjustments communicated if necessary
- Parties updated on investigation progress (without disclosure)

## SECTION 6: POST-INVESTIGATION

### Prepare Written Investigation Report

- Executive summary prepared
- Factual findings documented (without legal conclusions)
- Credibility assessment explained
- Findings on each allegation stated clearly
- Recommendations for corrective action included
- Report signed by investigator

### Communicate Outcomes

- Decision on findings communicated to complainant
- Decision on findings communicated to respondent
- Corrective actions explained (discipline, training, support, etc.)
- Appeal/review process explained
- Ongoing support offered to both parties

### Implement Corrective Actions

- Disciplinary action (if warranted) documented
- Required training (harassment, respect, etc.) scheduled
- Workplace measures implemented (separation, schedule change, etc.)
- Support services offered (EAP, counselling, etc.)
- Timeline for actions and follow-up established

### Review & Improve Policies

- Investigation findings reviewed for policy gaps
- Policy updates drafted (if needed)
- Workplace training identified (systemic issues)
- Communication plan for policy updates created

### Document Retention & Closure

- All investigation files securely stored
- Retention period set (minimum 1 year per OHSА; consider 3-5 years)
- Access restrictions applied (legal privilege, confidentiality)
- Follow-up meeting scheduled (3-6 months post-closure)
- Closure letter sent to complainant (outcome confirmation)