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## RECORD KEEPING

As a public officer, good record keeping is one of your primary responsibilities.

Good record keeping is central to ensuring that outcomes of alleged misconduct – both present and future – are accountable and effective.

Remember that an external body, such as an industrial commission or a court, may need to view the records. They may also be subject to external scrutiny through Integrity Commission audits or other processes.

### Register of alleged misconduct matters

Your organisation should have a centralised record keeping system for alleged misconduct. This should include not only the files themselves, but also a list of matters for ease of reference (i.e. a register). This may be a database or, more commonly, a spread sheet.

Managers need to ensure that allegations are centrally reported for recording on the register. This function will likely be performed by your organisation's human resources or legal unit.

All alleged misconduct matters should be recorded on the register. At a minimum, it should include all investigated matters.

Information that you should consider recording for each matter includes:

- a reference for easy location of the file
- date received
- respondent
- description of alleged misconduct
- how it was dealt with (e.g. investigation, mediation, performance management)
- outcomes and
- date finalised.

Recording matters in this way will help your organisation to:

- identify patterns and trends
- identify multiple allegations against one employee or a group of employees over time
- identify opportunities for organisational improvement
- ensure consistency in processes
- ensure consistency in outcomes and
- ensure timeliness.

Depending on the size of your organisation, the register should be monitored regularly. There should be upwards reporting on patterns, trends and opportunities for improvement. Your organisation may also use the information to collect statistics and report on its performance (e.g. on timeliness) in its annual report.

Your organisation may also periodically conduct an audit of the recorded matters to ensure it has complied with processes and procedures.

### Managing a file

An external person should be able to pick up a misconduct file and see what happened and why. Key decisions – such as whether to investigate – should be recorded, as should the decision maker and the reason for the decision. A simple running sheet on the inner cover of the file may help to achieve this.

### *Archives Act 1983 (Tas)*

Misconduct records must be kept and disposed of in accordance with the [Archives Act 1983 \(Tas\)](#). At the time of writing, there were specific record keeping and disposal requirements about counselling and discipline, and about allegations of corruption.

For advice, you can contact the [Tasmanian Archive and Heritage Office](#).

### Matters that are not investigated

Where alleged misconduct is not investigated, you should document how the matter was resolved and the outcomes. You should also document why it did not proceed to investigation. [\[FS8\]](#)

### Matters that are investigated

All actions taken as part of an investigation should be recorded. This includes recording the reason for taking (or not taking) action that is contrary to policy or practice. [\[FS8\]](#)

Good records become especially important if the process or outcome of the investigation is challenged.

It is particularly important to keep records of:

- who made the decision to investigate, and when and how that decision was made (including preliminary assessment material) [\[FS3\]](#) [\[FS8\]](#)
- signed final copies of all formal correspondence
- external bodies contacted and/or whether a complaint has also been made to an external body [\[FS6\]](#)
- the identity of the investigator and their instrument of appointment [\[FS14\]](#)
- the terms of reference for the investigation, including the allegations [\[FS12\]](#)
- the respondent's response to the allegations [\[FS16\]](#)
- evidence relied on to make findings [\[FS20\]](#)
- findings of fact and misconduct findings [\[FS20\]](#) [\[FS22\]](#)
- the analysis and reasoning for each finding [\[FS20\]](#) [\[FS21\]](#) and
- outcomes for the respondent – including sanctions, professional development measures and management actions. [\[FS23\]](#)

It may help for your organisation to develop a checklist of records that should be in each file.

Where an investigation is finalised early due to lack of evidence, conciliation or respondent resignation, this should be recorded. [\[FS25\]](#)

Records of outcomes will be necessary if the respondent commits further acts of misconduct.

Your organisation may need to rely on these records to take more severe action, including termination of employment.

### For investigators

During the investigation, you should keep a running sheet. A running sheet is a chronological record of each step taken in the investigation. It should list all correspondence received and sent, and all contacts (including interviews and phone calls) made and received. If there is a delay, you should record it on the running sheet.

Running sheet records should include who did what action, and the date and time it occurred. Maintaining a running sheet electronically enables multiple people to access it, will assist with readability, and allows you to link it to electronic material.

Information received may also be recorded on the running sheet or separately. You should record who provided what to who, when they provided it, and the format in which it was provided.

You should make a record if you cannot complete a task identified in the investigation plan, or if you cannot obtain relevant evidence. For instance, if it is not possible to contact a relevant witness, you should record that you have tried to do so.

If you are an investigator external to the organisation, you should supply copies of all your material to the organisation at the end of the investigation. This includes your investigation plan and running sheet.

## Personnel files

Make sure you comply with the [Archives Act 1983 \(Tas\)](#) in maintaining personnel files. For advice, you can contact the [Tasmanian Archive and Heritage Office](#).

An employee should be aware of all records on their personnel file. If an allegation of misconduct results in a sanction, professional development measure or managerial action, this should be recorded on the employee's personnel file. The employee should be made aware of this.

Where there has been an investigation, investigation materials and records should be kept separately to the personnel file. However, they should be referenced in the personnel file. This is so that a person with the appropriate access permission can locate the records if needed.

If a matter is not investigated it does not need to be referenced in an employee's personnel file. The exception to this is where the employee has resigned before the start or end of the investigation. If possible, you should record this on their personnel file. As indicated in [\[FS25\]](#), this should usually be done only if the employee was aware of the matter, and in consideration of the potential seriousness of the matter. The employee should be told in writing:

- of the record and
- that if they successfully reapply for employment with your organisation, the matter may be pursued.

## Confidentiality and records

It is important that all records be kept appropriately confidential. Where relevant, there should be restricted access. In some organisations this may be more difficult to achieve, but the importance of confidentiality to stakeholder satisfaction should not be underestimated. Maintaining the confidentiality of records should be given a high level of priority by public sector organisations. [\[FS4\]](#)