DELEGATE WORKSHEET:

Preparation of Your Written Response to Allegations of Poor Work Performance or Misconduct
DELEGATE WORKSHEET: Preparation of Your Written Response to Allegations of Poor Work Performance or Misconduct

During a member’s employment, allegations of poor work performance or misconduct may arise. These allegations may be communicated to the member in a number of ways including by formal letter or verbally during a meeting with the employer.

Union members who are advised of allegations against them should contact Services Connect as soon as possible. Members will receive initial advice from an Industrial Officer.

In most circumstances, written allegations against a member should be addressed by a written response to ensure that an accurate and balanced account of the perceived inadequacy is maintained for the record.

However, the person best placed to know whether the allegations are accurate (in whole or in part) or unsubstantiated is the individual member.

For this reason, a member’s own consideration and preparation of a written response addressing all allegations made is absolutely essential and must be undertaken before being reviewed by your designated union officer. They will provide feedback but cannot write the response for you.

If you have received allegations against you, verbally, in a meeting with your employer, it is important you ask that they be provided in writing to enable you to respond to them.

Most importantly, do not feel pressured to verbally respond to allegations.

The following is a suggested process for you to follow when you receive the allegations in writing and need to provide a written response:

**STEP 1** Contact your union to report that a formal letter has been received from your employer.

Remember to send a copy of the employer’s letter outlining the allegations to your allocated union officer to enable the best possible advice to be provided to you.

**STEP 2** If the employer’s letter requests your response within the following two working days, it should be considered an unreasonable timeline and you should seek an extension of the timeframe for your response. This action is appropriate as an unreasonable timeframe for your response may prevent you from seeking and receiving industrial advice from your union in drafting your response. Your union officer can advise how to word your extension request.
Your request for an extension should be provided to your employer immediately – not on the date they expect to receive your formal written response.

**STEP 3**

With the assistance of your union officer, identify all allegations contained in the letter that require your response.

In the interests of simplicity, list each specific allegation under a separate heading in the order it appears in the employer’s letter.

Then prepare your response to each allegation in turn, addressing the following:

- **Is there sufficient detail to be able to adequately respond to the allegation?** If not, it is very difficult to develop a comprehensive response. Any vague, general, subjective or unsubstantiated allegations should be identified as such in your response. You should also indicate, where appropriate, that more information is needed to be able to provide a more comprehensive response.

- **It is important not to make assumptions regarding what you think the allegations are about.** The allegations must detail exactly what the concern is (e.g. who, what, when, where), or your employer is not giving you enough information to be able to respond. You should indicate there is not sufficient detail to adequately respond to the allegations.

- **Are the allegations factually correct?** It is important to acknowledge if any of the allegations are factually correct in order to ensure an honest response and to move the focus from the problem to potential outcomes to resolve any legitimate concerns.

  - If the allegations are correct, you may wish to include a statement regarding your motivation or rationale for taking a particular action that is the subject of the complaint. There may have been a sound reason (or reasons) for your actions and it is important this is communicated to your employer.

  - If the allegations are incorrect (or partly incorrect), this should be clearly stated, together with an identification of the error(s).

- **Did the allegations occur more than a few weeks ago?** Question why the allegations were not provided to you in a more timely manner. The more serious the allegation, the greater is the onus on the employer to act promptly.

**STEP 4**

Once you have drafted your response to the allegations, you should arrange your response in the format of a letter to your employer. Therefore, you should include:

- Your address, the date and the employer’s details at the top;
- An introduction containing the purpose of the letter (i.e. that you are responding to allegations);
- A list of the allegations and your response to them;
- A concluding paragraph; and
- Your name and signature at the end.
STEP 5
After you have constructed your written evidence, provide this to your union officer for their review and advice. Your union officer will advise you if any additional industrial and legal considerations should be included to best protect your interests.

STEP 6
Your final letter should now be signed by you and submitted to the employer by the date agreed.

The employer may have requested that response be supplied directly in a scheduled meeting. If this is the case, ensure that you have organised for a support person to attend this meeting with you. Should any new issues be raised by the employer in this meeting, request that these new issues be supplied to you in writing for your consideration and response. Do not engage in debate with the employer on any new issues raised on the spot without notice.

STEP 7
If your written response is accepted by the employer or no further action has been taken, seek their written confirmation that the matter has been resolved or the allegations have been found to be without substance. Your union officer can assist you with this request.

STEP 8
If your written response is not accepted, you may have to undergo disciplinary action or a more formal process. See “Your rights and responsibilities when attending a meeting” and contact your union for more advice as to possible outcomes.

In situations where a member of management or a colleague is promulgating rumour or innuendo about an employee’s conduct or performance, your union officer will be able to advise of appropriate strategies to stop this. The approach may differ, depending on the employer, so it is important to consult with your union for information.

Remember, it is important to be cooperative throughout this process. Even if the allegations are completely unsubstantiated and untrue, being hostile or obstructive is counterproductive to resolving the issues.

You must also remember that employers are entitled, even obligated, to investigate matters of concern, and provided it is done in a fair and reasonable manner, your active participation will afford you the maximum protection of your position.