

**3.19 INVESTIGATION****3.19.1 INTENT:**

This policy sets out the guidelines for conducting both informal and formal investigations. LICA is committed to providing a fair process to all parties aligned with legislation, natural justice and best practices involved and that all information pertaining to the investigation is received before deciding on any action.

**3.19.2 DIRECTIVES:**

- This policy will be utilized in response to any complaint or concern that arises and requires a workplace investigation.
- Such situations may include, but are not limited to, concerns of workplace violence, harassment, or discrimination, potential breaches of the 3.18 Code of Conduct Policy, confidentiality breaches, and any more serious, formal concerns arising from the 3.9 Resolution Procedures Policy.
- This policy also covers Health and Safety investigations after workplace incidents.

**3.19.3 SCOPE:** Employees, Contractors, Board of Directors, Committee Members, Volunteers

**3.19.4 DEFINITIONS:**

**Natural Justice:** The principles of Natural Justice are:

- People have a right to be heard. They must have a fair opportunity to present their case whenever their interests might be adversely affected by a decision.
- The ruling must be made by someone free of biases.
- The judgment must be based on evidence, not on speculation or suspicion. The specific evidence provided is balanced with the confidentiality requirements of the investigation. Typically, formal investigations evidence is not provided to any direct parties.

**Complainant:** One or more individual(s) bringing forward a complaint about another employee, volunteer, or situation.

**Respondent:** The individual(s) directly involved/implicated in the complaint.

**Investigators:** Individuals assigned to conduct a formal investigation.

**3.19.5 IMPLEMENTATION:****3.19.5.1 INITIATING AN INVESTIGATION:**

- All formal concerns and potential significant breaches of policy (including verbal concerns that investigation would be appropriate based on seriousness of concern) that fall under the scope of this policy, which may require an investigation, must be reported to the Board Officers.
- The Executive Director will report all formal concerns to the Board Officers for direction on approach as per this policy.
- If an investigation is deemed necessary, the Board of Directors will assign an investigator(s). The investigator may be the Executive Director, Board Member(s), or an external party, such as a Human Resources Consultant.
- If a Complainant does not want to be named in an investigation, a formal investigation or another approach deemed reasonable such as a workplace assessment, may continue on behalf of LICA as deemed appropriate by the Board of Directors.
- If an investigation is not deemed necessary, a less formal approach may be used to seek resolution (see 3.19.5.2 informal process). Documentation will still take place by the party completing the informal process.

**3.19.5.2 INFORMAL PROCESS:**

- If safe to do so and appropriate based on the seriousness of the concerns, Employees are encouraged to address the concern with the individual directly. Support can be requested from the Reporting Manager or Human Resources Consultant.
- LICA recognizes that this is not always possible or appropriate, depending on the circumstances and such informal resolution is not required as a precursor to a formal complaint.
- If an Employee cannot confront the behaviour individually, or the intervention was not successful, they are encouraged to speak directly with their Reporting Manager (without fear of reprisal).
- Depending on the nature of the concern, the Reporting Manager may move to resolution or initiate a formal procedure if appropriate.
- Documentation will be completed by the Reporting Manager, who will provide the concern, approach, and outcome.
- This will be retained in a separate, confidential file from the Complainant's and Respondent's personnel files.

**3.19.5.3 FORMAL INVESTIGATION PROCESS:**

## 3.19.5.3.1 The Investigator(s) will:

- Advise the Complainant(s) of the opening of an investigation and obtain a formal written statement.
- Advise the Respondent(s) of the opening of an investigation and the nature and specifics of the complaint (typically, the Complainant's statement as it relates to the Respondent is shared with the Respondent so they can provide a written response). A written response is provided by the Respondent(s).
- Advise all parties involved in the investigation that they may seek representation (a neutral party that will maintain confidentiality).
- Advise all parties of the expectation to maintain confidentiality (confidentiality agreement may be presented to be signed).
- Advise all parties on how statements will be collected (written, recorded, or transcribed).
- Advise all parties how results will be communicated, the confidentiality of their statements, and the process.
- Conduct the investigation in accordance with the principles of natural justice.
- Explore all allegations and information brought forward by interviewing the Complainant(s), the Respondent(s), and others who may have knowledge of the incident(s) or circumstances that led to the complaint or are responsible for the work area in which the incident(s) occurred.

## 3.19.5.3.2 The Investigator(s) will work with the Board Officers or designate (if appropriate) and determine the areas that need to be investigated, such as:

- Potential witnesses: The Investigator(s) will individually reach out to the potential witnesses, review the investigation process, and explain the expectation of confidentiality.
- Information to support the investigation: The investigator(s) may gather relevant information, communications, and/or documentation that may support the findings in the investigation.

## 3.19.5.3.3 The Investigator(s) may make the following conclusion:

- Breach of Policy

- No breach of Policy
- 3.19.5.3.4 The Investigator(s) will forward a written report of the Investigation's findings and conclusions to the Board Officers.
- 3.19.5.3.5 The Board Officers will determine remedial actions following the conclusion of the investigation. If the investigation's conclusion determines that there was a breach of policy, the outcome may include corrective action up to termination for cause in accordance with the 3.8 Corrective Action Policy.
- 3.19.5.3.6 The Investigator(s) will inform the Complainant(s) and Respondent(s) of the findings and conclusions of the investigation.
- To support confidentiality, evidence that includes witness statements will not be shared.
  - Management should be in attendance when the findings are communicated to the Complainant and Respondent.

### **3.19.6 HEALTH AND SAFETY INVESTIGATIONS:**

In the event of a reported incident relating to Health and Safety, LICA will carry out an investigation as per the steps set out below:

#### **3.19.6.1 COLLECT INFORMATION:**

- The Association must first collect all the facts relating to the incident to determine what happened. Collecting information may include:
  - Taking pictures or sketching the scene
  - Interviewing all Employees and Witnesses
  - Listing all equipment and materials used
  - Review all Health and Safety records such as Inspection Reports, training summaries, and past incidents.
- Once the Association has all the information to determine what happened, the Association must determine the cause of the incident to prevent reoccurrence.

- Management can refer to CCOHS Investigation Process for resources in completion and results of the investigation:  
<https://www.ccohs.ca/oshanswers/hsprograms/investig.html>

### **3.19.6.2 IDENTIFY CAUSES:**

- Corrective Action may be implemented once the cause of the incident is determined.

### **3.19.6.3 INVESTIGATION REPORTS:**

- LICA is required to create a Report of the Investigation which outlines the circumstances of the injury, illness, incident, or exposure, and the corrective actions taken, if any, to prevent reoccurrence.
- Incident Reports should not include any personal information, such as the names or identities of the Employees, Witnesses, or Investigators as per Privacy Laws.
- A copy of the Incident Report must be provided to the LICA Health and Safety Representative (see 3.23 Health and Safety Policy).
- LICA will provide the Incident Report to an OHS officer on request.
- In cases where LICA must report to OHS online as soon as possible, LICA must submit the investigation findings online (at [oirportal.labour.alberta.ca](http://oirportal.labour.alberta.ca)).
- The Investigation Report will remain on file for a minimum of two years.

### **3.19.6.4 OHS INVOLVEMENT:**

- Incidents must also be reported online (at <https://oipc.ab.ca/> if the incident occurs on a weekend or statutory holiday, call the OHS contact number), as soon as possible if no injury or illness occurred but the following incidents have occurred:
  - An unplanned or uncontrolled explosion, fire, or flood
  - A crane, derrick or hoist collapses or upsets
  - A full or partial building or structural collapses or fails
- Potentially serious incidents must be reported to OHS when the incident investigation is complete. A Potentially Serious Incident occurs if:
  - It is likely that the incident could have caused a serious injury or illness, and
  - Corrective Action is needed to prevent reoccurrence.
- After an Incident is reported to OHS, OHS may contact anyone who has information related to the incident.
- OHS Officers may visit the scene of the incident, collect information, take statements, enforce compliance with legislation, and perform other duties as listed by OHS.

- The Executive Director or designate will be the main contact for OHS.

### **3.19.7 SUPPORTING DOCUMENTS:**

- 3.8 Corrective Action
- 3.9 Resolution Procedures
- 3.18 Code of Conduct
- 3.23 Health and Safety

Review Dates: May 8, 2024  
Approval Dates: May 23, 2024

---

**Policy 3.19 Investigation**