

# Independent Investigations workshop

Employment & Discrimination  
Team Annual Seminar  
5 March 2024

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**Guildhall**  
CHAMBERS

# Agenda

1. Pre-investigation considerations
2. Investigation planning
3. Witness interviews
4. Confidentiality and anonymity
5. The investigation report
6. Data obligations



# Before the investigation starts

Who should conduct the investigation?

Terms of the investigation

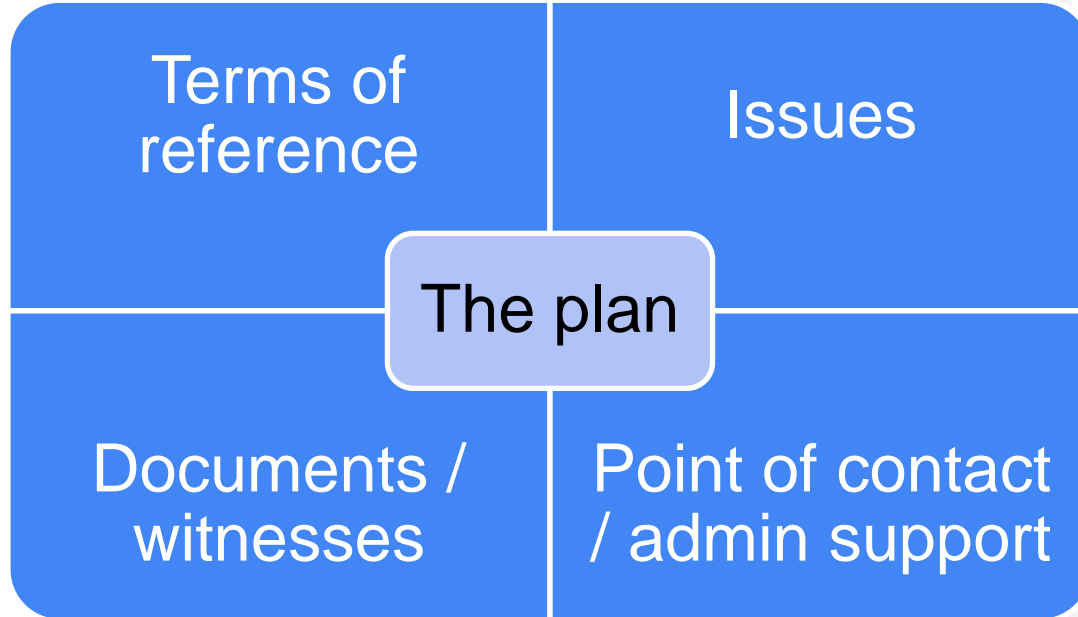
Suspension?

Privileged or not?

# Terms of reference

Purpose / remit of the investigation  
What is sought from the investigator?  
Standard of proof  
Recommendations?  
Internal policies / documents

# Investigation planning



# Avoid or not?



Off the record chats



Requests for updates



Circulating drafts



# Order of witness interviews

C, a member of the company's senior exec team, is accused of sexual harassment of a junior staff member while having drinks on a team 'away day'. C is currently suspended. You identify a number of witnesses who may need to be interviewed. So far, they include:

- C himself.
- The complainant (J), who is on 1 month's sick leave due to stress.
- Staff members P, Q, and R (all of whom were allegedly present for the drinks party). R is currently on holiday for 1.5 weeks.

In what order might you interview the witnesses? Why?

# Witness interviews

- Pre-interview information
- Format and recording
- Right to be accompanied?
- Reasonable adjustments?



# Witness interviews

Witness handling techniques

Reluctant witnesses and refusals to co-operate

# Confidentiality & anonymity

Serious sexual harassment investigation involving a male senior partner in law firm. 4 female complainants, all aged below 30. 3 further employees are named as alleged witnesses to multiple events. One of them is happy to openly speak out and to support the complainants. Two say they will not participate in the investigation until they are guaranteed anonymity, because they fear repercussions.

What do you do?

# The report

Format

Drafts

Maxwellisation

Publicity

# Data obligations

## Discussion areas

1. IO has suffered a data breach when their email system was hacked and witness information and the investigation report was stolen.
2. Investigation report / appendices were accidentally sent to the wrong email recipient.

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