

Conducting An Internal Investigation

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privacy

- check European privacy laws
- “personal information”
- transfer of information outside Europe
- review of personal emails / computer files

privilege

- many European countries do not grant privilege to in-house lawyers
- English courts have limited the scope of privilege
- use of external legal counsel

get buy-in to get resources / time

- when it gets to a law firm, the company has already agreed to spend serious money
- *you are not yet at that stage*
- need to get buy-in so that the business will commit dedicated resources / time
 - finance team to do finance analysis
 - availability of key people for interview

protect the evidence

- the case may ultimately end up in court

need to ensure evidence is robust

- do not contaminate the evidence by coercion / pressure
- invite at least one other person to interview to be an independent witness (eg company ombuds)
- a hole in the story doesn't go away over time....make sure you have enough information to
 - prepare an affidavit / court statement
 - be cross-examined on the evidence

fair and honest broker

- your role is to uncover the truth

NOT find someone guilty

- keep notes confirming that you have followed all internal rules / procedures

- think how your notes would read if there was an unlawful termination

ethical obligations

- if a crime has been committed, check whether are required to notify the police
- Local law
- Bar association