

Employment Investigations Team

Corporate Investigations, Whistleblowing, Discrimination, Harassment, Disciplinary and Grievance Investigations

Whistleblowing

Internal corporate investigations are becoming more common due to

- Increased protections of workers seeking to rely on whistleblowing legislation in reporting matters of wrong-doing (e.g. under the **Bribery Act 2010** and other regulatory obligations); and
- The emphasis by Government and the Media that it is in the public interest to unearth unlawful practices at work.

Organisations of all shapes and sizes need to ensure that, if an employee raises matters that may constitute a “protected disclosure” under the amended **Employment Rights Act 1996**, a proper investigation of the allegations has taken place and appropriate steps have been taken thereafter (including taking appropriate disciplinary action against any offenders). A failure to take adequate steps may lead to criminal and regulatory investigations with adverse findings against the employer, negative publicity, and tribunal claims from employees (including by the whistleblower).

Discrimination and Harassment Investigations

Allegations of discrimination or harassment give rise to, perhaps, the most difficult investigations that any employer can undertake. The law is complex and therefore there are risks of an investigation being found to be inadequate. In addition, the issues raised require the investigator to demonstrate sensitivity to the complainant, the witnesses and the accused. Any reputable employer will want to root out discrimination in the workplace and put in place adequate protections against discrimination and harassment, but will also need to manage any legal liability that it may face in the event that discrimination is found.

Grievances

Grievances are infinite in variety and content, and can range from minor disputes between an employee and his/her manager, to collective grievances about terms and conditions affecting hundreds of staff. Not all grievances require legal advice and input, but in some cases, particularly where there is potential for the dispute to end up in Tribunal, you may want to ensure that your investigation is robust and legally watertight.

Misconduct and Disciplinary Investigations

Although the law concerning misconduct is relatively well established, Tribunals regularly end up finding that an investigation has not been adequate, leading to a finding of procedural unfair dismissal in an otherwise fair dismissal. Our barristers can provide the necessary legal support to ensure that these risks are minimised.

Our Investigation Services

No 5 Chambers' [Employment Group](#) has a dedicated group of barristers specialising in Employment Investigations, involved in advising upon and/or conducting investigations, ranging from relatively minor **disciplinary** and **grievance** matters including those involving **discrimination** and **harassment**



allegations, to carrying out legally-privileged **special internal investigations** of serious safeguarding breaches or fraud and/or regulatory breach.

A number of members of the Team are very experienced in the Local Government and Healthcare sectors, and are familiar with acting in cases where **safeguarding investigations** operate in parallel with internal disciplinary and/or grievance processes, with sometimes involvement of external regulators or the police.

All members of the group are specialists in employment law, and understand the need to ensure that competing issues need to be balanced in any investigation, whether they are the rights of the employee, the interests of the employer, and/or the competing interests of those accused of wrongdoing.

Our dedicated Employment Investigations Team barristers provide the following services:

- Conducting **special or confidential internal investigations** reporting to the Board (which may or may not be legally privileged depending on approach).
- Conducting investigations as **an independent investigator** and producing an Investigation Report.
- Providing **legal support and advice** to HR and/or managers during any investigation.
- Providing **training to managers** who are designated officers involved in conducting investigations.
- Drafting disciplinary, grievance, anti-harassment and Equal Opportunities **policies and procedures**.
- Drafting whistleblowing policies and procedures.

Why instruct a barrister from the No 5 Employment Investigations Team?

- All members are employment law specialists.
- All members operate out of hours and on short notice.
- Our barristers range in experience from recently qualified to QC and so we are able to meet your needs in terms of costs budget and seniority of barrister required.
- We operate on a nationwide basis.
- We offer value for money compared with our competitors.
- In appropriate cases, we accept instructions on a direct/public access basis.

If you would like further information or wish to instruct someone from the Employment Investigations Team, please contact

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