

Factsheet Internal Investigation

Organisations may unintentionally become embroiled in irregularities, such as actual or suspected fraud, conflicts of interest, corruption, violations of laws and regulations, or whistleblowing reports. The impact can be immense, with consequences including reputational or other damage, regulatory enforcement, criminal prosecution, employment disputes.

It is therefore key for organisations to find out exactly what happened (or is still happening) in order to take careful and adequate action. One option can be to conduct an internal investigation, which the organisation can do itself. Organisations can also opt to engage professional investigators for that purpose, such as lawyers.

What is an internal investigation?

An internal investigation is a delineated investigation of what is happening or has happened at an organisation. It is called an 'internal' investigation because it is conducted on the organisation's initiative.

This makes it important to define the investigation goal in advance and to identify the interests involved. Accordingly, internal investigations are always performed on the basis of a predefined investigation plan.

What an internal investigation entails cannot be defined in general terms – it must be tailored to the specific circumstances. In some cases, interviewing a few persons involved may suffice, whereas in others it may be necessary to examine financial records or advisable to conduct a document examination (for example, in email inboxes or telephones). There is a lot of freedom to align the set-up of an internal investigation with the goal and interests of the organisation in question.

As stated, internal investigations are tailor-made. However, a constant factor, logically, is that information must be gathered to enable the investigation. This is done on the basis of a document examination, or e-discovery. E-discovery covers written documents and digital data and data carriers, such as computer files, email inboxes, cloud environments, telephones, etc. The investigators can also hear persons involved or experts. Where necessary, external experts will be engaged during the investigation (for example, forensic accountants). In that context, Houthoff has advanced technologies and auxiliary systems as well as experienced contacts in the relevant sectors.

The findings from information gathering and analysis are communicated orally or laid down in a report, depending on the organisation's wishes. The report will also state a conclusion, which the organisation can use when seeking advice and making decisions on follow-up steps.

The added value of lawyers in internal investigations

Lawyers are particularly suited to conducting internal investigations.

They are entitled to professional legal privilege, which ensures that the organisation can freely 'share everything' with them without fear of disclosure. As a result, the investigation and the lawyer's advice to the organisation can truly be based on all relevant facts and circumstances. Further to this, the guarantee of confidentiality ensures that the investigation will be as comprehensive and accurate as possible.

In addition, lawyers are highly experienced in collecting evidence, asking questions and evaluating the facts. They also know the rights and obligations of the organisation and the persons involved in the investigation. The associated legal protection and the considerations involved are services that, in principle, only a lawyer can provide.

Further, lawyers conduct investigations truthfully, a standard safeguarded by their adherence to the usual rules of conduct and professional practice applicable to lawyers, even when acting in their capacity as internal investigators. This is also in the organisation's interest: only a truthful investigation enables it to make well-informed decisions regarding the risks revealed and the measures to be taken.

Know what is going on

The impact of irregularities can be immense. It is important to uncover the facts to ensure an adequate response. Lawyers are particularly suited for this task. Houthoff's Internal Investigations Team has extensive and diverse experience in conducting internal investigations. An investigation plan tailored to the specific situation is drawn up for every investigation, defining aspects including the scope of the investigation, its purpose and intended use, and the approach towards the persons involved and third parties. Confidentiality is key, and ensured by the legally guaranteed lawyer-client privilege.

Contact

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