

## DO I NEED A FORMAL, EXTERNAL INVESTIGATION?

### ISSUES CHECKLIST

- If a crime is involved, disclosed or indicated, call the police.
- How serious is the complaint which has been raised/the issue you have become aware of?
- Is this an issue of workplace safety (psychological or physical and which may include sexual harassment, discrimination, bullying, victimisation)?
- If the issue does not pertain to safety, does it pertain to an abuse of position or another improper state of affairs?
- If the complaint does not appear to be serious, why do you consider it has been made and do you consider that an independent investigation will unearth more serious issues?
- Is either the complainant or the respondent in a high-profile or senior position in the organisation?
- Is either the complainant or respondent strongly associated with someone in a high profile or senior position in the organisation?
- Can your organisation meet its positive obligation to ensure the safety of the workplace if there is not an independent investigation commissioned to consider this issue?
- Are there, or might there be multiple respondents?
- Do you think the process of an investigation will implicate others beyond any respondent who has been identified? If so, how senior are those people?

- Is there a complainant who is prepared to be interviewed or is this something the organisation considers should be investigated?
- Do you think others are likely to come forward through the process of an investigation?
- Are any of the parties who would be involved in an investigation already involved in a workplace process, e.g. disciplinary action or performance management?
- Are any of the parties who it is anticipated will be involved likely to have an adverse or aggressive response to the process?
- If the alleged conduct is made out, would it amount to a serious breach of any of your policies?
- If the alleged conduct is made out, would it amount to a breach of any law or other enforceable rule of conduct?
- If the alleged conduct is made out, will this have broader implications for your organisation, e.g. you may need to contact external stakeholders? Re-consider policies? Consider the standing of other employees etc
- Is the conduct alleged likely to present risks to your organisation's reputation?
- Is the alleged conduct likely to attract media attention?
- Will termination of the respondent's employment be a consideration if the allegations are proven?
- If the allegations became public, could this result in media attention and impact the reputation of your organisation and the morale of your employees?

- Is a large amount of money at risk?
- Is this matter likely to result in legal action against your organisation?
- Are there any industrial relations implications, i.e. could it lead to a strike or other industrial action by union members?
- Could other people be affected by the alleged behaviour who may also come forward via the investigation?
- Does your organisation want or need to send a clear message to employees and more broadly that this sort of conduct will not be tolerated and will be addressed?
- Are there any other reasons for your organisation to take a formal approach to this issue? e.g. ethical, reputational etc

Once you've assessed the above, provide information on the complaint or concern to an expert, experienced lawyer, tell them about the analysis you've completed (above) and take advice on whether to proceed with an investigation.