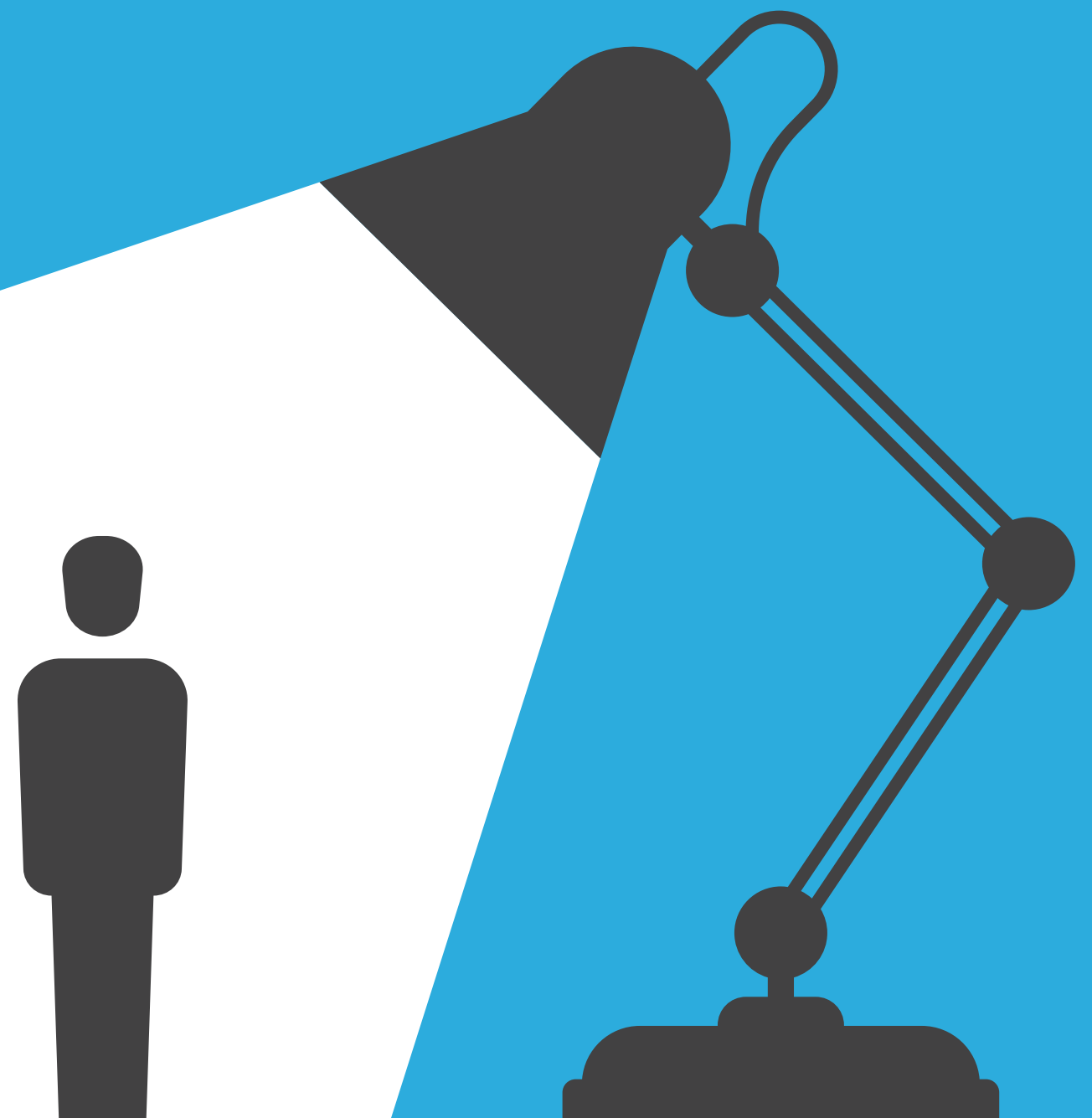


Sexual misconduct in the workplace

For organisations dealing with sexual misconduct
allegations and investigations.



Our dedicated team of specialist lawyers provides a unique combination of expertise, experience and discretion.

We regularly advise organisations on investigations concerning sexual misconduct allegations, whether carried out internally by the organisation or using an external provider.

In the following pages we outline the main issues you will need to consider.



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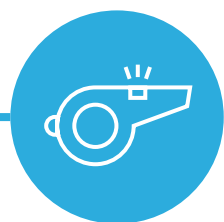
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When an allegation is made

Sexual misconduct allegations can be raised in a variety of ways, including as a grievance or a whistleblowing disclosure by a current or former employee or partner, or a third party. Given their nature, such allegations can often lead to police investigations, which may or may not have commenced by the time the organisation becomes aware of the allegations.

We can advise on:

- > **Deciding whether the conduct alleged may be criminal in nature.**
This could have implications for any investigation or your reporting obligations.
- > **Any potential police investigation** and/or managing contact with the police.
- > **How regulated organisations can meet their compliance obligations**, including the need to report the allegations to the regulator.
- > **Privacy and reputation rights**, including the potential right of anonymity of the complainant.
- > **The relevant policies and procedures** which may be required, such as disciplinary, grievance or whistleblowing.
- > **Determining Initial protective measures**, such as suspension, working from home or restricted contact between the complainant and respondent and any witnesses.



Preparing for the workplace investigation

Sexual misconduct investigations involve the handling of highly sensitive personal data and any evidence gathered may become part of a police and/or regulatory investigation and potentially be admissible in later criminal or regulatory proceedings. An incorrectly conducted investigation may lead to later evidential difficulties or trigger additional liability for the organisation.

We can advise on:

- > **Scoping and mapping the investigation.**
- > **Deciding the roles, teams and responsibilities**, including possible (internal or external) investigators.
- > **Drafting terms of reference** for the investigator.
- > **Identifying appropriate modifications** to ensure the investigation is fair for all involved.
- > **Relevant criminal law**, if appropriate, especially the intersection between an internal and criminal investigation.
- > **Confidentiality, privacy and appropriately safeguarding data**, assessing specific risks to help an organisation to comply fully with the relevant legislation.
- > **Legal professional privilege.**
- > The **appropriate support** for the individuals involved in the process.
- > **Assessing "flash points" for potential leaks of information** and **preparing communication strategies.**



The investigation phase

Any investigation must be conducted properly and respect the legal rights of both the complainant and the respondent. Not only will this help in limiting an organisation's risk of claims for discrimination, victimisation and unfair or constructive dismissal but it will also serve to provide protection for the organisation against the potential reputational consequences which could arise if the investigation is mishandled.

We can advise on:

- > Managing the procedure and process fairly and impartially.
- > **Drafting documentation**, including invite letters for all parties including any witnesses.
- > **Preservation of evidence.**
- > Communication, reputation and crisis management strategies throughout the investigation.



Disciplinary phase

Depending upon the findings of the investigation, it may be appropriate to move forward with a disciplinary process.

We can advise on:

- > The **disciplinary process for an employee or under the terms of a partnership or LLP deed for partners/members.**
- > **Drafting documentation** for the conduct of the process.
- > Related matters such as **sickness absence, criminal and regulatory processes.**

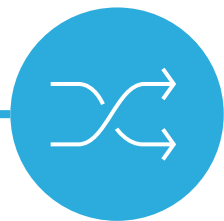


The outcome

It may be that some, all or none of the disciplinary allegations are upheld. Whatever the outcome, this decision is likely to come under scrutiny from the complainant, the respondent, or both.

We can advise on:

- > **The tests and framework to be applied.**
- > **Communicating the outcome**, as appropriate, to those concerned.
- > **Reporting obligations** and, if appropriate, updating the regulator.
- > **Risk Management**, both legal and reputational.
- > **Reputation and Crisis Management**, including media, internal and external communications strategies.

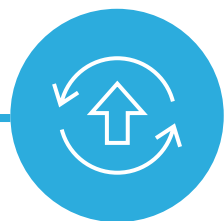


Subsequent or concurrent processes

Our role does not end with the investigation.

We can advise on:

- > **Any related civil, criminal or regulatory considerations** from the initial receipt of allegations to the conclusion of any related civil, criminal or regulatory proceedings.
- > Providing advice, where appropriate, on a **particular, isolated aspect of the case or investigation.**



Considering the future

On conclusion of the internal processes, it is a good opportunity to reflect on lessons learned and any changes or improvements that should be implemented as a result.

We can advise on:

- > **Improving policies, procedures and training.**
- > **Documenting changes to governance structures, systems and controls** in order to promote a good workplace culture and meet regulatory obligations.



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