

How Should We Conduct Investigations?

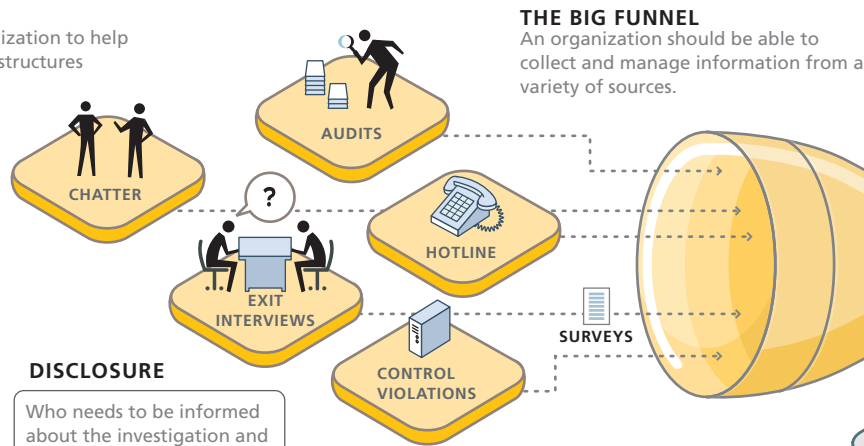
Every organization should have a strong capability to identify, prioritize, investigate and resolve issues. While this can be a daunting task, this illustration can help implement or refine an investigation process and avoid common pitfalls.

1 CAPTURE

Structures should be embedded within the organization to help identify potentially inappropriate activity. These structures include people, processes and technology.

THE CHATTER

There is constant formal and informal communication throughout the organization. The workforce should keep eyes and ears open for things that don't sound right.



2 FILTER

A strong "filtering system" helps management focus on what matters most. An effective filter will ensure that issues are appropriately and efficiently addressed. Even at this early stage, management should begin the "triage" process and identify those material issues that may require escalation versus issues that have questionable specificity and credibility.

COMPETENCE & INDEPENDENCE

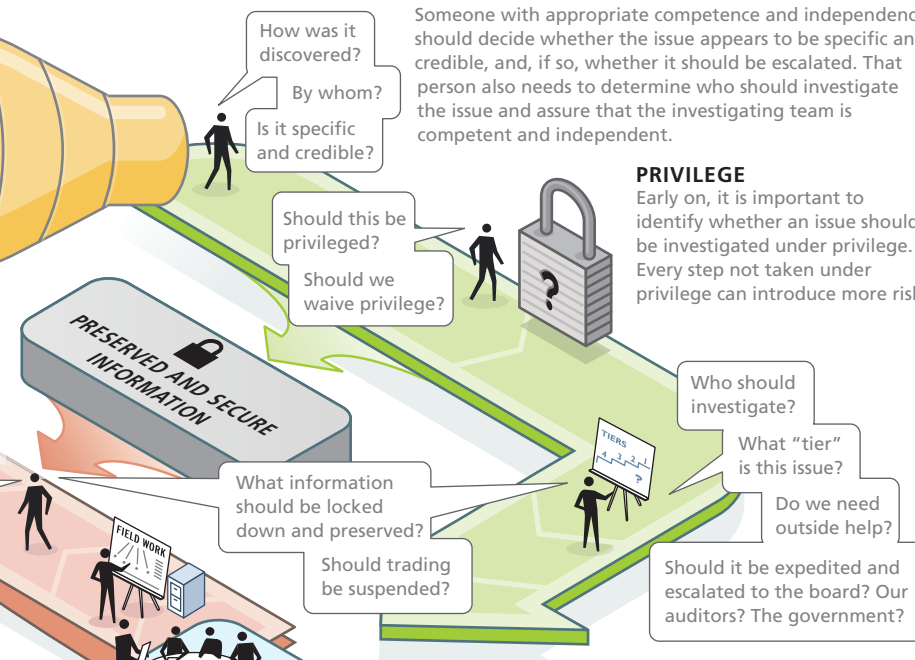
Someone with appropriate competence and independence should decide whether the issue appears to be specific and credible, and, if so, whether it should be escalated. That person also needs to determine who should investigate the issue and assure that the investigating team is competent and independent.

PRIVILEGE

Early on, it is important to identify whether an issue should be investigated under privilege. Every step not taken under privilege can introduce more risk.

TWISTS & TURNS

Issues may begin as a single issue or a single type of issue, but might progress into very different or multiple issues.



3 PLAN & ASSIGN

Allegations should be assigned to the appropriate "tier" or channel based on the facts, circumstances and seriousness of the allegation.

CRISIS ISSUES

These are issues that could sink the company, whether financial or reputational, or issues that involve allegations of wrongdoing by senior management.

SIGNIFICANT ISSUES

These issues are serious and material to the organization but do not involve allegations of wrongdoing by senior management. As such, senior management typically directs these investigations with special care and under privilege.

SERIOUS ISSUE BUT PREPARED

Most organizations have issues that they, to a certain degree, expect and prepare for, such as a significant theft. Systems have been designed and special investigative staff have been trained to address these issues.

LINE MANAGER/HR LEVEL

These issues, often HR related, warrant the attention of management, but may not require privilege or professional investigators. They are often delegated to management, but could escalate at any phase.

5 RESOLVE

Once the investigation is complete, the organization must address allegations with all appropriate constituencies. Allegations that are not substantiated should be closed with communications to the persons who raised the investigation and those who were investigated. When allegations are substantiated, the organization must take consistent action and ultimately improve the system so that the organization becomes better at preventing, detecting, and responding to similar issues in the future.

DISCLOSURE

Who needs to be informed about the investigation and our findings and results?
Suppliers? Customers? Government / Regulator? Shareholders? Lenders? Employees? Insurance? Ratings Agencies?

RESTITUTION

Who was hurt? How do we fix it?

REMEDATION

How do we improve the system?
What is the motive?
Who is involved?
For how long?

DISCIPLINE

What disciplinary action is appropriate?
What is their span of control?
How were they incented?
What happened in the past?

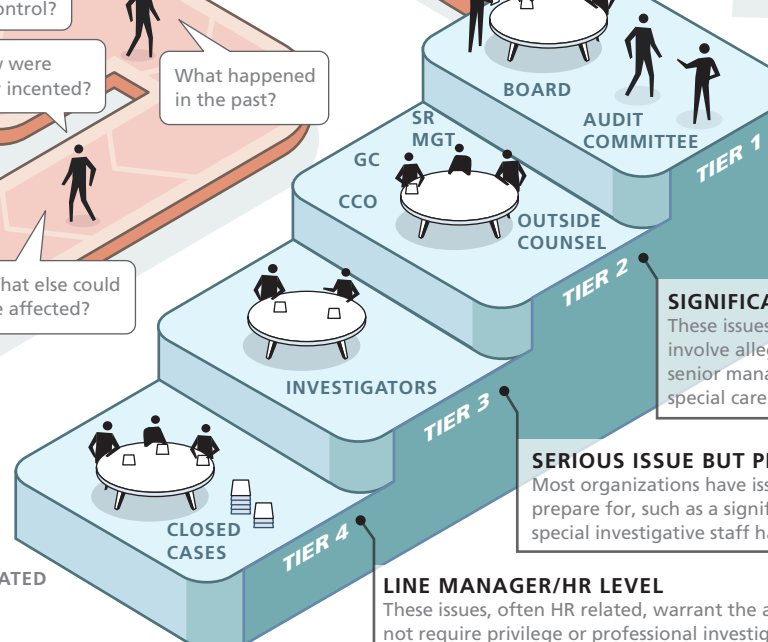
KNOW WHEN TO SAY WHEN...

The art of the investigation is knowing when the issue has been thoroughly investigated and there appear to be no credible loose ends. At some point you have to stop digging; instead of asking "Is it possible?," begin asking "is it probable?"

4 INVESTIGATE

After laying the groundwork, the actual investigation begins with the assigned team. The team will have varying levels of professional investigation skills, depending on the tier that applies to this issue.

BE PREPARED FOR PEOPLE TO LEAVE RATHER THAN BE INVESTIGATED



PITFALLS



FUNNEL TOO NARROW
If you don't focus on a full range of data sources, you may miss serious issues.



BIG BROTHER CULTURE
Collect as much data as possible, but be wary of establishing a tattletale, gadfly or Big Brother culture.



MISSING THE BIG ONES
Organizations that don't have the right competence and independence filtering to really scrutinize the issues as they come in can miss complaints that can later turn into very large problems.



MAKING EVERYTHING A BIG ISSUE
Without a tier or triage system, all issues become big ones and organizations waste time and resources. Overuse of privilege is also a pitfall.



ASSIGNING TO THE WRONG GROUP
Some issues require specialized or technical knowledge or investigation skills. Don't assign a manager when you need a lawyer or consultant.



CHERRY-PICKING BY TOP EXECUTIVES
Allowing too much management override or exceptions to the investigation process can lead to biased investigations and lost objectivity.



SUPERFICIAL INVESTIGATION
There can be more to the issue than meets the eye. Investigators need to dig to find out what the issue really is. Often, the initial description does not fully represent the real issue.



DIGGING TOO DEEP
Investigators need to know when to stop. Overreaching investigations can consume company resources and distract employees.



TRAMPLING ON EVIDENCE
Inexperienced investigators can inadvertently destroy, corrupt or fail to adequately secure critical evidence.



THE FIRST 48 HOURS
The first 48 hours of an investigation are critical yet this is when many mistakes are made. Getting on the right track is paramount and will be important later on to regulators and other stakeholders. If an organization gets off-track in the first 48 hours, it can be difficult and costly to get back on track.