Global Investigations Review

The Practitioner's Guide to Global Investigations

Second Edition

Editors
Judith Seddon, Clifford Chance
Eleanor Davison, Fountain Court Chambers
Christopher J Morvillo, Clifford Chance
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GIR

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Publisher's Note

The Practitioner's Guide to Global Investigations is published by Global Investigations Review (www.globalinvestigationsreview.com) – a news and analysis service for lawyers and related professionals who specialise in cross-border white-collar crime.

The guide was suggested by the editors to fill a gap in the literature – namely, how does one conduct such an investigation, and what should one have in mind at various times?

It will be published annually as a single volume and is also available online, as an e-book and in PDF format.

The volume

This book is in two parts.

Part I takes the reader through the issues and risks faced at every stage in the life cycle of a serious corporate investigation, from the discovery of a potential problem through its exploration (either by the company itself, a law firm or government officials) all the way to final resolution – be that in a regulatory proceeding, a criminal hearing, civil litigation, an employment tribunal, a trial in the court of public opinion, or, just occasionally, inside the company's own four walls. As such it uses the position in the two most active jurisdictions for investigations of corporate misfeasance – the United States and the United Kingdom – to illustrate the approach and thought processes of those who are at the cutting edge of this work, on the basis that others can learn much from their approach, and there is a read-across to the position elsewhere.

Part I is then complemented by Part II's granular look at the detail of various jurisdictions, highlighting among other things where they vary from the norm.

Online

The guide is available to subscribers at www.globalinvestigationsreview.com. Containing the most up-to-date versions of the chapters in Part I of the guide, the website also allows visitors to quickly compare answers to questions in Part II across all the jurisdictions covered.

The publisher would like to thank the editors for their exceptional energy and vision in putting this project together. Together we welcome any comments or suggestions from readers on how to improve it. Please write to us at:
co-publishing@globalinvestigationsreview.com.

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Preface

The history of the global investigation

Over the past decade, the number and profile of multi-agency, multi-jurisdictional regulatory and criminal investigations have risen exponentially. Naturally, this global phenomenon exposes corporations and their employees to greater risk of potentially hostile encounters with foreign law enforcement authorities and regulators than ever before. This is partly owing to the continued globalisation of commerce, as well as the increasing enthusiasm of some prosecutors to use expansive theories of corporate criminal liability to extract exorbitant penalties against corporations as a deterrent, and public pressure to hold individuals accountable for the misconduct. The globalisation of corporate law enforcement, of course, has also spawned greater coordination between law enforcement agencies domestically and across borders. As a result, the pace and complexity of cross-border corporate investigations has markedly increased and created an environment in which the potential consequences, both direct and collateral, for individuals and businesses are of unprecedented magnitude.

The guide

To aid practitioners faced with the myriad and often unexpected challenges of navigating a cross-border investigation, this book brings together for the first time the perspectives of leading experts from across the globe.

The chapters that follow in Part I of the guide cover in depth the broad spectrum of the law, practice and procedure applicable to cross-border investigations in both the United Kingdom and United States. Part I tracks the development of a serious allegation (whether originating from an internal or external source) through its stages of development, considering the key risks and challenges as matters progress; it provides expert insight into the fact-gathering stage, document preservation and collection, witness interviews, and the complexities of cross-border privilege issues; and it discusses strategies to successfully resolve cross-border probes and manage corporate reputation throughout an investigation.

In Part II of the book, local experts from national jurisdictions respond to a common set of questions designed to identify the local nuances of law and practice that practitioners may encounter in responding to a cross-border investigation.

In the first edition we signalled our intention to update and expand both parts of the book as the law and practice evolved. For this second edition we have revised the chapters to reflect recent developments. In the United Kingdom, some eagerly awaited English court decisions have raised significant legal privilege implications, and new corporate offences related to tax evasion have been introduced. In the United States, despite a new administration, the FCPA's enhanced enforcement project – the Pilot Program – has been extended. We have also included substantive chapters covering extraterritoriality considerations from both the US and UK perspectives. Further, Part II now covers 16 jurisdictions, including China and Nigeria, and we expect subsequent editions to have an even broader jurisdictional scope.

The Practitioner's Guide to Global Investigations has been designed for external and in-house legal counsel; compliance officers and accounting practitioners who wish to benchmark their own practice against that of leaders in the fields; and prosecutors, regulators and advisers operating in this complex environment.

Acknowledgements

The Editors gratefully acknowledge the insightful contributions of the following lawyers from Clifford Chance: Chris Stott, Zoe Osborne and Oliver Pegden in London; Megan Farrell, Jayla Jones, Delphine Miller, Amy Montour and Mary Jane Yoon in New York; and Hena Schommer and Michelle Williams in Washington, DC.

The Editors would also especially like to thank Clifford Chance lawyers Tara McGrath (who went above and beyond to bring this book together) and Kaitlyn Ferguson for their significant contributions.

Judith Seddon, Eleanor Davison, Christopher J Morvillo, Michael Bowes QC, Luke Tolaini
November 2017
London and New York

Part I

Global Investigations in the United Kingdom and the United States

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Employee Rights: The UK Perspective

James Carlton, Sona Ganatra and David Murphy[1]

The vast majority of employees implicated in an investigation will be suspended. Generally speaking, employers will rely on the increasingly common express provisions to suspend employees in the course of disciplinary investigations contained in the employment contract, staff handbook or disciplinary policies.

In the absence of such an express provision, employers may still suspend employees on the basis that it constitutes a reasonable management instruction not to work or attend the workplace in circumstances where serious allegations, particularly those of a regulatory nature, have been made or where relationships have broken down.

In such circumstances, however, employees may have greater grounds to challenge the suspension. English case law in relation to garden leave (when an employer requires an employee not to attend work during the notice period) suggests that if the employer does not have an express right to suspend an employee, the employee may have a legal basis for challenging the suspension if he or she can show that he or she needs to be able to use particular professional skills frequently to ensure that they are maintained and do not diminish through lack of use.[2] Even if the employee cannot show this, the longer the period of suspension, the more difficult it may become for the employer to justify it.

1 James Carlton and Sona Ganatra are partners, and David Murphy is a legal director, at Fox Williams LLP.

2 *William Hill Organisation Limited v. Tucker* [1998] IRLR 313.

Regardless of whether it has relied on an express right or not, employers must have reasonable grounds for any suspension and these grounds should be kept under review to ensure that the period of suspension is no longer than necessary.

13.1.1.2 What constitutes a reasonable ground for suspension?

Suspension may be reasonable if the individual is suspected of serious misconduct and his or her continued attendance at work creates a potential threat to the employer's business or its other staff or could have an adverse effect on the investigator's ability to investigate the matter appropriately. In the event of a legal challenge to suspension, an employment tribunal or court is likely to consider all the relevant circumstances, including the terms of the employee's contract, what the employer has said about the suspension, the length of suspension and any financial loss it is causing.

Most employers' disciplinary procedures are not contractual, and therefore a failure to follow them does not, generally speaking, constitute a breach of contract (unless the employee can show that the failure was a breach of the implied duty of trust and confidence owed by the employer). However, in the public sector, where contractual procedures seem to be more common, there have been circumstances in which employees have successfully obtained injunctions preventing their employers from proceeding with disciplinary proceedings where to do so in the particular circumstances would constitute a breach of contract.[3]

Given the potential for disciplinary action to have significant adverse consequences on the careers and finances of employees working in regulated sectors, in the coming years we may see employees pursuing creative legal arguments to obtain injunctions against disciplinary action. Such arguments might be based on the implied duty of trust and confidence, with the employees arguing that proceeding with disciplinary action in the particular circumstances would breach the duty.

In the United Kingdom, the statutory Code of Practice on Disciplinary and Grievance Procedures (the Code) published by the Advisory, Conciliation and Advisory Service (ACAS)[4] sets out the principles for handling disciplinary and grievance issues in the workplace. Its content in relation to investigations is written with internal investigations in mind, rather than investigations by an external third party, but its principles will be relevant to any disciplinary proceedings instigated by the employer and therefore to all investigations that might lead to disciplinary action. Individuals will not have any freestanding claim for any failure to follow the Code but employment tribunals take into account any such failures when considering relevant cases and the compensation to be awarded.

In practice, in a regulated environment such as the financial services sector, many employers will be far less concerned about compliance with the Code than they are about satisfying the demands and wishes of the regulators or prosecuting

3 *Mezey v. South West London & St George's Mental Health NHS Trust* [2010] IRLR 512.

4 www.acas.org.uk/media/pdf/f/m/Acas-Code-of-Practice-1-on-disciplinary-and-grievance-procedures.pdf.

authorities. Nonetheless, an individual who does not consider an investigation is being handled appropriately may find within the Code's principles some helpful points to refer to when explaining his or her concerns to the employer. In particular, that any period of suspension should be kept as brief as possible and should be kept under review.

Remuneration 13.1.1.3

It is usual for employees to continue to receive basic salary and benefits while an investigation is ongoing, irrespective of whether they are suspended from work. Unpaid suspension is rare and will not be an option open to the employer unless it has a contractual right to do so.

In the financial services sector, variable pay (such as annual bonuses and long-term incentive awards) often forms a significant part of an employee's annual remuneration and normally a proportion of variable pay is deferred and paid out over a number of years.

It is now common in the financial services sector to see provisions in employment contracts to the effect that variable pay will not be awarded or delivered if at the time of award or delivery the individual is subject to any kind of investigation. Similar provisions are usually also found within the relevant award plan rules.

Investigations can take many years so their implementation can have a significant financial impact on the employee, particularly as it can affect deferred remuneration from prior years, as well as the current year's bonus or long-term incentive scheme award.

It is not always clear from such provisions what happens to any variable pay that is not awarded or delivered if the investigation finds there has been no wrongdoing. When negotiating employment contracts, employees should seek clarity in the wording of the provisions that if an investigation finds no wrongdoing, the variable pay in question be awarded or delivered.

In 2016 rules were implemented relating to deferral and clawback applicable to variable remuneration awarded by banks, building societies and all PRA-regulated investment firms for performance periods beginning on or after 1 January 2016.[5]

In essence, the rules were intended to discourage excessive risk-taking and encourage more effective risk management.

As a result of those rules, in the financial services sector, for performance periods beginning on or after 1 January 2016, deferral (the period during which variable remuneration is withheld following the end of the accrual period) is extended to: (1) a minimum seven-year period with no vesting until three years after award for senior managers who are subject to the senior managers regime (SMR) (i.e., individuals who have the greatest influence over the strategic direction of the business); (2) five years for PRA-designated risk managers with senior, managerial or

5 As set out in SYSC 19D of the FCA Handbook in respect of dual regulated firms: https://www.handbook.fca.org.uk/handbook/SYSC/19D/?view=chapter.

supervisory roles; and (3) three to five years for all other staff whose actions could have a material impact on a firm (material risk takers).

At the same time, regulated firms must include *malus* provisions (i.e., arrangements that permit the employer to prevent vesting of all or part of deferred remuneration based on risk outcomes or performance) and clawback provisions (i.e., arrangements through which remuneration that has already vested is recouped) for seven years from the award of variable remuneration for all material risk takers. Importantly, both the PRA and the FCA clawback rules have been strengthened by a requirement for a possible three additional years for senior managers at the end of the seven-year period where a firm or regulatory authorities have commenced inquiries into potential material failures. In effect, therefore, employees operating at a senior level in the financial services sector who are subject to an investigation potentially now face a decade of uncertainty over their pay.

Guidance from the FCA provides that, in relation to issues relating to risk-management failure or misconduct, regulated firms are expected to consider cancelling or clawing back bonus awards in relation to those employees who could have been reasonably expected to be aware of the failure, misconduct or weakness at the time but failed to take 'adequate steps' or who, by virtue of their role or seniority, were 'indirectly responsible or accountable'.[6]

A key related issue is the operation of these *malus* or clawback provisions in the context of the buy-out of awards when an employee moves from one firm to another. For all buy-out contracts concluded on or after 1 January 2017, new employers are able to apply clawback or *malus* based on the previous employer's determination of misconduct or risk-management failings. Again, as a result, senior employees in the financial services sector who are subject to an investigation face further uncertainty and the possibility that previous employers can determine their future pay.

13.1.2 English law

Suspended employees are bound by the express terms of their contracts and by certain terms implied by law, including a duty of fidelity (which includes a duty of confidentiality) and a duty to obey lawful and reasonable orders.

At the same time, employers are also bound by an implied duty of trust and confidence. This duty comes into play when determining whether to suspend employees implicated in misconduct.

Employees have successfully argued that a failure to consider whether suspension could be avoided was a breach of the duty of trust and confidence owed by the employer in numerous cases, paving the way for a claim for constructive dismissal.[7] Such claims are often difficult to pursue but, if successful, release the individual from any post-termination restrictions in his or her contract.

6 https://www.fca.org.uk/publication/finalised-guidance/guidance-on-ex-post-risk-adjustment-variable-remuneration.pdf.

7 For example *Crawford and another v. Suffolk Mental Health Partnership NHS Trust* [2012] IRLR 402.

Accordingly, prudent employers should keep under continuous review the need for an employee to be suspended.

Representation 13.2

Need to collect information on behalf of client 13.2.1

Interviewing client 13.2.1.1

At the outset of an instruction from an individual, independent legal advisers (ILAs) should seek detailed instructions to clarify the full history of employment and determine the potential scope of the misconduct under investigation and the parties implicated. A key component of this stage is to assess the employee's relationship with the employer. Understanding the dynamics of the relationship at the outset will assist in the smooth running of the investigation and allow a better understanding of the support that is likely to be offered by the employer.

Requesting documents and information from: 13.2.1.2

Employer

An employee involved in an investigation (internal or external) may need to request that the employer provides documentation, access to witnesses or other support. This arises as during any period of suspension, the individual is often operating in a vacuum, likely to be prohibited from having contact with clients and colleagues and prevented from having access to the employer's IT systems, documents and premises other than to the extent permitted by the employer. From an employer's perspective these restrictions are crucial to ensuring that documentation has not been compromised and that potential witnesses or accomplices have not been warned. Indeed, such concerns will probably be as important for the employee.

There is unlikely to be an express or implied right that the employee can rely on such support from the employer.

In the context of an internal investigation, the employer would not want to provide carte blanche access to documentation and information to the employee and is likely to prefer that the employee provide his or her own account of the circumstances.

In the context of an external investigation by law enforcement authorities, the situation is more complex. It may well be in the employer's interests to co-operate with requests for assistance to gain some understanding as to the scope of the investigation and the potential repercussions. At the same time, the employer may have its own regulatory obligations in mind and may be required to co-operate with and disclose documentation to the regulator.

Any rights of the employer to access personal electronic devices used by the employee for work are likely to be set out in the staff handbook. Generally speaking, where such devices are routinely used for work purposes, employers will be permitted to seek access to them.

Law enforcement

In circumstances where a law enforcement authority has announced its intention to interview an individual, a request for a list of questions or topics of discussion together with relevant documentation should be made to the relevant body at the earliest opportunity. In practice, law enforcement authorities seldom provide more than a broad list of areas they wish to explore and often provide limited supporting documentation. Individuals should be advised at the outset that they are unlikely to receive detailed information from the law enforcement authority in advance of the interview and that further documentation is likely to be produced on the day of the interviews. There will be specific, limited circumstances, however, where law enforcement authorities are more receptive to such requests. For example, if the individual is no longer in employment and has no ongoing relationship with the employer or if the employer is no longer operating as a going concern, law enforcement authorities may be more amenable to requests for information as otherwise the employee will have no other avenue to properly prepare a case.

Other witnesses (and their counsel)

As noted above, individuals are likely to be prohibited from having contact with clients and colleagues during suspension. If an individual is aware of colleagues who would be able to provide assistance to clarify aspects of the case, appropriate action should be taken to contact them. Depending upon the ongoing relationship with the employer, in the first instance, it may be sensible to approach the employer to request details of the colleague's legal counsel (if one has been appointed).

13.2.2 Joint defence agreements

13.2.2.1 Between individuals and the company

On balance, in the vast majority of circumstances co-operation between the employee and employer will be mutually beneficial. From an individual's perspective, while there is a risk of self-incrimination, co-operation with the employer allows the employee to know how the investigation is progressing and whether external regulators are involved, and grants access to materials that are relevant and crucially the opportunity to engage with the employer in agreeing the outcome. Such co-operation often results in work-product produced by and communications between the parties and their legal advisers being protected by common interest privilege.

While perhaps not as common as in the United States, settlement discussions with law enforcement authorities in the United Kingdom are a growing trend. Although deferred prosecution agreements are not available for individuals in the United Kingdom at this time, there is no doubt that being party to settlement discussions with the employer will generally be advantageous to employees.

13.2.2.2 Between individuals and their counsel

In complex cases of misconduct, there are likely to be a number of individuals involved. There are clear advantages to ensuring communication lines are opened

and maintained with ILAs engaged by potential 'co-defendants'; such communications having the benefit of being protected by common interest privilege. The many advantages include the sharing of important information and documentation that others may have obtained, as well as the benefit of adopting a common approach with the employer to documentation requests. Employers are more likely to be receptive to common, and therefore more focused, information requests made by several employees rather than numerous different requests received at different times by each employee.

Indemnification and insurance coverage 13.3

Determining whether an individual is indemnified 13.3.1

Communications with the employer and company counsel 13.3.1.1

Upon instruction by an individual, clarification should be sought as to whether the employer will fund the costs of an ILA. From the employee's perspective, access to an ILA from the start of an investigation is essential (regardless of whether the employee is central to the allegations or on the periphery) given the potential dangers ahead. What may start off as the provision of an innocuous witness account to a regulatory authority may turn quickly into the employee being regarded as a suspect as new allegations of misfeasance surface.

Potential sources of right to indemnification 13.3.1.2

Employment contract, company policies, by-laws or local laws

It is generally very unusual to see rights of indemnification set out formally in employment contracts in the United Kingdom. In certain industries, however – for example, the financial services and media sectors – it is becoming increasingly common for employers to maintain formal policies setting out the circumstances in which they will indemnify employees' legal expenses. Such indemnification will be limited to situations where an employee is being investigated solely because of acts performed in the course of and within the scope of his or her employment.

Close attention should be paid to such policies and the restrictions set out in them. In particular, given the difficulties for an employer to determine the potential liability of an employee at the outset of an investigation, it is common for employers to provide indemnification for legal fees incurred at an initial stage while the scope of allegations is clarified and for the employer to have a right to stop further indemnification and seek reimbursement of earlier costs, for example, where the employee is found to have acted outside the scope of his or her employment.

Employers also, generally speaking, provide lists of approved law firms to act as ILAs and generally require employees to seek approval before appointing representatives not on the list.

Unlike other jurisdictions, English law does not provide indemnification rights to employees.

Insurance policies of employer

D&O insurance

At the same time, employees at a senior level may also benefit from directors' and officers' insurance.

The coverage of D&O policies should be carefully considered from both the employee's and employer's perspective to ensure that the policy covers investigations, prosecutions and related civil claims.

Generally speaking, UK-based D&O policies provide cover for 'formal' investigations. ILAs should clarify whether the definition of investigations also includes internal investigations and consider why the investigation has commenced. If an internal investigation has been commenced by the employer, for example, as a result of concerns over its own conduct and liability, other insurance policies, such as professional indemnity insurance, might be engaged. At the same time, the D&O policy might include an exclusion in relation to claims in connection with the performance or failure to perform professional services by or on behalf of any director or officer. In such circumstances, the professional indemnity insurance policy should become engaged. The exclusion of the D&O insurance and application of professional indemnity (or other related) insurance is frequently debated at the outset of investigations, particularly where there is concern about the requirement to pay deductibles under the D&O policy or where there are local insurance requirements under a global policy.

13.3.2 Advocating for indemnification when not otherwise clear

The appointment and funding of an ILA from the employer's perspective has clear benefits where it appears that the interests of both parties are congruent. It encourages the co-operation of the employee and assists in ensuring that certain communications with the employee can be made with the protection of privilege.

See Section 13.4

While indemnification policies are becoming more common, many employers choose not to have a formal policy and instead seek to enter into separate arrangements at the time of the investigation. This approach is attractive from the employer's perspective as it enables the employer to select when and how it will indemnify certain individuals without setting a precedent. In such circumstances, the employee should negotiate carefully to ensure that all potential costs and eventualities are covered.

13.3.3 Awareness of situations where indemnification may cease

13.3.3.1 Violation of undertaking to the company

Employer policies will set out the circumstances in which indemnification will cease. A common provision is the employee acting contrary to restrictions and requests set out in the agreement. For example, the indemnification policy or agreement may contain clauses requiring the employee to act in good faith in its dealings with the employer and regulatory authorities or to provide updates to the employer at given stages. Such undertakings should be highlighted in advance to

individuals and ILAs should ensure that information is provided to the employer and its counsel.

It is important to advise individuals at the outset that violation of certain provisions may also lead to the employer seeking reimbursement or clawback of fees already incurred.

Failure to co-operate with investigation 13.3.3.2

How to decide whether to co-operate where failure to do so will affect indemnification

Most indemnification policies or agreements will contain provisions setting out the need for full co-operation between the employee and employer. At various stages of an investigation, the employee should consider carefully whether it continues to be in his or her best interests to fully co-operate with the employer. As the investigation develops, matters may come to light that indicate the employee's interests conflict, or are likely to conflict, with the employer's. In such circumstances, ILAs should discuss with the employee the possibility of whether co-operation remains in the employee's best interests and the consequences that will flow from adopting a stance that is at odds with the employer.

Ensuring sufficient funds for protracted investigation 13.3.4

Cap on insurance policy 13.3.4.1

D&O policies should be reviewed at the outset and during investigations to ensure the scope and limitations of coverage are understood.

Generally, D&O policies include annual or total aggregate limits, or both. In circumstances where the employer and a number of directors are under investigation or where investigations are becoming protracted, it is not uncommon for the aggregate limit to quickly become exhausted. ILAs should ensure that the scope of any insurance cover is kept under constant review.

Commitment of company to continue indemnification 13.3.4.2

As previously noted, employers will continually assess whether it is appropriate to continue to indemnify employees under investigation. If it becomes clear that the employee has acted outside the scope of employment, the employer is unlikely to continue to provide support unless it would be in its interests to do so because, for example, there is a potential for related civil claims to be made against the employer.

Privilege concerns for employees and other individuals 13.4

In communications with other employees 13.4.1

Colleagues or people involved in underlying events 13.4.1.1

As a matter of English law, communications between an ILA and third parties will only be protected by privilege if they relate to an existing, pending or reasonably contemplated litigation (in other words, litigation privilege applies). This

See Chapter 35 on privilege

is not always going to be the case in the context of an internal, or indeed external, investigation.

As such, unless the former colleague or associate of the individual is also implicated in the allegations such that common interest privilege may arise in discussions involving their ILA, ILAs should avoid communicating with third parties. Even in circumstances where common interest privilege can be said to arise, this is a developing area of English law and therefore subject to change. ILAs should act with caution and ensure that the common interest between the parties is clearly recorded at the outset.

13.4.1.2 Company counsel

Communications between the employee and legal counsel instructed by the employer will not be privileged unless common interest privilege exists. Whether it exists will depend on the circumstances; even if it does, it will not necessarily encompass all communications with counsel.

Interviews conducted during internal investigations by the employer will not be privileged from the employee's perspective; the privilege, if it exists, lies with the employer.

See Chapter 35 on privilege

13.4.2 Use of employer email to conduct privileged conversations

13.4.2.1 With internal counsel

Employees should be wary of any communications with in-house counsel as such communications are unlikely to be protected by privilege.

See Chapter 35 on privilege

Unless the individual forms part of the client group identified within the employer[8] or unless litigation privilege applies, communications with the in-house counsel will not be protected by privilege.

13.4.2.2 With external counsel

Communications between an individual and an ILA will of course be protected by legal advice privilege. However, there are circumstances in which that privilege may be lost, particularly if it can be shown that the confidentiality in the communication has been lost as it is accessible by third parties.

On balance, it is inadvisable for an employee to use work email accounts to communicate with an ILA as it is likely (depending on the terms of any relevant IT policy maintained by the employer) to lead to a dispute that confidentiality in those communications has been lost.[9]

8 As required following *Three Rivers District Council v. Bank of England* [2003] EWCA Civ 474.

9 In *Shepherd v. Fox Williams LLP* and others [2014] EWHC 1224 (QB) it was held that the claimant remained entitled to assert privilege over documents even though they had been accessible to the defendant employer when they were sent to the work email address of an employee of the defendant.

Appendix 1

About the Authors

James Carlton
Fox Williams LLP

James Carlton is a partner at Fox Williams LLP specialising in all areas of business crime and regulation. Sources say he 'inspires total confidence from his clients, has a wonderful knack of making them feel comfortable and superbly represented, while not pulling any punches in terms of problems they may face' (*Chambers*, 2017).

James has been instructed in a number of the largest and most complex white-collar investigations and prosecutions brought by the UK regulatory and prosecuting authorities, including the Serious Fraud Office and the Financial Conduct Authority, relating to, among other things, allegations of fraud, money laundering, insider dealing, market abuse, and bribery and corruption. Increasingly these have significant international dimensions and considerations.

James also has great expertise in the conduct of public inquiries. He has been instructed by interested parties in a large number of the highest-profile public inquiries, including, among others, the BSE, *The Marchioness*, Leveson, Pollard and Victoria Climbié inquiries.

He has been instructed on a number of complex and cross-border regulatory investigations for senior executives. He has also been instructed in relation to the regulatory investigations into the manipulation of LIBOR, EURIBOR and FX. He has extensive experience of high-profile corporate investigations involving complex issues of financial crime, bribery and corruption, employee fraud and significant acts of dishonesty.

Sona Ganatra
Fox Williams LLP

Sona Ganatra is a partner at Fox Williams LLP specialising in financial services regulatory issues and disciplinary and internal investigations both inside and outside the regulated sector. She has extensive experience in advising corporates and individuals on a broad range of regulatory issues, including matters such as anti-money laundering, bribery and corruption,

fraud, the market abuse regime, consumer-credit-related activities, payment services, the change in control regime, and related insolvency issues. She is regularly instructed in relation to FCA and SFO investigations, prosecutions and enforcement action against corporates and senior individuals. She also has extensive experience of high-profile corporate investigations involving issues of financial crime, bribery and corruption, and employee fraud.

Earlier in her career, Sona was seconded to the Enforcement Division of the (then) Financial Services Authority, where she appeared before the Regulatory Decisions Committee and participated in settlement discussions with financial institutions. This provided her with invaluable insight into regulatory investigations and disciplinary actions.

She has published numerous articles and led training sessions in relation to the Money Laundering Regulations and Handbook requirements, the Bribery Act 2010, and the Fraud Act 2006. Sona is a solicitor-advocate (higher courts civil).

David Murphy
Fox Williams LLP

David Murphy is a legal director at Fox Williams LLP who specialises in guiding senior HR professionals, boards and in-house legal teams through difficult employment situations, and in advising senior individuals when they join and leave their employers or face problems during their employment.

His corporate client base is focused on the financial services and professional services sectors. His individual clients include fund managers, investment bankers, directors of listed companies and lawyers. He has advised several individuals at executive committee level on their departures from a major bank. In the 2015 edition of *The Legal 500*, David was recognised as a 'first class' leading individual.

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