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The Practitioner's Guide to Global Investigations

Volume 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]

Contractual and statutory employee rights **36.1**
Company policy, manual, contracts, by-laws **36.1.1**
Suspension 36.1.1.1

The vast majority of employees implicated in an investigation will be suspended. Usually, 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, Sona Ganatra and David Murphy are partners 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.

36.1.1.2 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. The courts have held that the only test that must be satisfied by an employer is that it had 'reasonable and proper cause' to suspend the individual. The employer need not show that suspension was necessary.[3]

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 are 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.[4]

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 employees arguing that proceeding with disciplinary action in the particular circumstances would breach the duty. Alternatively, they might be on the basis of an implied term, yet to be established, to conduct disciplinary processes fairly, separate from the implied term of trust and confidence.[5]

In the United Kingdom, the statutory Code of Practice on Disciplinary and Grievance Procedures (the Code) published by the Advisory, Conciliation and Advisory Service[6] 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

3 *London Borough of Lambeth v. Agoreyo* [2019] EWCA Civ 322.

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

5 *Burn v. Alder Hey Children's NHS Foundation Trust* [2021] EWCA Civ 1791.

6 https://www.acas.org.uk/acas-code-of-practice-for-disciplinary-and-grievance-procedures/html.

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 free-standing 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 will be about satisfying the demands and wishes of the regulators or prosecuting 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 36.1.1.3

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 usually be an option open to the employer unless it has a contractual right to do so.[7]

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 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 so they stipulate that if an investigation finds no wrongdoing, the variable pay in question be awarded or delivered.

In relation to variable remuneration awarded by banks, building societies and certain investment firms, the regulatory framework contains strict restrictions for particular classes of employees.[8]

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7 *North West Anglia NHS Foundation Trust v. Gregg* [2019] EWCA Civ 387.

8 Since 2010, UK banks, building societies and certain large investment firms have been required to follow strict rules regarding variable remuneration set out in the Remuneration Code in the Financial Conduct Authority (FCA) Handbook. The types of regulated firms

In essence, the rules are intended to discourage excessive risk-taking, encourage more effective risk management and enable firms to hold individuals to account.

By way of illustration, the rules applicable to dual-regulated firms[9] provide that, in certain circumstances,[10] 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 executives performing a Prudential Regulatory Authority (PRA) designated senior management function, (2) five years for those performing Financial Conduct Authority (FCA) designated senior management functions, and (3) four years for all other staff whose actions, in summary, could have a material impact on a firm's risk profile (material risk-takers).[11]

At the same time, dual-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 between five and seven years from the award of variable remuneration for all material risk-takers, depending on the function they hold.[12] Importantly, both the PRA and the FCA clawback rules have been strengthened by a requirement for a possible three additional years for certain senior managers at the end of the seven-year period where a firm or regulatory authorities have commenced enquiries into potential material failures. In effect, therefore, employees operating at the most senior levels 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 reasonably could have been 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'.[13]

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

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required to adopt those rules have expanded over the years and, from January 2022, all 'non-SNI' investment firms authorised under MiFID must follow rules regarding variable remuneration, depending on the size of the firm.

9 A 'bank, a building society or a UK designated investment firm', FCA Handbook, SYSC 19 D.

10 These rules apply to dual-regulated firms' Remuneration Code staff whose total remuneration exceeds £500,000 or whose annual variable remuneration exceeds 33 per cent of total remuneration.

11 See the rules set out in SYSC 19D.3.59 of the FCA Handbook: https://www.handbook.fca.org.uk/handbook/SYSC/19D/3.html.

12 FCA Handbook, SYSC 19D.3.61.

13 https://www.fca.org.uk/publication/finalised-guidance/fg21-5.pdf.

firm to another. As a result of the regulatory framework, senior employees in the financial services sector may find that their current employer is able to apply clawback based upon the conclusions of their previous employer's investigation. As such those employees who are subject to an investigation in the regulated sector can face further uncertainty and the possibility that previous employers can determine their future pay.

English law 36.1.2

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.[14] Such claims are often difficult to pursue but, if successful, release the individual from any post-termination restrictions in his or her contract. Accordingly, prudent employers should keep under continuous review the need for an employee to be suspended.

Representation 36.2

Need to collect information on behalf of client 36.2.1

Interviewing client 36.2.1.1

At the outset of an instruction from an individual, independent legal advisers (ILAs) should seek detailed instructions to 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: 36.2.1.2

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. During any period of suspension, the individual is often operating in a vacuum, and he or she is likely to be prohibited from having contact with clients and colleagues and prevented from having access to the employer's IT

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

systems, documents and premises other than to the extent permitted by the employer. There is unlikely to be an express or implied right that the employee can rely on support from 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 tipped off. Indeed, such concerns may also be important for the employee.

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 the content of personal electronic devices used by the employee for work are likely to be set out in the staff handbook. In general, 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 can 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).

Joint defence agreements 36.2.2

Between individuals and the company 36.2.2.1

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 understand how the investigation is progressing and whether external regulators are involved, and have a greater chance of accessing materials that are relevant. 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 frequent as in the United States, settlement discussions with law enforcement authorities in the United Kingdom are a growing trend in fraud and corruption matters. At the time of writing, since the introduction of deferred prosecution agreements (DPAs) in 2014,[15] the SFO has entered into 12 DPAs. These agreements are not currently available for individuals in the United Kingdom. ILAs should ensure their clients appreciate the risk that the law enforcement authority may still take action against the employee in circumstances where the employer has entered into a DPA. Interestingly, however, recent cases have shown that in circumstances where the corporate has entered into a DPA, the SFO has struggled to prosecute employees for the same alleged misconduct.

Between individuals and their counsel 36.2.2.2

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 have 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.

15 Schedule 17 of the Crime and Courts Act 2013, which allows the Director of the Serious Fraud Office (SFO) and the Director of Public Prosecutions, and other prosecutors designated by the Secretary of State, to enter into deferred prosecution agreements.

36.3 Indemnification and insurance coverage

36.3.1 Determining whether an individual is indemnified

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.

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

It is unusual to see rights of indemnification set out formally in employment contracts in the United Kingdom. Unlike other jurisdictions, English law does not provide indemnification rights to employees.

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.

36.3.1.2 Insurance policies of employer

Employees at a senior level may also benefit from directors' and officers' (D&O) 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.

In general, UK-based D&O policies provide cover for 'formal' investigations. ILAs should clarify whether the definition of investigations also includes internal investigations and consider whether other policies may be relevant. 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.

Advocating for indemnification when not otherwise clear 36.3.2

From the employer's perspective, the appointment and funding of an ILA 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 36.4

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.

Awareness of situations where indemnification may cease 36.3.3

Violation of undertaking to the company 36.3.3.1

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 36.3.3.2

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 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.

36.3.4 Ensuring sufficient funds for protracted investigation

36.3.4.1 Cap on insurance policy

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.

36.3.4.2 Commitment of company to continue indemnification

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.

36.4 Privilege concerns for employees and other individuals

36.4.1 In communications with other employees

36.4.1.1 Colleagues or people involved in underlying events

See Chapter 18 on privilege

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 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, 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.

36.4.1.2 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.[16]

See Chapter 18 on privilege

Use of employer email to conduct privileged conversations 36.4.2

With internal counsel 36.4.2.1

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

See Chapter 18 on privilege

Unless the individual forms part of the client group identified within the employer that has the dominant purpose of obtaining legal advice,[17] or unless litigation privilege applies, communications with the in-house counsel will not be protected by privilege.

With external counsel 36.4.2.2

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.[18]

16 The case of *R (on the Application of AL) v. SFO* [2018] EWHC 856 (Admin) highlights the fact that the SFO is likely to be under increasing pressure to seek waiver of privilege over interview notes for disclosure in subsequent criminal prosecutions.

17 As required following *Three Rivers District Council v. Bank of England* [2003] EWCA Civ 474. This case has been criticised in recent cases: see *Director of the Serious Fraud Office v. Eurasian Natural Resources Corp Ltd* [2018] EWCA Civ 2006 and *R (on the application of Jet2.com Ltd) v. Civil Aviation Authority* [2020] EWCA Civ 35.

18 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 of Volume I

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, 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 investigations and internal investigations. She has extensive experience in advising firms and individuals on a broad range of regulatory issues, including conduct rule breaches; allegations of financial crime (such as money laundering, bribery and corruption, and fraud), as well as contentious issues arising in the fintech sector relating to consumer-credit activities, payment services and e-money. She is regularly instructed in relation to FCA and SFO investigations, prosecutions and enforcement actions against corporates and senior individuals. She also has extensive experience of high-profile corporate investigations advising on issues of self-reporting to and liaising with a variety of regulatory bodies and prosecuting authorities.

Sona is ranked as a Leading Individual in *The Legal 500*. Sources describe her as 'energetic and detailed; incredibly personable and reassuring' and having an 'incredible knowledge of the area' (*The Legal 500*). She is recognised for understanding 'the commercial realities and personal pressures of investigations and proceedings and help[ing] clients manage both' (*The Legal 500*). Sona is also ranked in *Chambers* and is described as 'outstanding; I would say she is meticulous, methodical and very well organised' and as having 'great industry insight' (*Chambers UK*).

Earlier in her career, Sona was seconded to the Enforcement Division of the 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.

David Murphy
Fox Williams LLP

David Murphy is a partner at Fox Williams LLP who specialises in guiding HR directors, 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, and he is experienced in advising on sensitive investigations in both sectors, particularly in respect of allegations relating to breaches of duty and conduct rules, and discrimination and harassment. 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 2021 edition of *The Legal 500*, David is recognised as a 'excellent, technically knowledgeable, approachable, commercially astute and pragmatic'. In the 2022 edition of *Chambers and Partners*, he is described as providing 'strong technical guidance on issues and balances that with the commercial impacts to enable a pragmatic resolution'.

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