

Friend Or Foe? Why And When To Choose Someone Outside Your Company To Investigate Workplace Misconduct

written by Haley O'Halloran | July 3, 2024



Being a good employer in Canada means doing more than paying minimum wage for hours worked. In the case of misconduct in the workplace, being a good employer means understanding occupational health and safety, employment standards, and human rights legislation and when necessary, hiring someone outside to investigate misconduct.

While hiring an external investigator can feel like exposing your company to a foe, below are some reasons to consider an external investigator a friend.

1. The person being investigated is also the person responsible for ensuring complaints are investigated

A good Respect in the Workplace policy will be signed off by a senior leadership team member responsible for workplace culture. If the misconduct complaint is about that team member, it is important to choose someone outside your company to investigate the misconduct complaint to demonstrate that the policy is applicable to all employees, and not even senior leaders are above its application. Choosing an external investigator also ensures that alliances, friendships and power dynamics amongst the senior leadership team aren't a factor since the external investigator will not have a vested interest in any particular outcome, like the other members of senior leadership team.

2. The misconduct complained about may be of interest to the public and/or shareholders

Many companies have built their brand around values focused on social purpose. When misconduct occurs in such companies, the impact on the brand will be great if the misconduct touches on the company's core values. Having an external investigator assess the facts will demonstrate that the need for a workplace investigation can be reconciled with the company's core values since an external investigator brings necessary objectivity.

3. Company restructuring has occurred, is occurring or is about to occur

Change is inevitable, however the stress associated with it can have unintended consequences on your employees if not properly handled. If a complaint is received

before, during or soon after restructuring, consider an external investigator. This is especially true if your workplace is unionized, and employer-union relations have suffered because of changes. The benefit is that the external investigator does not have a vested interest in what the company was before or after the restructure so will bring objectivity to the investigation that an internal investigator may not.

The content of this article is intended to provide a general guide to the subject matter. Specialist advice should be sought about your specific circumstances.

Author: [Fiona H. McFarlane](#)

KSW Lawyers