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Key considerations when conducting an internal investigation remotely

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Poll – What do you consider to be the biggest challenge when conducting internal investigations remotely?

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Investigation planning

- Imperative to consider additional requirements and nuances e.g. the conduct of interviews, document retention, collection and review, and the presentation of findings
- Scope of the investigation should be articulated with sufficient clarity to minimise potential investigatory slippage
- Considerations will be given whether to proceed with the investigation or postpone it

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Document imaging and retention

- Remote working can present certain challenges for data preservation where there are devices that need to be imaged but are spread out geographically
- Right to access “bring your own device” arrangements
- Additional time will need to be factored into the process to ensure forensically sound data
- Hardy copy documents must not be forgotten
- Document preservation notices to minimise the scope for inadvertent loss of data.

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Document review

- Document review team fully appraised of the requirements of the task
- Consideration given to location of the review team

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Interviews

- Careful consideration as to whether to conduct interviews remotely due to resulting difficulties in reading and assessing reactions of the interviewee
- Nature of the interview
- Security and clarity of the connection
- Confirming the interviewee is alone in the room to ensure legal privilege or professional secrecy rules

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Internal and external reporting

Internal reporting

- Careful planning e.g. documents marked in draft and privileged
- Document security settings implemented

External reporting

- Thought as to the method of providing the report and supporting documentation
- Ensuring metadata of data collection is correct

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Remediation

- Logistics of implementing systems and controls remediation
- Consideration given to the timeline, e.g. what requires immediate attention

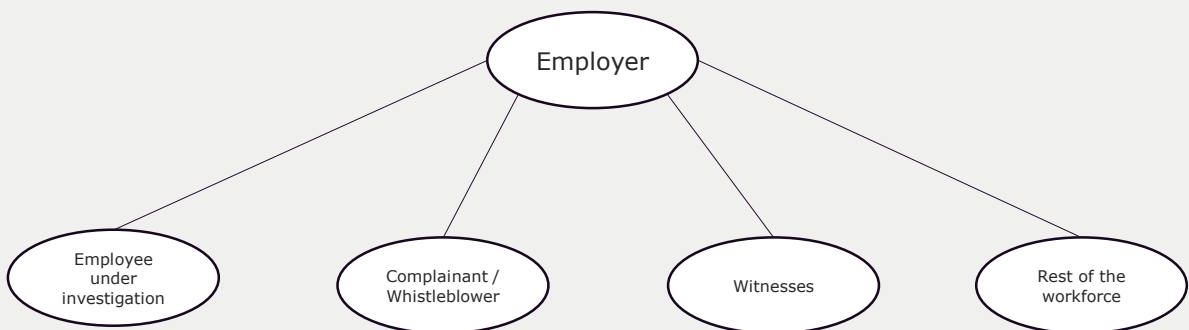
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Conclusion

- Opportunities to expedite the process
- Minimise costs compared to a normal investigation
- Focus on controls to ensure the move to agile working doesn't impact the efficiency or procedure of investigations
- Role of technology in managing the transition to agile working

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Employer's Duties – Striking a Balance



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Employees - Key considerations

- Rights under contract, statute and common law
- Suspension
- Confidentiality / Anonymity
- Blurring lines between different types of investigation
- NDAs

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A case of give and take?

- With the CJRS scheme extended to 30 September 2021, the cost of the support packages continues to mount
- HMRC's most recent update of 25 March 2021 shows that on 15 March 2021:
 - A cumulative total of 11.4m jobs have been furloughed
 - Monetary claims totalling £57.7billion were made 1.3 million employers
- Around 10% of CJRS claims are wrong

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HMRC are policing the Furlough scheme

- Computer system inbuilt checks
- Whistleblower hotline
- Launching formal investigations including criminal
- Enquiries as part of wider cross-tax review

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“We understand that mistakes happen...”

- Identify and correct errors
- Broadly a 90 day time limit to notify HMRC of errors
- The Carrot and the Stick

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Poll: Do you think there are companies who will avoid delving too deeply into their CJRS claims on the basis it is thought preferable to let sleeping dogs lie?

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Proactive vs reactive

Proactive:

- Check validity of claims via a "light" or "proactive" investigation

Reactive:

- Dealing with a HMRC enquiry via a "responsive" investigation

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Poll: What do you consider to be the biggest challenge facing your organisation during the next year?

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Questions?

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