

# Investigating the investigators

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**Why would NHS employers spend a fortune on formal investigations that are often fundamentally flawed, cause immense harm to staff, and impede learning for staff and patients? Why would NHS employers often start a prolonged formal investigation rather than intervening early and informally wherever possible?**

**O**ur new report [Investigating the Investigators](#) examines why (and when) formal investigations are authorised, how they are conducted and their impact on staff well-being, staff behaviours, workplace culture and patient care.

Drawing on existing literature on investigations outside the NHS, on inquiries into NHS culture, and our own survey alongside dozens of interviews, we suggest that radical improvement is needed.

Our findings mirror those of the Francis Speaking Up [report](#) (2015) and other evidence. They suggest that little learning has taken place about either the effectiveness of investigations or the harm that investigations often cause.

NHS investigations frequently fall short of the standards set by the courts and research. Moreover, there is no statutory regulation of workplace investigations (or investigators), nor are there accepted standards that employers are expected to ensure investigators follow in the NHS.

Not only did we find that many investigations fell short of acceptable standards, but in many cases the investigation itself was weaponised and became a punishment such that a significant number of interviewees left the NHS, retired early, lost their careers or became very ill.

In many cases, those reporting discrimination, bullying and patient safety were treated just as shockingly as those facing disciplinary

allegations – indeed, the raising of concerns seems to prompt some disciplinary investigations.

**We make a number of recommendations:**

1. Employers should avoid pursuing a formal investigation into workplace conflicts unless there are no other options. Whenever possible, informal resolution is likely to cause less harm, emphasise learning rather than blame, save considerable time and money, and help preserve fragile workplace cultures.
2. Where investigations are needed, they require considerable skills to undertake them effectively and fairly. That means a serious rethink about who does them. Investigators we interviewed suggested that NHS employers were beginning to place greater emphasis on building their own teams of dedicated specialist investigators rather than relying on non-HR managers or external contractors.
3. HR and management need to ask at every stage of an investigation, especially prior to the consideration of a formal investigation and when it is concluded: what the purpose is, and who it benefits - the individual, the team, the organisation or patient care? At its conclusion, they must work much harder to ensure the restoration of the staff member back into their team or

workplace in a compassionate manner that rebuilds trust.

4. There must be accountability for those who commission, undertake, advise on, and consider the findings of investigations. There must be an expectation that whether investigations are undertaken, how and how their findings are addressed must be in line with the values the organisation professes and must emphasise compassion, awareness of avoidable harm, the crucial impact of power differentials, the risks of retaliation, the risks of discrimination and an emphasis on asking how to restore psychological safety.
5. Organisations should not underestimate the risk of making the investigation itself a punishment, thereby harming those involved, obstructing learning for the commissioning organisation, and contributing to a toxic culture. Effective accountability means NHS boards need to be curious and ask, for example, what the learning from investigations is; what remains beyond, say, six months; and what consequences arise when patterns emerge in data on entrants to, outcomes from, and harm arising from investigations.
6. Accountability should also extend to national leaders, regulators, and ministers, who must embody their commitments to protecting whistleblowers and those raising concerns. They should also be responsible for holding accountable anyone who attempts to block or punish those who raise concerns, fostering a culture of transparency and integrity.
7. We suggest reducing reliance on external investigators and being especially cautious about those external investigators whose short-term commercial interests might not align with the values and priorities of the NHS. That will require building skilled investigation teams within and across organisations.
8. Clear, codified standards should be introduced, rather than the wild, wild west that seems to be fairly common in parts of the NHS.

Implementing these recommendations will require sustained commitment from the NHS at every level. The current Wild West of workplace investigations must be replaced by transparent processes, skilled investigators, accountability and open dialogue

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