

CEDR Report

Human Resources

Based Investigations

Results of Survey
March 2016



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Please note that the views expressed in this document do not necessarily represent the views of any individual or organisation.

Overview of Results

In this document we set out the results of CEDR's 2015 research into investigations carried out by Human Resources departments. The survey was carried out as part of CEDR's work into reforming the processes of investigations and reviews and follows on from CEDR's three-year project to reform the Public Inquiry process. With this project, CEDR has studied the time and resources that organisations put into investigations; the nature of investigations undertaken by internal and external teams; and the efficacy of the recommendations and review process. Alongside this survey work, CEDR has also consulted with a group of HR professionals about their qualitative experiences of the investigations process as well as analysing the work that CEDR itself frequently undertakes as an external provider of internal investigation services.

Executive Summary of Results

The key results we found from the survey of HR Professionals are as follows:

Types of Investigations

- The majority of respondents said that they were involved in investigations multiple times a year with 36.1% involved in more than 20 investigations a year. A fifth of respondent are also involved in conducting more than 10 investigations at one time.
- Qualities sought for investigators are similar for both internal and external investigators.

The qualities people are looking for from an investigator in order from most to least sought after are:

- 1) Experience in conducting investigations
- 2) Neutrality
- 3) Ability to see bigger picture
- 4) Expertise in subject matter
- 5) Communication Skills
- 6) Problem Solving Abilities
- 7) Legal Skills

There is no difference between internal and external investigators apart from the fact that with external investigators, quality 4 – expertise in the subject matter – switches places with quality 3 – ability to see bigger picture – implying that when using an external investigator it may be because they have some additional understanding of the particular subject matter which is why they have been brought in.

- The survey shows the importance of word-of-mouth when selecting an individual externally to run a review or investigation, this happens in over half of instances.

When to Use an Internal/External Investigator

- On the question of whether an investigation should be led internally or externally there was a wide variety of views.
- Whilst no issue was universally considered to only be suitable for external or internal investigation
 - external help was felt to be most appropriate for complaints of criminal/financial wrongdoing where they may be external sanctions,
 - whereas internally led investigation procedures were felt to be more appropriate for complaints by members of the public, complaints against the HR department and complaints about the way an investigation had been carried out.
 - The biggest difference in thought in terms of whether to use an internal or external investigating team came with disputes involving board conflict and disputes involving very senior executives.

Timing and Methodology for Investigations

- The survey showed an average of 26 hours was spent on internal investigations or reviews and 42 hours for an external one. Perhaps noticeably people were using relatively short times for determining what it is they were investigating and how to do a methodology. 66% spent just one hour determining how they were going to carry out the investigation (which might take 25 hours to do). Even in determining what the investigation should cover, 41% would take less than an hour. This potentially belies an overly superficial consideration of investigation ambit.
- Of the time spent on investigations preparation was typically taking 1 or 2 - 3 hours and follow-up on any recommendations was also typically taking 1 or 2 - 3 hours.

Recommendations and Review of recommendations

- The survey showed that in the vast majority of instances investigations and reviews are accompanied by recommendations.
- Satisfaction with investigation recommendations was felt to be satisfactory within organisations and also by the persons or units subject to the inquiry (approximately two thirds) though few organisations or individuals felt investigations were very satisfactory.
- Where recommendations are made they are more likely to be implemented if made by an external investigator than an internal investigator. Just 7.4% of respondents report that over 90% of recommendations made by internal investigators are implemented compared with 27.3% of respondents reporting over 90% of recommendations made by external investigators are implemented.
- Over 60% of respondents had experienced criticism of an investigation after the findings had been reported
- The survey showed that in the majority of instances very few investigations needed to be reconducted (which only happened very occasionally)

Results In depth

The Format of the Report

This report is divided into 4 sections. Following the report’s methodology, the first section looks at the types of investigation that are undertaken by organisations. The second section looks at the profile of those who are called to be investigators and what qualities are looked for in an investigator. The third section looks at the time and process for an investigation and how these are carried out. The fourth section is about the recommendations from investigations and how frequently they are implemented and reviewed.

Methodology and Profile of Respondents

The survey was carried out in May and June 2015 by web-based questionnaire. The survey had 48 respondents, who worked in either HR or Employment Law. The respondents tended to have worked for their organisations for a considerable period of time, with the average length of service being 11 years, 6 months. At the extremes there was a respondent who had worked for their present employer for 7 months and one who had worked for 25 years.

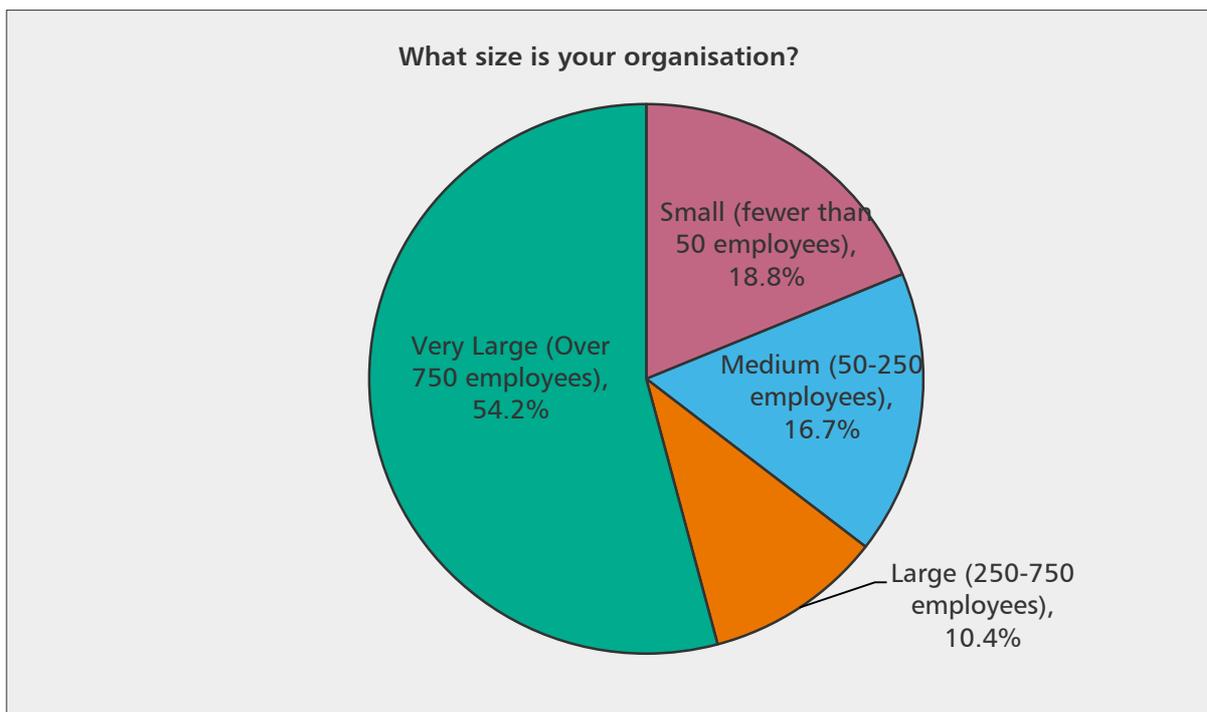


Figure 1 Size of Respondents’ Organisations

The respondents came from organisations of all sizes with the majority of respondents coming from organisations with more than 750 employees (Figure 1). The majority of respondents worked as HR directors or business partners (Figure 2), and many of the respondents who referred to themselves as “other” were using alternative names for similar positions (eg. “Head of People”). Some of the respondents were employment lawyers or worked in the field of investigations and there were also a number of consultants.

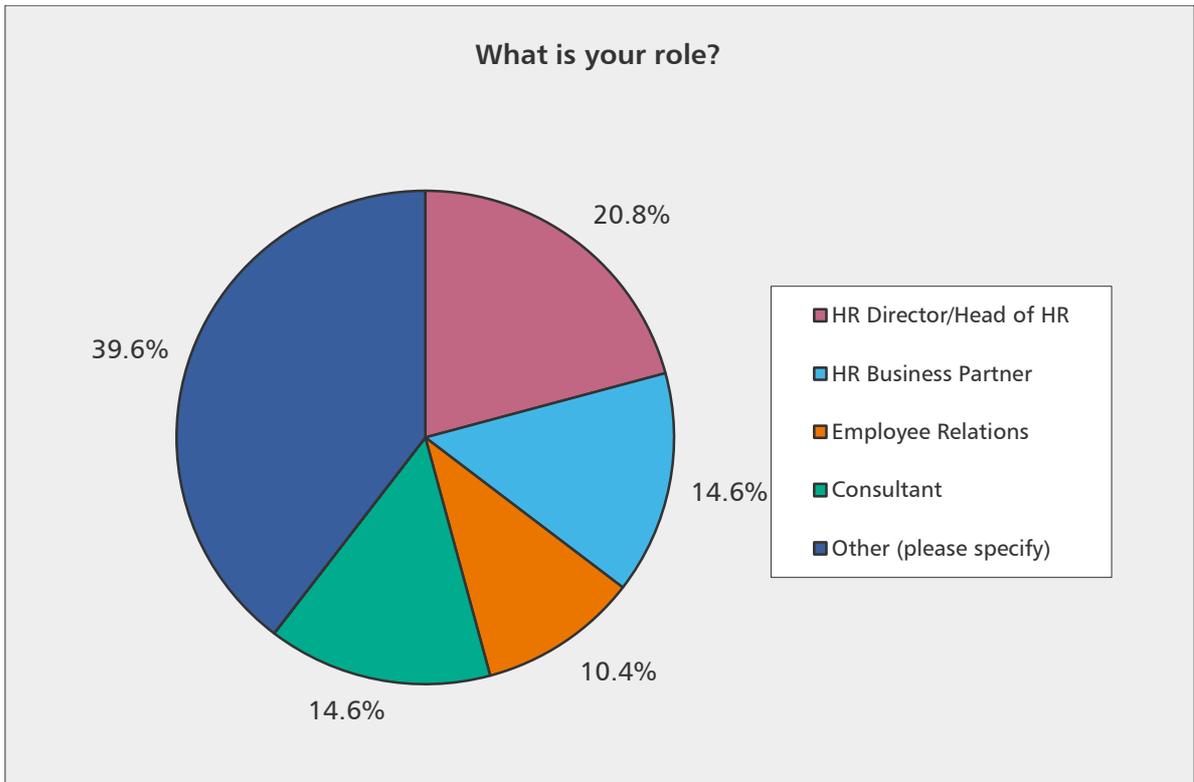


Figure 2 Role of Respondents

The respondents were from a broad range of sectors but there was a heavy presence of those working in legal, banking and finance, and professional services backgrounds. This may skew the results towards having a more formal or process-based investigation style of practice than in other types of organisations

Legal	31.3%
Banking and Finance	12.5%
Professional Services	10.4%
Public Sector	10.4%
Education	8.3%
Energy	4.2%
Media	2.1%
Telecommunications	2.1%
Agriculture and Fishing	2.1%
Other	16.7%
(Includes Property, Charity, Aviation and others)	

Figure 3 Sectors of Respondents

Section 1: Types of Investigation Performed by HR

There is a large split in the experiences of organisations in terms of the numbers of internal investigations that they are carrying out (Figure 4). 41.7% of respondents report carrying out fewer than 5 investigations a year (with 11.1% having no investigations) whilst 36.1% are carrying out more than 20 investigations a year. Whilst much of this contrast is down to the difference in organisational size, it also reveals something of the difference between organisations in terms of the extent to which an investigation they can be regarded as a routine activity for the organisation or a special event.

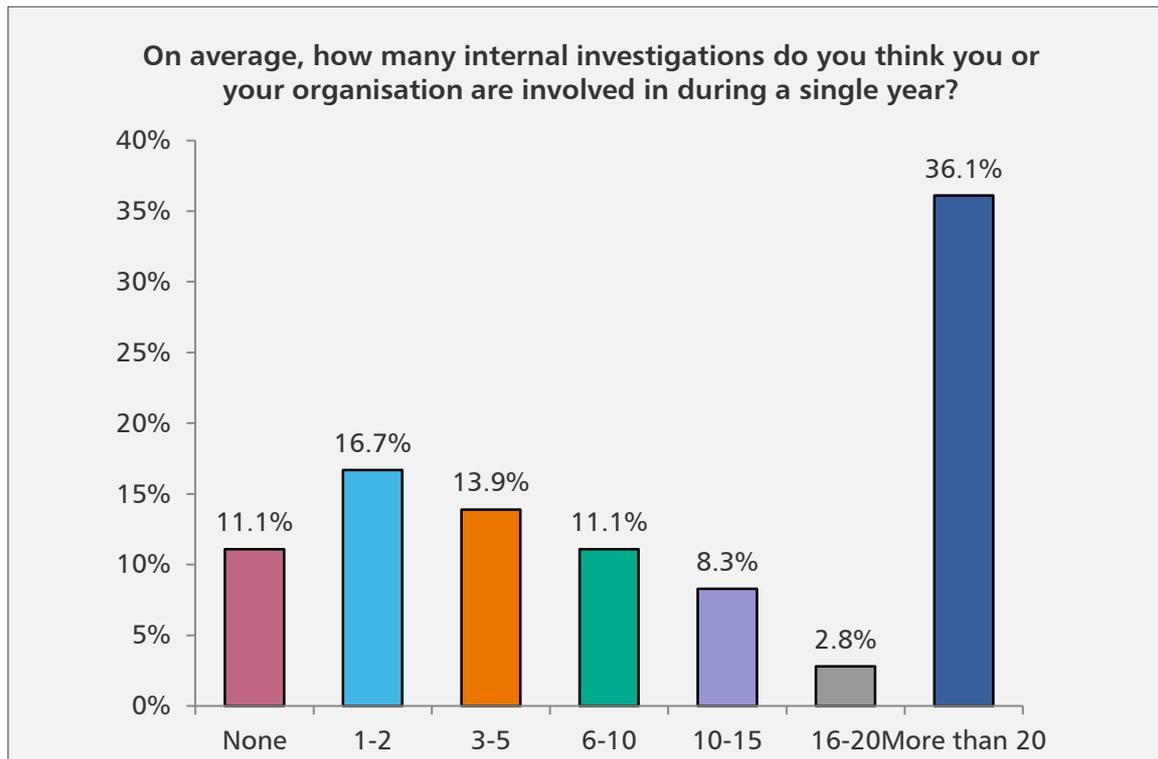


Figure 4 Numbers of Internal investigations carried out each year

When compared with the number of investigations carried out at any one time by an organisation (Figure 5), it is striking that whilst many organisations and HR professionals are dealing with one investigation at any one time, a significant percentage (19.4%) are carrying out more than 10 investigations concurrently. This has the potential implication that for these organisations investigations are the normalised default response for most difficult issues and that the drive for using an investigation as opposed to another process is down to an organisational preference rather than through appropriate need.

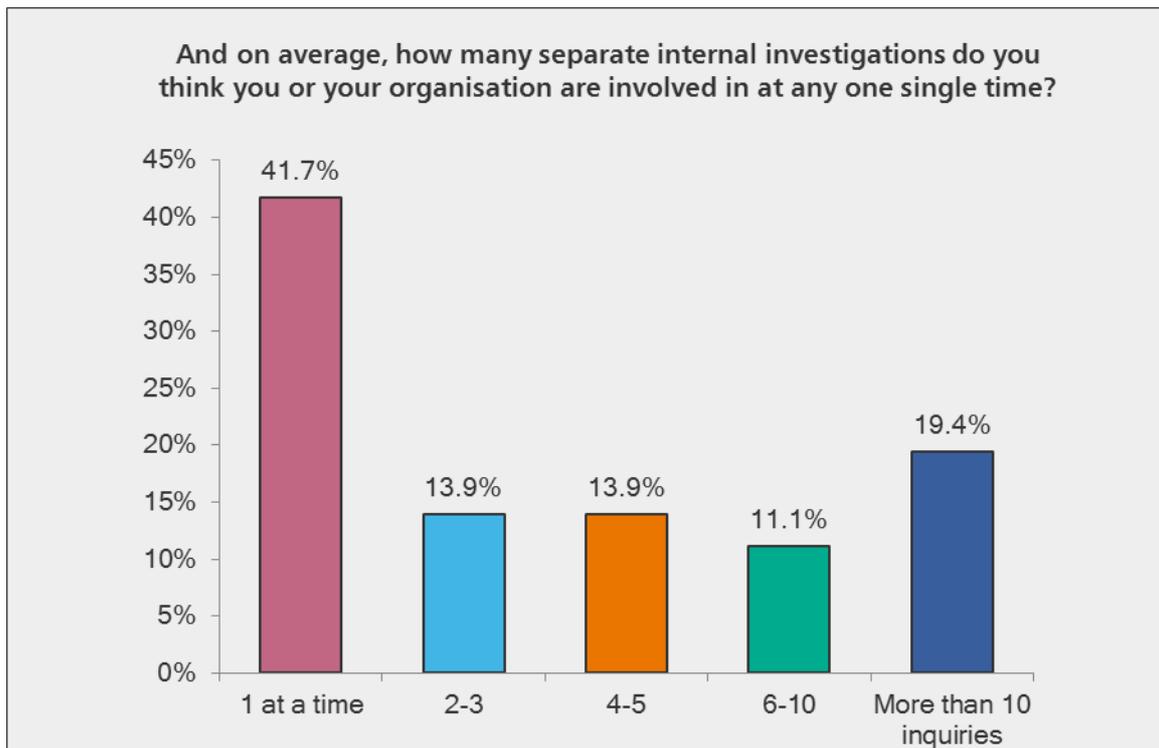


Figure 5 Numbers of investigations carried out at any one time

Figure 6 shows the types of investigations carried out by organisations and how many instances there are of each type. Unsurprisingly, there is a large focus on disciplinary and complaints investigations with the majority of HR professionals dealing with these issues multiple times a year. Importantly there are also similar levels of issues being dealt with in terms of team/relationship breakdowns with just 9% of respondents saying that they had never had to deal with this issue. In contrast there are extremely few investigations by HR into investor or shareholder complaints and a large number (50%) of organisations have never carried out a special HR review into a particular area. In addition as shown by Figure 7, although many organisations will not be subject to investigations imposed upon them by external parties, a significant percentage (39.4%) are subject to statutory regulatory investigations and 1 in 5 organisations has been subject to a criminal activity investigation. These investigations take up considerable time and cause considerable disruption to an organisation. Again, these results overall show how different organisations' experiences of investigations can be and the sorts of investigation types that can be required.

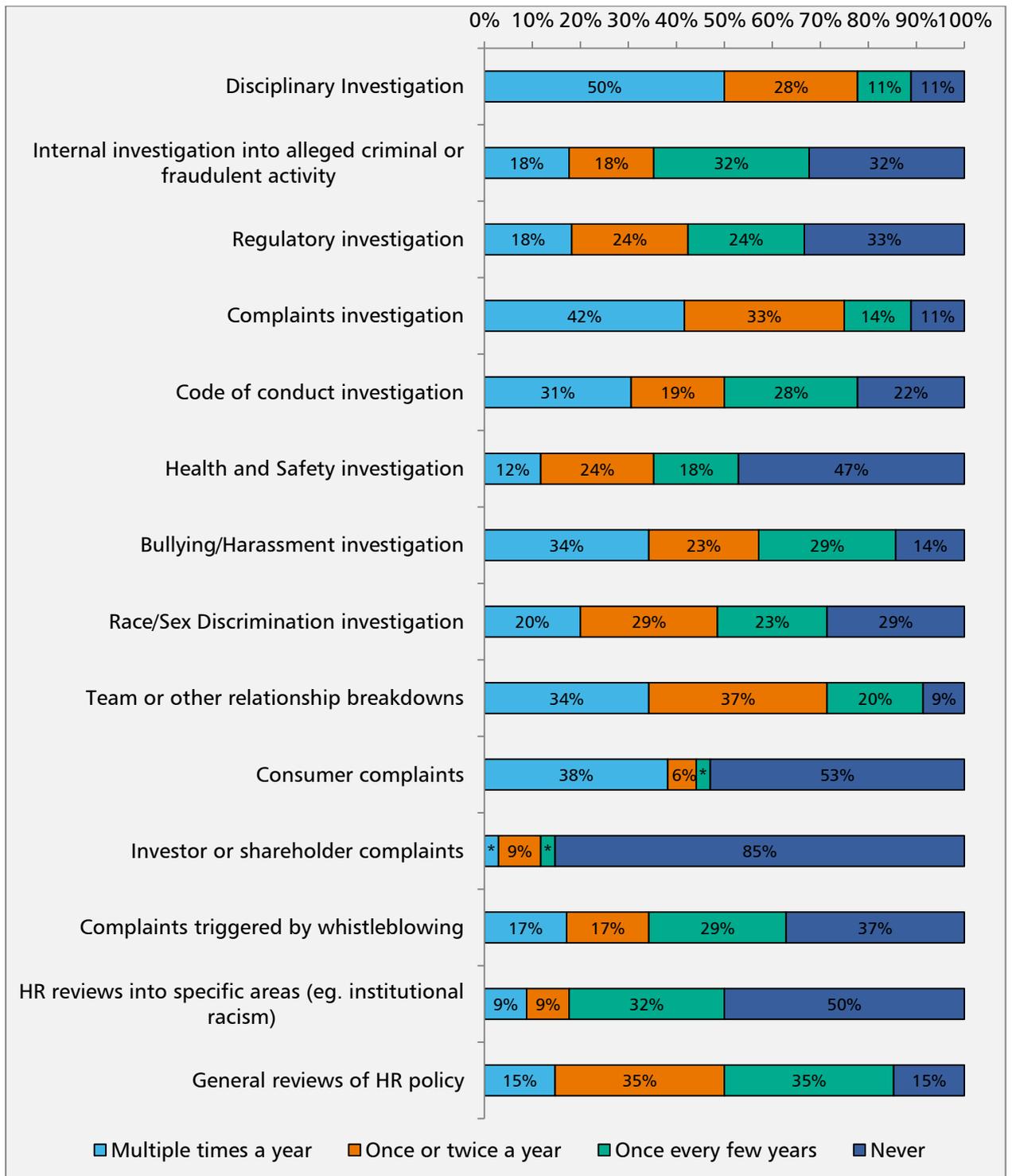


Figure 6 Frequency of Investigation Types for respondent

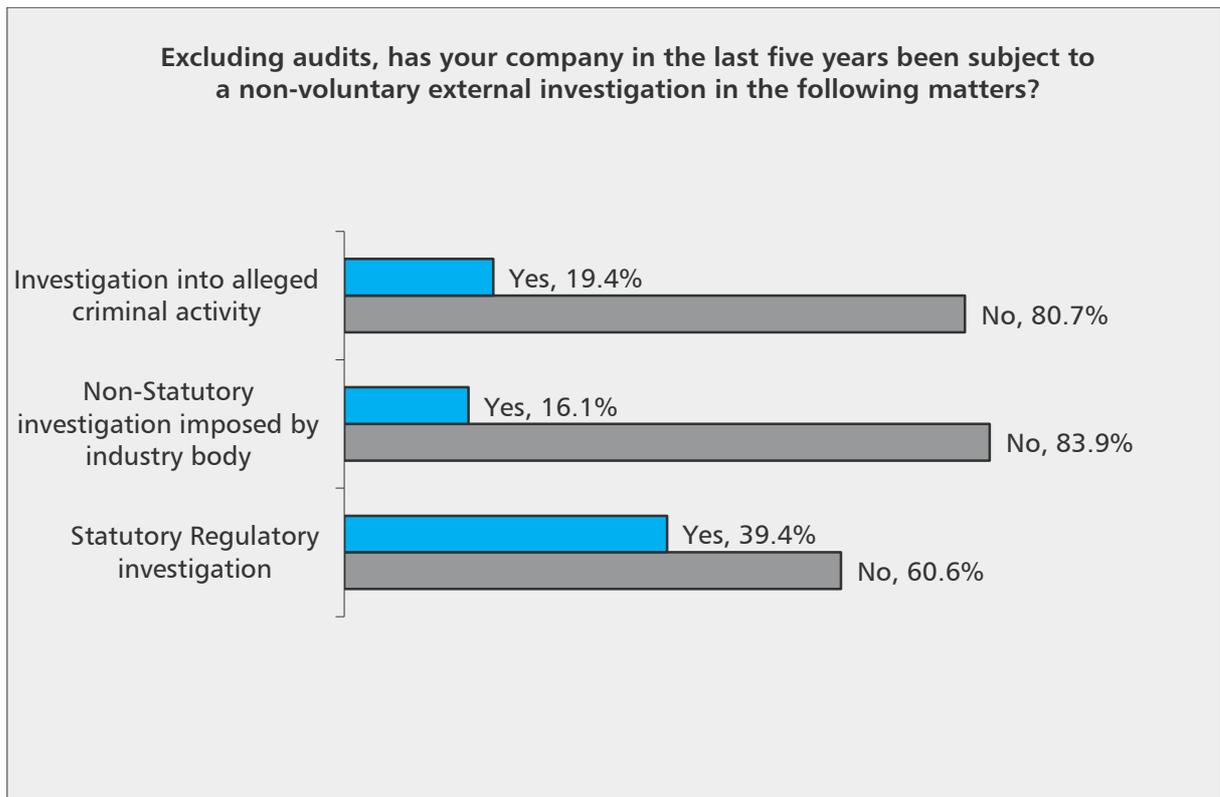


Figure 7 Frequency of External Investigation types imposed on organisations

Section 2: Who is conducting the investigations?

The vast majority of respondents have personally conducted investigations within their careers (Figure 8), with a smaller percentage (though still a majority) also having used external investigators (Figure 9). Methods of selection for external investigators demonstrate that this is largely done in an informal manner, based on word of mouth rather than through any formal mechanism (Figure 10). Indeed, no organisation used a formal recruitment process for selecting an investigator. Overall, the results imply that frequently the investigator is a default option of someone who has done similar investigations before and that there is little time spent on selecting the investigator.

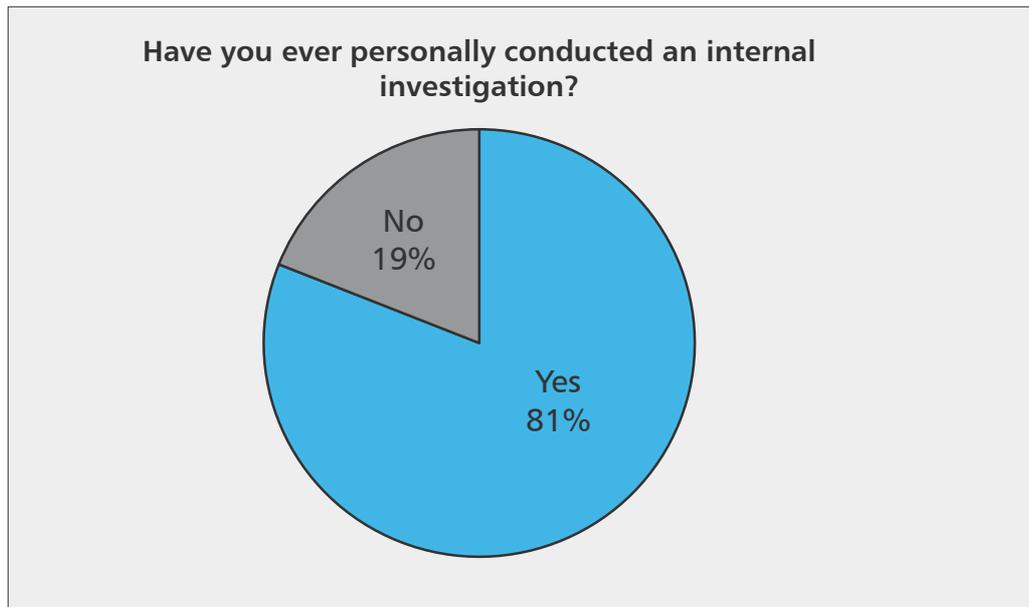


Figure 8 Respondents' own experiences of conducting internal investigations

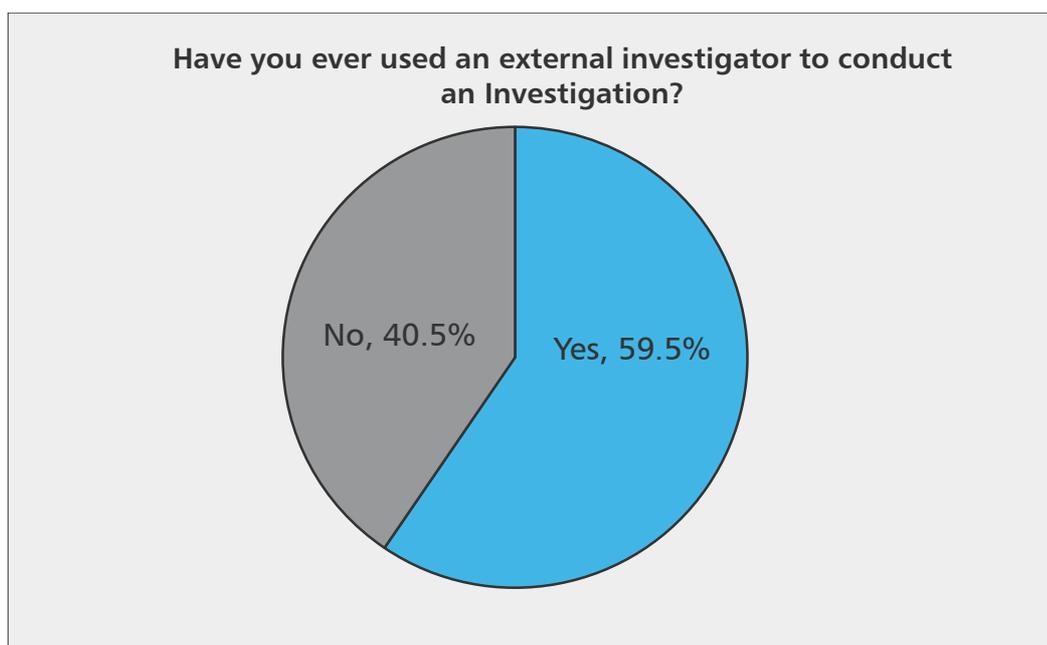


Figure 9 Respondents' Use of external investigators

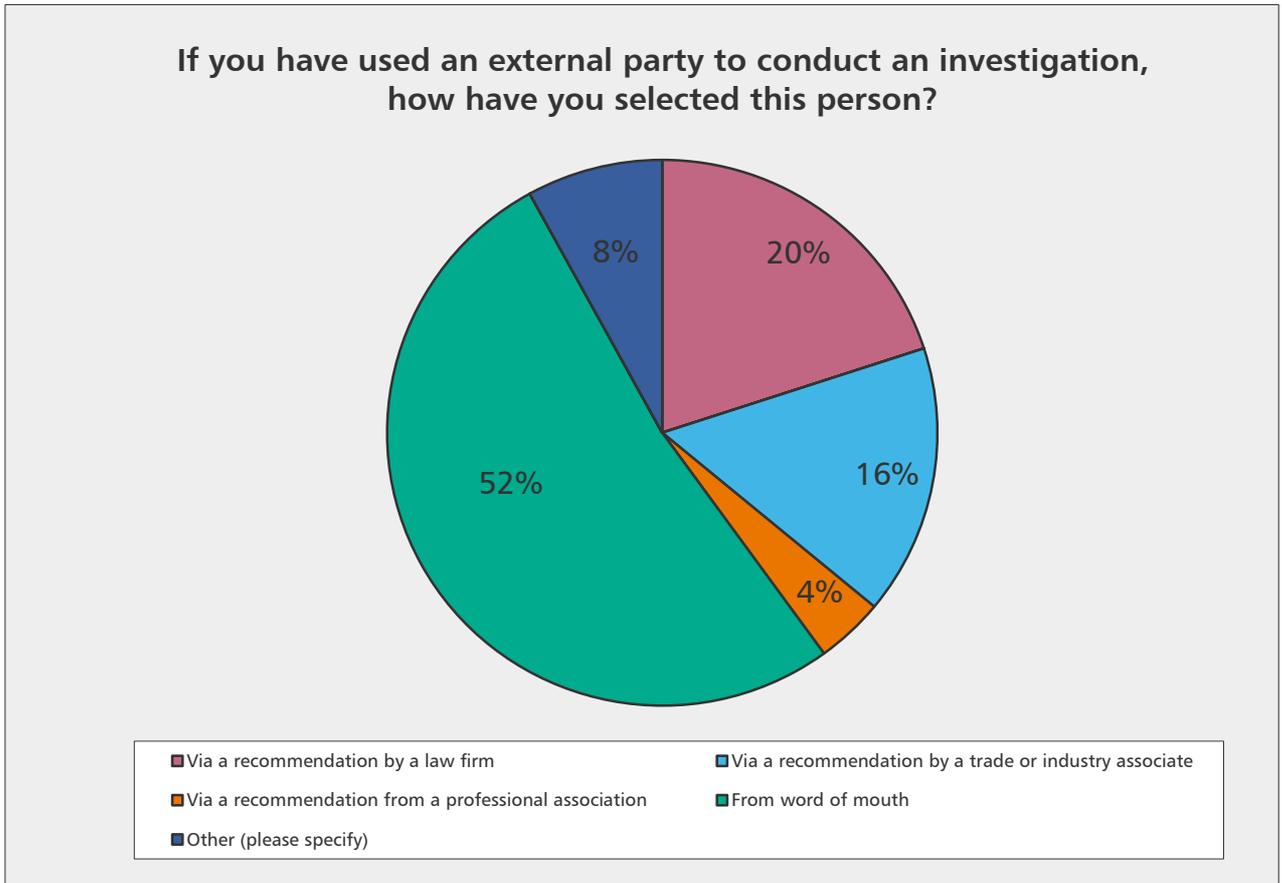


Figure 10 Methods of Selection of External Investigator

In looking at the qualities desired in an investigator (Figure 11), the most popular qualities for both internal and external investigators is experience in conducting investigations followed by neutrality. These two qualities are both vital to any sort of investigation and show an emphasis on the importance of having an investigator who is separate from the issue which is being investigated. Neutrality is so critical that when we asked whether it was necessary for an investigator to be neutral, 50% of respondents answered “Yes, in every circumstance” and 50% answer “Yes, in almost every circumstance. No respondents felt that it was not an important quality.

There is a contrast between the third most necessary skill for internal and external investigators. Whilst for external investigators, their expertise in the subject matter was the third most valued asset, perhaps explaining why an external investigator had been chosen as they possessed a necessary knowledge that an internal investigator would not have (eg. in regulatory law); for internal investigators the ability to see the bigger picture was considered more important as it allowed for investigators to consider the views of their organisation and how the process fitted in more widely.

Legal skills and problem solving abilities are less well considered for an investigator, even with those investigations that are carried out by external investigators. It is clear that the fundamental intention of an investigation is a focus on the initial diagnosis stage rather than on resolving a discovered issue later on.

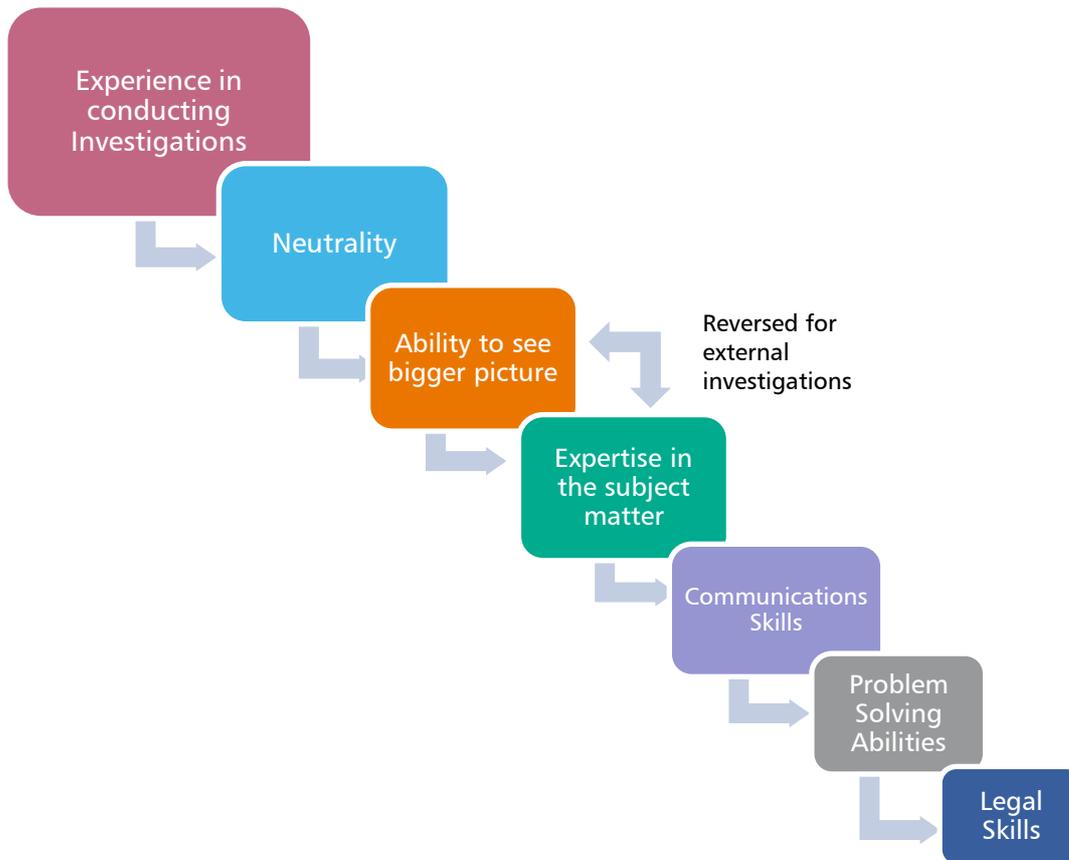


Figure 11 Skills looked for in an investigator

Finally, we asked respondents who else would become involved in any investigation. As can be seen from Figure 12, the vast majority of investigations will involve large numbers of individuals from different areas of the organisation and thus the size of teams for either an internal or external investigation can be extremely large.

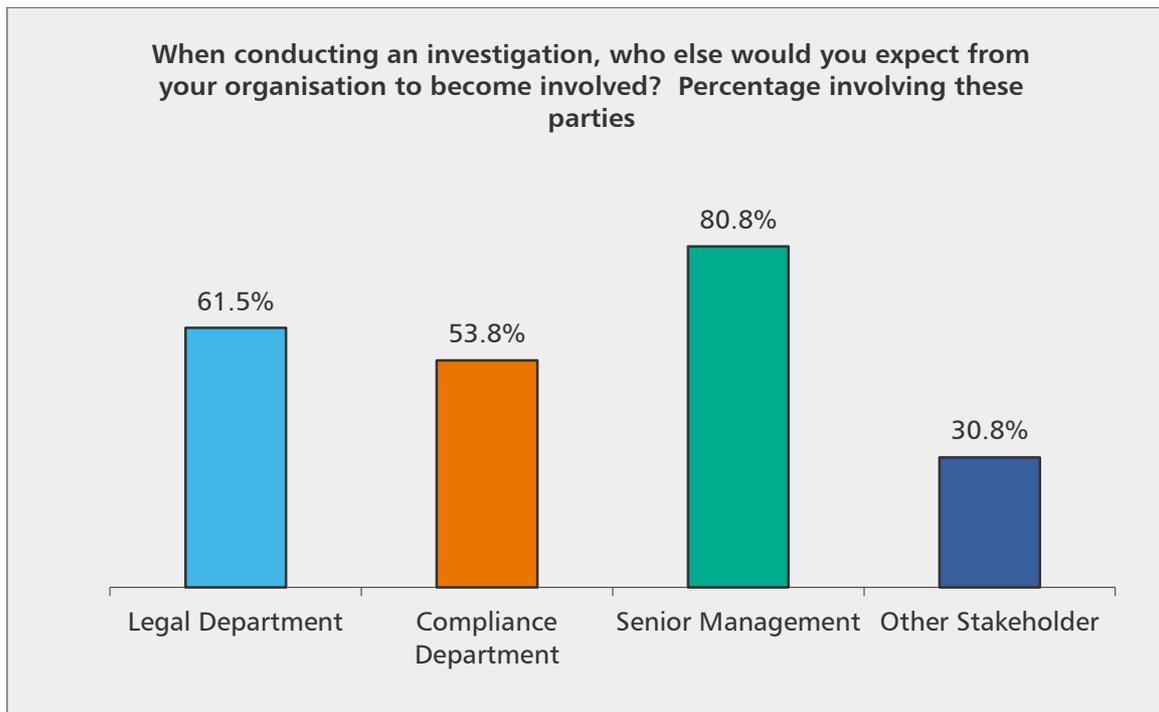


Figure 12 Sections of the organisation who become involved in different types of investigation

In choosing whether to use an internal or external investigator (Figure 13), there is vast difference in individual respondents' views with no options being clear cut to being only suitable for an internal or external investigation respectively. Of those matters which tended towards being considered by respondents as suitable for external investigation (not receiving any responses saying only suitable for internal investigations) were those about issues which could result in criminal sanctions against the organisation, although even here there were a large number of responses indicating that it was preferable to do an internal investigation, even with issues such as criminal wrongdoing where it may be thought that it would be preferable to have an external perspective to remove indications of potential bias. Overall there was a preference to keep investigations internal if possible.

Of those issues where there was a clear preference for internal investigations, these included complaints triggered by members of the public, discrimination/harassment/bullying allegations; complaints about the outcome of an internal investigation; historic complaints against the company and press allegations about poor corporate culture. What is intriguing particularly about historic complaints and press allegations is that both of these processes are likely to trigger the need for some external statement about what has been reported and therefore a wholly internal investigation and response (as is the majority of respondents' preference) is likely to be detrimental. This inclination to keep these matters internal would also seem to contrast with current practice across sectors where issues of historical allegations are increasingly being investigated by external reviewers with the intention by organisations to have publically available reports published. One of the potential issues that could be seen here therefore is the contrasting features for any HR investigation between transparency, publicity and confidentiality and the extent to which an organisation can act in an internally confidential and private manner when conducting an investigation. Whilst potentially desirable for reasons of protection of the institution's reputation, in the modern age, such an approach may defeat certain features of the investigation, in particular complainant confidence in the process and conclusion



There are also several types of issue generating responses from the spectrum of being only suitable for internal investigation through to being only suitable for external investigation. Of the 4 issues that generated the full spectrum of responses, 3 of these issues were in relation to dealing with the most senior element of the organisation, namely the dealing with complaints about very senior executives, complaints by board members and board conflict. Interestingly, board conflict was the issue where the most people felt that it should be handled by an external investigator (with 18% of respondents saying it should only be handled by an external investigator). The only other issue which generated such a large difference of opinion was a complaint against the HR department itself. What can be seen from these different issues is that they tend to deal with the upper ends of the organisation (with boards in particular being an especially contentious issue). At play here are issues to do with the authority of an internal investigator to make these sort of investigatory judgements about senior players; the expectation of confidentiality about issues with these areas and the potential need for external review.

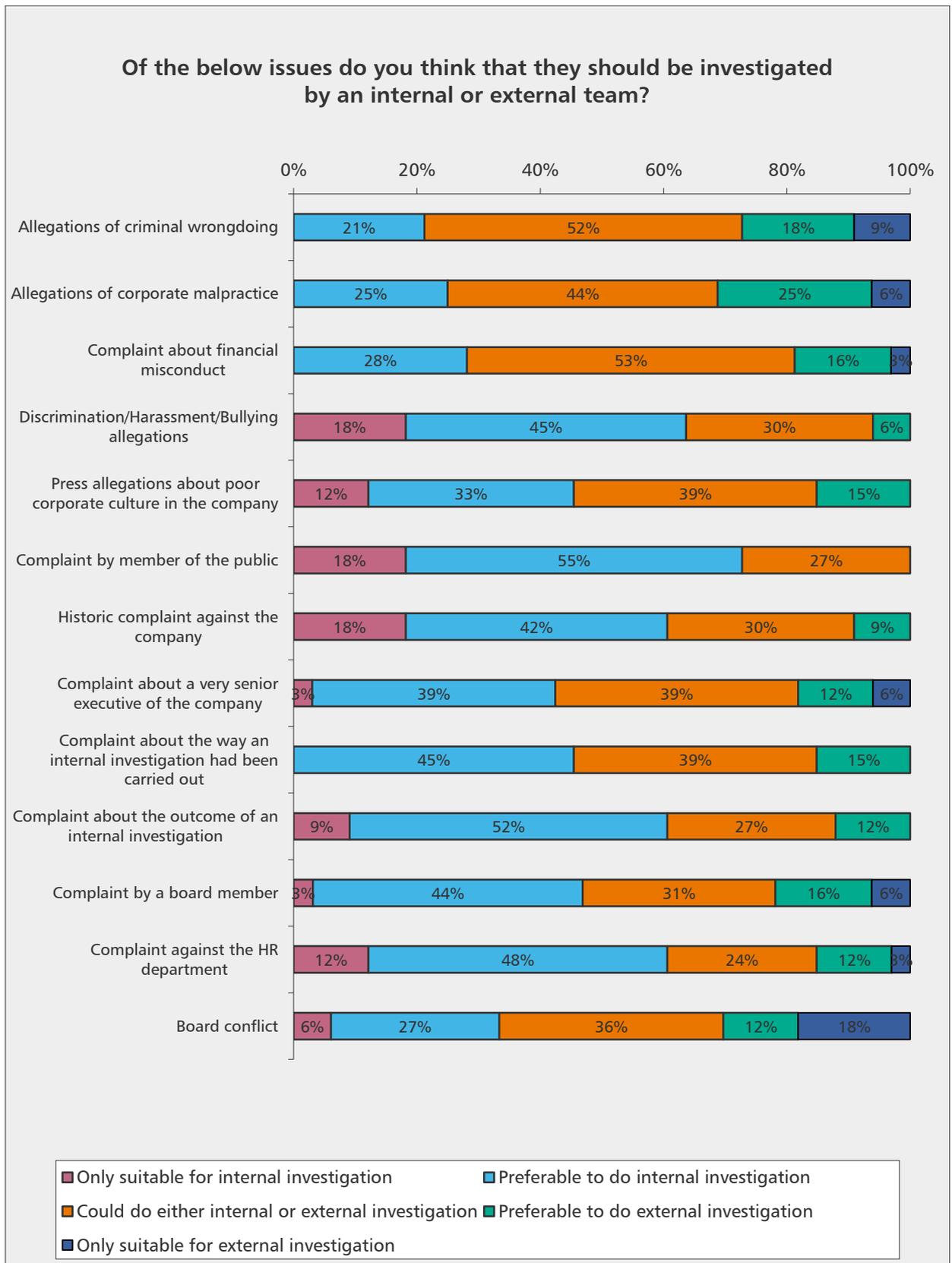


Figure 13 Views on suitability of types of investigation for internal or external investigation.

Section 3: Methodology for conducting an investigation

In looking at how the investigations themselves are carried out, we found that there tended to be slightly more time taken on external investigations compared with internal investigations, with the average external investigation taking 41 hours, compared with 25 hours for an internal investigation. This is still a considerable amount of time for an organisation and does not take into account the number of staff hours taken up with an investigation if they use multiple people.

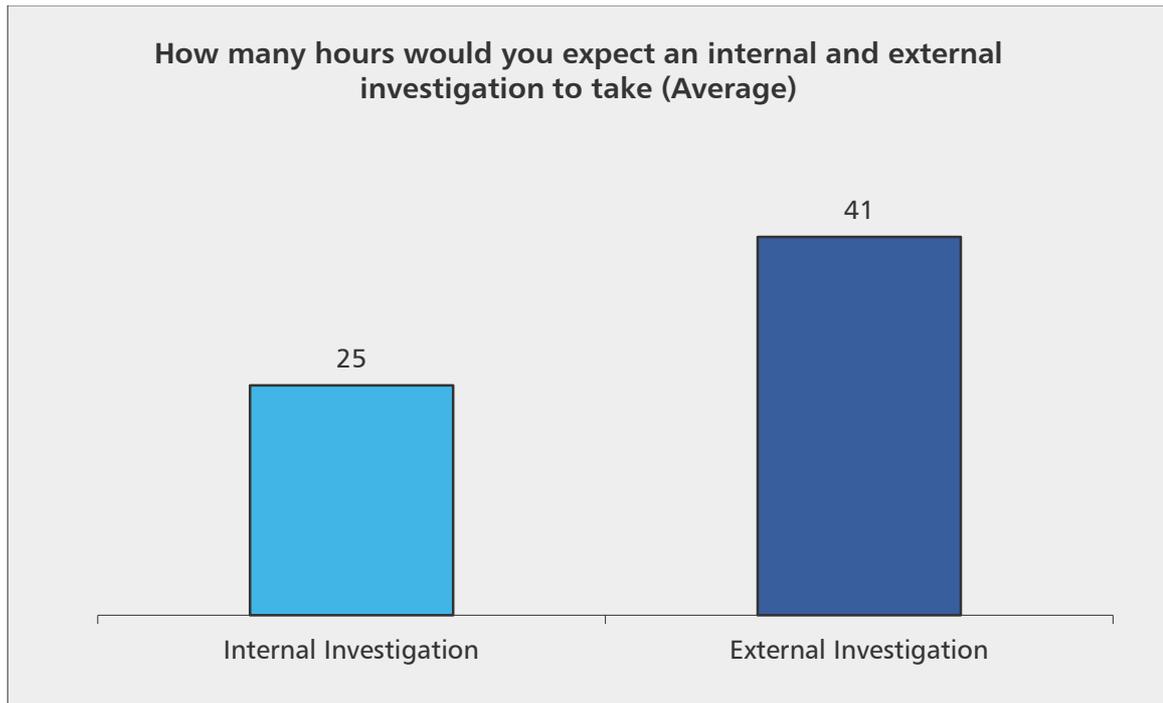
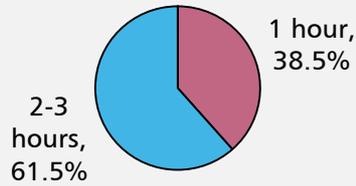


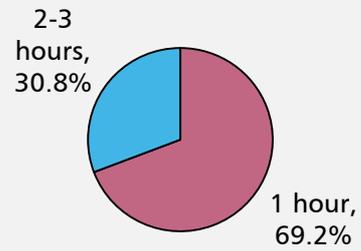
Figure 14 Number of hours of internal and external investigations.

We then asked respondents about the number of hours they would devote to the different tasks of an investigation from inception to completion. The figures below show the percentage of respondents answering how many hours they would give each task. For these questions, respondents were able to select any number including over 20 for the number of hours they would spend on each task.

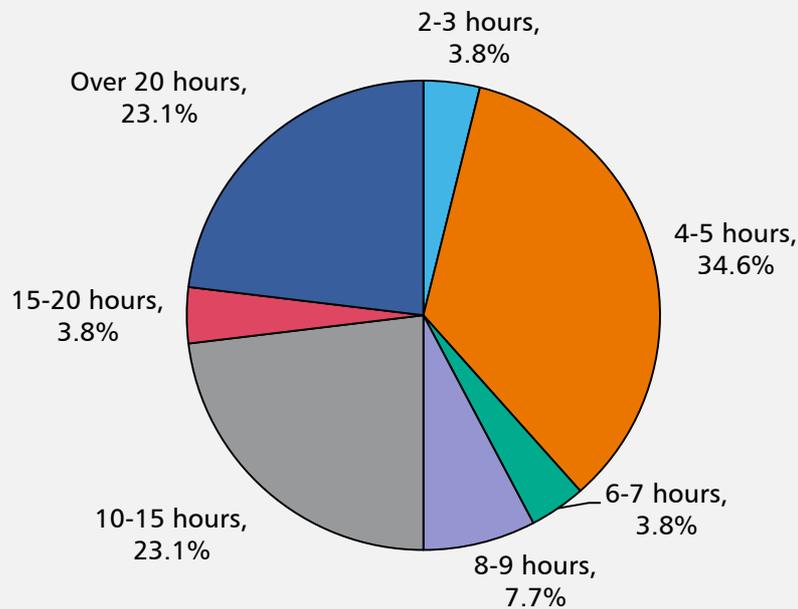
Determining the scope of the Inquiry and what is being investigated



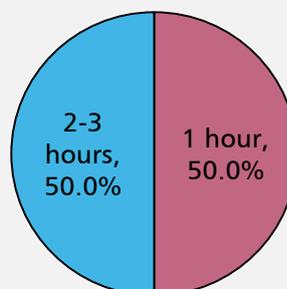
Working out a methodology

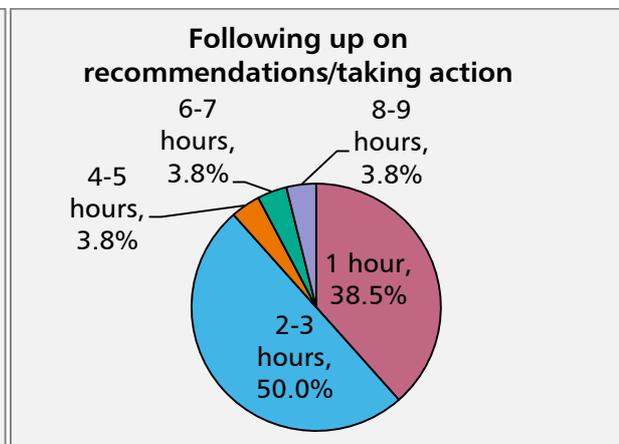
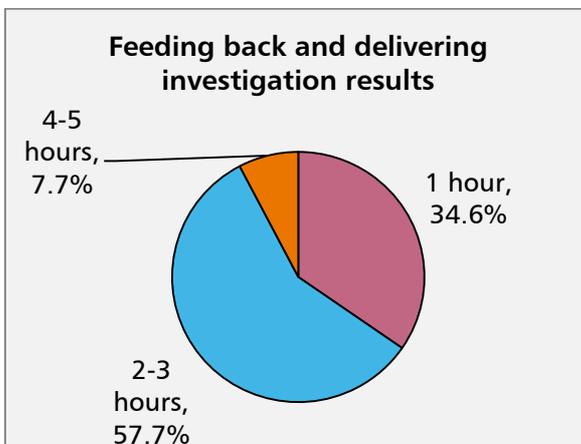
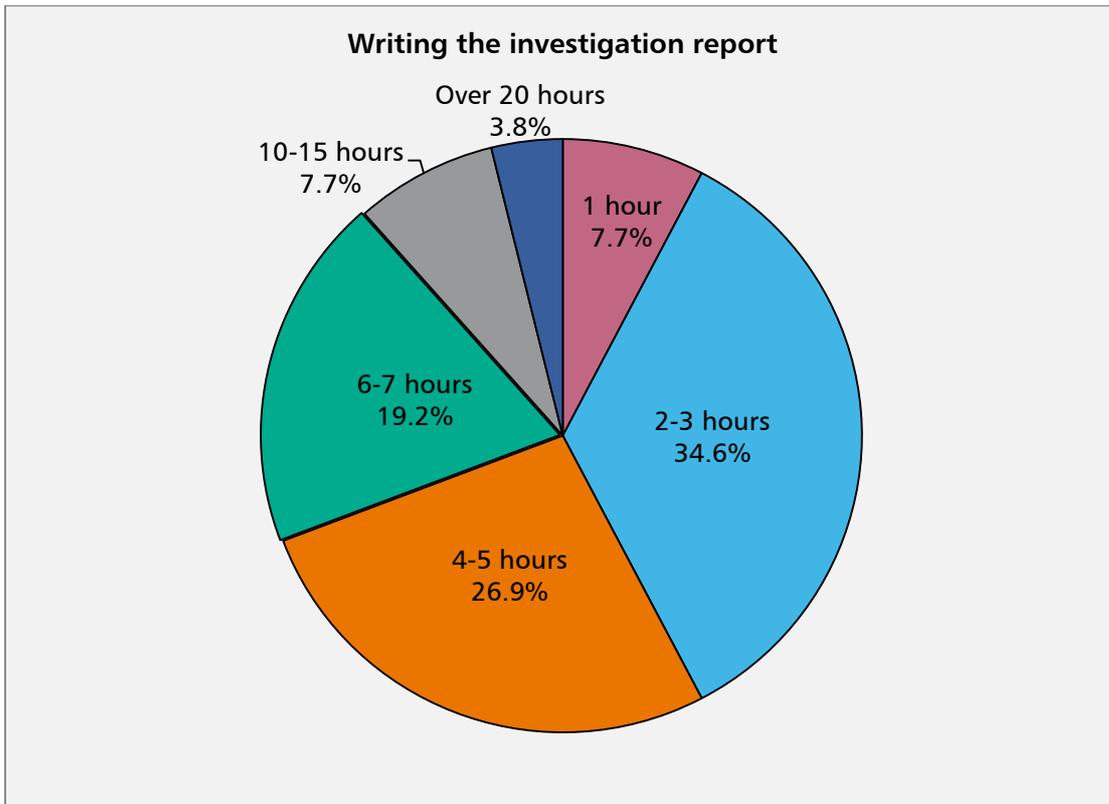


Carrying out the investigation



Reviewing policy/law





Figures 15-21 Numbers of hours devoted to each task by respondent

In looking at the amount of time that investigators spend on different elements of the investigation it can be clearly seen that the majority of time is spent on carrying out the investigation (interviews etc) and writing up the investigation report and relatively little time is spent on preparation (determining what is being investigated and defining a methodology) and on the end section of an investigation (debriefing the conclusions of the investigation and taking action). This potentially shows a default behaviour which confuses the action of doing the investigation with the purpose of the investigation which may be to help improve the organisation through taking action or in explaining a difficult finding. There is little efficiency in a process which takes 20 hours of time to investigate for only 1 hour of action.

Section 4: Review processes and recommendations

One of the main outcomes of an investigation is to allow for a focus on the recommendations that come out of the Investigation to allow for an improvement. However, as can be seen by the Figure 22 although recommendations are the norm, a large number of investigations normally do not make recommendations at all. Where an external investigation has been used, they are far more likely to produce recommendations. Excluding those who have no experience of external investigation, 40.9% of the respondents reported that external investigations always make recommendations compared with 29.6% of internal investigations.

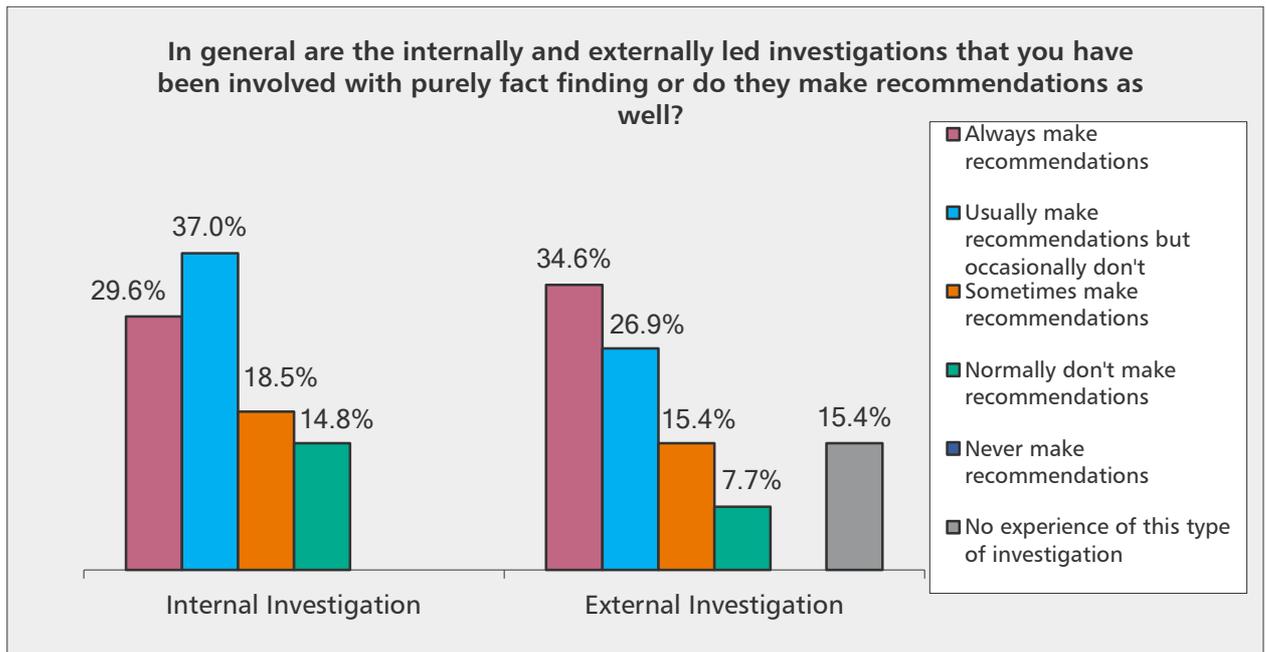
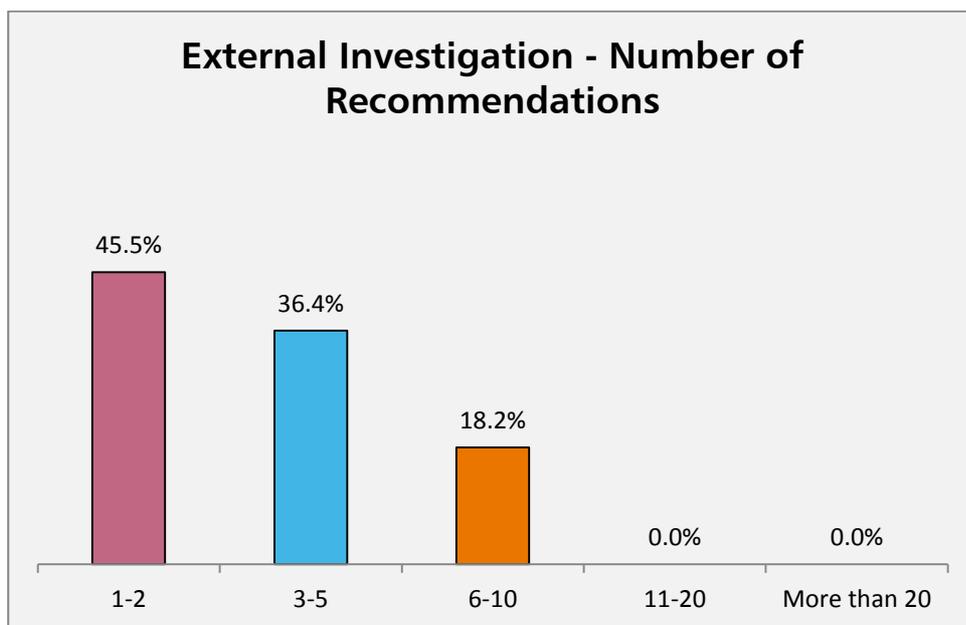
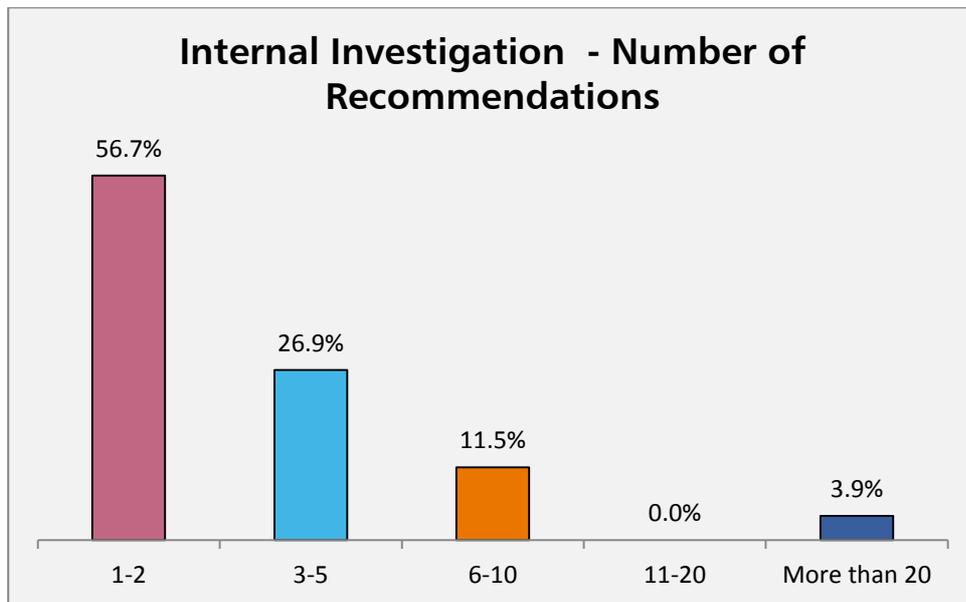


Figure 22 Likelihood of investigations to make recommendations

It can also be seen from the below graphs (Figures 23 and 24) that where recommendations are made, they tend to be one or two recommendations rather than multiple. External investigations are also likely to produce slightly more recommendations than those which are conducted internally.

There are several potential reasons for this including potentially a greater pressure on an external investigator to demonstrate their utility and value by producing recommendations as well as also the ability for an external investigator to have more free rein in making recommendations.



Figures 23 and 24 Numbers of recommendations by type of investigation

In comparing the percentage of recommendations that are implemented by internal or external investigation, it can be seen that (with the exception of the respondents who gave extremely low scores), there is slightly greater scope for uptake of recommendations in externally led investigations compared with internally led investigations. It has been suggested from HR experts we have worked with on this project that this may be because investigations which use external investigators tend to be those which are seen as more difficult or critical to an organisation and therefore recommendations made within such an investigation are more likely to be adopted as an organisation has already identified a need for change.

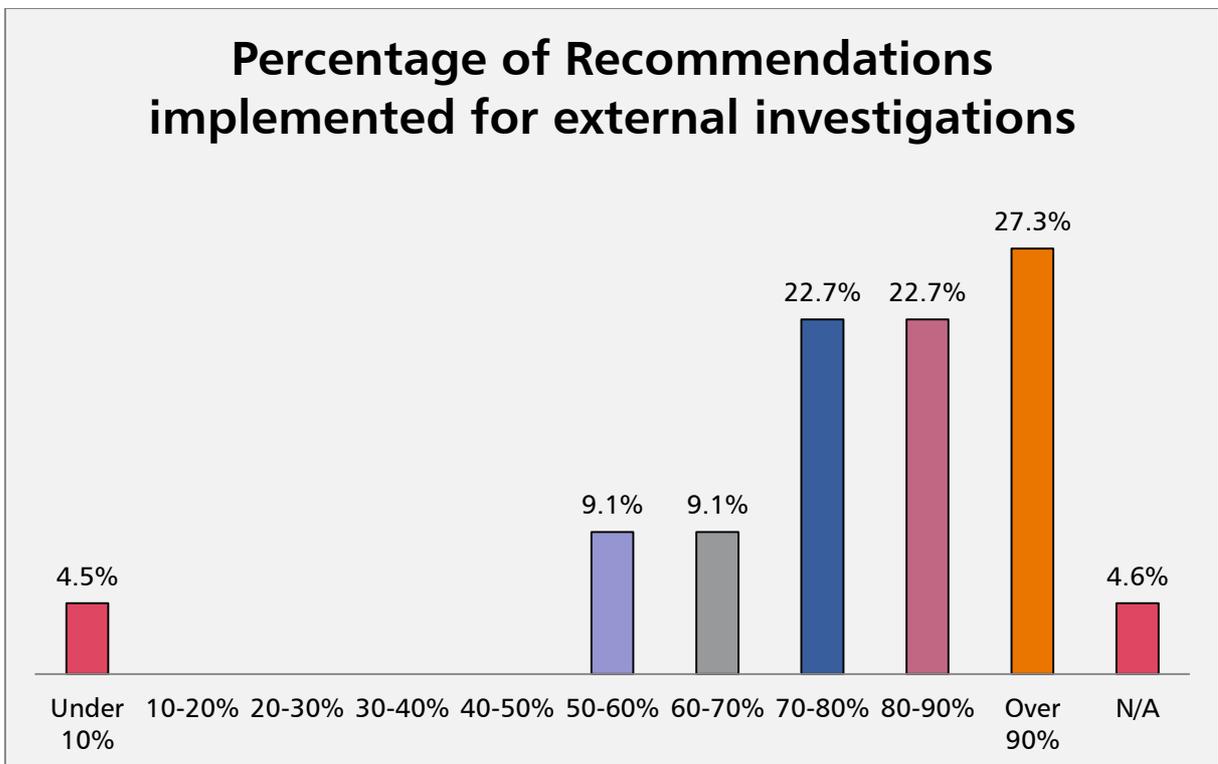
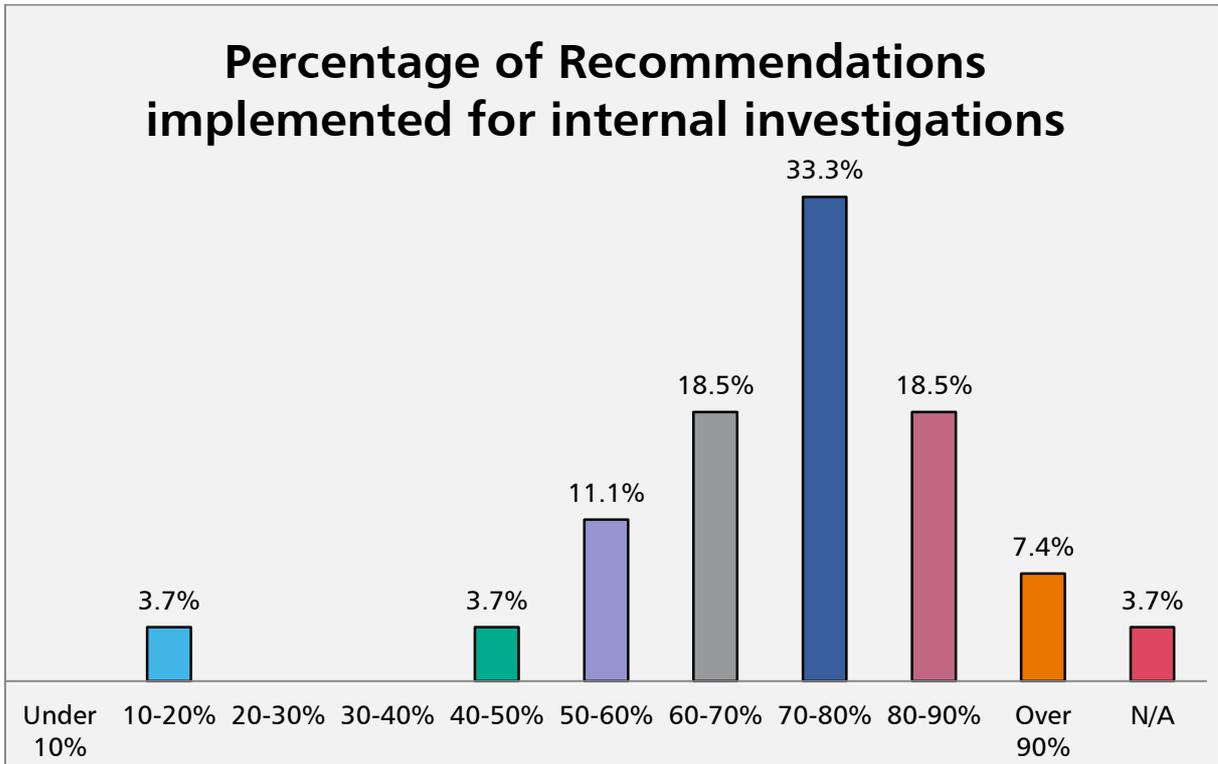


Figure 25 and 26 Percentage of recommendations implemented by internal and external investigation

In looking at the review process for recommendations to see if they have been implemented (Figure 27), a striking number of investigations, 14.8% of internal investigations and 24% of external investigations have no mechanism for checking to see whether or not the recommendations made in the report have actually been implemented. This can mean that important recommendations that are made do not actually get put into practice. As there is no review process, there is not even the opportunity for people to turn down recommendations. Rather, recommendations are either blanket adopted or not adopted at all.



Figure 27 Existence of review process for internal and external investigations

In looking at the satisfaction levels between the organisation and those subject to the investigation it can immediately be seen that the investigations results are far more popular with the organisation than those subject to the investigation. This could potentially show a preference towards writing a report that an organisation likes at the expense of the individual, however, it more likely reflects the fact that many of the investigation reports are likely to be about individuals who may be facing disciplinary investigations or similar and thus may be unhappy with a report. That being said, there is no reason that a report which is critical of someone should not be satisfactory to that individual in at least that they recognise that the process used to reach the conclusion is fair, even if the result is not what they would want. Interestingly, the above two columns do not show a high level of “very satisfied” organisations or individuals with the implication that investigations are a process whereby organisations “get through it” rather than taking the process as a positive experience.

In general, what is the satisfaction level with investigation recommendations?

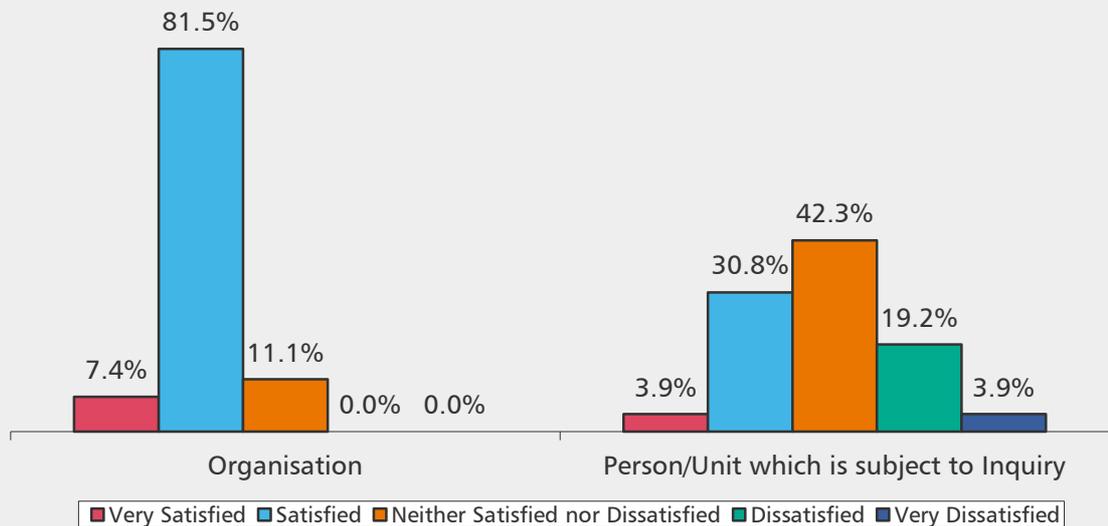


Figure 28 Satisfaction levels with investigation recommendations

Interestingly, although 60% of respondents reported that they had experienced criticism of an investigation report after it had been published (Figure 29), only 20% of respondents for internal investigations and 30% of respondents for external investigations had any experience of repeating an investigation (Figure 30). It would appear that a criticised result is often allowed to stand even if there is substantial discontentment with the outcome.

Have you ever found that an Investigation report that you have been involved with has been subject to criticism afterwards?

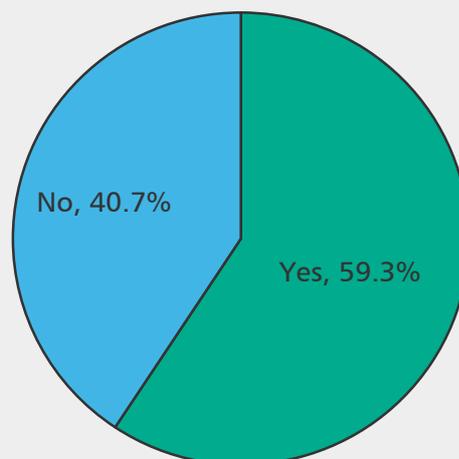


Figure 29 Frequency of Criticism of Investigation reports

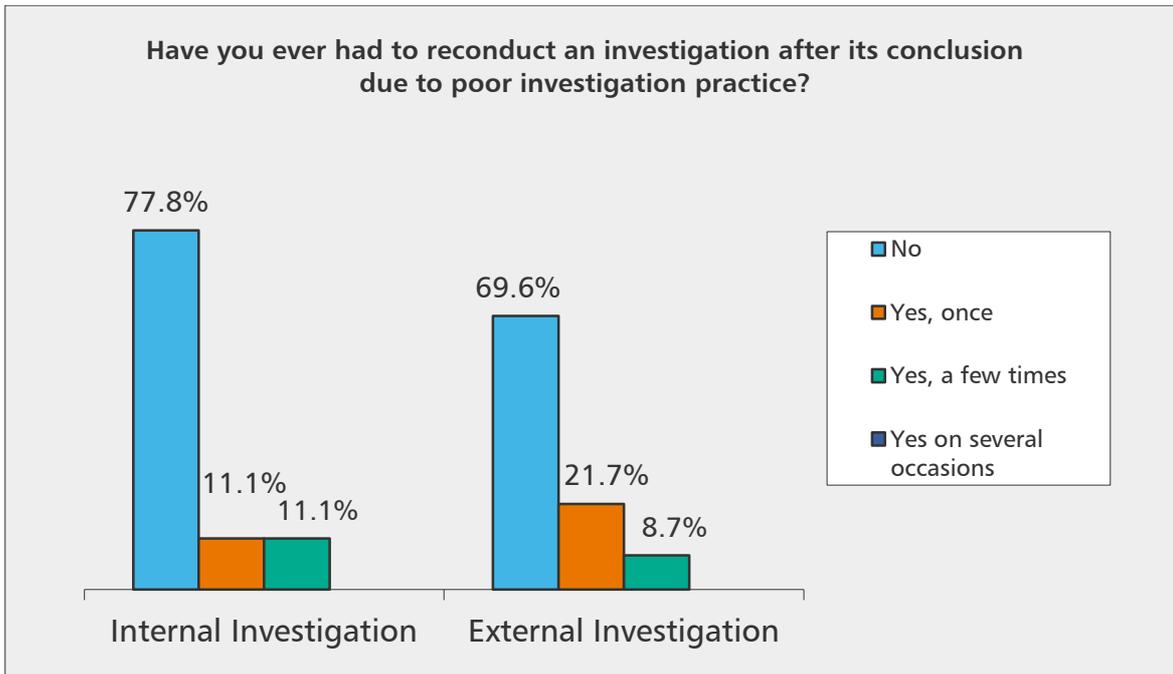


Figure 30 Likelihood of redoing an investigation.

Finally we asked respondents about a process which combined recommendation implementation with investigation to see if there could be a new way of making recommendations more likely to be implemented (Figure 31). Although there was some reticence, the vast majority of respondents (81.5%), did think that this was a possibility dependent on the issue.

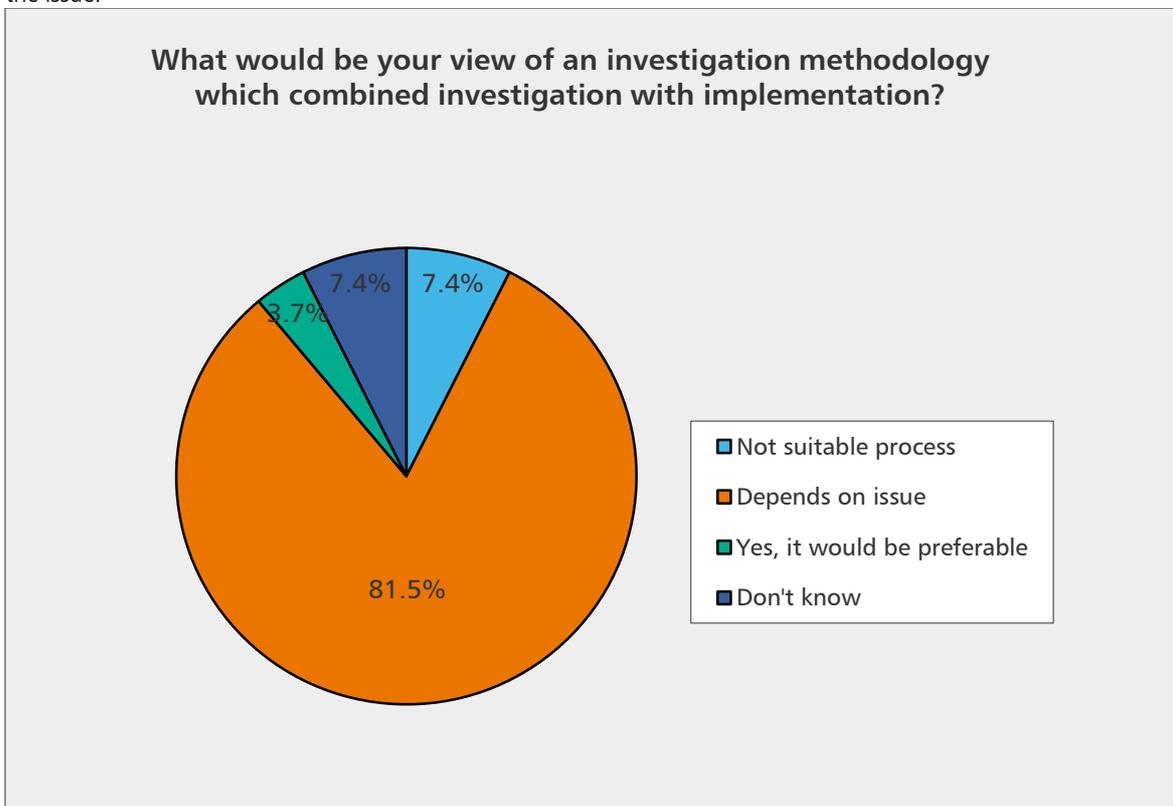


Figure 31 Views on investigation methodology combining investigation with implementation.

Conclusion

In conclusion, investigations are a significant part of the majority of HR professionals' work with many conducting multiple investigations at any one time. Although the preference is to keep investigations internal if possible, as investigations involve extraneous legal issues, then organisations are more likely to involve external investigators. The biggest contrast in terms of thinking as to whether an investigation should be carried out internally or externally came in relation to investigations involving very senior figures in an organisation and its board. It would be arguable therefore that particular thought needs to be given to whether it is most appropriate to use an external investigation team in relation to issues which touch upon senior figures. Whether an investigation is carried out by an internal or external investigating team, it can be seen that experience and neutrality are considered the most important factors for an investigator to possess. With external teams, there is more of a reliance on their expertise in the subject matter as being a relevant consideration (which may explain why an external team has been used as they have experience that an internal team do not have) whilst with internal investigators an ability to understand how the investigation fits into a wider context is more preferable as the internal investigator can understand how the matter fits into the organisation's overall plan.

In looking at how the investigations are actually carried out there can be seen to be a focus on what for many is the main activity of the investigation, conducting interviews and gathering information. Whilst this is likely to be natural, it can be seen that there is significantly less time being used in determining what the scope of the investigation is and debriefing afterwards. Frequently it may be seen that it is assumed that it is known why an investigation is being conducted and what the appropriate method is so that the investigation is launched extremely quickly. Whilst there is merit in this, and that it can be seen that certain types of investigations (eg. a disciplinary investigation) will follow largely similar patterns, it is not always appropriate to adopt a "one size fits all" model and there is benefit to considering what the appropriate investigation type is before commencing the investigation to avoid problems later on. Additionally in terms of debriefing on an investigation and following up and taking action, it can be seen that many organisations spend surprisingly little time on this. This can have the unfortunate impact of making the investigation have the purpose of being done merely for the sake of having the investigation itself rather than for the impact it will have. Within our work, some of the most important elements of reaching a decision or producing recommendations, is then in looking at how to implement them in a way that will have high levels of take up and bring about the change needed. If the investigation is failing to bring about appropriate change due to an overly long focus on investigation itself and not its impact then this can cause problems. Process design and thinking about how to bring in the recommendations made, should therefore be a critical part of any investigation process.

In terms of looking at recommendations, it is noticeable that there are a significant number of investigations which do not produce any recommendations and that also several organisations have no mechanism for reviewing the recommendations that have been made. Where recommendations are made, there are likely to be slightly more in a report by an external investigation team than by an internal team and there is likely to be slightly higher take up of recommendations made by an external team than an internal team. Whilst there may be more reliance on an external "expert" view of a situation, it is surprising that internal investigators' recommendations are more easily overruled as an organisation will be continuing to work with these people whose recommendations for change have been disregarded. This is likely to be more frustrating for an internal investigator than an external investigator.

Interestingly although the majority of respondents have experienced an investigation they've been involved in being subject to criticism afterwards, very few respondents had actually reconducted an investigation. This implies that there may be a dogged acceptance of investigations as being a "necessary evil" even when they're getting results with which no-one is happy. In this regard, it may be necessary to rethink how investigations are carried out from the

outset so that they are likely to be considered satisfactory (or even more positively) by those who are subject to them. In this way, again we would argue for an emphasis on process.

Ultimately, it can be seen that investigations are an increasing part of the work of HR departments but that in order to get maximum utility from them, thought needs to be given to:

- whether an investigation is the appropriate action to take;
- how to devise the investigation's methodology to get an appropriate outcome;
- whether it is appropriate to use an internal or external investigating team depending on the subject matter;
- how to increase recommendation uptake by organisations;
- how to debrief from the investigation correctly and take appropriate levels of follow up rather than using the conducting of an investigation as an outcome in itself;
- how to deal with any criticism of the investigation and whether it is appropriate to revisit elements of an investigation process or report to improve outcomes.

If emphasis is given to the above, an investigation is likely to be more successful.

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