



TCM WEBINAR:
WORKPLACE
INVESTIGATIONS:
GETTING THEM
RIGHT FIRST TIME

27th February 2019
12.30 - 1.30pm BST

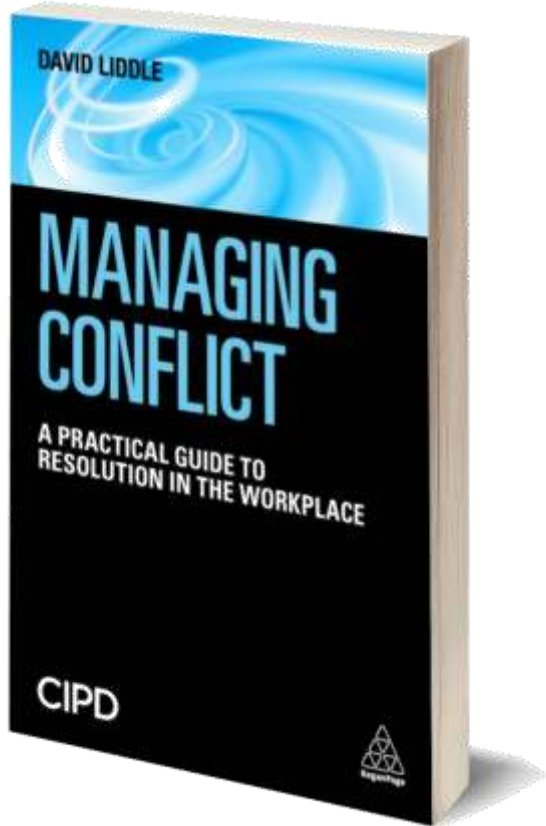
David Liddle, Chief Executive of The TCM Group
Thomas Kuevi, Principal Resolution Consultant

Welcome to the webinar



- Duration – 45 mins plus Q&A.
- Recorded and posted online.
- Opportunity for questions throughout
- Free copy of TCM Model Resolution Policy for all attendees.
- Enjoy!

What gives me the right to talk about this subject?



- Set up The TCM Group in 2001.
- TCM are expert in the fields of conflict management, mediation, employee relations and leadership development
- Winners of a national award for best mediation practice.
- A network of Investigators working across the UK.
- Author of ***MANAGING CONFLICT*** (2017) Kogan Page/CIPD

The 6 Cs of TCM

Conflict

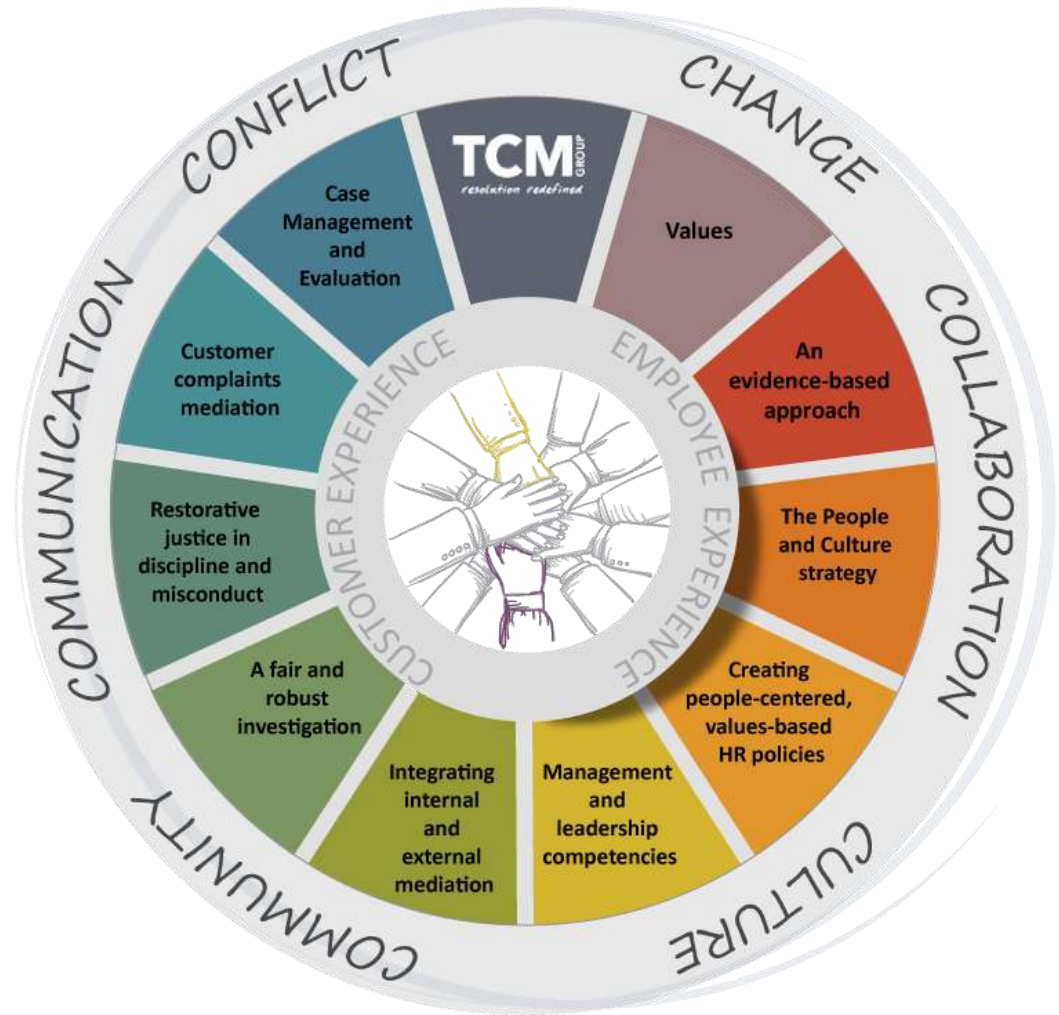
Change

Collaboration

Culture

Community

Communication



www.thetcmgroup.com

The **TCM Delegate Zone** contains the slides from this presentation along with useful resources, checklists, case studies and videos.



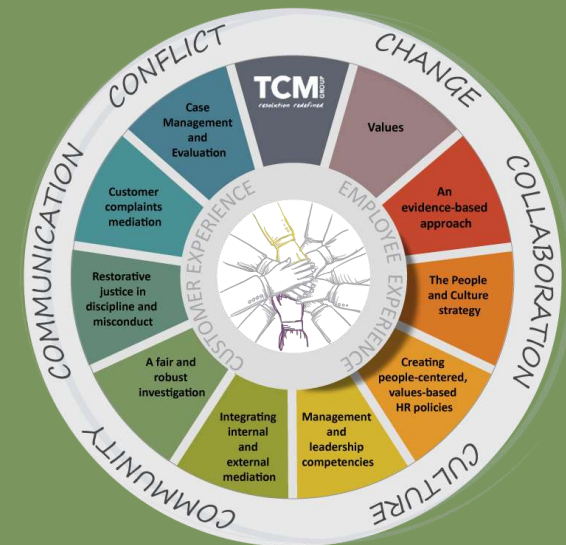
TCM has worked with numerous organisations to embed progressive and person-centred cultures.



How do employers get investigations wrong?

- Using poorly trained internal investigators (or worse – untrained investigators), who have a million and one other things to do.
- A lack of effective planning and unclear terms of reference.
- Not asking the right questions in interviews.
- Getting facts, perceptions and emotions mixed up.
- Investigations taking too long to complete.
- Showing bias and being partial.
- Poorly managed suspensions and communications with the parties.
- Poorly written reports with opaque or ambiguous findings.
- In smaller organizations with one HR person or an external HR consultant, we often hear stories of HR acting as the investigator, the adviser to the employer and the final determinations panel. ie HR become the judge, the jury and the executioner. The conflicts of interest are fairly obvious.

Investigations structure

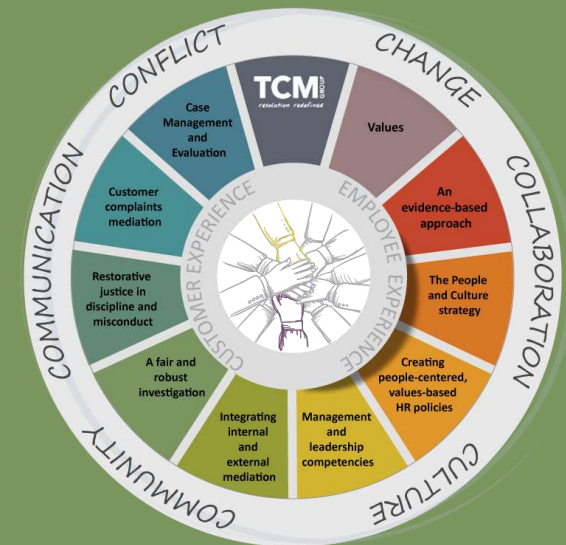




The Investigation™

“The investigation is a cornerstone of good employment practice. The aim of the investigation is to identify information and evidence which supports or rebuts any allegations, rather than to build a case against an employee, or group of employees. The investigation process should be **timely, rigorous, fair and unbiased**. It should gather all relevant facts promptly, before recollections fade. By doing this, one can be clear about what the allegation/concern is, how serious it is and whether or not, on the balance of probability, there appears to be a case to answer.” Liddle D (2019)

Planning the investigation



Investigation Structure – An Overview

1. Planning

- Allegations or concerns converted to clear **Terms of Reference**
- Chronology and organogram (if possible)
- Copies of relevant policies and procedures
- Develop the investigation plan – the roadmap.

2. Delivering

- Interviews with subjects and witnesses.
- Corroborating, mitigating and aggravating evidence accessed.

3. Reporting

- Analysis
- Findings
- Appendices and logs



Policies

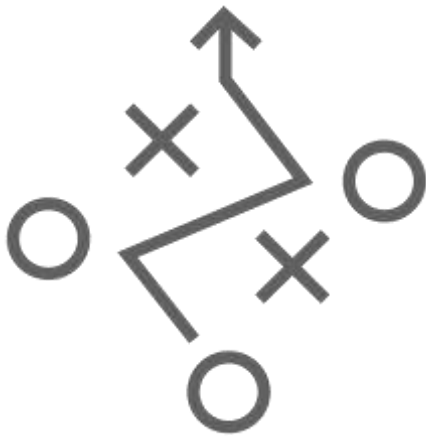


Procedure

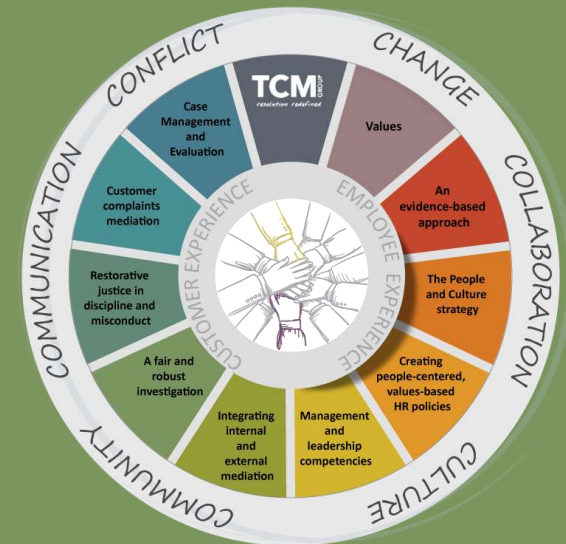


The investigation plan/structure

1. Create investigator's log.
2. Agree Terms of Reference.
3. Obtain **and read** relevant documents, policies and procedures.
4. Establish a timetable for the investigation.
5. Plan initial interviews (decide order).
6. Witnesses and additional sources of evidence identified.
7. Check all admin is in place – letters sent, etc
8. Draft key questions to be answered and/or topics to explore at each interview.
9. Seek any necessary expert advice and/or sources of information.
10. Plan to be flexible and surprised!



The Investigation Report



The Investigation Report

1. Introduction
2. The terms of reference of the investigation
3. Names and substantive role of the Investigating Officer
4. Details of interviews
5. Details of specialist advice taken and/or use of expert witnesses
6. Comparative standards and tests
7. Summary of the investigation
8. Detailed report for each allegation/complaint
9. Findings, i.e. whether there appears to be a case to answer
10. Other factors to be considered by the employer
11. Appendices
12. Recommendations (optional and separate from report)



Appendices to the report

- ✿ Full chronological log of all activities and interviews (including the names and details of representatives and note takers)
- ✿ Timeline
- ✿ Examples of correspondence or emails sent and received.
- ✿ Statements (typed and signed where possible)
- ✿ Copies of handwritten statements
- ✿ Copy of policies referred to
- ✿ Details of any external materials that were used (ACAS Guides etc)

Investigation Case Study

Background

Heavy previous HR involvement
Allegations directly and indirectly aimed at HR
No clear terms of reference

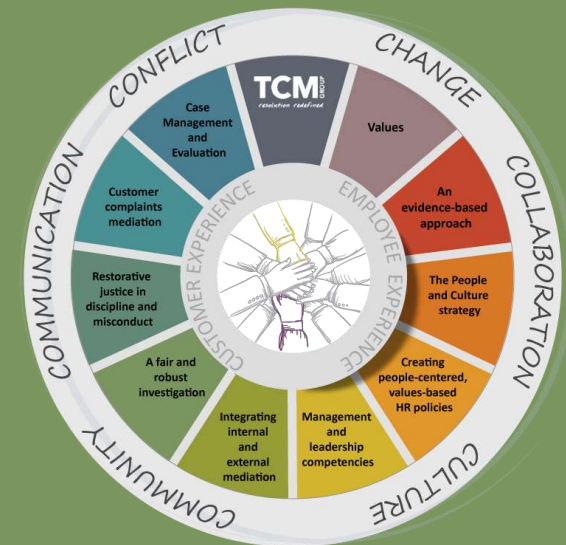
Delivery

Highly anxious and uncertain complainant
Reticent respondents
Witnesses to the fact far and few between

Reporting

Mitigation and recommendations key
Understanding of the organisational culture, needs
and values

A couple of reminders...



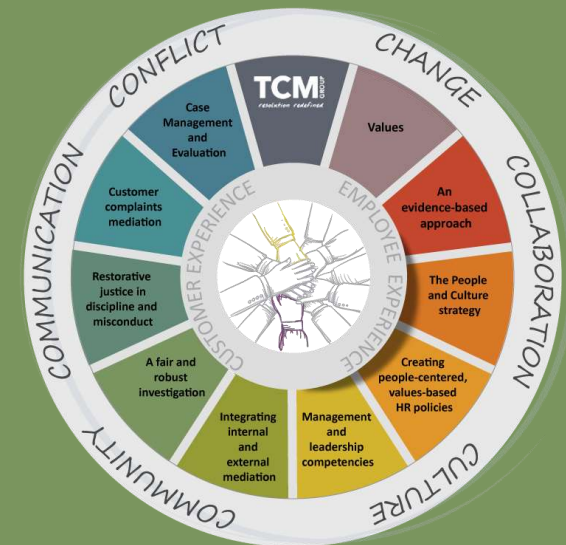
DO...

- ✿ Plan properly.
- ✿ Work as quickly as you can – the immediate ‘sense’ is very precious
- ✿ Visit ‘the scene’
- ✿ Be compassionate and empathetic during interviews.
- ✿ Keep communications going
- ✿ Keep adequate, appropriate and consistent notes – you may be tested on your report!
- ✿ Be positively sceptical and remain unbiased
- ✿ Self-reflect

DON'T...

- ✿ Make it up as you go along
- ✿ Make assumptions about anyone / anything
- ✿ Fail to interview all relevant witnesses – ask witnesses who they think you should interview
- ✿ Avoid the hard questions
- ✿ Leave yourself unable to explain why you did what you did
- ✿ Forget that this witness could be you... (so treat everyone with respect and empathy)

Investigation skills training



Core Investigation Skills – one day

This one-day core investigations skills course gives delegates an overview of the investigation process along with the skills that they need to undertake a basic fact-finding exercise or a neutral evaluation in order to assess the most suitable remedy to a workplace issue.

Duration: 1 day

Suitable for: Line managers, supervisors, human resources and employee relations professionals. Lawyers, union officials and anyone who may be required to undertake a fact-finding exercise or neutral evaluation into a workplace issue

Learning outcomes: Learn how to set up an investigation and how to run a fact-finding exercise or a neutral evaluation.

Delivery: In-house or open access

Trainers: Only ever delivered by TCM's world class trainers.

Cost: £495 plus VAT for open courses (early booking discounts available). Contact us for our latest prices for in-house prices.

Practical Investigation Skills – two days

This two-day course is our most popular investigations skills course as it equips delegates with the skills and strategies to set up, run and report on a workplace investigation. It is suitable for inhouse investigators and consultants.

Duration: 2 days

Suitable for: Line managers, supervisors, human resources and employee relations professionals. Lawyers, union officials and anyone who may be required to undertake a fact-finding exercise or neutral evaluation into a workplace issue

Learning outcomes: Learn how to set up a complex investigation

Delivery: In-house or open access

Trainers: Only ever delivered by TCM's world class trainers.

Assessment: completion of an investigation report plus learning logs

Cost: £695 plus VAT for open courses (early booking and multiple delegate discounts available). Contact us for our latest prices for in-house prices.

Advanced Investigation Skills – three days

This three-day course is an advanced investigation and interviewing skills course. It is only available for in-house delivery as the course is designed around your organisations specific needs, policies and context. This course is designed for workplace investigators who are required to investigate complex cases of misconduct including serious or very complex cases of misconduct, bullying, harassment, discrimination and fraud.

Duration: 3 days

Suitable for: Line managers, supervisors, human resources and employee relations professionals. Lawyers, union officials and anyone who may be required to undertake a fact-finding exercise or neutral evaluation into complex and serious workplace issues

Learning outcomes: Learn how to set up a very complex investigation.

Delivery: In-house or open access

Trainers: Only ever delivered by TCM's world class trainers.

Cost: £995 plus VAT. In house delivery only.

Investigation Training - Case Study

Background

Large organisation

Life and death nature of workload

Managers overworked and more investigations expected

Delivery

Delegate selection

Level of training required

Practical basis

Post course

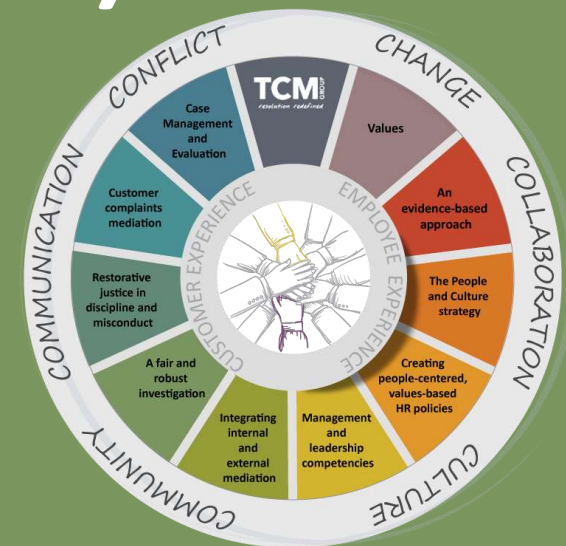
Investigation report submission

Post course support

RRR

Certification

Introducing alternative dispute resolution (ADR)



What is mediation?

Mediation is a **non-adversarial** way of resolving difficult situations. It is used as an **alternative** or an **adjunct** to formal or legal processes. Mediation is a **mind-set, a framework and a set of skills**.

The mediator is **neutral**. They help the two or more parties have an **open and honest discussion** to identify a **mutually acceptable outcome**. A **win/win** outcome. Mediation is about **collaborating** rather than blaming.

Any **agreement in mediation** comes directly from the parties, not from the mediator. The mediator is **not there to judge**, or to tell those involved in the mediation what they should do. Mediation is both **voluntary and confidential**.





- A new approach to grievance and complaints resolution
- Values based and person centred
- Key stakeholders work together to promote resolution
- Enhanced triage of cases and opportunities for early resolution. facilitated conversations and mediation.
- Underpins a fair and just culture.
- Compliant with the Acas code – representation and appeal.



Toolkits:

- Resolution support for HR
- Resolution support for managers
- Resolution support for employees

Grievance

Formal, adversarial, judgement, blame, punitive, defensive, draconian, rights based, combative, divisive, win-lose, sanction, argument.



Resolution

Informal, safe, talk, listen, empathy, dialogue, resolve, non adversarial, collaborative, interests based, openness, values, consensus, mediate, win-win.



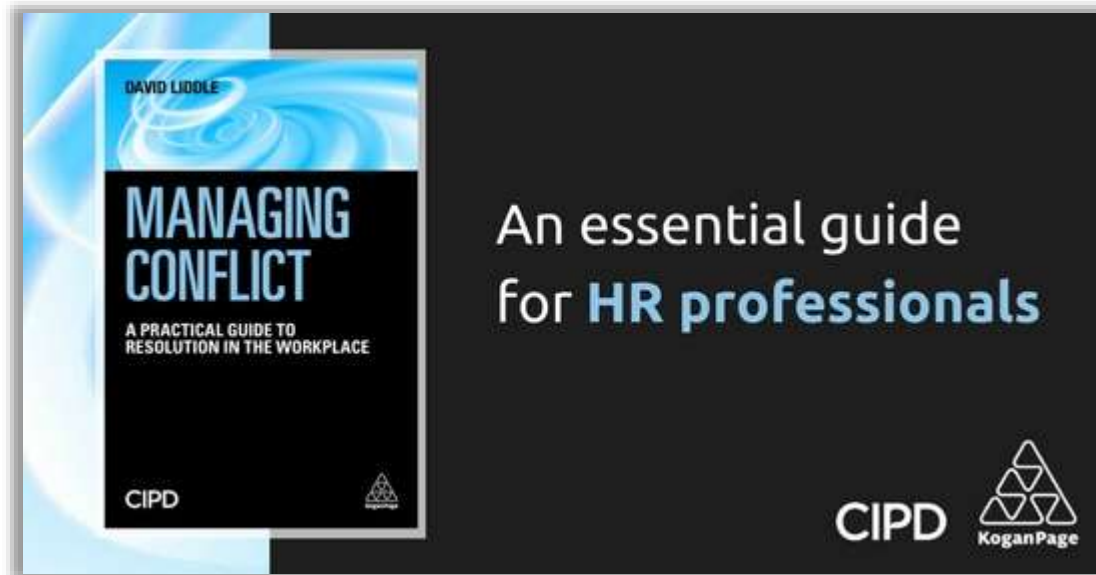
In conclusion...

- ✓ Be fair, thorough, rigorous, robust and unbiased.
- ✓ Plan properly and follow a well defined structure.
- ✓ Train your investigators properly.
- ✓ Provide access to alternative dispute resolution.

How can TCM help?

1. **Free** copy of the TCM Model Resolution Policy plus guidance on how to implement it.
2. Bullying and harassment reviews.
3. Mediation, investigation and coaching services.
4. Mediation, investigation and coaching training.
5. Management and leadership training.
6. Setting up internal mediation schemes.

MANAGING CONFLICT. BY DAVID LIDDLE



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