

Vetting an Investigator

As Eminent approaches its tenth year of trading, I felt it was an appropriate time to provide an overview into how you can complete the necessary vetting when considering the services of an investigations consultant or business. In very recent years, the market has seen an influx of companies opening and reporting to offer a raft of services across the globe. There may be many reasons for this influx, including dissatisfied public sector employment.



Given that the work we undertake is interesting and sometimes very exciting, it also attracts those who like to be seen possessing the 'investigator' badge. Whilst this is good for competition, it does present a unique set of issues when trying to decide the best person to instruct. In this article I will provide my own insight into how you can 'vet' and consider different businesses.

Being a former police officer does not necessarily provide the customer with a complete satisfaction guarantee. Unfortunately, the police service does have poor performing staff, as you would experience with any other large professional organisation. This can lead to officers being forced to leave or dismissed through disciplinary proceedings. Historically, one common area of dismissal 'being required to resign', which until recently is difficult to confirm. In these circumstances, an officer was given this option to avoid the now mandatory gross misconduct investigation, by resigning their post. Very recently the government has made available a list of officers leaving as a result of discipline issues or something more serious. This is detailed in Home Office Circular 012/2017 and available to read online. You can also consult The College of Policing who hold further details of those subject of dismissal or misconduct. You should also note that since 1st May 2015, gross misconduct hearings have been held in public.

One way to spot this as a potential issue, is by requesting that any former officer now involved in the private investigation market, produces their own certificate of service. This is only issued to officers leaving with a history of good conduct behind them. Although not all retired officers join them, the National Association of Retired Police Officers (NARPO), will only accept applications from those with good conduct. You can also request a reference from their previous employing authority. Those who have been retired on medical grounds will also have this certificate and be in receipt of a pension, which can again be evidenced and discussed directly with the investigator.

However, completing enquiries into all of the above may still not be sufficient. Whilst all police officers receive a basic level of investigation training, it does not necessarily provide them with the skill sets needed to complete some of the more complex investigations, or private prosecutions that we now see emerging in the sector. This could include anything from investigating fraudulent activity, bribery and corruption, employee issues or tracing assets. Furthermore, the level of skills required to complete international enquiries is even more complex and care should be taken before instructing any individual or business.

Over the past 15 years, there is evidence that the modern-day Detectives skillsets have been gradually eroded away as a result of changes in policy and how the police respond to investigations. We have seen this recently when basic disclosure rules have been ignored and prosecutions lost. Eminent has seen an increase in requests to assist defence cases where the police have failed to complete what were once considered very basic enquiries. We have witnessed a lack of tracing crucial witnesses, completing basic enquiries over the phone and a failure to disclose elements of the evidential chain.

Consideration should also be given to the investigators background and casework they have completed historically. For example, only a small percentage of police officers will have the experience in completing international enquiries. This is because of the process required within UK Government and it's therefore restricted to only the most complex or important cases. Again, any former officer will be able to detail this for you and provide an overview of relevant work and experience in this area. It's also important to remember that because a police investigation makes the news headlines, it does not necessarily mean it has been complex or difficult to complete. Headlines are good for publicity, but not necessarily an indicator of a complex investigation.

Turning our attention now to the business they operate from. It is important that a good quality 'Professional Indemnity' policy exists. This provides the coverage required should the investigation go wrong or poor service is provided. Requesting a copy of this policy or letter from their insurers will confirm the level of coverage and specific areas they are covered to work in. Some international deployments may require a specialist policy that is not covered under standard terms. You should always check this with the investigator before confirming instruction, as this cannot be retrospectively applied for after the event. Direct instruction to a company registered overseas may also not provide you with the correct level of cover as underwriting in the sector can differ across the globe.

Considering further elements of company vetting should always include a review of its history on Companies House, or jurisdictional equivalent. Basic elements can be confirmed regarding levels of corporate diligence, such as filing documents on time and relevant accounts completed by an independent auditor or accounting firm. Membership of a group or trade organisation can also help. There are plenty of groups out there but none are currently under the control of the UK Government. However, there are some bodies that receive government recognition and are difficult to join, unless the company concerned operate at a certain level. Further exploration with the organisation concerned can be explored to confirm their status and membership of a relevant group.

Furthermore, does the company being instructed hold any recognised certifications. In the current climate of protecting the information you hold, this should be set at a minimum level of Cyber Essentials, with GDPR Compliance. Cyber Essentials is a preferred accreditation advised as a standard by the UK Government. There is also a difference in the types of operating standards available. Although all will provide some form of governance, again the UK Governments main recognised body is UKAS, which is seen as the higher standard to achieve. Any business holding an accreditation will be able to produce their relevant certificate on request.

As with any profession, the role of an investigator is varied and can be complex. Given that the investigations sector has a lack of governance, it's important to instruct those with the correct experience in the disciplines required. If you'd like to discuss the content in greater detail, or require a presentation on this subject, please do not hesitate to contact me.