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Internal investigations of organizations — Guidance

Enquêtes internes des organisations — Recommandations

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This document was prepared by Technical Committee ISO/TC 309, *Governance of organizations*.

Any feedback or questions on this document should be directed to the user's national standards body. A complete listing of these bodies can be found at www.iso.org/members.html.

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Introduction

Internal investigation is an integral part of organizational management. Internal investigation is a professional fact-finding process, initiated by or for an organization, to establish facts in relation to alleged or suspected wrongdoing, misconduct or noncompliance (such as bribery, fraudulent activities, harassment, violence or discrimination). Internal investigations enable an organization to:

— make informed decisions if laws, regulations, industry codes, internal policies, procedures, processes, corporate compliance policy and/or the organization’s values and ethics have been breached;

— understand the cause(s) that lead to the above-mentioned breaches;

— determine if an allegation or concern is substantiated or unsubstantiated;

— assess the financial loss of an organization;

— mitigate liability of the organization and/or its management;

— put in place and implement the necessary mitigation measures to prevent similar conduct from occurring;

— strengthen the organization’s compliance and ethics culture;

— make external reporting to relevant authorities (law enforcement, judicial bodies, regulators or other bodies prescribed by law or regulation) or relevant interested parties when necessary;

— make decisions on sanctions of management and/or employees and debarment of working with third parties involved in unethical conducts.

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Civil actions, whistleblower reports and external investigations by regulators can be reasons for internal investigation as well so that the concerned organizations can find out what triggered the actions, reports and external investigations, then take appropriate measures.

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Internal investigation is part of a compliance management system. This document can be used to help with the implementation of other standards such as ISO 37301, ISO 37001 and ISO 37002. It can also be a useful tool for an organization to identify risks. With risk clearly identified, an organization can analyse the root causes of noncompliance and design measures to control the risks.

Not having the capabilities to conduct internal investigations and/or failing to conduct internal investigations can have adverse effects on an organization such as compromising the effectiveness of the compliance management system, failing to protect its reputation, and failing to detect and counter wrongdoing.

This document gives guidance for organizations to implement internal investigations based on the following principles: independent, confidential, competent and professional, objective and impartial, and legal and lawful.

Figure 1 is a conceptual overview of the investigative process showing the whole picture of internal investigation and the possible post-investigation actions.

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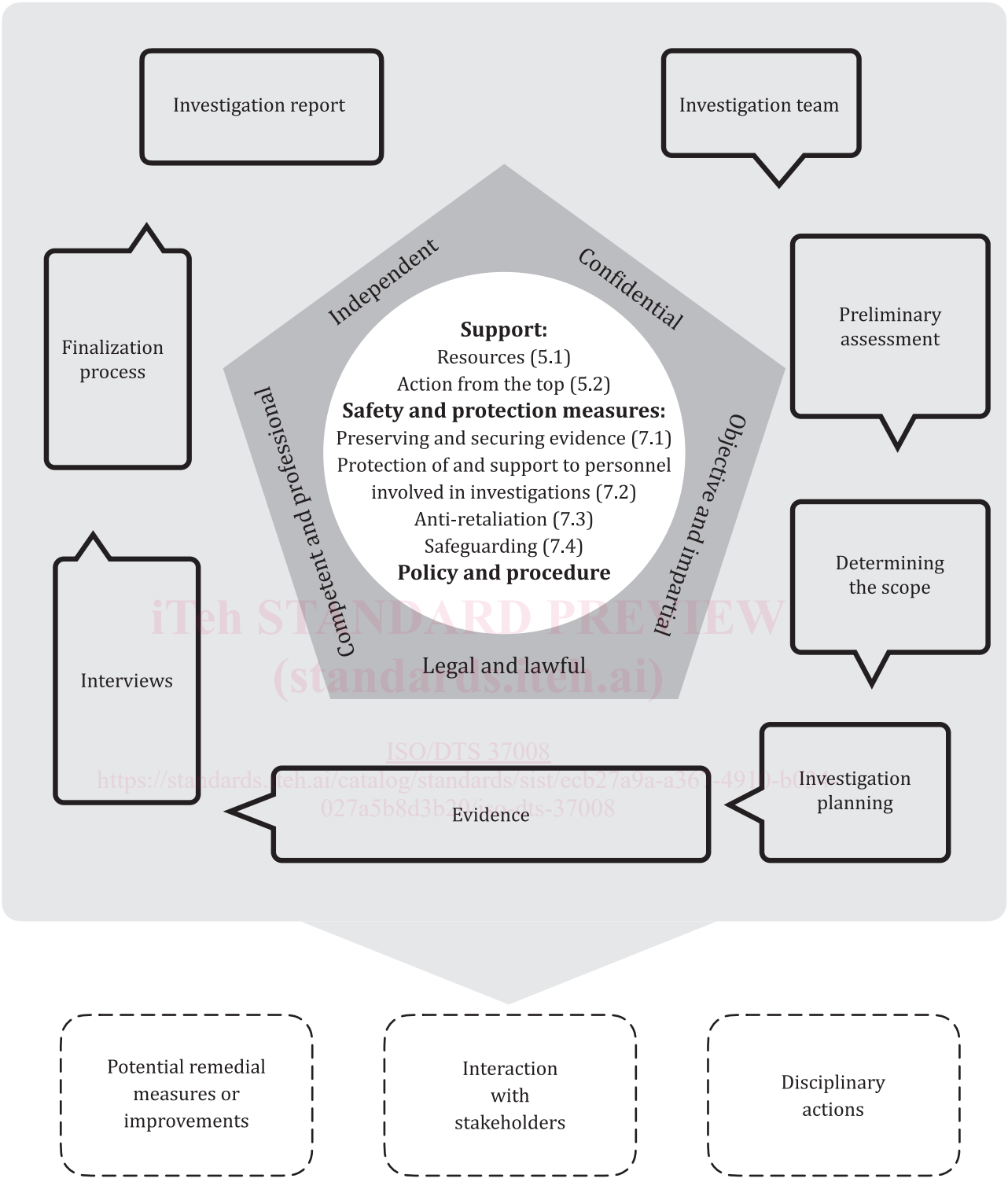

Figure 1 — Overview of the investigative process

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Internal investigations of organizations — Guidance

1 Scope

This document gives guidance on internal investigations within organizations, including:

— the principles;

— support for investigations;

— establishment of the policy, procedures, processes and standards for carrying out and reporting on an investigation;

— the reporting of investigation results;

— the application of remedial measures.

This document is applicable to all organizations regardless of type, size, location, structure or purpose.

NOTE See Annex A for guidance on the use of this document.

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2 Normative references

The following documents are referred to in the text in such a way that some or all of their content constitutes requirements of this document. For dated references, only the edition cited applies. For undated references, the latest edition of the referenced document (including any amendments) applies.

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ISO 37001, *Anti-bribery management systems — Requirements with guidance for use*

ISO 37002, *Whistleblowing management systems — Guidelines*

ISO 37301, *Compliance management systems — Requirements with guidance for use*

3 Terms and definitions

For the purposes of this document, the terms and definitions given in ISO 37001, ISO 37002, ISO 37301 and the following apply.

ISO and IEC maintain terminology databases for use in standardization at the following addresses:

— ISO Online browsing platform: available at https://www.iso.org/obp

— IEC Electropedia: available at https://www.electropedia.org/

3.1
internal investigation
professional fact-finding process, initiated by or for an *organization* (3.3), to establish facts in relation to alleged or suspected wrongdoing, misconduct or noncompliance

3.2
risk
effect of uncertainty on objectives

[SOURCE: ISO 31000:2018, 3.1, modified — Notes to entry deleted.]

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3.3
organization
person or group of people that has its own functions with responsibilities, authorities and relationships to achieve its objectives

Note 1 to entry: The concept of organization includes, but is not limited to, sole-trader, company, corporation, firm, enterprise, authority, partnership, charity or institution, or part or combination thereof, whether incorporated or not, public or private.

[SOURCE: ISO 37301:2021, 3.1, modified — Note 2 to entry deleted.]

3.4
need to know
legitimate requirement to know or have access to a minimum amount of sensitive information

[SOURCE: ISO 19650-5:2020, 3.4, modified — "of a prospective recipient of information" deleted, "or have access to" replaced "to access, or to possess", and "a minimum amount of" added to the definition.]

3.5
investigator
person(s) appointed to manage or carry out an investigation

3.6
lead investigator
person leading an investigation

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3.7
stakeholder
person or *organization* (3.3) that can affect, be affected by, or perceive itself to be affected by a decision or activity

[SOURCE: ISO 37301:2021, 3.2, modified — "interested party" deleted as the preferred term.]

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3.8
internal investigation function
person(s) with the organizational responsibility for investigations

3.9
compliance function
person or group of persons with responsibility and authority for the operation of the compliance management system

[SOURCE: ISO 37301:2021, 3.23, modified — Note 1 to entry deleted.]

3.10
governing body
person or group of persons that has the ultimate responsibility and authority for an *organization's* (3.3) activities, governance and policies and to which *top management* (3.11) reports and by which top management is held accountable

[SOURCE: ISO 37301:2021, 3.21, modified — Notes to entry deleted.]

3.11
top management
person or group of people who directs and controls an *organization* (3.3) at the highest level

[SOURCE: ISO 37301:2021, 3.3, modified — Notes to entry deleted.]

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4 Principles

4.1 Independent

An internal investigation should not be influenced or controlled by other people, events or incentives in relation to the subject matter that is being investigated.

NOTE See A.3.1 for guidance.

4.2 Confidential

All documents and information gathered in the context of an investigation, including records, evidence and reports, should be treated in a confidential and sensitive manner. The documents and information should only be revealed on a "need to know" basis and investigators should be aware of applicable statutory laws and regulatory requirements.

4.3 Competent and professional

An internal investigation should be conducted by investigators who have professional skills, knowledge, experience, attitude and capacity to ensure the quality of their work.

An internal investigation should be conducted with integrity, fairness, truthfulness, tenacity, trust, emotional intelligence, good judgement and diligence, and completed in a timely manner.

NOTE See A.3.2 for guidance.

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4.4 Objective and impartial

An internal investigation should be free from conflict of interest, conducted objectively and based on factual evidence. The investigation should not be influenced by personal feelings, interpretations or prejudice.

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NOTE See A.3.3 for guidance.

4.5 Legal and lawful

Those establishing or conducting an internal investigation should identify the regulations and applicable statutes and legislation in all applicable jurisdictions to ensure the legality of the investigation.

NOTE See A.3.4 for guidance.

5 Support for internal investigations

5.1 Resources

The governing body should support the establishment, implementation, maintenance and continual improvement of internal investigations, for which top management of the organization should provide adequate resources.

Resources can include but are not limited to personnel, financial, technical and organizational infrastructure. These resources can be provided internally or externally.

NOTE See A.4.1 for more information.

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5.2 Leadership and commitment

The governing body, top management and others in the appropriate positions should demonstrate leadership and commitment to an independent, objective, impartial and confidential internal investigation.

The governing body, top management and others in the appropriate positions should be reasonably informed, according to the agreed communication plan, the internal guidelines and policies preset, or as investigators deem necessary.

NOTE See A.4.2 for guidance.

6 Establishment of investigation policy or procedure

The organization should establish and implement an investigation policy and procedures that:

— define the investigation scope, process, responsibilities and capabilities of internal investigators;

— make a clear link to the organization's "whistleblower" or "speak up" procedures;

— require timely and appropriate action every time when a concern is raised;

— ensure the investigation is carried out with respect to the rights of the persons involved;

— empower and enable investigators to carry out investigation work;

— require cooperation in the investigation by all personnel;

— ensure the investigation is carried out by, and reported to, the personnel who are independent of the investigation;

— require the output of the investigation, including any limitation, challenge or any other concern of the investigation, to be appropriately documented, reviewed and reported;

— require that investigation is carried out confidentially and information is only shared with people who need to know;

— require that the organization should have policies or processes in place to stop unlawful actions immediately, also during an ongoing investigation;

— require that lessons learned or recommendations arising from investigations are used to prevent the recurrence of wrongdoing;

— require that the policies and procedures are regularly updated with learning from internal investigations.

NOTE See Clause A.5 for guidance.

7 Safety and protection measures

7.1 Preserving and securing evidence

From the beginning of the process, investigators should start to identify where relevant evidence can be stored.

An investigator should work with the relevant functions in the organization to establish whether any key witness or investigated personnel are already in the process of leaving the organization, for whatever reason.

The organization should have policies or processes to prevent anyone from tampering with witnesses and from intentionally or unintentionally deleting, destroying, altering, transferring or concealing

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