

Key advice, webinar: 8th October 2025

HOW TO ETHICALLY AND FAIRLY COLLECT EVIDENCE FROM PRIVATE COMMUNICATIONS PLATFORMS



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- **Update policies to allow reasonable access to devices** and content, and to confirm that there will be reasonable assistance from the employee to allow access too, wherever the employer considers there might be relevant evidence on the device.
- **Check the relevant policies before starting** your investigation to make sure data collection is in accordance with those policies.
- **Collect the data in a way that preserves the metadata** from the device or platform, rather than taking screenshots of WhatsApp messages, for example.
- **Perform a proactive assessment to understand the current state** of the compliance program and identify any vulnerabilities before they become liabilities.
- **Ensure the team collecting evidence are cross functional** and understand the privacy requirements, technical needs and communication habits of employees to maintain appropriate measures, accurate policies and procedures.
- **Be aware** of emerging messaging platforms used by employees – especially across geographies (WhatsApp in the EU and less in US) and age bases (X and Snap versus LinkedIn messages, etc.).
- **Fairness & Impartiality Still Come First.** Digital messages can feel definitive, but they must be assessed in context. Ensure both parties are given a fair chance to explain tone, timing, and meaning. Bias can creep in when digital evidence is taken at face value. Fairness means listening to all sides, not just reading the screen.
- **Be Thorough.** Digital Evidence Needs Careful Handling. Investigations should be well-documented, especially when using digital messages. Capture metadata, preserve original formats, and record how evidence was obtained. Thoroughness protects the investigation's integrity and ensures transparency if challenged.
- **Timely Action Preserves Truth.** Start investigations quickly to avoid loss or alteration of digital evidence. Use secure systems and maintain confidentiality throughout. Delays can distort recollections and weaken your position. Timelines supports accuracy and trust.

Need investigation support?

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