



Our Perspective

The use of business intelligence investigators

The ongoing criminal trial at London's Old Bailey of Rebekah Brooks and Andy Coulson for their part in the News International phone hacking scandal brings ethics and transparency once again to the forefront of the intelligence community's consciousness. Following on from October's 'Our Perspective' (issue 1), it is a reminder that in commissioning business intelligence from a consultant you are liable for their actions. As such it would be advisable to choose your investigative service provider wisely.

A good rule of thumb is that the use of investigators should be considered as carefully as you would weigh up entering into a business partnership with the company or individual that you are hiring the intelligence-gatherer to scrutinise. Apply the same principles of due diligence by conducting background research on the investigators - look into their associations and if possible use someone who is recommended to you by someone you trust.

The use of inappropriate and illegal methods in investigation can have serious career-limiting consequences. Some legal liabilities to be aware of, all of which can lead to a custodial sentence, and can have consequences for you and your employer if they are done on your behalf, are:

- 🌐 Impersonation/use of pretext involving deception to obtain hard copy information (Theft Act 1968)
- 🌐 Unauthorised access to information held on a computer (Computer Misuse Act 1990)
- 🌐 Impersonating an account holder or using a document in pursuit of a pretext to obtain accounting information (Forgery and Counterfeiting Act 1981)

Any professional business intelligence consultancy will adhere to a code of ethics including clauses on confidentiality, professionalism, conflicts of interest, health and safety and the prevention of corruption. It is good practice, on sourcing any agent and particularly one carrying out confidential investigations on your behalf, to include such a code in your list of requirements and to ask to see a copy of it before you shortlist them as a possible business partner.

Tips on selecting business intelligence professionals

- 🌐 Do some due diligence
- 🌐 Choose expertise over geography
- 🌐 Ask how results are achieved
- 🌐 Demand methodological transparency
- 🌐 State explicitly non-acceptable conduct
- 🌐 Look for commitment to accuracy

Remember also that investigators should be used to gather facts, not to advocate or buttress a certain position. In any compliance programme, this is essential to demonstrate third party objectivity in your due diligence. Similarly, during litigation it is important to use investigators who can remain impartial and deliver facts.

Regulation

The UK's Private Security Industry Act 2001 contains a licensing requirement for involvement in any surveillance, enquiries or investigations, and defines the licensable activities of private investigations. On 31 July 2013 the UK Home Secretary announced that this regulation of private investigation activities will start some time in 2014 and that the Home Office will carry out a review of the definition of these activities. Current exclusions to the licensing requirement are the activities of lawyers, accountants, journalists and broadcasters, and investigations carried out for the purpose of market research, credit reporting, research of public information or research where consent is obtained. However if you fall into one of these categories and instruct a firm liable for licensing, you may be held accountable for their actions.

There is no clear view at present of how this regulation will be carried out and monitored, and given the nature of the investigator's work it will not be easy to achieve. It is also unclear as to whether business intelligence and litigation support will fall into the category of licensable activities. We are fully in favour of any measures that bring ethics to the fore, and await developments with interest.

Who we are

Formed in 2005, Kasalana is a specialist business intelligence company that conducts investigations globally on behalf of clients from industries including automotive, aviation, construction, consumer products, defence, energy, engineering, financial services, insurance, legal, manufacturing, media, medical, mining, retail, services, technology and telecommunications. We provide due diligence, business intelligence, strategic and market intelligence, asset tracing and litigation support, corporate investigations and merger and acquisition support services. Our clients include FTSE-100 and Forbes 500 corporations, global financial institutions and leading private equity houses.

Prior to forming Kasalana Sam Pope was Head of Business Intelligence, Deputy Director of Corporate Investigations and EMEA Director of Fraud & Forensic Services for a leading global security risk management company, where he led a team of 40+ investigators. A former defence journalist, Sam has extensive experience of investigating fraudulent activity including asset misappropriation, bribery and corruption, intellectual property fraud, false accounting, securities and investment fraud, regulatory and anti-trust violations. He frequently works in close collaboration with clients' other professional advisers. He is a member of the *American Society for Industrial Security* and the *Association of Certified Fraud Examiners*.

Gareth Crooker joined Kasalana in 2010 after working as Director of Corporate Investigations, South-East Asia, for a leading global security risk management company. He has been a business risk consultant for more than 20 years and specialises in pre-investment and compliance-driven due diligence and business intelligence. Gareth has also conducted bespoke strategic research and analysis into the political, commercial and security risk environment in Europe and the Former Soviet Union. As well as his native English, Gareth has near-fluent French and Spanish, together with basic Italian and Dutch.

Why we do what we do

At Kasalana we have a client-centric approach to business intelligence and believe in giving our clients what they need. The information we supply is openly asked for and freely given. With an ethical approach to intelligence, we support improvements in global business practices and security.

All our business intelligence is individually sourced and produced at the time of commissioning to answer the specific needs of our clients. We work honestly and transparently using a global network of resources to provide timely and accurate intelligence to international clients.

Consultation meetings

If you would like a free consultation with Kasalana, please email info@kasalana.com quoting reference OP2C.