

Exit Interviews as Another Significant Communication Channel

Understanding the Objectives, Challenges, and Use of Exit Interviews Is Critical



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One of the first things the Federal Bureau of Investigation (FBI) or the U.S. Department of Health and Human Services (HHS) Office of Inspector General (OIG) looks for in investigations of organizations is turnover in key fiduciary positions. This includes senior management, general counsel, internal audit, finance, etc. Those organizations that have ethical or legal problems in the way they are operating often have unusual turnover of key personnel in a position that knows or senses the direction of company activities.

People operating in an environment conducive to abuse of laws, regulations, or unethical conduct are confronted with the decision to become part of the problematic behavior, try and ignore it, become a “whistleblower,” or leave the offending environment. Most people offended by the activities generally look for a way out by leaving. Investigators have learned to look for these patterns of high turnover in key areas, as it is confirming evidence that something is probably wrong.

These former employees are a useful resource to gain understanding of the conduct that drove them to seek employment elsewhere and are among the first to be interviewed for evidence and leads. Former employees can also be useful resources for compliance officers in gaining an understanding of the reasons for seeking employment elsewhere and understanding what they are likely to say once they leave.

A solid compliance exit interview program enables receipt of potential early warnings of emerging regulatory, compliance, ethical, or legal issues warranting attention. By affording these employees an opportunity (it should be multiple opportunities) to provide information to higher authorities in a position to do something, the individual is provided a legitimate path

for redress of grievance. This reduces the likelihood that they will “blow their whistle” to outside parties once they are secure in new employment and feel free of the fear of retaliation.

The only caveat is that when derogatory information is received, it should be acted upon and not buried. Exit interviews are a special type of interview/survey designed to elicit valuable information from departing employees concerning their experience with the organization. Assuming the information is handled appropriately, companies may also use their departing employee interview reports in an affirmative defense to litigation.

EXIT INTERVIEW OBJECTIVES

Here are some key objectives of exit interview:

- Acquire early warning of potential “whistleblowers”
- Secure information about potential liability for early intervention
- Obtain feedback regarding the operation of the compliance program
- Identify conditions affecting morale or causing dissatisfaction
- Assist in evaluation of commitment to laws, regulations, code of conduct, and policies
- Provide insights into organization commitment to the quality of service being provided
- Gain better understanding of the overall management environment
- Better assess company operations and policies
- Aid in assessing organization performance of goals and objectives
- Enable the taking of steps to mitigate liability exposure
- Develop evidence for defense in potential government investigations

CHALLENGE FOR COMPLIANCE EXIT INTERVIEW PROGRAMS

Human resources (HR) cannot meet the challenge of an Effective Compliance Exit

Program. These efforts must come from the compliance officer. HR staff bears responsibility for the exiting process including a variety of tasks that may or may not include exit interviews. Often, for those organizations that have exit interviews conducted by HR, the interviews occur on the last day’s closeout of the employee’s status with the organization that includes a variety of other required activities, such as (a) collecting company property, (b) completing exiting employee benefits documentation, (c) finishing necessary paperwork to close the books on the employee account, (d) addressing COBRA health benefits, and (e) determining to what extent policies, environment, and working conditions contributed to the employee’s departure. All of these are worthy objectives; however, they are of limited value for the compliance program.

Employees tend to be preoccupied with the process of leaving and generally provide superficial explanations for separation, particularly if they fear that future job opportunities could be affected by past employers. This is particularly true when the exiting process involves only a perfunctory checklist to be filled out by the employee or used in questioning by an HR representative or a supervisor.

On the other hand, it is not feasible or practical for the compliance officer to debrief every departing employee. It is advisable to define the category of persons that would require formal debriefings by the compliance officer. These should be “C-Suite” executives, such as the CEO, COO, CFO, legal counsel, as well as program managers. The level of manager or executive that must undergo the debriefing should be defined in a policy document. In addition, the compliance office should selectively interview individuals at any level that have a history warranting the added attention at time of departure.

Having such a policy document is critical to ensure that this is a formalized process, not an optional one. The policy

should describe the process as a necessary formality (not optional); require a written report of interview results; and determine how the information received should be handled, etc. Without such a formalized and approved policy document, there may be a lot of push back and resistance from individuals not wishing to be debriefed prior to departure.

For some compliance officers, desiring to develop a program of debriefing key employees upon their notice of departure may be straightforward and easy to garner support; however, for many, it may prove to be a difficult sale to executive leadership and the board. It is important to lay out a case for why this is important in avoiding or mitigating potential liabilities. In some cases, it may require the outside assistance of compliance experts to assist in gaining support and approval.

For optimum results, interviews should be conducted with the departing person as soon as the employer is notified of their leaving. In this way, information can be clarified and followed up on while the individual is still employed. Any significant information received needs to be acted on quickly. Gathering information and storing it away without acting on it can result in serious consequences. The interview results should be read, acted upon, and analyzed the same way one would handle hotline reports.

USE OF EXIT INTERVIEW INFORMATION

The benefits of the exit interview program come from acting upon information received, as quickly as possible. Keys to the success of any exit interview program are: (a) who will get the information, (b) in what form, (c) how it will be used, (d) by whom, and (e) how well everything is documented. Failure to properly use information received makes the program a waste of resources. Therefore, organizations should determine how to quickly evaluate and disseminate results from the process.

Thought might be given as to how to disseminate the acquired information. This should be linked with the clarified objectives. For example, if the information derived relates to misconduct on the part of management, a proper determination needs to be made as to how this should be addressed. It is quite possible there might be information that would justify going straight to the top executive echelon, legal counsel, and the board. It also may necessitate possible disclosures to outside regulatory or enforcement agencies.

EXIT INTERVIEWS TIMING AND LOCATION

Optimally, it is better to have exit interviews take place apart from the formalities of the last day. Preferably, the interview should occur as soon as notice of departure is given. The reported experiences of an employee, under certain circumstances, may enable employers to receive early warnings of any emerging regulatory, ethical, or legal issues warranting attention. This will enable management to take any needed corrective action measures while the individual is still an employee.

Depending on the issues and circumstances, this could limit a lot of potential liability. Any legal or compliance issues raised during the process should be communicated to legal counsel immediately for evaluation and to determine appropriate action steps. This can allow the organization to address significant management or legal issues before the employee leaves the control of the organization.

When conducting the debriefings, it is better to do it away from the person's office where interruptions may take place. Interviews should be conducted so that others cannot observe or listen to the meeting. A final note on exit interviews is the reminder that the information received is likely to be very sensitive. As such, care should be given as to who receives the information and how it will

be used. The gathering of the information is only part of a successful program. The interview reports should be stored with the same confidentiality/security concerns as hotline reports.

EXIT INTERVIEW TIPS

Here are several tips when conducting exit interviews:

1. Identify the types of information needed.
2. Conduct the interview away from the person's office or where others can listen.
3. Establish key areas to be covered during the interview.
4. Determine how the information derived from the exit interviews will be used and by whom.
5. Conduct the interview as a conversation, avoiding a checklist of questions.
6. Use open-ended ones about their experience, knowledge, and concerns.
7. Specifically include any suspected potential violations of laws, regulations, and code of conduct.
8. Query about any observed or suspected conflicts of interest by individuals.
9. Immediately after the interview, have notes turned into a formal report.
10. Address issues raised promptly, while individuals are still employed.

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