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'Challenging Interviews' With Angry, Evasive and Sad People Call for Different Approach

By Nina Youngstrom

For some reason, an employee at the Hazelden Betty Ford Foundation was evasive in an interview during a compliance investigation, feigning unfamiliarity with health care practices despite her long history. That didn't work for Melissa Edson, standards and compliance specialist at Hazelden Betty Ford, and she called the employee on it. "The person had been in the field 20 years, and we were asking questions about her behavior. She kept telling me, 'I guess I am naive because I don't know,'" Edson recalled. "I said, 'I am not accepting that as an answer,' and I asked the questions in different ways."

Evasiveness is one of three types of "challenging" interviews that compliance officers may experience during compliance investigations, along with crying and anger. They make it harder for compliance officers to get answers to the questions they need to further investigations, she said April 9 at the Compliance Institute sponsored by the Health Care Compliance Association in Boston. Edson and her colleagues suggested ways to address challenging interviews and shared other strategies for effective interviews (see box below).

"The goal of the interview is to get your questions answered, and sometimes you have to manage some of the responses people have," said Jacki Waltman, manager of health information management and corporate privacy officer at Hazelden Betty Ford. "If you can't get people to calm down, you have to hit the pause button and try another strategy because your goal is to gather information."

Evasiveness may indicate that employees are gauging what the interviewer knows so they can decide how much to reveal. "They don't want to tell you more than what they need to tell you or they may have decided being dishonest or not cooperating is more advantageous," Edson said. "Also, sometimes people think if they talk to you they will get themselves or someone else in trouble." Whatever the reason, she says it helps to overcome evasion with open-ended questions. For example, "How did you respond to the situation? How has this situation impacted you? What other relevant information would you like to share related to the situation? Who else may have witnessed the situation or been impacted by it?"

People who cry in interviews may be expressing the stress of the investigation or something unrelated. "The first thing is to understand yourself and what your comfort level is with someone who is becoming very emotional," Edson said. "Maybe sit there in silence and let them process through that, and maybe ask them why they are being triggered with emotion." If they're unable to compose themselves, consider rescheduling the interview and encouraging them to seek out human resources or the employee assistance plan. However, if things settle down, you may be able to ask the questions or infer the tears "are validating facts," Edson said.

Then there are angry people. Sometimes they're angry because they feel they did something wrong and don't want to talk about it, and sometimes they're just having a bad day. "Acknowledging it is a great way to begin to defuse that and begin to move forward," Edson said. "Don't ignore it and hope it goes away."

Angry people may come across as defensive or passive aggressive, pretending they don't hear your questions. There are times the person is menacing. "If you don't feel safe, leave," Edson advised. "Maybe get someone to

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escort them out of building."

Follow the 80/20 Rule

Interviews under less dramatic circumstances typically yield useful information for compliance investigations depending partly on the skills of the compliance officers who conduct them. "Practice makes perfect," Waltman said. She recommends trial runs with colleagues to refine interview skills. "We do a lot of role playing" and "critique as we watch."

Listening carefully to the people you interview is essential. "Remember the 80/20 rule," Waltman said. "They talk 80% of the time, you talk 20%. You are there to gather information, not share information." Silence is a useful strategy. When interviewers are silent for seven seconds or more, people feel compelled to break the silence. "They will usually give more information than they intended," she said.

Jackie Stemwedel, senior manager of standards and compliance at Hazelden Betty Ford, said it's important to evaluate the credibility of people being interviewed. "Assessing credibility is key to an interview," she noted.

Here are some factors for evaluating credibility, Stemwedel said:

- "Interviewee's comfort with sitting in the interview and answering questions directly.
- Forthcoming with information or is it like pulling teeth to get them to share anything?
- Confidence in responses (pitch and tone, as well as body language).
- Interviewee's information corroborates the timeline developed based on evidence available to you.
- Have they had any complaints about other matters, and have they been deemed credible in those situations?"

She also recommends assessing the credibility of the people who report compliance problems. "No matter how outlandish something sounds, you have to take it seriously," Stemwedel said. "Just because a [wild] report comes in doesn't mean it isn't true."

Contact Edson at medson@hazeldenbettyford.org, Waltman at jwaltman@hazeldenbettyford.org and Stemwedel at jstemwedel@hazeldenbettyford.org. ✧

Checklist for Internal Investigations: Avoid Reinventing the Wheel

Hazelden Betty Ford Foundation in Minnesota developed this tool to help plan investigations (see story above). Contact Jackie Stemwedel, senior manager of standards and compliance, at jstemwedel@hazeldenbettyford.org.

Section 1: Common Workplace Complaints

A: Critical Policies

☐ Code of Conduct

☐ Conflict of Interest P&Ps

☐ Drug/Alcohol Use P&Ps

☐ Financial P&Ps

☐ Gifts/Gratuities P&Ps

☐ Interactions with Patients/Clients P&Ps

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☐ Harassment/Discrimination P&Ps

☐ Privacy P&Ps

☐ Technology P&Ps

☐ Social Media P&Ps

☐ Workplace Relationships/Boundaries P&Ps

B: Situations Meriting an Investigation

☐ Billing and Coding Issues

☐ Conflict of Interest

☐ Disclosure of Confidential Information

☐ Discrimination

☐ Drug/Medication Control

☐ Harassment

☐ Improper Employment or Disciplinary Actions

☐ Misconduct/Inappropriate Behavior

☐ Patient Care/Safety

☐ Theft/Vandalism

☐ Unlawful/Improper Payments

☐ Workplace Retaliation/Retribution

Section 2: Preparing for an Investigation

A: Considering Risk Factors (if you answer yes to any questions, consult the Legal Department)

☐ Y ☐ N Alleged violation of state or federal law or the code of ethics that would result in serious harm to individuals or the organization, or significant civil or criminal penalties?

☐ Y ☐ N Allegation against executive leadership member?

☐ Y ☐ N Allegation involving more than a single team or multiple reports from various teams directed toward a single leader?

☐ Y ☐ N Allegation involving multiple sites, a region or the organization?

☐ Y ☐ N Allegation that could undermine the effectiveness of the compliance program?

☐ Y ☐ N Allegation that could result in media attention, damage (monetary or reputational)?

☐ Y ☐ N Allegation that could result in government actions against the company?

☐ Y ☐ N Allegation that could result in the need to make a regulatory report?

IMPORTANT: If you answered yes to any of the questions above, consult with the Legal Department.

B: Determining Investigation Participants

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☐ Lead Investigation Dept.

☐ Co-investigator/Note-taker

☐ Reporter(s)

☐ Witnesses/Interviewees

☐ Lead Investigator

☐ Stakeholders

☐ Implicated Person(s)

☐ In-house Counsel

C: Collecting Evidence

☐ Personnel file *(Implicated Person)*

☐ Prior Investigation Files *(Implicated Person)*

☐ Supervisory files

☐ Voicemails

☐ Patient Records

☐ Department Schedules/Shift Logs

☐ Financial records

☐ Surveillance footage

☐ Professional Code of Conduct

☐ Social Media Activity

☐ Personnel file *(Reporter)*

☐ Prior Investigation Files *(Reporter)*

☐ Photographs

☐ Incident Reports

☐ Electronic health record activity *(Keystrokes)*

☐ Timecards

☐ Email communications

☐ Network drives/Hard drives

☐ Policies & Procedures

☐ Text Messages

D: Interview Planning

☐ Plan the order of interviews (often with the reporter first, then witnesses, and the implicated person last)

☐ Mark calendar invites "private"

☐ Whenever possible, do not include managers/supervisors in direct report interviews

☐ Be aware of interviewee's employment status & regular work hours

☐ Schedule interviews in a confidential location

☐ Limit information shared with managers/supervisors (minimum necessary; need to know)

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☐ Prepare interview script and questions

☐ Anticipate interviewee answers/reactions/behaviors/questions and plan your response

Section 3: Conducting Workplace Investigations

A: Investigation Reminders

☐ Begin investigation as soon as practical after receipt of complaint or once there is reason to believe that inappropriate conduct, violation of policy, etc., has occurred.

☐ Open and maintain a case (whether electronically or on paper); document in real-time

☐ Create a timeline and update as investigation evolves

☐ Determine whether an investigation should be attorney-client privileged (consult with in-house counsel)

☐ Assume that all emails, notes and other investigation materials are discoverable in litigation

☐ Determine who needs to be in the know and how much information should be provided

☐ Determine who needs to be part of your investigation interviews and involve them right away in the process

B: Conducting Interviews

☐ Introduce and provide explanation of interview (i.e., goal to gather information that person may have)

☐ Explain the investigation process and your role

☐ Discuss confidentiality; do not promise absolute confidentiality

☐ Review non-retaliation policy; explain what constitutes retaliation; provide interviewee with notice doc

☐ If the interview is conducted by an attorney, provide Upjohn Warning

☐ Let the interviewee give their story; record all details (day, time, place, witnesses, documents)

☐ Begin with general non-leading questions (what is your role at the organization; how long have you worked with the implicated person; how would you describe your relationship)

☐ Move into more specific questions (when did the incident occur)

☐ Drill down highly specific questions (describe the incident, persons involved, has this happened before)

☐ Determine identity of all persons involved in conduct

☐ Determine identity of all witnesses involved in conduct

☐ Explore whether the interviewee knows if any other individuals have been subjected to conduct

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☐ Go through events chronologically again; document details and relevant statements

☐ Do not record or transcribe interviews, document exact statements in quotes, as appropriate

☐ Obtain or request relevant documents or evidence

☐ Invite the interviewee to contact you with questions or additional information

C: Determining Interim Remedies

☐ Separate parties

☐ Administrative leave (with or without pay)

☐ Suspend network/email access

☐ Temporary reassignment

Section 4: Closing an Investigation

A: Preparing a Final Written Report

☐ Review all notes, statements and evidence

☐ Determine if any additional or follow-up interviews are needed

☐ Update timeline

☐ Analyze each interviewee's story; assess credibility and plausibility

☐ Determine whether a violation of policy, Code of Ethics, the law or inappropriate conduct has occurred

☐ Prepare final report; detail steps taken and reasons for conclusions; do not make legal conclusions

B: Remedying Workplace Complaints

☐ Inform the key stakeholder(s) of the findings; share the final report with person(s) responsible for determining remedial/corrective action

☐ Offer recommendations (i.e., Coaching; verbal or written warning; PIP; termination, return to work plan)

☐ Follow-up with reporter to ascertain whether retaliation has occurred

☐ Follow-up with key stakeholder(s) to learn final actions/disciplinary action

C: Completing Final Steps

☐ Document the case outcome

☐ Document final actions taken

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☐ Close the investigation (i.e., close electronic file or finalize and secure all documentation if on paper)

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