

Corporate Compliance Forms and Tools Factors to Consider in Determining the Scope of an Investigation

Determining the appropriate scope of an investigation is vital to ensuring appropriate allocation of limited investigation resources. It will be of key importance, however, to ensure your initial determination of scope is not something set in stone. The scope of investigation of what appears to be a relatively minor issue can quickly expand when evidence of a more serious issue is uncovered. Below are some factors to consider. Modify and adjust this document as needed to fit the specific requirements of your organization.

Category	Factor	Internal	External	Privileged	Recommended Practice
Nature of the Allegation	Is there an allegation of a code of conduct or a company policy violation?	X			
	Is there an alleged violation of law or regulation that could be material?		X	X	If the matter could result in government fines or penalties or may need to be disclosed to a regulator, consider using outside, independent investigation resources and consult with legal counsel to determine whether the investigation should be conducted subject to attorney-client privilege.
	Is the matter an HR issue relating to employee conflicts or displeasure with performance ratings, hours, or working conditions?	X			Be cautious of any facts you discover that might indicate a systemic issue or cases of harassment or discrimination that may merit use of outside resources. Ensure the investigator is not part of a work group and has no conflict of interest.
	Is a member of senior management potentially implicated in the misconduct?		X		In order to prevent any claim of bias, it is often best to use an outside, independent investigator for such matters.

	Does the allegation include the possibility of financial fraud or embezzlement in an amount that would be material to the organization?		X	X	If the amount in question is potentially material, this could require notification of external auditors, stock exchanges, and regulators. Consider using outside investigative resources and discuss with legal counsel whether privilege should apply.
Nature of Investigation	Will the investigation require interviews of people in their native language?		X		Consider use of local resources with native language abilities to ensure accuracy and comfort of witnesses.
	Is there a group of multiple people potentially involved in the misconduct?		X		Bringing in outside investigation resources can be of key importance when there are multiple people involved to ensure sufficient coverage to enable a very quick timeline and not give potential wrongdoers an opportunity to further collude and/or to destroy evidence.
	Will the investigation require gathering of electronic evidence?		X		Use of outside resources can be important when establishing an appropriate chain of custody and required privacy protections when gathering electronic evidence, especially from personal devices.
	Will the investigation involve former employees or outside third parties?		X	X	If third parties are involved, they may want counsel present, which could make presence of your own counsel a recommended practice.

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