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The show must go on: Making the most of remote interviews

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Many companies have historically elected to perform investigative functions—particularly witness interviews—in person whenever possible. However, due to the COVID-19 pandemic, in-person interviews are often not an option, as many employees are working from home and companies have restricted travel and in-person meetings.

At the beginning of the pandemic, some healthcare companies may have decided to postpone or delay certain aspects of investigations, expecting that business would return to normal shortly. Unfortunately, it has become clear that time frame may be substantially longer than initially expected. At the same time, compliance risks facing healthcare organizations have not paused and, in some circumstances, have increased. Accordingly, compliance efforts, including those related to internal investigations, continue to be critical. Further, even when the pandemic is largely behind us, it is likely that some companies will experience lasting changes with respect to employees working in virtual and remote capacities.

This article explores the benefits and challenges of conducting remote interviews and also offers practical strategies to make the most of them.

Remote interviews: Challenges and opportunities

Compliance and legal departments have long favored in-person interviews for good reason: it is easier to establish a collaborative relationship, in-person discussions can be helpful to observe body language and assess credibility, interviewees can physically hand over documents or take the interviewer to areas where certain events occurred or certain documents are located, and it can be easier to ensure that conversations are private.

While the loss of these in-person benefits is significant, remote interviews also present certain advantages: remote interviews are safer during the pandemic; they can be less expensive for the organization because travel is not needed; without the need to travel, sequencing and scheduling interviews is often much easier; and such interviews avoid situations in which other individuals see interviewers or attorneys on location, which can prompt questions and concerns. In addition, interviewees may feel more comfortable during remote interviews if they are able to select their interview environment (e.g., taking the interview at home versus in the office). They may also be less concerned that their colleagues will overhear the conversation or will see them leaving a room full of attorneys or compliance representatives.

Practical strategies

Regardless of the benefits and challenges of virtual interviews, for the foreseeable future, most interviews are likely to be remote. Therefore, we offer practical strategies for conducting remote interviews below.

Format

- One of the first considerations is whether to conduct a remote interview via audio only or with video. Absent specific reasons for an audio-only format, it is generally better to conduct a remote interview with video. This allows the interviewer to recapture some of the benefits of an in-person interview, like the ability to read body language. In some cases, interviewees may also be more comfortable participating in a video format where they can see the interviewer.
- It is important to give the interviewee clear information about the format in advance. Tell them you would like them to be on video in advance so they can dress accordingly and find an appropriate location for the interview.
- Even after the decision for video has been made, the interviewer must determine the appropriate video platform (e.g., Webex, Skype, Zoom). Subject to the security issues discussed below, it can be helpful to use the platform commonly used for video meetings in the organization to help ensure the interviewee feels comfortable with the technology.
- Distractions (e.g., dogs barking, doorbells ringing, children interrupting) can be more of an issue with remote interviews. While many of these distractions are inevitable, particularly when individuals are working from home, consider ways to minimize potential distractions and stay engaged throughout the interview. In addition, if taking notes during the interview, consider whether there is a way to mute typing sounds to avoid excess noise.
- Like with all interviews, it is important to reserve the appropriate amount of time for a remote interview. It is often better to err on the side of caution and reserve a longer length of time than needed. You can always end the interview early, but it is generally more difficult to extend the interview last minute or attempt to reconvene at a later time, after the flow of conversation has ended. In addition, some video platforms may automatically end meetings after a certain amount of time, so confirm the settings of the remote interview forum in advance.

Attendees

- Another consideration is the number of attendees. Generally, it is best to have a single interview subject at a time. Group interview settings often mean that some voices are drowned out. On the other side of the interview, it is typically helpful to have one person conducting the interview and asking questions and one designated notetaker.
- Because remote interviews do not require travel, it can be tempting to expand the group of attendees. The downside to that approach is that the interviewee may not feel as comfortable speaking openly if there seems to be a crowd.
- If the investigation is privileged, generally legal counsel (either internal or external counsel) should participate in the interview. Also, in certain circumstances, it may also be appropriate for the interviewee to have their own legal counsel present.

Technical capabilities

- It is best to be prepared for technical issues, which can arise at any point. Having information technology support on hand (but not participating in the interview) can be invaluable. It is also prudent for the interviewers to set up a practice session to test and familiarize themselves with the technology. Also keep in mind that some individuals have more experience with remote platforms than others.

- A well-equipped home office can be especially helpful for conducting remote interviews. Consider whether to invest in the following:
 - Double monitors;
 - Dedicated microphone/speakers or a headset;
 - An additional high-definition webcam, ideally mounted at eye height as opposed to a tilted laptop screen with camera;
 - Front lighting (as opposed to backlighting) to help ensure the interviewee can see you; and
 - Upgraded internet capability, such as a wired in-home connection or upgraded high-speed data plan.

Privacy and confidentiality

- It is important to emphasize from the outset the need for the interview to be confidential. Instruct the interviewee in advance that they should find a quiet, private area for the interview (e.g., not in a kitchen within earshot of other members of the household).
- It is also important to set up the technology platform to ensure security. For example, consider activating security settings, such as requiring attendee passwords or activating sound notifications for when someone joins or leaves.
- Once the interview begins, confirm that the interviewee is in a private location and others cannot overhear the conversation. It may also be helpful to ask the interviewee to confirm at the outset of the interview that they are not recording the interview. Take care with the converse and do not record the interview unless you have an understanding of the recording consent rules of the jurisdiction and have considered the implications of doing so with company policy.

Interview techniques

- Interview best practices continue to apply to remote interviews, although the virtual format adds nuance. For example, whether an interview is remote or in person, typically it is helpful to have a written outline of the topics and issues to discuss. With a remote interview, it is possible to have that outline up on your screen during the interview, but doing so may make it more difficult to maintain focus on the interviewee's body language and can be awkward when toggling between two different computer windows. If resources allow, a two-monitor format with video application on one screen and electronic documents and outline on the other is ideal.
- Starting with less sensitive topics (e.g., educational history, background, work history) before moving to more challenging topics is a long-standing interview technique. However, with a virtual format, this can be especially helpful as a way to establish a rapport without the typical in-person pre-interview casual conversation (e.g., discussing the weather, traffic).

Document considerations

- Remote interviews make it more challenging to discuss specific documents, so it is helpful to consider the approach in advance. For instance, will the interviewer share their screen with the interviewee? Or will documents be provided via a different format, such as email, in advance of the interview? Sharing a

document on screen is easier in terms of directing attention to specific information, but text on shared screens is smaller, so you may need to zoom in. Sharing a document on screen can also be beneficial in terms of maintaining confidentiality and privilege.

- Also, there are challenges in obtaining documents from interviewees. It is important to remember that remote work conditions may make it more difficult for an interviewee to obtain hard-copy documents located in the office. Accordingly, ample time should be provided when issuing document requests.

Conclusion

It is important to continue compliance and investigative efforts during the COVID-19 pandemic, so adapting to the remote interview dynamic is critical. In addition, remote interviews are yet another facet of the new normal and may be here to stay to some extent even after the pandemic ends. There are certainly challenges associated with remote interviews, but also potential benefits. With preparation and well-developed strategies, remote interviews can be effective and efficient investigative tools.

Takeaways

- Due to the COVID-19 pandemic, in-person interviews are often not an option.
- Even when the pandemic is behind us, it is likely that companies will experience lasting changes regarding employees working in remote capacities.
- The loss of in-person interviews creates many new challenges but can also offer new opportunities.
- Remote interviews require careful consideration of issues, including format, attendees, technology, privacy, interview techniques, and document review.
- With preparation and well-developed strategies, remote interviews can be effective and efficient investigative tools.

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