

Investigations Insights: Top Emerging Trends and Key Issues

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Trend #1: “Hanging on By a Thread”

Mental Health Issues at the Forefront

- Significant uptick in employee mental health issues
- Employees are more vocal about mental health
- Impact on witness interviews
- Be prepared by proactively addressing witness mental health and emphasizing the importance of psychological safety

Trend #2: “Harassment in Hibernation” Uptick in Inappropriate Employee Conduct

- Remote working/lack of personal contact yields inappropriate conduct
- Increase in harassment/assault/bullying and misconduct complaints
- Incorporate “proper remote conduct” protocols into your training programs including, but not limited to, appropriate conduct at conferences and off-site meetings

Trend #3: “Real or Fake”

The Impact of AI on Investigations

- AI and deepfakes complicate evidence
- Credibility assessments and corroborating evidence become even more important
- Privacy considerations can be mitigated

Trend #4: “He Said – She Said”

The Importance of a Credibility Assessment

- Significant increase of fact-intensive investigations require more credibility decisions
- Investigation findings go beyond interview summaries
- “He said/she said” conclusions are insufficient and never helpful
- Consider additional factors that speak to credibility assessments

Trend #5: “Throwing a Grenade as You Walk Away” Post-Separation Allegations and Complaints

- Increase in post-separation complaints
- Look for “investigation triggers” in resignation letters, exit interview statements, and close out emails
- “Sour grapes” is not always (or ever) a viable defense
- Train your investigators on handling matters with “absentee” complainants

Trend #6: Failing and Falling of the ‘Enforcers’

- Sharp increase in complaints against HR leadership
- Overall lack of trust in the individuals charged with overseeing and enforcing the rules
- More requests to “investigate the investigator(s)”
- Significant impact of a “culture of fear” in HR

Trend #7: Clashing Cultures and Agenda Wars

- Office politics potentially impacting investigations
- High level executives ignoring the rules
- Increased level of interference and manipulation of the investigation process
- Recognize how the workplace typically reflects the cultural landscape

Best Practices and Lessons Learned

- Sharpen mental health awareness/assistance
- Restore order to the investigation plan and process ... ASAP!
- Train investigators on making credibility assessments
- Hold executives accountable for interference/violating confidentiality

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Thank you!

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