

Leisure Law Insider – Vol. 6 (May 2025)

Hotel Owners: Is It Time to Launch an Internal Investigation?

May 19, 2025

By Douglas B. Paul and Jennifer Cohen Glasser



Key Take: *In the face of allegations of wrongdoing, hospitality executives need to act promptly and should proactively coordinate and execute an independent, well-structured internal investigation.*

Consider the following scenarios that could be faced by a hotel owner: numerous guests are claiming overcharges; or vendors are alleging that the manager is requiring kickbacks; or there's a data breach involving guests' credit card information; or there are allegations of ethical lapses involving senior management; or there are allegations that contracts are being awarded to friends of employees; or employees are alleging harassment or discrimination. Among the first actions the hotel should take in each of these situations, among others, is to consider the need for an internal investigation.

Many people believe that only the largest companies need to think about conducting an internal

investigation when problems arise. However, internal investigations are critical for maintaining integrity and compliance within organizations and can impact the reputation of any organization, regardless of size. The threat caused by reputational harm can be especially damaging in the hospitality industry, where negative customer perception, whether based upon factually accurate allegations or otherwise, can have devastating financial consequences. With the rise in ethical and legal scrutiny, companies must approach investigations with care and precision.

When to Investigate

It is important for organizations to act promptly in initiating an internal investigation when allegations of illegal or unethical conduct first arise, especially if these could expose the company to civil, criminal, or regulatory consequences. Other triggers include breaches of compliance identified during audits, systemic misconduct, or the potential for whistleblowers/government involvement. In addition to satisfying a hotel owner's legal obligations, investigations demonstrate transparency and a commitment to ethics, helping preserve the company's reputation with stakeholders.

Key Considerations in Decision-Making

Determining the scope and necessity of an investigation involves several factors:

- 1. Potential Implications of Allegations:** Determine any violations of company policies and procedures, financial wrongdoing, systemic issues going unaddressed, and more.
- 2. Severity and Credibility:** Evaluate the source and gravity of the allegations.
- 3. Stakeholder Impact:** Consider the roles of implicated individuals, particularly senior

management, and the broader repercussions on employees and investors.

4. **Potential Consequences of Inaction:** Failure to investigate could lead to intensified scrutiny, loss of trust, or escalation of the issue.

Regardless of the decision, companies must document their rationale for proceeding — or not — with an investigation. Documentation helps to protect the organization and provides transparency should questions arise later.

Who Should Lead the Investigation?

Choosing the right team to conduct an investigation is pivotal. Independence is crucial to ensuring credibility and mitigating biases. For public companies, the stakes are higher, often necessitating external counsel or third-party experts to preserve privilege and independence. In-house teams may offer efficiency, but in certain circumstances, lack of independence can undermine the investigation's credibility.

Execution and Documentation

A well-defined work plan sets the foundation for a successful investigation. Establishing goals, scope, and communication protocols ensures alignment among team members and stakeholders. Budgeting and monitoring costs are also essential, especially for extended or complex investigations.

Preserving and collecting evidence requires robust protocols. This includes issuing document preservation notices, collecting both electronic and physical records, and using forensic analysis where needed. Conversely, over collecting, or “boiling the ocean,” is inefficient and tends to distract from the investigative focus.

Properly conducting interviews is a critical component of any investigation. This includes administering legal warnings (known as “Upjohn”

warnings) and appropriately documenting the interviews to avoid questions later on.

Whether to provide counsel to current and/or former employees is another crucial decision point, and it should be considered early in the process. For certain employees — primarily senior executives — a company may be contractually required to provide counsel. As for other employees, the company may decide to provide counsel as a matter of discretion.

Final Reporting

Documentation is vital throughout the investigation. While oral updates are often preferred to preserve privilege, written reports may be necessary in cases requiring transparency or defending actions taken. Full written reports should be marked as privileged and confidential, clearly distinguishing between factual findings and opinions.

Conclusion

Internal investigations are a delicate balance of diligence, transparency, and strategy. By adhering to best practices, hospitality companies can navigate complex scenarios effectively, safeguarding their operations and reputation. A proactive and well-structured approach to investigations is essential.