

Workplace Investigations

Contributing Editors

Phil Linnard at Slaughter and May
Clare Fletcher at Slaughter and May

27. What legal exposure could the employer face for errors during the investigation?

Finland

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There are no regulations regarding the actual investigation process. Therefore, the employer cannot be accused of procedural errors as such. However, once the matter has been adequately investigated, the employer must decide whether or not misconduct has taken place. If the employer considers that misconduct has taken place, the employer must take adequate measures for remedying the situation. Failure to adequately conduct the investigation could result in criminal sanctions being imposed on the employer as an organisation or the employer's representative, or damages.

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Spain

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Errors during an investigation are normally linked to the breach of the employees' privacy or their personal data rights (see question 1). Breaching these rights might expose employers to:

- Fines from the Labour Inspectorate and the Spanish Data Protection Authority.
- A court awarding damages to the employee.
- Any disciplinary measures adopted by the company as a result of the investigation could be considered null and void.
- The evidenced obtained during the investigation being disregarded by a court.
- In some very serious cases, criminal liability might arise for the individuals who conducted the investigation and breached the employees' rights.

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