

# Workplace Investigations

## Contributing Editors

*Phil Linnard at Slaughter and May*  
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## 22. What must the employee under investigation be told about the outcome of an investigation?



### South Korea

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at Kim & Chang

There is no legal obligation for a company to disclose the outcome of an investigation to the employee who was subject to it. Having said that, if the company wishes to take disciplinary action against the employee based on the outcome of an investigation, it is required to disclose sufficient detail on the employee's wrongdoing that is subject to disciplinary action. This information should be provided to the employee before the disciplinary action committee (DAC) hearing to provide the employee with sufficient time to present and defend his or her position during the DAC hearing.

Last updated on 15/09/2022



### Spain

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Employees under investigation are not entitled to be informed about the investigation or its outcome. As set out above (see question 11), an employee would have a right to be informed about the outcome of an investigation if the employer takes any disciplinary actions as a consequence of the enquiry.

The reason to disclose the details of the investigation is to allow the employee to adequately defend him or herself from the alleged breaches.

Last updated on 15/09/2022



### Switzerland

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Workplace investigations often result in an investigation report that is intended to serve as the basis for any measures to be taken by the company's decisionmakers.

The employee's right to information based on article 8, Swiss Federal Act on Data Protection also covers the investigation report, provided that the report and the data contained therein relate to the employee.<sup>[1]</sup> In principle, the employee concerned is entitled to receive a written copy of the entire investigation report free of charge (article 8 paragraph 5, Swiss Federal Act on Data Protection and article 1 et seq, Ordinance to the Federal Act on Data Protection). Redactions may be made where the interests of the company or third parties so require, but they are the exception and must be kept to a minimum.<sup>[2]</sup>

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<sup>[1]</sup> Arbeitsgericht Zürich, Entscheide 2013 No. 16; Roger Rudolph, Interne Untersuchungen: Spannungsfelder aus arbeitsrechtlicher Sicht, SJZ 114/2018, p. 393 et seq.

<sup>[2]</sup> Roger Rudolph, Interne Untersuchungen: Spannungsfelder aus arbeitsrechtlicher Sicht, SJZ 114/2018, p. 394.

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