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Workplace Investigations

Contributing Editors

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

18. What if unrelated matters are revealed as a result of the investigation?

🇮🇪 Ireland

Author: *Bláthnaid Evans* , *Mary Gavin*
at Ogier

If an investigator finds other issues that are outside the scope of the terms of reference, these should not be ignored but equally should not be included as part of the investigation, as they are beyond the remit of the investigation that was established at the beginning. An investigator should identify the other matters that may require further action and report these to the employer separately so as not to conflate issues.

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🇨🇭 Switzerland

Author: *Laura Widmer, Sandra Schaffner*
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There are no regulations in this regard in the Swiss employment law framework. However, in criminal proceedings, the rules regarding accidental findings apply (eg, article 243, Swiss Criminal Procedure Code for searches and examinations or article 278, Swiss Criminal Procedure Code for surveillance of post and telecommunications). In principle, accidental findings are usable, with the caveat of general prohibitions on the use of evidence.

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🇺🇸 United States

Author: *Rachel G. Skaistis* , *Eric W. Hilfers, Jenny X. Zhang*
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Where new issues or claims arise during an ongoing workplace investigation, the investigator should discuss with in-house counsel whether the new issues or claims should be separately investigated and if so,

by whom, or if instead those new issues or claims are sufficiently related to the current review that they can be investigated in parallel and incorporated into the ongoing fact-gathering process.

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