

# Workplace Investigations

## Contributing Editors

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

## 22. What must the employee under investigation be told about the outcome of an investigation?

### France

Author: *Pascale Lagesse, Valentino Armillei*  
at Bredin Prat

The employee under investigation, like the other employees interviewed and the whistleblower, must be informed that the investigation has been completed. However, there is no obligation to provide them with the report and, for reasons of confidentiality, it is very often best not to do so.

Last updated on 15/09/2022

### Switzerland

Author: *Laura Widmer, Sandra Schaffner*  
at Bär & Karrer

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>

---

<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.



## United States

Author: *Rachel G. Skaistis, Eric W. Hilfers, Jenny X. Zhang*  
at Cravath, Swaine & Moore

In general, it is often helpful to provide the complainant and subject of the complaint with a short written communication or verbal communication at the end of an investigation to advise that the investigation has concluded. Where the allegations are unsubstantiated, the communication should convey that no evidence of misconduct or unlawful conduct was found. Where the allegations are substantiated, the results and proposed communication should be reviewed with the legal function, together with potential disciplinary and remedial action, before it is communicated to the complainant and the subject of the complaint.

Where the misconduct alleged poses a high risk to the company from a reputational, operational or legal perspective, and especially where an investigation is conducted by outside counsel, outside counsel should determine, in consultation with the relevant individuals at the company, for example the general counsel, how and with whom to share investigation results and if and how to communicate the outcome to the complainant and the subject of the complaint. This is the case regardless of whether the allegations are found to be substantiated or unsubstantiated.

Last updated on 15/09/2022

### Contributors



#### France

Pascale Lagesse  
Valentino Armillei  
*Bredin Prat*



#### Switzerland

Laura Widmer  
Sandra Schaffner  
*Bär & Karrer*



#### United States

Rachel G. Skaistis  
Eric W. Hilfers  
Jenny X. Zhang  
*Cravath, Swaine & Moore*