

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?

Germany

Author: *Hendrik Bockenheimer, Susanne Walzer, Musa Müjdeci*
at Hengeler Mueller

The employer has no general obligation to proactively inform the employee about the outcome of an investigation. However, if personal data was collected, the employee has the right to request certain information: the purpose of the data collection, type of data, recipients of the data, the planned storage period of the data, his right to have the data corrected or deleted, his right to complain to a supervisory authority, and information on the source of the data.

Last updated on 15/09/2022

Netherlands

Author: *Barbara Kloppert, Mirjam Kerkhof, Roel de Jong*
at De Brauw Blackstone Westbroek

There are no statutory requirements as to employee feedback in internal investigations. The principle of due care requires an employer to typically confront implicated persons with any allegations that concern them; and provide a draft report on their interviews for feedback, if the investigative findings will form the basis of disciplinary measures. It is good practice to also inform an employee under investigation once the investigation is closed.

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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.^[1] 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.^[2]

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

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

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Contributors



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