

Workplace Investigations

Contributing Editors

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

26. How long should the outcome of the investigation remain on the employee's record?

Netherlands

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

The outcomes are usually kept in the records until termination of the employment agreement and only deleted when personal records are deleted.

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Switzerland

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

From an employment law point of view, there is no statute of limitations on the employee's violations. Based on the specific circumstances (eg, damage incurred, type of violation, basis of trust or the position of the employee), a decision must be made as to the extent to which the outcome should remain on the record.

From a data protection point of view, only data that is in the interest of the employee (eg, to issue a reference letter) may be retained during the employment relationship. In principle, stored data must be deleted after the termination of the employment relationship. Longer retention may be justified if rights are still to be safeguarded or obligations are to be fulfilled in the future (eg, data needed regarding foreseeable legal proceedings, data required to issue a reference letter or data in relation to a non-competition clause).^[1]

^[1] Wolfgang Portmann/Isabelle Wildhaber, *Schweizerisches Arbeitsrecht*, 4. Edition, Zurich/St. Gallen 2020, N 473.

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Vietnam

Author: *Stephen Le, Trang Le*
at Le & Tran Law Corporation

Vietnamese law does not provide for a period during which the outcome of the investigation should remain on the employee's records and files. However, this will depend on the employer's record-retention policies, which must comply with applicable data protection laws.

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Contributors



Netherlands

Barbara Kloppert
Mirjam Kerkhof
Roel de Jong
De Brauw Blackstone Westbroek



Switzerland

Laura Widmer
Sandra Schaffner
Bär & Karrer



Vietnam

Stephen Le
Trang Le
Le & Tran Law Corporation