

Workplace Investigations

Contributing Editors

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

19. What if the employee under investigation raises a grievance during the investigation?

Germany

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at Hengeler Mueller

As seen in question 6, the employee must participate in interviews requested by the employer under certain circumstances. Generally, the employee must provide truthful information even if it is incriminating.

The raising of a grievance by the employee does not directly affect the workplace investigation (ie, the investigation does not have to be stopped and the employee's obligation to provide truthful information continues). This may change, however, once the court decides that certain measures were conducted unlawfully and must, therefore, cease.

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Singapore

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The employer should require the employee to raise the grievance under the company's existing grievance reporting, disciplinary and investigation processes so that the grievance, to the extent that it is relevant to the current investigation, can be investigated together. Otherwise, the grievance can be dealt with separately and independently of the existing investigation.

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Switzerland

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In the context of private internal investigations, grievances initially raised by the employee do not usually have an impact on the investigation.

However, if the employer terminates the employment contract due to a justified legal complaint raised by an employee, a court might consider the termination to be abusive and award the employee compensation in an amount to be determined by the court but not exceeding six months' pay for the employee (article 336 paragraph 1 (lit. b) and article 337c paragraph 3, Swiss Code of Obligations). Furthermore, a termination by the employer may be challenged if it takes place without good cause following a complaint of discrimination by the employee to a superior or the initiation of proceedings before a conciliation board or a court by the employee (article 10, Federal Act on Gender Equality).

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