

# 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?

### Germany

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

There are no specific rules if unrelated matters are revealed during the investigation. If, in the course of the workplace investigation, new facts are discovered, the same principles apply as for the original reason for the investigation and the employer should consider whether to extend the investigation to the new matter too.

Last updated on 15/09/2022

### Sweden

Author: *Henric Diefke, Tobias Normann, Alexandra Baron*  
at Mannheimer Swartling

According to the GDPR, personal data can only be processed for specified, explicit and legitimate purposes and may not be further processed in a manner that is incompatible with those purposes. This imposes restrictions on the use of material from previous investigations in new investigations when the material was collected for other purposes. It is, therefore, necessary to ensure whether the new matter relates to the investigation and falls within the purpose of the investigation. If the new matter is unrelated to the investigation and does not fall within the purpose of the investigation, the identified information may not be processed under the GDPR.

Except for what is stated above, no regulation limits how the employer can use information regarding unrelated matters. Unrelated matters may be a myriad of different things, and could in some instances just be discarded, while in other situations the information may invoke a responsibility to act for the employer (eg, if the unrelated matters concern work environment issues or other severe misconduct by an employee who is not the target of the investigation). Furthermore, the employer may always use any revealed information (unrelated or not) as evidence in a court of law, since the principle of free examination of evidence applies.

Last updated on 15/09/2022

## Switzerland

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

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.

Last updated on 15/09/2022

### Contributors



#### Germany

Hendrik Bockenheimer  
Susanne Walzer  
Musa Müjdeci  
*Hengeler Mueller*



#### Sweden

Henric Diefke  
Tobias Normann  
Alexandra Baron  
*Mannheimer Swartling*



#### Switzerland

Laura Widmer  
Sandra Schaffner  
*Bär & Karrer*