

Workplace Investigations

Contributing Editors

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

14. When does privilege attach to investigation materials?

Philippines

Author: *Rashel Ann C. Pomoy*
at Villaraza & Angangco

The employer's internal policy can indicate that investigation materials must be kept confidential.

Last updated on 26/01/2023

Switzerland

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

As outlined above, all employees generally have the right to know whether and what personal data is being or has been processed about them (article 8 paragraph 1, Swiss Federal Act on Data Protection; article 328b, Swiss Code of Obligations).

The employer may refuse, restrict or postpone the disclosure or inspection of internal investigation documents if a legal statute so provides, if such action is necessary because of overriding third-party interests (article 9 paragraph 1, Swiss Federal Act on Data Protection) or if the request for information is manifestly unfounded or malicious. Furthermore, a restriction is possible if overriding the self-interests of the responsible company requires such a measure and it also does not disclose the personal data to third parties. The employer or responsible party must justify its decision (article 9 paragraph 5, Swiss Federal Act on Data Protection).^[1]

The scope of the disclosure of information must, therefore, be determined by carefully weighing the interests of all parties involved in the internal investigation.

^[1] Claudia M. Fritsche, *Interne Untersuchungen in der Schweiz*, Ein Handbuch für Unternehmen mit besonderem Fokus auf Finanzinstitute, p. 284 et seq.

Contributors



Philippines

Rashel Ann C. Pomoy
Villaraza & Angangco



Switzerland

Laura Widmer
Sandra Schaffner
Bär & Karrer