

Workplace Investigations

Contributing Editors

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

13. Can non-disclosure agreements (NDAs) be used to keep the fact and substance of an investigation confidential?



China

Author: *Leo Yu, Yvonne Gao, Tracy Liu, Larry Lian*
at Jingtian & Gongcheng

Yes. In practice, before conducting a compliance investigation, we recommend that the employer and the investigator enter into a confidentiality agreement to require the investigator to keep confidential the facts and the substance of the investigation. This will not only better protect the personal information of the complainant, the witness and the investigated employee, but also help the investigation to proceed smoothly.

Last updated on 29/11/2023



Switzerland

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

In addition to the above-mentioned statutory confidentiality obligations, separate non-disclosure agreements can be signed. In an internal investigation, the employee should be expressly instructed to maintain confidentiality.

Last updated on 15/09/2022



United Kingdom

Author: *Phil Linnard, Clare Fletcher*
at Slaughter and May

Only to a limited extent. As a matter of law, NDAs cannot prevent a worker from making a protected disclosure, or reporting a crime to the police. As a matter of the regulatory obligations of solicitors, NDAs

should not be used in other ways, including as a means of influencing the content of disclosures, or by using warranties, indemnities and clawback clauses in a way that is designed to, or has the effect of, improperly preventing or inhibiting permitted reporting or disclosures (see the [SRA's warning notice on the use of NDAs](#)).

Last updated on 15/09/2022

Contributors



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Leo Yu
Yvonne Gao
Tracy Liu
Larry Lian
Jingtian & Gongcheng



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Laura Widmer
Sandra Schaffner
Bär & Karrer



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