

Workplace Investigations

Contributing Editors

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

04. Who should conduct a workplace investigation, are there minimum qualifications or criteria that need to be met?

Greece

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As far as the persons in charge of an internal investigation are concerned, L. 4990/2022 on the protection of persons who report breaches of Union law provides for certain conditions that should be met when exercising their duties (ie, being impartial and abstaining when there is a conflict of interest), which also apply as general principles in all disciplinary procedures. Whistleblowing legislation stipulates that persons appointed to receive and investigate a whistleblowing procedure should meet certain conditions, including no penal proceedings against them, no disciplinary proceedings or convictions for specific offences, and no workplace suspensions.

Official disciplinary procedures are conducted by the competent bodies as described in the respective internal labour regulations.

Although not specifically regulated, support from external advisors (eg, lawyers) is allowed.

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Netherlands

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Workplace investigations, if they are to be of value, must be conducted by an expert, professional and independent party. To safeguard the independence of the investigation, it is crucial that neither the contractor nor any other third party can influence how the investigation is to be conducted or how the outcome should be reported. The investigation must be conducted according to the protocol drawn up at the start and the investigator must not be involved in the follow-up to the outcome.

There is an ongoing discussion of whether lawyers can conduct an objective and independent investigation, due to the bias inherent to their profession. On the other hand, investigation bureaus or committees are

also not necessarily independent, as they are not regulated and not subject to disciplinary law.

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Switzerland

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The examinations can be carried out internally by designated internal employees, by external specialists, or by a combination thereof. The addition of external advisors is particularly recommended if the allegations are against an employee of a high hierarchical level^[1], if the allegations concerned are quite substantive and, in any case, where an increased degree of independence is sought.

[1] David Rosenthal et al., *Praxishandbuch für interne Untersuchungen und eDiscovery*, Release 1.01, Zürich/Bern 2021, p. 18.

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