

# Workplace Investigations

## Contributing Editors

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

### 03. Can an employee be suspended during a workplace investigation? Are there any conditions on suspension (eg, pay, duration)?

#### Finland

Author: *Anu Waaralinna, Mari Mohsen*  
at Roschier

There is no legislation on temporary suspension in the event of a workplace investigation or similar. In some situations, the employer may relieve the employee from their working obligation with pay for a short period.

Last updated on 15/09/2022

#### France

Author: *Pascale Lagesse, Valentino Armillei*  
at Bredin Prat

An employee may be suspended or relocated during a workplace investigation by:

- suspending the employee as a precautionary measure (eg, pending a confirmation of dismissal);
- temporarily assigning the employee to another site; or
- exempting the employee from having to work while continuing to pay them their salary.

The employee can be suspended as a precautionary measure, pending confirmation of dismissal, but this implies that disciplinary proceedings have already begun and that the investigation is therefore at a relatively advanced stage and that there is sufficient evidence to suggest the need for disciplinary action. It should be made clear to the employee that the suspension is a provisional measure (in the absence of specifying this, the suspension could be interpreted as a disciplinary layoff constituting a sanction and, in some jurisdictions, as depriving the employer of the possibility of dismissing the employee for the same facts).

Temporary reassignment can also be considered. However, this contractual change must not apply for long and the measure taken must be temporary. The employer must act promptly – the measure is only valid for as long as the investigation continues. Failing this, and because of the absence of concurrent disciplinary

proceedings, there is considerable risk that the temporary reassignment may be reclassified by a judge as an illegal modification of the employment contract or as a disciplinary sanction preventing the employee from subsequently being dismissed.

Finally, paid exemption from work is also possible and consists of temporarily suspending, by mutual agreement, the obligation of the employer to provide work for the employee and the employee's obligation to work, without affecting their remuneration. Such a measure must generally be taken with the consent of the employee, because it implies a suspension (and therefore a modification) of the employment contract. This measure may be useful in temporarily removing an employee with whom the employer maintains a good relationship. This may be an employee who is or feels they are a victim of harassment, especially when the employee is not on sick leave.

Last updated on 15/09/2022

## Switzerland

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

It is possible to suspend an employee during a workplace investigation.<sup>[1]</sup> While there are no limits on duration, the employee will remain entitled to full pay during this time.

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<sup>[1]</sup> David Rosenthal et al., *Praxishandbuch für interne Untersuchungen und eDiscovery*, Release 1.01, Zürich/Bern 2021, p. 181.

Last updated on 15/09/2022

### Contributors

#### Finland

Anu Waaralinna  
Mari Mohsen  
*Roschier*

#### France

Pascale Lagesse  
Valentino Armillei  
*Bredin Prat*

#### Switzerland

Laura Widmer  
Sandra Schaffner  
*Bär & Karrer*

