

Workplace Investigations

Contributing Editors

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

02. How is a workplace investigation usually commenced?

Finland

Author: *Anu Waaralinna, Mari Mohsen*
at Roschier

When the employer becomes aware of possible misconduct, the employer must commence an investigation immediately, in practice within about two weeks. The information may come to the employer's knowledge via, for example, the employer's own observations, from the complainant or their colleagues or an employee representative.

Last updated on 15/09/2022

Switzerland

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

Internal investigations are usually initiated after reports about possible violations of the employer's code of conduct, applicable laws or regulations have been submitted by employees to their superiors, the human resources department or designated internal reporting systems such as hotlines (including whistleblowing hotlines).

For an internal investigation to be initiated, there must be a reasonable suspicion (grounds).^[1] If no such grounds exist, the employer must ask the informant for further or more specific information. If no grounds for reasonable suspicion exist, the case must be closed. If grounds for reasonable suspicion exist, the appropriate investigative steps can be initiated by a formal investigation request from the company management.^[2]

^[1] Claudia Fritsche, *Interne Untersuchungen in der Schweiz: Ein Handbuch für regulierte Finanzinstitute und andere Unternehmen*, Zürich/St. Gallen 2013, p. 21.

^[2] Klaus Moosmayer, *Compliance, Praxisleitfaden für Unternehmen*, 2. A. München 2015, N 314.

09. What additional considerations apply when the investigation involves whistleblowing?

Finland

Author: *Anu Waaralinna, Mari Mohsen*
at Roschier

In respect of data protection, the processing of personal data in whistleblowing systems is considered by the Finnish Data Protection Ombudsman (DPO) as requiring a data protection impact assessment (DPIA).

Last updated on 15/09/2022

Switzerland

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

If an employee complains to his or her superiors about grievances or misconduct in the workplace and is subsequently dismissed, this may constitute an unlawful termination (article 336, Swiss Code of Obligations). However, the prerequisite for this is that the employee behaves in good faith, which is not the case if he or she is (partly) responsible for the grievance.

Last updated on 15/09/2022

Contributors

Finland

Anu Waaralinna
Mari Mohsen
Roschier

Switzerland

Laura Widmer
Sandra Schaffner
Bär & Karrer