

Workplace Investigations

Contributing Editors

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

Nigeria

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NDAs are usually part of an employee's contract and, as such, create a contractual obligation between the parties privy to it. However, where the subject matter of an investigation borders on matters of a criminal nature, it might be impossible for parties to the NDA to continually uphold the obligation under the NDA because the parties have an obligation to the state to disclose facts of a criminal nature.

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Switzerland

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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.

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Turkey

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It is crucial to keep the events and facts of a workplace investigation confidential for the integrity of the process. It may be necessary to consider appropriate confidentiality measures to protect the complainant, mitigate risks, and preserve evidence. Damage to the confidentiality of the case can prevent the

investigation team from bringing the case to a correct and complete conclusion. Although the labour legislation imposes a general confidentiality obligation on employees, NDAs can still be used as supplementary documents that may emphasise the confidentiality obligations of employees in workplace investigations and provide additional contractual protections such as penalties if there is a breach.

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