

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?

Austria

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According to section 6(1) of the DSG, employees who have access to personal data in the course of their professional activities must maintain data confidentiality and continue to do so even after termination of their employment.

Non-disclosure agreements can generally be used to achieve this but are subject to certain restrictions. They may not be used to conceal criminal activity, violate the privacy rights of individuals, circumvent legal disclosure obligations, prevent the exercise of legal rights or contain clauses that violate existing laws, in particular data protection regulations.

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Singapore

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Yes, NDAs can be used to keep the fact and substance of an investigation confidential. There are no express prohibitions against such NDAs under Singapore law. However, information or evidence covered by the NDA may still be discoverable in court or arbitration proceedings; and may also be subject to disclosure requests or directions by the police or statutory authorities, including the MOM.

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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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