

Workplace Investigations

Contributing Editors

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

17. What other support can employees involved in the investigation be given?

Belgium

Author: *Nicolas Simon*
at Van Olmen & Wynant

There are no other mandatory support measures. However, an employer is free to offer additional support, for example, by granting leave from work. If tensions at the workplace are high, it may be a good idea to ask the employee under investigation to take some leave. Some companies also provide certain legal, moral or even psychological support. If the complaint concerns sexual harassment, bullying or violence at work, the prevention adviser can also recommend that the employer take additional measures to support certain employees.

Furthermore, under the whistleblower rules, an external reporting authority can grant any support measure (eg, legal advice or financial, technical, psychological or media-related, social support).

For complaints due to sexual harassment, violence or bullying at work, and if the facts are serious, the prevention adviser should, during the examination of the request and before giving his or her opinion to the employer, propose protective measures to the employer. These measures are necessary to avoid serious damage to the complainant's health or a significant deterioration in the situation (for example, causing opposing parties to commit criminal offences). The final decision on taking these measures rests with the employer. This means that the employer does not necessarily have to take the measures proposed by the prevention adviser. They may take other measures that provide an equivalent level of protection for the employee.

Last updated on 15/09/2022

Ireland

Author: *Bláthnaid Evans, Mary Gavin*
at Ogier

If an employee assistance programme is in place, an employee irrespective of their role in the investigation should be directed to the programme and encouraged to avail of the services. Investigations can become protracted and employees should be kept informed as to progress and what is required of them regarding

participation. Regular checks of the health and well-being of employees should also be made. Even if such a programme is not in place, occasionally and depending on the issues giving rise to the investigation, it may be appropriate for the employer to cover the cost of counselling to a certain extent.

Last updated on 11/10/2023

Switzerland

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

The employer does not generally need to provide specific support for employees that are subject to an internal investigation. The employer may, however, allow concerned employees to be accompanied by a trusted third party such as family members or friends.^[1] These third parties will need to sign separate non-disclosure agreements before being involved in the internal investigation.

In addition, a company may appoint a so-called lawyer of confidence who has been approved by the employer and is thus subject to professional secrecy. This lawyer will not be involved in the internal investigation but may look after the concerned employees and give them confidential advice as well as inform them about their rights and obligations arising from the employment relationship.^[2]

^[1] Roger Rudolph, *Interne Untersuchungen: Spannungsfelder aus arbeitsrechtlicher Sicht*, SJZ 114/2018, p. 390.

^[2] David Rosenthal et al., *Praxishandbuch für interne Untersuchungen und eDiscovery*, Release 1.01, Zürich/Bern, 2021, p. 133.

Last updated on 15/09/2022

Contributors

Belgium

Nicolas Simon
Van Olmen & Wynant

Ireland

Bláthnaid Evans
Mary Gavin
Ogier

Switzerland

Laura Widmer
Sandra Schaffner
Bär & Karrer

