

Workplace Investigations

Contributing Editors

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

05. Can the employee under investigation bring legal action to stop the investigation?

Sweden

Author: *Henric Diefke, Tobias Normann, Alexandra Baron*
at Mannheimer Swartling

No. It should, however, be noted that the employee under investigation may claim a right to rectification under article 16 of the GDPR and its right to object to processing under article 21 of the GDPR. This may give the employee under investigation an undesirable opportunity to withhold evidence and obstruct or impede the investigation. The risk of these rights being exercised is, however, considered to be low.

Last updated on 15/09/2022

Switzerland

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

The accused could theoretically request a court to stop the investigation, for instance, by arguing that there is no reason for the investigation and that the investigation infringes the employee's personality rights. However, if the employer can prove that there were grounds for reasonable suspicion and is conducting the investigation properly, it is unlikely that such a request would be successful.

Last updated on 15/09/2022

United Kingdom

Author: *Phil Linnard, Clare Fletcher*
at Slaughter and May

Not usually, unless the investigation is being conducted in breach of a contractual policy (as sometimes happens in the NHS, for example), or if the investigation is not adjourned pending the outcome of criminal proceedings, and the employee can show that failure to do so is a breach of either an express term or the

implied term of trust and confidence. The latter would be rare, but possible if the employee can demonstrate a real danger of a miscarriage of justice (see question 21).

Last updated on 15/09/2022

Contributors



Sweden

Henric Diefke
Tobias Normann
Alexandra Baron
Mannheimer Swartling



Switzerland

Laura Widmer
Sandra Schaffner
Bär & Karrer



United Kingdom

Phil Linnard
Clare Fletcher
Slaughter and May