

# Workplace Investigations

## Contributing Editors

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

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

#### Switzerland

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

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.

Last updated on 15/09/2022

#### United Kingdom

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

Only to a limited extent. As a matter of law, NDAs cannot prevent a worker from making a protected disclosure, or reporting a crime to the police. As a matter of the regulatory obligations of solicitors, NDAs should not be used in other ways, including as a means of influencing the content of disclosures, or by using warranties, indemnities and clawback clauses in a way that is designed to, or has the effect of, improperly preventing or inhibiting permitted reporting or disclosures (see the [SRA's warning notice on the use of NDAs](#)).

Last updated on 15/09/2022

### **16. If there is a works council or trade union, does it have any right to be informed or involved in the investigation?**

## Switzerland

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

In general, works councils and trade unions are not very common in Switzerland and there are no statutory rules that would provide a works council or trade union a right to be informed or involved in an ongoing internal investigation. However, respective obligations might be foreseen in an applicable collective bargaining agreement, internal regulations or similar.

Last updated on 15/09/2022

## United Kingdom

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

Aside from the statutory right to be accompanied (see question 15), any further involvement by the works council or trade union would depend on the terms of the relevant works council or trade union recognition agreement.

Last updated on 15/09/2022

### Contributors

#### Switzerland

Laura Widmer  
Sandra Schaffner  
*Bär & Karrer*

#### United Kingdom

Phil Linnard  
Clare Fletcher  
*Slaughter and May*