

# Workplace Investigations

## Contributing Editors

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

#### Japan

Author: *Chisako Takaya*  
at Mori Hamada & Matsumoto

It is possible to use NDAs in investigations.

Last updated on 15/09/2022

#### Switzerland

Author: *Laura Widmer, Sandra Schaffner*  
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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.

Last updated on 15/09/2022

### **24. What next steps are available to the employer?**

#### Japan

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at Mori Hamada & Matsumoto

In an investigation into an employee's misconduct, based on the results of the investigation, disciplinary action will be considered if there are grounds for disciplinary action, and dismissal will also be considered.

Personnel actions (eg, dismissal, reassignment) may also be taken.

Last updated on 15/09/2022

## Switzerland

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If the investigation uncovers misconduct, the question arises as to what steps should be taken. Of course, the severity of the misconduct and the damage caused play a significant role. Furthermore, it must be noted that the cooperation of the employee concerned may be of decisive importance for the outcome of the investigation. The possibilities are numerous, ranging, for example, from preventive measures to criminal complaints.<sup>[1]</sup>

If individual disciplinary actions are necessary, these may range from warnings to ordinary or immediate termination of employment.

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<sup>[1]</sup> David Rosenthal et al., *Praxishandbuch für interne Untersuchungen und eDiscovery*, Release 1.01, Zürich/Bern 2021, p. 180 et seq.

Last updated on 15/09/2022

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