

# Workplace Investigations

## Contributing Editors

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

## 09. What additional considerations apply when the investigation involves whistleblowing?

### France

Author: *Pascale Lagesse, Valentino Armillei*  
at Bredin Prat

Evidence obtained in the context of an investigation must specify who provided it and the date it was provided. No retaliatory measures may be taken against the whistleblower for the act of whistleblowing.

In certain cases, the whistleblower report must be forwarded to the judicial authorities (eg, when there is an obligation to assist persons in imminent danger, for serious offences or a disclosure that a vulnerable person is in danger (ie, minors under 15 or a person who is unable to protect themselves)).

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### Switzerland

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

If an employee complains to his or her superiors about grievances or misconduct in the workplace and is subsequently dismissed, this may constitute an unlawful termination (article 336, Swiss Code of Obligations). However, the prerequisite for this is that the employee behaves in good faith, which is not the case if he or she is (partly) responsible for the grievance.

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### Thailand

Author: *Ratthai Kamolwarin, Norrapat Werajong*  
at Chandler MHM

It is down to the employer's discretion and subject to the whistleblowing policy (if any) to commence the

investigation resulting from a complaint from a whistleblower. Whistleblowers and those who cooperate with an investigation should be protected. Normally the employer would not try to identify the whistleblowers. Also, it is best not to reveal the identity of the witness or the source of information; otherwise, they may feel uncomfortable giving information or raising their concerns next time. Any allegations of retaliation that surface during the investigation should be treated as a new report of possible misconduct that could be subject to additional investigation.

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## Contributors



### France

Pascale Lagesse  
Valentino Armillei  
*Bredin Prat*



### Switzerland

Laura Widmer  
Sandra Schaffner  
*Bär & Karrer*



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Ratthai Kamolwarin  
Norrapat Werajong  
*Chandler MHM*