

Workplace Investigations

Contributing Editors

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

04. Who should conduct a workplace investigation, are there minimum qualifications or criteria that need to be met?

Poland

Author: *Wioleta Polak, Aleksandra Stępniewska, Julia Jewgraf*
at WKB Lawyers

There are no legal requirements in this regard but it is good practice if the team of investigators or individuals who deal with the case consists of:

- a person who has specific knowledge in a given field (concerning the violation);
- a member of the HR team; and
- a lawyer (it is recommended to engage an independent, external lawyer who can maintain the objectivity of the investigation, especially in complex matters or where a conflict of interest arises or may arise).

It is crucial that the investigators are independent (and they must be allowed to act independently).

Also, certain personal features are useful (eg, the ability to objectively assess a situation, empathy, and managing skills).

Last updated on 20/04/2023

Switzerland

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

The examinations can be carried out internally by designated internal employees, by external specialists, or by a combination thereof. The addition of external advisors is particularly recommended if the allegations are against an employee of a high hierarchical level^[1], if the allegations concerned are quite substantive and, in any case, where an increased degree of independence is sought.

Last updated on 15/09/2022

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

Poland

Author: *Wioleta Polak, Aleksandra Stępniewska, Julia Jewgraf*
at WKB Lawyers

This is unlikely. Theoretically, an employee can file a claim against an employer concerning the infringement of personal rights in the course of an investigation and a motion to secure his or her claims, which would consist of an employer being forced to suspend the proceedings, but in practice we have not encountered such a situation.

Last updated on 20/04/2023

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

Contributors

Poland

Wioleta Polak
Aleksandra Stępniewska
Julia Jewgraf
WKB Lawyers

Switzerland

Laura Widmer
Sandra Schaffner
Bär & Karrer

