

# Workplace Investigations

## Contributing Editors

*Phil Linnard at Slaughter and May*  
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## 23. Should the investigation report be shared in full, or just the findings?

### Philippines

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The employer is not compelled to share its investigation report with the employee. However, it would be ideal for the company to keep in its records a comprehensive report that details the findings of the investigation. This would be useful during the administrative disciplinary process when the employee requests to be informed of the substantive grounds for his or her eventual termination.

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### Switzerland

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In principle, there is no obligation to disclose the final investigation report. Disclosure obligations may arise based on data protection law vis-à-vis the persons concerned (eg, the accused). Likewise, there is no obligation to disclose other documents, such as the records of interviews. The employee should be fully informed of the final investigation report, if necessary, with certain redactions (see question 22). The right of the employee concerned to information is comprehensive (ie, all investigation files must be disclosed to him).<sup>[1]</sup> Regarding publication to other bodies outside of criminal proceedings, the employer is bound by its duty of care (article 328, Swiss Code of Obligations) and must protect the employee as far as is possible and reasonable.<sup>[2]</sup>

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<sup>[1]</sup> Nicolas Facincani/Reto Sutter, *Interne Untersuchungen: Rechte und Pflichten von Arbeitgebern und Angestellten*, in: HR Today, to be found on: <Interne Untersuchungen: Rechte und Pflichten von Arbeitgebern und Angestellten | hrtoday.ch> (last visited on 27 June 2022).

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



### Philippines

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After the investigation has been concluded, the next steps of the employer will depend on the result of the investigation. If there are reasonable grounds to hold the employee for an administrative hearing, the employer may issue a Notice To Explain containing the charges against him or her and allowing the employee to explain his or her side. Otherwise, the employer may terminate the investigation immediately.

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

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