

# 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?**

#### Switzerland

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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.

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### **25. Who can (or must) the investigation findings be disclosed to? Does that include regulators/police? Can the interview records be kept private, or are they at risk of disclosure?**

#### Switzerland

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The employer is generally not required to disclose the final report, or the data obtained in connection with the investigation. In particular, the employer is not obliged to file a criminal complaint with the police or the public prosecutor's office.

Exceptions may arise, for example, from data protection law (see question 22) or a duty to release records may arise in a subsequent state proceeding.

Data voluntarily submitted in a proceeding in connection with the internal investigation shall be considered private opinion or party assertion.<sup>[1]</sup> If the company refuses to hand over the documents upon request,

coercive measures may be used under certain circumstances.[\[2\]](#)

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[\[1\]](#) Oliver Thormann, Sicht der Strafverfolger – Chancen und Risiken, in: Flavio Romero/Claudio Bazzani (Hrsg.), *Interne und regulatorische Untersuchungen*, Zürich/Basel/Genf 2016, p. 123.

[\[2\]](#) Oliver Thormann, Sicht der Strafverfolger – Chancen und Risiken, in: Flavio Romero/Claudio Bazzani (Hrsg.), *Interne und regulatorische Untersuchungen*, Zürich/Basel/Genf 2016, p. 102 et seq.

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