

France: Obligation to Conduct an Internal Investigation into Discrimination or Sexual Harassment

A recent French Supreme Court decision indicated that an employer internal investigation is not always a necessary step to comply with their obligation to protect their employees' health and safety, for instance following an employee complaint of misconduct.

An internal investigation is only one of the options available to the employer.

The overriding principle is the protection of the health and safety of staff.

If the facts are clear and straight forward, no internal investigation may be required.

If however, the facts are unclear, the risk of harm is a high, they affect a wider group of employees, reflect a repeating practice/culture or are widespread in the organisation/group, an internal investigation may be a necessary step to protect the workforce.

An internal investigation may always be necessary when any situation could expose an employee to risk of harassment or discrimination.

That said, while the French Courts may not always require the conduct of an internal investigation following a complaint, best practice would suggest that it will be in the interests of both employer and employee that in most cases a fully documented investigation were carried out and any necessary remedial steps taken.

This is a high level general update only. Legal advice should be obtained on specific circumstances.