

HOW TO IMPLEMENT AN EFFECTIVE WHISTLEBLOWING PROGRAMME



THE LEGAL REQUIREMENTS

Does your organisation have 50 or more employees?

YES

The Whistleblowers Protection Act (the 'Act') makes it *compulsory* for organisations to have their own internal *reporting procedure* with channels for reporting that include:

- *What reporting persons* can report and when, *both* internally and externally.
- To *whom* reporting persons can report wrongdoing and *how*.
- What the reporting person's *rights* are.
- *What* action the organisation will take in response to a report.

Note: the Act is not the only legislation that will affect the whistleblowing programme. In addition, the situation for reporting persons in a specific sector may differ due to sectoral or foreign legislation, and therefore should be given extra attention.

NO

Even though it is not a legal requirement, the implementation of an *effective whistleblowing programme* tailored to the size of the organisation is still highly recommended for identifying and preventing wrongdoing, and creating a safe working environment within your organisation.



TO AN EFFECTIVE WHISTLEBLOWING PROGRAMME IN THREE STEPS

1 ACKNOWLEDGING AND ASSESSING A REPORT

Advice & support

Appoint a *confidential advisor* to provide free and confidential advice and support to persons considering making a report.

Reporting procedure

Establish clear procedures for handling cases before, during and after reporting and provide multiple reporting channels that can be accessed 24/7 (see also above under legal requirements).

Response mechanism

Ensure proper and *timely* feedback to a reporting employee and comprehensive follow-up.

Risk assessment & triage

Assess the risk posed by a report to ensure that important reports can be acted upon promptly and the right reports get to the right independent officers for further investigation.



2 SUPPORT AND PROTECT EMPLOYEES

No disadvantage

Prohibit retaliation, provide opportunities to report disadvantage, respond to these reports, impose penalties on those who disadvantage, offer legal remedies to those who are disadvantaged.

Confidentiality

Safeguard information and ensure optimal confidentiality for both the reporting person and the 'accused' person.

Anonymity

Provide the option to report anonymously.

3 MOTIVATE, TRAIN AND COMMUNICATE WITH EMPLOYEES

Ethical working environment

Promote psychological safety in the workplace, 'walk the talk' from the top, and actively recognise and encourage ethical leadership.

Communication

Make sure anyone in contact with your organisation is aware of the reporting programme, publish anonymised statistics and lessons learned from previous reports.

Training

Provide regular *training to employees* on the reporting programme and to officers responsible for receiving and investigating reports.

Roles & responsibilities

Make sure the internal department can use the right specialists for all key parts of the reporting procedure. These specialists must be independent, and recognised and respected by the organisation's management.



INTEGRITY SCHOOL

by Transparency International Nederland

THE BENEFITS OF AN EFFECTIVE WHISTLEBLOWING PROGRAMME



Incidents occur in every organisation. If the public interest is at stake in an incident, it is considered as wrongdoing under the Act. A whistleblowing programme is primarily for reporting wrongdoing and suspected wrongdoing. However, there are many other incidents such as rule-breaking or unethical behaviour that do have substantial consequences for an organisation, but where the public interest is not at stake. It is important that a whistleblowing programme also facilitates the reporting of such incidents. In these guidelines, the definition of wrongdoing includes such incidents.

NB: Labour disputes do not fall within the definition of wrongdoing.



1. IDENTIFICATION AND PREVENTION OF WRONGDOING

In the workplace, an effective whistleblowing programme is essential to encourage persons involved in the organisation to expose wrongdoing. Such a programme should protect reporting persons from being disadvantaged. Employees are the eyes and ears of every organisation. Studies have shown that almost half of all frauds are discovered through employee reports. By providing your employees with secure reporting channels, whistleblowing programmes make it possible to discover problems that might not otherwise surface. This will then enable corrective action to be taken. An effective whistleblowing programme is an essential tool to detect and prevent wrongdoing. It protects organisations from the consequences of wrongdoing, including legal liability, financial losses and reputational damage. A whistleblowing programme also fosters an organisational culture of trust and responsiveness, and enables the strengthening of the organisation's credibility, reputation and morale.

2. RISK MITIGATION

The lack of an effective whistleblowing programme may result in an employee refraining from reporting internally or

immediately disclosing the wrongdoing externally. Moreover, in the case of wrongdoing, the courts can hold the employer liable for lack of good employment practices. Also, in the event of a dispute about disadvantage, the courts may consider the lack of an effective whistleblowing programme as a lack of clarity on the part of the employer and rule in favour of the reporting person. The lack of an effective whistleblowing programme can therefore cause you financial and reputational damage.

3. FREE ADVICE FROM EMPLOYEES

A clear and understandable reporting procedure, properly implemented, ensures that employees can report wrongdoing at an early stage, in an approachable, confidential and safe

manner. Initially, you may not be eager to receive notifications of wrongdoing. No one likes to be told what is wrong within their organisation and investigating suspected wrongdoing takes time. But if wrongdoings come to light at an early stage and you are able to resolve them internally, that is extremely beneficial to your organisation. It prevents incidents from escalating and causing further damage. An effective whistleblowing programme increases your organisation's ability to self-regulate. You can consider a report of wrongdoing as free advice from the workforce.

4. CREATING A SOCIALLY SAFE WORKPLACE

Employers can promote and foster a reporting culture within their organisation by creating a psychologically safe workplace where people can speak openly without fear of being disadvantaged. Implementing a clear and safe reporting procedure helps create such a culture. When employees report wrongdoings, it also means you have loyal employees who feel safe in their workplace. If an employee does not feel safe, he/she would never dare report anything. In that sense, every report is a compliment to your organisation.

