

# TOWARDS AN EFFECTIVE WHISTLEBLOWING FRAMEWORK

**Guidance for the public and  
private sector in The Netherlands**



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#### SAFE for Whistleblowers

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#### TOWARDS AN EFFECTIVE WHISTLEBLOWING FRAMEWORK

Guidance for the public and private sector in The Netherlands

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# GLOSSARY

**WHISTLEBLOWING:** In the Dutch Whistleblower Protection Act, whistleblowing is understood as the reporting or public disclosure of a suspicion of wrongdoing with a public interest. Reporting can be internal, within one’s own organisation, or external, to a competent authority.<sup>1</sup>

Transparency Internationals’ definition of whistleblowing is broader and reads ‘communicating information on suspected wrongdoing to individuals or entities believed to be able to effect action’.<sup>2,3</sup>

**WRONGDOING:** any act or omission that is unlawful, abusive or can cause harm – that has been, is being or is likely to be committed in or for the organisation.

**CORRUPTION:** TI defines corruption as the abuse of entrusted power for private gain.<sup>4</sup>

**WHISTLEBLOWER:** any person reporting or disclosing information on suspected wrongdoing acquired in the context of their work-related activities, with the reasonable belief that the information reported was true at the time of reporting. These persons include at least the following categories of individuals, whether their relationship with the organisation is current or has ended: employees (full- or part-time, fixed-term or temporary), including civil servants, self-employed persons, shareholders and persons belonging to the administrative, management or supervisory body, volunteers and paid or unpaid interns, persons working under the supervision and direction of contractors, sub-contractors and suppliers and persons who acquired information during the recruitment process or other pre-contractual negotiations, such as job applicants or bidders.<sup>5</sup>

**WHISTLEBLOWING FRAMEWORK:** a framework of policies, procedures, processes, guidelines and tools that encourages employees and other stakeholders to report internally suspected wrongdoing, provide safe reporting channels, protect those reporting and other stakeholders from retaliation and guide an organisation’s response.<sup>6</sup>

**INTERNAL REPORT:** a whistleblowing report made at the workplace of a public or private organisation. External report: a whistleblowing report made to a competent authority.

**PUBLIC DISCLOSURE:** making information on breaches available in the public domain, either by publishing the information – for example, on online platforms or social media – or by reporting it to stakeholders such as the media, elected officials, civil society organisations, legal associations, trade unions or business/professional organisations.

**RETALIATION:** any threatened, recommended or actual act or omission, direct or indirect, which causes or may cause harm, and is linked to or resulting from actual or suspected whistleblowing.

**PERSON CONCERNED:** a natural or legal person who is referred to in a whistleblower’s report or complaint as a person responsible for the suspected wrongdoing or retaliation or associated with that person.<sup>7</sup>

1 See: Ministerie Binnenlandse Zaken en Koninkrijksrelaties. Begrippenlijst, (2022). Available at: <https://www.wetbeschermingklokkenluiders.nl/documenten/publicaties/2022/09/08/begrippenlijst>  
 2 Marie Terracol, “Internal Whistleblowing Systems”. Policy brief. p.3 (2022), Transparency International. [https://files.transparencycdn.org/images/2022\\_PolicyBrief\\_InternalWhistleblowingSystems\\_English-1.pdf](https://files.transparencycdn.org/images/2022_PolicyBrief_InternalWhistleblowingSystems_English-1.pdf)  
 3 Unlike the Dutch Whistleblower Protection Act, TI-NL emphasizes the importance to work with a broad definition of whistleblowing, without the requirement of public interest.  
 4 Transparency International, “What Is Corruption?” 16 April 2024. <https://www.transparency.org/en/what-is-corruption>.  
 5 Marie Terracol, Internal Whistleblowing System. Self-assessment framework. (2024). <https://www.transparency.org/en/publications/internal-whistleblowing-systems-self-assessment-framework-public-private-organisations>.  
 6 Marie Terracol, “Internal Whistleblowing Systems”. Policy brief. (2022), Transparency International. [https://files.transparencycdn.org/images/2022\\_PolicyBrief\\_InternalWhistleblowingSystems\\_English-1.pdf](https://files.transparencycdn.org/images/2022_PolicyBrief_InternalWhistleblowingSystems_English-1.pdf).  
 7 Marie Terracol, “Internal Whistleblowing Systems”. Best practice principles for public and private organisations. [https://images.transparencycdn.org/images/2022\\_Internal-Whistleblowing-Systems\\_English.pdf](https://images.transparencycdn.org/images/2022_Internal-Whistleblowing-Systems_English.pdf)

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# INTRODUCTION

## TO AN EFFECTIVE WHISTLEBLOWING FRAMEWORK

It is a sad fact that wrongdoing such as corruption and fraud often goes unchallenged when people do not speak out against it. That is why whistleblowers are so invaluable in exposing corruption, fraud and mismanagement – and adequate reporting mechanisms are powerful tools in the fight against these practices. Whistleblowing is in fact one of the most effective ways to uncover corruption, fraud, mismanagement and other wrongdoing that threatens public health and safety, financial integrity, human rights and the environment. This makes whistleblowing a vital pillar in the integrity, governance and compliance systems of every single organisation, and healthy, corruption-free institutions across society.<sup>8</sup>

Transparency International defines whistleblowing as: “communicating information on suspected wrongdoing – an act or omission that is unlawful, abusive or can cause harm – to individuals or entities believed to be able to effect action.”<sup>9</sup>

Organisations themselves are often best placed to deal with wrongdoing occurring within their remit, and in practice, most whistleblowers first report such suspected wrongdoing within their organisation. It is therefore essential that organisations, whether private companies or public institutions, provide safe and effective mechanisms to receive and address these reports, as well as robust protection to whistleblowers.<sup>9</sup>

The Dutch Whistleblower Protection Act requires organisations to implement whistleblowing frameworks, also known as “speak up” or internal reporting systems. But organisations should not consider whistleblowing frameworks as just a legal obligation.

<sup>8</sup> Brown, A J et al., Clean as a whistle: a five- step guide to better whistleblowing policy and practice in business and government. Key findings and actions of Whistling While They Work 2, Brisbane: Griffith University, August 2019.

<sup>9</sup> Marie Terracol, Internal whistleblowing systems. Self-assessment framework for public and private organisations.

<https://www.transparency.org/en/publications/internal-whistleblowing-systems-self-assessment-framework-public-private-organisations>

<sup>10</sup> Transparency International Nederland. Whistleblowing Frameworks 2024. (2024).

[https://www.transparency.nl/wp-content/uploads/2024/12/Whistleblowing-Frameworks-Research\\_Report\\_2024\\_final\\_final.pdf](https://www.transparency.nl/wp-content/uploads/2024/12/Whistleblowing-Frameworks-Research_Report_2024_final_final.pdf)

<sup>11</sup> See for example Stephen Stubben and Kyle Welch (2020), Evidence on the Use and Efficacy of Internal Whistleblowing Systems; Bussmann, K.-D., & Niemeczek, A. (2019), Compliance through company culture and values: An international study based on the example of corruption prevention. Journal of Business Ethics, 157(3), 797–811; Kaptein, M. (2011), From inaction to external whistleblowing: The influence of the ethical culture of organizations on employee responses to observed wrongdoing, Journal of Business Ethics, 98, 513–530; Mayer, D.M., Nurmo-hamed, S., Klebe Treviño, L., Shapiro, D.L., & Schminke, M. (2013), Encouraging Employees to Report Unethical Conduct Internally: It Takes a Village. Organizational Behavior and Human Decision Processes, 121, 89-103; Seifert, D. L., Sweeney, J. T., Joireman, J., & Thornton, J. M. (2010). The influence of organizational justice on accountant whistleblowing. Accounting, Organizations and Society, 35(7), 707-717.

<sup>12</sup> Transparency International Nederland. Whistleblowing Frameworks 2024. (2024).

[https://www.transparency.nl/wp-content/uploads/2024/12/Whistleblowing-Frameworks-Research\\_Report\\_2024\\_final\\_final.pdf](https://www.transparency.nl/wp-content/uploads/2024/12/Whistleblowing-Frameworks-Research_Report_2024_final_final.pdf)

Effective whistleblowing frameworks help to protect organisations from the effects of misconduct – including legal liability, lasting reputational harm and serious financial losses.<sup>10</sup>

By enabling personnel and other relevant stakeholders to speak up about unethical or illegal conduct, effective whistleblowing frameworks foster an organisational culture of trust, transparency and accountability. They therefore provide real benefits to an organisation’s culture, brand, value creation and growth.<sup>11</sup>

Transparency International Nederland defines an effective whistleblowing framework as: “A framework of policies and procedures that proactively encourage employees – as well as third parties such as contractors, suppliers, service providers and customers – to raise concerns internally about potential misconduct. The mechanisms should protect those raising such concerns from retaliation and guide an organisation’s timely response to prevent or mitigate any harm to the public and/or to itself.”

At the workplace, having an effective whistleblowing framework in place is essential to stimulate the reporting of wrongdoing, such as corruption, misconduct, or fraud. Staff members are the eyes and ears of any organisation, and whistleblowing frameworks are a vital component of good governance and risk management. Clear procedures for whistleblowing help to protect companies, public bodies and non-profit organisations from the effects of misconduct, including legal liability, serious financial losses and lasting reputational harm. An effective whistleblowing framework also fosters a corporate culture of trust and responsiveness.<sup>12</sup>

## BENEFITS OF EFFECTIVE WHISTLEBLOWING FRAMEWORKS

Effective whistleblowing frameworks provide real and highly valuable benefits to organisations of all types:

### 1. A public signal of commitment to integrity and social responsibility

Shareholder demands for effective internal ethics programmes to support long-term value creation are growing. Internal reporting systems signal to investors and the public that an organisation prioritises risk management, social responsibility and integrity.

### 2. Prevention and mitigation of liability

Early detection gives organisations the opportunity to address wrongful conduct before a situation escalates to trigger liability. It also provides an opportunity to voluntarily self-report to relevant regulatory agencies, before an agency initiates action and reaches an adverse conclusion because the organisation failed to act.

### 3. Prevention and mitigation of financial losses

Internal reporting systems can prevent or mitigate financial losses from fraud and liability, such as civil or criminal penalties. Knowledge that a reporting system exists can discourage individuals from misconduct through fear of being reported.

### 4. Continuous improvement in compliance and risk management

Information on issues raised through an internal reporting system enables organisations to improve their policies & procedures and identify where more resources are needed to reduce risk exposure.

### 5. Strengthening of reputation

An ethical breach or legal violation can destroy an organisation’s brand value, with severe consequences, including lower investment, lost profits and low morale among personnel. With internal reporting, leaders can prevent or mitigate reputational damage.

### 6. Enhancement of organisational culture

Backed by encouragement from leaders and corporate responsiveness to reports of misconduct, internal reporting systems can build an organisational culture of trust, transparency and accountability, with a positive impact on personnel performance and retention.<sup>13</sup>

<sup>13</sup> Transparency International, The Business Case for ‘Speaking Up’: how Internal Reporting Mechanisms Strengthen Private-Sector Organisations. (2017). [https://images.transparencycdn.org/images/2017\\_BusinessCaseSpeakingUp\\_EN.pdf](https://images.transparencycdn.org/images/2017_BusinessCaseSpeakingUp_EN.pdf)

<sup>14</sup> It should be noted that while the guidelines meet, at a minimum, the standards set in the EU Directive on Whistleblower Protection and in the Dutch Whistleblower Protection Act, in several instances they go beyond these standards to meet best practice.

<sup>15</sup> Marie Terracol, “INTERNAL WHISTLEBLOWING SYSTEMS”. Policy brief p.7. (2022).

[https://files.transparencycdn.org/images/2022\\_PolicyBrief\\_InternalWhistleblowingSystems\\_English-1.pdf](https://files.transparencycdn.org/images/2022_PolicyBrief_InternalWhistleblowingSystems_English-1.pdf)

Transparency International Nederland (TI-NL) works with the public and private sector in the Netherlands to improve comprehensive whistleblowing protection at different levels. These guidelines follow the TI best practice principles for internal whistleblowing systems<sup>14</sup> and aim to support organisations’ implementation of effective whistleblowing frameworks with the following objectives:

- Empower personnel and other relevant stakeholders to speak up about wrongdoing.
- Enable timely detection and diligent address of wrongdoing committed, within, by or for the organisation.
- Prevent and minimise damage to the organisation, including legal liability, serious financial losses and lasting reputational harm resulting in decreased public trust, by enabling early detection and correction of wrongdoing.
- Prevent and minimise damage to the public interest, including public health, human rights and the environment.
- Protect whistleblowers and third parties against risk of retaliation.
- Enable the organisation to learn and remediate.
- Foster an organisational culture of trust, transparency and accountability, which helps prevent wrongdoing.<sup>15</sup>

## A SHORT GUIDE ON HOW TO IMPLEMENT AN EFFECTIVE WHISTLEBLOWING FRAMEWORK

On the next pages you will find a short guide about implementing an effective whistleblowing framework.



# How to IMPLEMENT an effective whistleblowing framework

# The BENEFITS of an effective whistleblowing framework

Does your organisation have 50 or more employees?

## YES

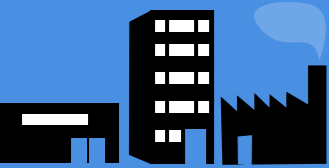
The Whistleblowers Protection Act (the 'Act') makes it compulsory for organisations to have their own internal reporting procedure with channels for reporting that include:

- 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 framework. 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 framework 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.



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 framework 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 framework also facilitates the reporting of such incidents. In these guidelines, the definition of wrongdoing includes such incidents.

NB: Employment disputes are not included in the definition.



## TO AN EFFECTIVE WHISTLEBLOWING FRAMEWORK 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.

### 1. Identification and prevention of wrongdoing

In the workplace, an effective whistleblowing framework 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 frameworks make it possible to discover problems that might not otherwise surface. This will then enable corrective action to be taken. An effective whistleblowing framework 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 framework 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 framework 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 framework 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 framework 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 framework 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.



# 1. WHO SHOULD IMPLEMENT

## A WHISTLEBLOWING FRAMEWORK?

All public and private organisations\* with at least fifty employees should have an internal whistleblowing framework.

\* Organisations active in the field of financial services, transport or the environment - regardless of the number of employees - are obliged to have a whistleblowing framework in place.

\* Small organisations (with less than 50 employees) are strongly advised to implement an internal whistleblowing framework, especially when the nature of their activities presents risk to the public interest (for example, to human rights, the environment or public health).

\* Small and medium-sized organisations (with less than 250 employees) could opt to share resources for the receipt of reports and any subsequent investigation. However, the responsibility to maintain confidentiality, give feedback to the whistleblower and address the reported wrongdoing remains with each organisation concerned.

\* Companies with more than 50 employees, part of a corporate group, should have their own whistleblowing framework.

- The employer ensures that the report is properly recorded, for example with a recording or transcript that the whistleblower approves him or herself;

- Impartial persons within the organisation treat the report confidentially and carefully;

- Within 3 months after sending the confirmation of receipt of the report, the employer must inform the whistleblower about the steps taken (and/or yet to be taken);

- The employer must provide the whistleblower and other employees (in writing or electronically) with information about its internal reporting procedure, what legal protection employees have and how they can report externally.

If the whistleblower has any doubts about reporting to his or her employer, he or she can always ask the Dutch Whistleblowers Authority for advice.

Apart from the Whistleblower Protection Act, various sectoral agreements and industry codes can also oblige employers to have an internal whistleblowing framework for reporting wrongdoing. For example, there is:

- The Corporate Governance Code for publicly-listed companies;
- The Governance Code Culture for the cultural sector;
- The Governance Code Care for healthcare.<sup>16</sup>

In addition, new reporting schemes and counters may arise in the future because of ongoing discussions on transgressive or MeToo behaviour within and outside organisations. Transparency International Nederland advises all organisations to work with one single internal whistleblowing framework where reporting persons can report all types of wrongdoing, including those where the public interest might not be at stake (see Chapter 2a Scope on p. 11).<sup>17</sup>

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

- The whistleblower must be able to submit the report in writing, by telephone or in a physical conversation, of his or her own choice;
- The employer ensures that the whistleblower receives a confirmation of receipt of his or her report within 7 days;
- The employer must adhere to the duty of confidentiality;

<sup>16</sup> Huis voor Klokkeluiders. Publicatie Kennis & Preventie. De Meldregeling – Integriteit in de Praktijk. (2023).

<https://www.huisvoorklokkeluiders.nl/Publicaties/brochures/2023/09/29/integriteit-in-de-praktijk---de-meldregeling>

<sup>17</sup> For labour law disputes and grievances there should preferably be a separate procedure as this type of complaints are typically handled by Human Resources.

# 2. THE KEY PRINCIPLES

## FOR AN EFFECTIVE WHISTLEBLOWING FRAMEWORK

### KEY PRINCIPLES

#### FOR AN EFFECTIVE WHISTLEBLOWING FRAMEWORK

Key considerations when setting up an internal whistleblowing framework

- The internal whistleblowing framework should be commensurate to the organisation's size and its exposure to risks of wrongdoing. Organisations should therefore undertake a risk and needs assessment to properly design their whistleblowing framework.

- The internal whistleblowing framework is part of the organisation's governance framework and should be embedded in, or at least linked to, integrity and compliance programmes. They are different from human resources (hr) or grievance procedures.

- The internal whistleblowing framework should be designed following consultation with relevant stakeholders at all levels, both internal and external – and, where appropriate, in agreement with them. These include works councils, trade unions or other personnel representatives.

- The internal whistleblowing framework should comply with national legal requirements. This includes whistleblower protection legislation, but also other legislation, such as data protection or labour laws.

- The internal whistleblowing framework should be inclusive and gender sensitive.<sup>18</sup>

All public and private organisations with at least fifty employees (see chapter 1 on p. 10) should have an internal whistleblowing system, following these key principles<sup>19</sup>:



#### A) Scope

- Internal whistleblowing frameworks should invite reports regarding any suspected wrongdoing – that is any act or omission that is unlawful, abusive or can cause harm – that has been, is being or is likely to be committed in or for the organisation.

#### Wrongdoing includes but is not limited to:

- corruption in all its forms (including bribery, undue influence, nepotism, money laundering and sextortion)
- criminal offences
- breaches of legal obligations (national and international)
- dangers to public and occupational health and safety
- dangers to the environment
- human rights violations
- child exploitation or abuse
- sexual harassment
- bullying and discrimination
- miscarriages of justice
- abuse of authority
- insider trading, tax evasion
- breaches of antitrust law or international trade sanctions
- violations of corporate codes
- unauthorised use of funds, property or resources
- gross waste or mismanagement
- conflict of interest
- fraudulent financial disclosures
- retaliation against whistleblowers and other protected parties

<sup>18</sup> Transparency International. "Finding a voice, Seeking Justice - The barriers women face to reporting corruption in the European Union". (2021). [https://images.transparencycdn.org/images/2021\\_FindingVoiceSeekingJustice\\_PositionPaper\\_Eng.pdf](https://images.transparencycdn.org/images/2021_FindingVoiceSeekingJustice_PositionPaper_Eng.pdf)

<sup>19</sup> Marie Terracol, "Internal Whistleblowing Systems". Best practice principles for public and private organisations. (2022). [https://images.transparencycdn.org/images/2022\\_Internal-Whistleblowing-Systems\\_English.pdf](https://images.transparencycdn.org/images/2022_Internal-Whistleblowing-Systems_English.pdf)

It is important for organisations to note that not all reports of wrongdoing can or may be handled in the same way because different requirements apply to the legal definition of wrongdoing<sup>20</sup> than to the handling of other integrity violations. For example, if it involves one case of transgressive behaviour there is no possibility to report directly externally. The Dutch Whistleblowers Authority does not investigate these violations either.

- Internal whistleblowing frameworks should invite reports from any person who might acquire, in the context of their work-related activities, information on wrongdoing committed in or for the organisation. These persons include at least the following categories of individuals, whether their relationship with the organisation is current or has ended: employees (whether full- or part-time, fixed-term or temporary), including civil servants, self-employed persons, shareholders and persons belonging to the administrative, management or supervisory body, volunteers and paid or unpaid interns, persons working under the supervision and direction of contractors, sub-contractors and suppliers and persons who acquired information during the recruitment process or other pre-contractual negotiations, such as job applicants or bidders.

- Organisations should protect whistleblowers – that is, any persons reporting suspected wrongdoing with the reasonable belief that the information reported was true at the time of reporting – as well as third parties at risk of retaliation. Organisations should protect whistleblowers without any consideration of their motives for reporting. Whistleblowers who have reported information anonymously and have subsequently been identified, whether they reported internally or externally to the authorities or made a public disclosure and whether they used the designated internal channels or reported to another ‘natural’ internal authority such as a manager, chief compliance officer HR officer or board member should also be protected.



## B) Roles and responsibilities

- The organisation's top leadership are responsible and accountable for the effective implementation of its internal whistleblowing framework. They should demonstrate their commitment and set a clear “tone from the top” in support of speaking up and listening up about wrongdoing.

- Organisations should designate an impartial person or department responsible for the operation of the internal whistleblowing framework. This person or department should be free from conflict of interest, and have sufficient independence, authority, powers and resources, as well as the relevant qualifications.

- Where a report is received through internal channels other than the designated reporting channels or by personnel other than those responsible for handling reports, the personnel who receive the report are prohibited from disclosing any information that might identify the whistleblower or the person concerned, and should promptly forward the report to the proper channel. Personnel are prohibited from engaging in any form of retaliation against a whistleblower or protected third party. Organisations should inform personnel of their responsibilities under the internal whistleblower framework, including via regular awareness training.

- Management has several responsibilities when receiving a report as they should:
  - immediately inform responsible person/department upon the receipt of the report;
  - not initiate investigation without prior approval of the responsible person/department;
  - not attempt to identify the whistleblower;
  - not contact the whistleblower;
  - not retaliate against the whistleblower or other persons involved;
  - not take any remedial or disciplinary action without prior approval of the chief compliance officer;
  - fully cooperate with and support investigators.

<sup>20</sup> To be protected under the Whistleblower Protection Act, an external report of wrongdoing should include a public interest being at stake with a broader effect than just personal interests. It must furthermore be either be a pattern or structural in nature or broad or serious in scope.



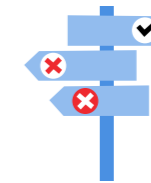
## C) Information, training and communication

- Information about the organisation's internal whistleblowing framework should be highly visible and accessible, via a wide range of media and channels. All relevant stakeholders, including all potential whistleblowers and persons concerned, should have access to and receive relevant information on the internal whistleblowing framework.

- Communication about the organisation's internal whistleblowing framework should have explicit support and endorsement of top leadership.

- The organisation should provide appropriate training to personnel on whistleblowing, concepts of wrongdoing, ways of reporting, rules and procedures and the internal whistleblowing framework.

- Organisations should report publicly every year on their commitment to a “speak up and listen up” culture and the implementation of their internal whistleblowing framework. Prospective investors, partners or employees often look at whether organisations have internal whistleblowing frameworks and statistics on whether these are effective. Publishing comprehensive information on the organisation's whistleblowing framework in a visible and accessible way helps demonstrate that an organisation actively encourages a culture which prioritises the highest ethical standards.



## D) Procedures

- Internal whistleblowing frameworks should include multiple reporting channels that are safe and easily accessible, and enable reporting in writing and orally. Organisations should recognise line managers as possible recipients of whistleblowing reports.

- Whistleblowing frameworks should provide for an assessment of the risk of detriment to and the level of protection and support required for whistleblowers and others involved.<sup>21</sup>

- Internal whistleblowing frameworks should ensure diligent – that is, thorough, timely, fair and impartial – follow-up of all reports received (including anonymous reports), to establish whether wrongdoing occurred/ is occurring or is likely to occur, to address confirmed wrongdoing and to correct any systemic issue identified. The follow-up of a report should, if possible, involve the meaningful participation of the whistleblower.

- As knowledgeable and interested stakeholders, whistleblowers should, where appropriate, be kept informed throughout the process and have meaningful opportunities to provide input to the follow-up of their report.

- Reports received, actions taken as follow-up, and the findings and outcome of the follow-up, as well as communication with the whistleblower and concerned person, should be adequately documented and kept in retrievable and auditable form in accordance with confidentiality and data protection requirements.

- Organisations should at least offer one anonymous reporting channel that enables both anonymous reporting as well as anonymous communication between the whistleblower and the whistleblower officer, which allow the transfer of supporting documents – for example, through an online reporting platform or an external party.

- An internal whistleblowing framework under the Whistleblower Protection Act should describe that reports could also be filed externally to competent authorities, which should also be specified.<sup>22</sup>

<sup>21</sup> ISO 37002:2021. Whistleblowing management systems — Guidelines. (2021). <https://www.iso.org/obp/ui/en/#iso:std:iso:37002:ed-1:v1:en>

<sup>22</sup> The authorities that are responsible for receiving and following up on reports in the Netherlands, in so far as they are competent in the areas set out in Article 2 of the Directive, are: The Netherlands Authority for Consumers and Markets; The Dutch Authority for the Financial Markets; The Data Protection Authority; De Nederlandsche Bank N.V.; The Whistleblower Authority; The Health and Youth Care Inspectorate; The Dutch Healthcare Authority; The Authority for Nuclear Safety and Radiation Protection; and organisations and administrative authorities, or units thereof, designated by an order in council or a ministerial order which have tasks or powers in one of the areas referred to in Article 2, paragraph 1 of the Directive.





### E) Support and protection for whistleblowers

• Without the explicit consent of the whistleblower, their identity and any identifying information – that is, information from which the identity of the whistleblower may be directly or indirectly deduced – should not be disclosed beyond those persons competent to receive or follow up on reports.

• Organisations should accept and follow up on anonymous reports and protect, where possible, anonymous whistleblowers. The internal whistleblower framework should explain to potential whistleblowers that the protection offered by anonymity is not absolute, highlighting practical issues such as the risk that the report will be traced back to whistleblower.<sup>23</sup>

• Organisations should prohibit any form of retaliation including both hard forms such as termination or demotion as well as softer forms of retaliation including social exclusion or increased scrutiny (see box on next page) – that is any threatened, recommended or actual act or omission, direct or indirect, which causes or may cause harm – linked to whistleblowing, and any interference with whistleblowing – for example, physical or psychological harm, damage to the person's reputation, financial loss, or pain and suffering. Retaliation can be intentional or can result from an organisation's failure to support and protect a whistleblower.

• The Whistleblower Protection Act excludes the possibility of contracting out of the right to blow the whistle – for example, through loyalty clauses, or confidentiality and non-disclosure agreements.<sup>24</sup>

• Organisations should take reasonable steps to prevent retaliation and to ensure that individuals and entities under their control or working for them refrain from retaliation. Protection and support should commence as soon as a report of wrongdoing is received and continue throughout and following the reporting process.

• When a report is made, organisations should assess the risk of retaliation to the whistleblower and other relevant interested parties.<sup>25</sup>

• Internal whistleblowing frameworks should provide for enforceable, transparent and timely mechanisms to:

1. receive and follow up on complaints of retaliation, interference and breach of confidentiality;
2. sanction perpetrators; and
3. ensure full reparation of affected whistleblowers and other protected persons via remedial measures and compensation.

• Whistleblowing often causes stress or fear and is time-consuming. It can therefore impact negatively on a whistleblower's performance and health, resulting in damage to their career and potential financial losses. Organisations should provide support to whistleblowers to prevent or minimise such harm including access to psychological support services and confidential counselling and trained personnel for receiving reports and communicating with the whistleblower.<sup>26</sup>

<sup>23</sup> As anonymity means the person handling the case does not know who they are protecting, it can be more difficult for them to prevent the whistleblower's identity from being discovered.

<sup>24</sup> Under the Whistleblower Protection Act this applies only to non-disclosure agreements concluded after 18 February 2023.

<sup>25</sup> ISO 37002:2021. Whistleblowing management systems — Guidelines. (2021). <https://www.iso.org/obp/ui/en/#iso:std:iso:37002:ed-1:v1:en>

<sup>26</sup> Marie Terracol, "Internal Whistleblowing Systems". Best practice principles for public and private organisations. (2022). [https://images.transparencycdn.org/images/2022\\_Internal-Whistleblowing-Systems\\_English.pdf](https://images.transparencycdn.org/images/2022_Internal-Whistleblowing-Systems_English.pdf)



### F) Protection of person concerned

• Organisations should protect the identity, and the rights of the person concerned\*, including by providing for effective, proportionate and dissuasive sanctions for individuals who knowingly report false information.

• The person concerned should be presumed innocent and have the right to respond and to receive assistance during the follow-up of a report, in accordance with the requirement to protect the identity of the whistleblower.

\* The person concerned is the natural or legal person who is referred to in a whistleblower's report or complaint as a person responsible for the suspected wrongdoing or retaliation or associated with that person.



### G) Continuous monitoring and review

• Internal whistleblowing frameworks should be formally reviewed at least annually, and revisions should be made accordingly to improve effectiveness and ensure systems are up to date and in line with legislation and best practice.<sup>27</sup>

#### Retaliation includes for example:

- suspension, dismissal or equivalent measures;
- failure to convert a temporary employment contract into (legitimately expected) permanent employment;
- failure to renew, or early termination of, a temporary employment contract;
- constructive discharge (quitting when an organisation makes working conditions intolerable);
- demotion or withholding of promotion;
- transfer of duties, reduction or limitation of work assignments, change in working hours;
- unfair selection for tasks or attendance at events, withholding of training;
- restrictions on or removal of available resources, such as budgets or human resources;
- reduction in remuneration or withholding of payment;
- negative performance assessment or employment reference;
- increased scrutiny, unwarranted inspection or investigation of duties, or disclosure of the result of such inspections;
- imposition or administering of any disciplinary measure, reprimand or other penalty;
- coercion, intimidation, harassment or ostracism;
- social exclusion, discrimination, or disadvantageous or unfair treatment;
- boycotting or blacklisting;
- early termination or cancellation of a contract for goods or services;
- disclosure of the whistleblower's identity;
- prosecution or legal action;
- physical or psychological violence;
- smearing, discrediting or humiliating of a person by questioning their mental health, professional competence, reliability or honesty.

<sup>27</sup> Marie Terracol, "Internal Whistleblowing Systems". Best practice principles for public and private organisations. (2022). [https://images.transparencycdn.org/images/2022\\_Internal-Whistleblowing-Systems\\_English.pdf](https://images.transparencycdn.org/images/2022_Internal-Whistleblowing-Systems_English.pdf)



## 3. FOSTERING

# INTEGRITY & SPEAK UP CULTURE

## Integrity

Transparency International Nederland aims to foster integrity across society as a means of preventing corruption and abuse of power. Transparency International Nederland focuses on fostering integrity across different sectors of society, including government, business, and education. Its aim is to cultivate a culture of integrity that goes beyond compliance with rules, promoting ethical behaviour as an intrinsic value. The aim is to build a culture of integrity that values ethical behaviour beyond just following rules.

## Integrity as a competitive advantage

'Integrity as a competitive advantage' is an important concept that positions ethical behaviour as beneficial not only to internal company culture but also to business success. Companies with high standards of integrity might better build trust with employees, customers, and investors, which can lead to increased loyalty, improved brand reputation, and ultimately better financial performance. Research highlights that integrity is not only a moral imperative but also a strategic asset that enhances trust among stakeholders, including customers, partners, employees, and investors.<sup>28</sup> Companies recognized for high integrity often gain a competitive edge by building strong, trust-based relationships, which boosts their reputation and fosters long-term loyalty. Conversely, ethical breaches and dishonest practices can negatively affect brand image as well as negatively impact financial performance.<sup>29</sup> Building a strong speak-up culture and addressing ethics openly might improve an organisations reputation, displaying that integrity is both a moral duty and a strategic advantage.

## The benefits of fostering a speak up & listen up culture

A "speak-up culture" is not found in rules or procedures but shows itself when employees feel psychologically safe voicing their concerns without fear of retaliation. Inclusive employers foster a "speak up culture" by creating a psychologically safe workplace allowing for risks and vulnerability and promoting a culture where individuals can openly speak up without fear of retaliation.<sup>30</sup>

To foster a speak-up culture, TI-NL recommends to:

- **Proactively invite input:** As an employer, it is important to ask questions and refrain from adding input just for the sake of sounding like you know more than those around you. You can remind your employees why it is important for them to speak up and respond appreciatively when they do.
- **Create moments to talk about ethical breaches:** The more room employees have to talk about moral issues, the more they do and learn from one another. It is not only about speaking up on ethical breaches. In general, honesty and openness in a discussion on viewpoints, emotions, and dilemmas is an unambiguous indicator of the organisation's ethical focus.
- **Make giving and receiving feedback a habit:** Giving ongoing feedback is an essential part of growth and development. When doing so, it is recommended to provide actionable feedback with immediate and concrete comments.
- **Reward honest dialogue:** When people do follow suit, and pursue open and honest dialogue, make sure you reward such behaviour properly. Offer praise, or more professional responsibility - whatever will act as a push for others to adopt the same kind of conversation.
- **Make it safe to propose new ideas:** Continuously ask for unconventional contributions. Offer your own outside-of-the-box ideas to show that revolutionary ideas are appreciated and respond to new ideas with enthusiasm.

- **Be visible and accessible:** As an employer, you need to be where your people are, so personnel become more comfortable sharing situations in real time. This allows the leader to support and guide personnel appropriately and leads to employees that are more willing to speak up about situations.

- **Take action:** The main reason why employees do not speak up is not because of fear but because of complacency. Employees do not believe their employer will do something about the situation. To motivate employees in speaking up they need to see results of appropriate action being taken. Also, keeping personnel informed by letting them know how you take action can be very helpful. Not doing so will encourage complacency.

- **Lead by example:** Use your own actions as the easiest way to show others the kind of behaviour you want to promote in the workplace. Model the kind of open and transparent communication you want to implement at the workplace, and your employees will follow. Ultimately, it is what an employer does that influences the behaviour of his or her employees, and not what he or she says.<sup>31</sup>

Importantly, a "speak up" culture offers multiple important benefits to organisations by fostering an environment of psychological safety. When employees feel safe to voice their concerns about unethical behaviour, it enables those in charge to address issues quickly, preventing potential misconduct from escalating. Research by Edmondson et al., shows that employees in psychologically safe environments are more likely to report ethical concerns through formal channels, increasing the chances that issues are resolved effectively and transparently. Moreover, line managers play a crucial role by acting as accessible points of contact for employees, further encouraging open dialogue. The same research displayed that a well-supported speak-up culture also improves organisational resilience and integrity by building trust and accountability. Employees are more likely to feel respected and valued, which contributes to higher engagement and retention rates, benefiting long-term organisational performance.

28 Cuk Jaka Purwanggono, 'Strategies for Building Integrity in Improving Company Productivity and Performance'. (2023) 7(3) Journal of Humanities and Social Studies 934-938.

29 Cuk Jaka Purwanggono, 'Strategies for Building Integrity in Improving Company Productivity and Performance'. (2023) 7(3) Journal of Humanities and Social Studies 934-938

30 Transparency International Nederland. "Whistleblowing Frameworks 2019". (2020).

<https://www.transparency.nl/wp-content/uploads/2020/05/WhistleblowingFrameworks-2019-TI-NL.pdf>.

30 & 31 Transparency International Nederland. "Whistleblowing frameworks 2019". (2020).

<https://www.transparency.nl/wp-content/uploads/2020/05/WhistleblowingFrameworks-2019-TI-NL.pdf>.

## RISING CYBERSECURITY THREATS DEMAND SPEAK UP CULTURE

**Cyberattacks** present an existential threat to businesses and organisations in today's world, jeopardizing operational continuity, privacy, and financial stability. Over the past two decades, risks such as data breaches, online fraud, and extortion have risen sharply - with an even steeper increase in recent years - as malicious actors exploit advancements in artificial intelligence and gain access to significant financial resources. These developments have propelled cybercrime to surpass the international drug trade in terms of revenue, making it a formidable global challenge that organisations cannot afford to ignore.<sup>33</sup>

Companies that lack a robust **Speak Up culture** are the most vulnerable to online attacks. In virtually every security system, humans are regarded as the weakest link. For this reason, fostering an environment where employees feel encouraged to voice their concerns when mistakes are made or when they notice something suspicious is not only prudent but essential. Investing in such an environment can be a crucial safeguard against incidents that, as many organisations have sadly discovered, may have disastrous consequences.

**Cybercrime**, espionage, and digital sabotage represent global threats generating immense profits for criminal gangs, who reinvest these funds into increasingly sophisticated scams to which anyone might fall victim. Whistleblowers play a vital role in protecting both public and private sectors from this growing menace, ensuring transparency, vigilance, and accountability within organisations entrusted with critical functions. Empowering employees with the confidence to voice their concerns without fear of retaliation is pivotal. Ultimately, investing in people may be the most effective cybersecurity measure any organisation can adopt.<sup>34</sup>

By fostering a psychologically safe environment, companies not only protect their reputation but also strengthen their ethical climate, reinforcing integrity as a fundamental component of their success.

Essentially, the research displays that “among employees who had observed unethical behaviours during the prior year, we found that those who felt less psychologically safe were significantly less likely to report those behaviours via channels where organizational leaders might act on them” and conversely, “those who felt the most psychologically safe were most likely to have reported the misconduct they observed. This held true even after considering a range of other psychological factors that could influence incident reporting, such as perceived levels of organisational justice, fairness, and trust”.<sup>32</sup>

Although a formal program, such as a reporting hotline, is important in allowing observers of wrongdoings to report this, it might still only capture a limited part of the actual misconduct incidents that occur. By measuring psychological safety and creating an environment in which employees feel psychologically safe, companies can gain insights into whether employees feel comfortable in reporting misconduct or other issues. Understanding whether and how employees feel safe to report misconduct can significantly improve the effectiveness of formal speak-up programs, ensuring a more comprehensive speak up culture.

32 Edmondson, Amy, Antoine Ferrère, Baiba Renerte, en Chris Rider “Fostering Ethical Conduct Through Psychological Safety”. (2022). University of Zurich. [https://www.zora.uzh.ch/id/eprint/236930/1/fostering\\_ethical\\_conduct\\_through\\_psychological\\_safety.pdf](https://www.zora.uzh.ch/id/eprint/236930/1/fostering_ethical_conduct_through_psychological_safety.pdf).

33 Cybersecurity Ventures. Cybercrime To Cost The World \$10.5 Trillion Annually By 2025. (2020). <https://cybersecurityventures.com/cybercrime-damage-costs-10-trillion-by-2025/>

34 Alexis Ronickher and Matthew LaGarde, Cybersecurity and Data Privacy Whistleblower Protections. (2023). <https://katzbanks.com/wp-content/uploads/cybersecurity-whistleblower-protection-guide.pdf>

## 4. THE EU

# WHISTLEBLOWER PROTECTION DIRECTIVE

In 2019, the European Union adopted the “Directive (EU) 2019/1937 of the European Parliament and of the Council of 23 October 2019 on the protection of persons who report breaches of Union law” (Whistleblower Protection Directive). The 27 EU member states had two years until December 2021 to comply with the Directive, although most did not meet the deadline, including the Netherlands with the Whistleblower Protection Act.<sup>35</sup>

The Directive provides strong common minimum standards for the protection of whistleblowers in Europe. Member states should transpose these provisions in line with the spirit of the Directive, which is to provide a high level of protection for whistleblowers. However, several member states have not correctly or even failed to transpose certain provisions of the Directive. For that reason, the Commission started several infraction procedures against those member states.<sup>36</sup>

## KEY PROVISIONS OF THE EU WHISTLEBLOWER DIRECTIVE

- The Directive covers both the public and private sectors.
- It covers a wide range of potential whistleblowers, including individuals outside the traditional employee-employer relationship, such as consultants, contractors, volunteers, board members, former workers and job applicants (Article 4).
- It also protects individuals who assist whistleblowers, as well as individuals and legal entities connected with whistleblowers (Article 4.4).
- Breaches of law are defined as acts or omissions that are either unlawful or that defeat the object or the purpose of the rules (Article 5.1). In granting protection, the Directive does not in any way consider the whistleblowers' motive for reporting.
- It protects the identity of whistleblowers in most circumstances, with clear and limited exceptions to confidentiality, and advance notice to the whistleblower when their identity needs to be disclosed (Article 16).
- It grants protection to whistleblowers who have reported or disclosed information anonymously and have subsequently been identified (Article 6.3).
- It places an obligation on a wide range of public and private entities to establish internal whistleblowing systems (Article 8).
- It establishes an obligation for public and private entities and competent authorities to follow up on reports received and to keep the whistleblower informed within a reasonable timeframe (Articles 9 and 11.2).
- It allows whistleblowers to report breaches of law internally or directly to the competent authorities (Article 10).
- It allows for public disclosures in certain circumstances (Article 15).
- It prohibits “any form of retaliation”, including threats of retaliation and attempts at retaliation, and provides a long, diverse and non-exhaustive list of examples (Article 19).
- It requires EU member states to ensure that easily accessible and free, comprehensive and independent advice is provided to the public (Article 20.1(a)).
- It recommends legal and financial assistance to whistleblowers, which are essential elements of effective whistleblower protection (Article 20.2).
- It creates a presumption of retaliation when a whistleblower suffers detriment (Article 21.5).
- It provides for interim relief which enables a whistleblower to maintain professional and financial status until legal proceedings end (Article 21.6).
- It provides for penalties to be applied to persons who hinder or attempt to hinder reporting, retaliate against whistleblowers (including by bringing vexatious proceedings) or breach the duty of maintaining confidentiality over the whistleblowers' identity (Article 23).
- It provides that whistleblowers cannot be held liable for breaching restrictions on the acquisition or disclosure of information, including for breaches of trade or other secrets (Article 21(2)(3)(7)). It also excludes the possibility of contracting out of the right to blow the whistle – for example, through loyalty clauses or confidentiality or non-disclosure agreements (Article 24).<sup>37</sup>

35 See the EU Whistleblowing Monitor to follow the progress of transposition of the EU Directive on Whistleblowing across all 27 EU member states: [www.whistleblowingmonitor.eu/](http://www.whistleblowingmonitor.eu/)

36 European Commission. Infringement decisions. See: [https://ec.europa.eu/atwork/applying-eu-law/infringements-proceedings/infringement-decisions/?lang\\_code=EN&typeOfSearch=true&active\\_only=0&noncom=0&r\\_dossier=&decision\\_date\\_from=&decision\\_date\\_to=&title=32019L1937&submit=Search&langCode=EN](https://ec.europa.eu/atwork/applying-eu-law/infringements-proceedings/infringement-decisions/?lang_code=EN&typeOfSearch=true&active_only=0&noncom=0&r_dossier=&decision_date_from=&decision_date_to=&title=32019L1937&submit=Search&langCode=EN)

37 European Union. Directive (EU) 2019/1937 of the European Parliament and of the Council of 23 October 2019 on the protection of persons who report breaches of Union law. (2019). <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32019L1937>



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