# INTERNAL WHISTLEBLOWING MECHANISMS

## TOPIC GUIDE

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# INTERNAL WHISTLEBLOWING MECHANISMS

By speaking out against wrongdoing such as corruption, fraud, mismanagement and illegal or hazardous activities, whistleblowers play a crucial role in protecting the public interest by ensuring that threats to financial integrity, the environment, public health and safety, human rights and the rule of law do not go unchecked.

As well as helping to serve the public interest, whistleblowing channels are in the best interests of organisations too, as whistleblowers can alert senior management to potential or actual misconduct and prevent further damage and future wrongdoing. From the employer's perspective, fostering an environment in which employees feel comfortable about raising concerns internally has proven to be an effective safeguard against risks such as financial loss, legal action and reputational damage[1].

Increasingly, the question for organisations across the public, private and non-profit sectors is not whether whistleblowing mechanisms are needed but how to ensure that they are designed, implemented and maintained effectively.

An organisation looking to answer this question can find information in a number of publicly available best practice guides and standards, issued by governments, institutions, commercial actors, NGOs and law firms, among others. Advice is also available from organisations specialised in providing whistleblowing services, both commercially and on a pro-bono basis. Many of these resources are referenced in this topic guide.

## Use of term "whistleblowing"

A number of best practice guides and international actors use the term "whistleblowing" when referring to internal reporting, including the 2013 Transparency International international principles for whistleblower legislation, 2011 OECD guidelines for multinational enterprises and the British Standards Institute's 2008 whistleblowing arrangements code of practice. However, given the negative connotations that the word "whistleblowing" can conjure, many guidelines instead use terms such as "speaking up", "raising concerns" or making a "disclosure". In some instances, guidelines covering "organisational compliance" will also have advice on whistleblowing mechanisms. It is worth noting that a disclosure and a complaint are different: a disclosure is defined as "provision of information as required under law or in good faith, regarding activities of a private individual, public official, company or organisation"[2] whereas a complaint (within the context of whistleblowing) would be made, for example, about retaliation a whistleblower faces.

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[1] Transparency International *Business case for speaking up* [upcoming], p.1
[2] Transparency international *anti-corruption glossary*

# KEY ELEMENTS OF AN EFFECTIVE WHISTLEBLOWING MECHANISM

A whistleblowing – or internal reporting – mechanism is a set of policies or procedures within an organisation which establish not just effective channels but comprehensive protection and support for reporting persons. Transparency International identifies three key elements for protected individuals and disclosures: the provision of accessible and reliable reporting channels; robust protection from all forms of retaliation; and mechanisms for disclosures that promote reforms that correct legislative, policy or procedural inadequacies and prevent future wrongdoing[3].

An internal reporting mechanism can take various forms. Organisations may make line management the first port-of-call for those raising a concern, or appoint a specialised person or committee to be responsible for receiving and processing reports. They may also outsource to a provider offering services, such as whistleblowing helplines or hotlines and advice, or employ a combination of in-house and outsourced elements.

A review of available best practice literature reveals some characteristics commonly associated with robust internal reporting mechanisms for public, private and non-profit sector organisations.

## 1. Initial considerations

*Commitment from leadership:* Support "from the top" in the form of vocal and practical endorsement (through, for example, supporting statements and raising awareness) from the board, executive directors and senior management has been identified as a crucial foundation for a culture of openness and integrity in an organisation as a whole[4]. Thus, an essential starting point for any effective whistleblowing policy is a genuine desire from the board or governing body for employees to raise concerns as well as sincere commitment at the management level to support them to do so[5].

Whistleblowing regimes are most effective where governing bodies and management have a clear understanding of the benefits of whistleblowing mechanisms in general and of the nature of whistleblowing procedures in their organisation in particular. Equally important is that management is seen to support internal reporting in practice (for example, reports are dealt with appropriately and thoroughly, whistleblowers are supported and protected) in order to not to discourage other potential whistleblowers. Management can be held accountable for their handling of whistleblower concerns, for example, by including this as an aspect of their performance review[6].

*Consideration of costs and resources:* Although internal reporting mechanisms are generally not considered costly to set up or maintain[7], careful consideration by employers of the costs and staff time required for the promotion and maintenance of a reporting mechanism, investigation of disclosures and follow-up of complaints and staff training helps to ensure that adequate resources are dedicated to a mechanism's effective design and upkeep. Consultation with staff, management and any relevant

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[3] Transparency International, 2013. *International Principles for Whistleblower Legislation*, principle 2
[4] Roberts, Brown, Olsen, 2011. *Whistling While They Work*, p.21
[5] British Standards Institute, 2008. Whistleblowing Arrangements Code of Practice, p.18. See also Transparency International *Policy Position on whistleblowing (2010)*
[6] United States Department of Labor, 2015. *Best practices for protecting whistleblowers and preventing and addressing retaliation*, p.2
[7] TRACE International, 2004. *First to Know: Robust internal reporting mechanisms*, p.3. See also Transparency International, 2017. *Business case for speaking up*

unions is also often recommended to better understand issues which may shape resource allocation and planning, such as past experiences of whistleblowing in the organisation[8].

## 2. Clear procedures

Recommendations vary regarding the scope of who and what kind of complaint should be covered by an internal reporting mechanism (depending on factors such as industry sector, organisation structure and size, and national context), but a comprehensive, clear and widely disseminated written policy is essential. Best practices for ensuring clarity should address the following issues:

*Who can make a protected disclosure?* Here, an organisation must clearly define the scope of who may use, and receive protection from, a whistleblowing channel. Some issues to consider, such as whether to extend a whistleblowing channel to third parties or the public, are discussed below.

*What types of complaints should be raised?* Organisations should identify the types of complaints which can be raised under this specific channel, ideally with examples. Here, organisations should take care to distinguish between whistleblowing complaints (which affect customers, members of the public, or their employer) and personal grievances (regarding personal poor treatment)[9], which can be subject to a separate complaints procedure[10]. Roberts, Brown and Olsen note that "some workplace grievances, particularly those involving management, can become so endemic and destructive that they also become a public interest issue"[11].

*How should a complaint be raised?* A policy should specify how to submit a complaint, whether it must be raised verbally, in written form, or via a dedicated hotline or web platform. Here, an organisation should consider issues such as accessibility, time zones and language (especially in the case of multi-national enterprises). Organisations which provide multiple avenues to report can assuage potential difficulties faced by whistleblowers which may discourage reporting, such as awkward operating hours for a hotline, or having to speak a second or third language[12].

*Who should a complaint be raised with?* Related to the issue of how to raise a complaint, an organisation should specify where or to whom a complaint should be raised, such as to a line manager, appointed ethics officer, ombudsperson or hotline, and provide contact details. The procedure for when to contact relevant external bodies, such as regulators, should also be specified and contact details provided. Alternative reporting channels to direct line management should be given[13].

## 3. Promotion, communication and training

Raising staff awareness to the existence of internal reporting mechanisms and policies is key to ensuring they are followed. The Whistling while they work survey results indicated that "reporters were significantly more likely to be aware of their organisation's procedures than non-reporters", a "clear warning" that the organisations surveyed were not doing enough to proactively promote their reporting procedures[14].

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[8] British Standards Institute, 2008. *Whistleblowing arrangements code of practice*, p.18. See also Public Concern at Work, 2013. *Whistleblowing code of practice*, article no. 3
[9] http://www.pcaw.co.uk/individual-advice/faqs/faq-answers#q3
[10] UK Government, Department for Business Innovation & Skills, 2015. *Whistleblowing: guidance for employers and code of practice*, p.5
[11] P.40 WWTW
[12] TRACE International, 2004. *First to know: Robust internal reporting mechanisms*, p. 9
[13] Roberts, Brown, Olsen, 2011. *Whistling while they work*, p.13, p.44
[14] Roberts, Brown, Olsen, 2011. *Whistling while they work*, p.27

Recommendations to proactively communicate internal reporting procedures to staff include promotion via intranet, promotional leaflets or posters, as well as regular staff training and a session on reporting procedures as part of new staff induction. Where it is possible to do so without breaching confidentiality, communication to staff on instances, outcomes and lessons learned from internal reports is also recommended[15]. Roberts, Brown and Olsen also urge that staff are made aware not only of their right but their responsibility to report wrongdoing too[16].

## 4. Confidentiality

Some best practice guides contain a caveat that open reporting is the ideal form of reporting; concerns raised openly can be easier for the organisation to quickly understand and address[17], and risks of an environment of mistrust developing are minimised[18]. Nevertheless, a whistleblower must have the right to keep their identity confidential to protect them from potential risks and retaliation and to allow the organisation to establish the facts of a case discreetly[19].

Some organisations may also choose to enable anonymous reporting, although additional standards and guidelines for anonymous reporting are recommended and discussed below.

## 5. Addressing a complaint

*Good faith:* Procedures should require that all reports are acknowledged, recorded and investigated without undue delay, provided that the report is considered to be made in good faith (namely, a sincere belief that the disclosure is true) by the actor responsible for complaints[20]. A safeguard against unfair treatment of a complaint is to provide the whistleblower with unrestricted ability to elevate the matter to higher levels within the reporting chain[21].

Transparency International advocates for a threshold of whistleblower protection at "reasonable belief in wrongdoing", extending protection to those who make inaccurate disclosures in honest error[22]. Organisations should be careful not to deter reporters who make complaints in good faith, even if these turn out not to be true.

In parallel, procedures should make clear that protection will not be extended to those found to have knowingly made a false complaint and detail appropriate sanctions against this.

*Follow-up procedure:* Where possible (bearing in mind, for example, the need to balance the interests of the party against whom the allegations are raised), the whistleblower should be kept updated on the progress of the investigation. They should be informed of who their complaint will be referred to, and the timeline and outcome of the investigation[23]. Ensuring that the whistleblower can contact the designated person handling the complaint and keeping him or her updated on progress can also help to pre-empt problems and provide reassurance, for example, that the complaint is being addressed and not ignored[24].

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[15] Transparency International, 2010. *Policy position on whistleblowing,* p.6
[16] Roberts, Brown, Olsen, 2011. *Whistling while they work*, p.26
[17] Public Concern at Work, 2013. *Whistleblowing code of practice*, article no. 9
[18] British Standards Institute, 2008. *Whistleblowing arrangements code of practice*, p.13
[19] Transparency International, 2010. *Policy position on whistleblowing,* p.6
[20] International Chamber of Commerce, 2008. *Guidelines on whistleblowing*, p.6
[21] United States Department of Labor, 2015. *Best practices for protecting whistleblowers and preventing and addressing retaliation*, p.6
[22] Transparency International, 2013. *International principles for whistleblower legislation*, principle 5
[23] Public Concern at Work, 2013. *Whistleblowing code of practice*, article 5(e)
[24] British Standards Institute, 2008. *Whistleblowing arrangements code of practice*, p.29

## 6. Whistleblower protection and support

To protect a whistleblower from retaliatory action, policies should include a clear statement – backed up by real commitment – that the organisation will not tolerate any retribution against a person for raising a concern. Retribution (including all forms of retaliation, disadvantage or discrimination in the workplace) could take the form of dismissal, probation and other job sanctions, punitive transfers, harassment, reduced duties or hours, withholding of promotions or training, loss of status and benefits and threats of such actions[25]. From within the organisation, sanctions against retaliation may include treating retaliation as a disciplinary matter, with penalties up to and including dismissal[26]. Organisations should also provide employees with access to independent and confidential advice regarding raising a concern[27].

## 7. Evaluation and review

Conducting periodic audits of the internal reporting mechanism can help an organisation to improve its policies. Records of the number, type and outcome of complaints should be kept, and a provision be made for independent review by a body such as the board or an audit committee. Indicators to test the effectiveness of a whistleblowing policy could include: a review of staff awareness, trust and confidence in the policy, any complaints of victimisation or failures to maintain confidentiality[28]. Organisations should take care to ensure that the collection and maintenance of records comply with data protection procedures.

# PRACTICAL CONSIDERATIONS

## Who can report?

Whistleblower protection in organisations ranges from covering employees to third parties. Third parties may include other categories of organisation members such as: contractors, employees of contractors, vendors, volunteers, interns and directors. In a 2010 survey of their Fraud Academy member organisations, PricewaterhouseCoopers (PwC) reported that 55 per cent of organisations provided whistleblowing facilities to stakeholders other than employees (such as contractors, suppliers and third parties) and that 35 per cent of organisations also provided whistleblowing facilities to members of the public[29].

There is little consensus in the literature on the merits and pitfalls of extending whistleblower protection to members of the public, customers, consumers or other external stakeholders. Some issues for an organisation to consider could be whether national law in their operating country establishes different procedures for public or consumer complaints. The British Standards Institute's 2008 Whistleblowing arrangements code of practice recommends against expressly extending a whistleblowing policy to the public, citing examples such as the patient/medical professional relationship and the legal charge of negligence as separate issues, among others[30]. Organisations would also need to consider whether they have sufficient resources to maintain a whistleblowing policy which extends to the widest possible scope of members of the public.

Nevertheless, even if an organisation does not extend its whistleblowing policy to members of the public or to customers, it should recognise that these groups are a vital source of information on organisational malpractice and remain open and receptive to their warnings and approaches[31].

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[25] Transparency International, 2013. *International principles for whistleblower legislation*, principle 6

[26] British Standards Institute, 2008. *Whistleblowing arrangements code of practice*, p.23

[27] United States Department of Labor, 2015. *Best practices for protecting whistleblowers and preventing and addressing retaliation*, p.4

[28] Public Concern at Work, 2013. *Whistleblowing code of practice*, article 7(d)(iii), (iv), (viii)

[29] PwC, 2013. *Striking a balance: Whistleblowing arrangements as part of a speak up strategy*, p.11

[30] P. 13

[31] British Standards Institute, 2008. *Whistleblowing arrangements code of practice*, p.12

## Open, confidential or anonymous reporting?

A concern is raised confidentially if reporters give their name on the condition that it is not revealed without their consent[32]. Guidelines vary between assuming confidentiality as a starting point for a complaint and urging that complaints be raised openly as a first option, where possible. Nevertheless, both Transparency International[33] and Public Concern at Work[34] (among other sources) have identified confidentiality as a cornerstone provision for any internal complaints mechanism.

Organisations should take all necessary precautions to protect the identity of a whistleblower. However, the issue of confidentiality can be complicated as more people come to learn of a report, as in some instances the nature of the disclosure may allow the report to be traced back to the reporter. While reporting persons should be warned of this possiblity, organisations should take care to ensure that such warnings strike a balance between being honest and realistic while not being couched in terms which will deter potential whistleblowers from reporting[35].

Positions vary regarding anonymous reporting, with opponents often citing lack of detail or difficulties in providing adequate protection to the whistleblower as reasons. Measures taken to effectively manage anonymous reports could take the form of an explanation in the written policy of the limitations of anonymous reporting. For example, some organisations point out that anyonmous reporters may not be able to receive the same support and protection available to confidential reporters for reasons such as a lack of documentary evidence linking the worker to the disclosure[36]. Organisations can also urge that anonymous reports include as much detail as possible to mitigate difficulties investigating and following up on an anonymous report[37].

It is worth nothing that organisations affected by the US Sarbanes-Oxley Act are obliged to provide for anonymous reporting in their policies[38]. Regarding anonymity, Transparency International's position is that full protection should be granted to whistleblowers who have disclosed information anonymously and who subsequently have been identified without their explicit consent[39].

## Helplines vs. hotlines

A helpline can be contacted by employees seeking information and confidential advice on whether and how they can raise a concern, internally or externally[40]. Conversely, a hotline is a reporting facility to which an employee can make a disclosure. An internal hotline will operate within an organisation and refer an employee to a designated officer within the organisation, whereas an external hotline will typically be a commercial reporting service, outsourced by the organisation, which passes reports back to the designated officer within the organisation[41]. It is worth noting that these terms are sometimes loosely and interchangeably used.

## Actors providing whistleblowing services and advice:

A variety of bodies offer either advice on whistleblowing mechanisms or provide reporting channels as a service to organisations in a range of sectors. Some actors include (but are not limited to):

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[32] Public Concern at Work, 2013. *Whistleblowing code of practice*, article 9
[33] Transparency International, 2013. *International Principles for whistleblower legislation*, principle 7
[34] Public Concern at Work, 2013. *Whistleblowing code of practice*, article 10
[35] Roberts, Brown, Olsen, 2011. *Whistling while they work*, p.65
[36] UK Government, Department for Business Innovation & Skills, 2015. *whistleblowing: guidance for employers and code of practice*, p.10
[37] British Standards Institute, 2008. *Whistleblowing arrangements code of practice*, p.14
[38] Sarbanes-Oxley Act, 2002. See Title III, Sec. 301
[39] Transparency International, 2013. *International principles for whistleblower legislation*, principle 13
[40] See, for example, the helpline service description offered by Public concern at work
[41] British Standards Institute, 2008. *Whistleblowing arrangements code of practice*, p.9 and 16

*NGOs and charity organisations:* these range from organisations entirely specialised in whistleblower protection to organisations working on organisational ethics more generally. While some provide advice free of charge[42], some also charge fees for certain services and especially for tailored advice[43].

*Specialised commercial whistleblowing service providers:* these typically offer services ranging from tailored advice on reporting procedures to providing hotlines or helplines and case management.

*Audit and advisory firms:* similar to commercial whistleblowing service providers, some firms offer commercial whistleblowing services and consultancy to organisations, in addition to a range of other services.

*Law firms:* aside from commercial advice, usually from employment law departments, many law firms regularly publish guidelines for organisations or employers on internal reporting mechanisms, both in response to particular pieces of legislation and also overviews of whistleblowing legislation in an international context[44].

## Reservations of employers

Issues which may cause employers to show resistance to establishing or running whistleblowing mechanisms typically include the costs of designing and running a whistleblowing mechanism and the risk of fictitious or trivial complaints[45]. However, research has shown that an avalanche of frivolous complaints is unlikely[46], and if this occurs it can be taken as an indication that the whistleblowing mechanism should be revisited and updated so that its purpose is more clearly understood. Similarly, organisations can mitigate the risk of knowingly false complaints through measures such as appropriate and clearly outlined disciplinary sanctions, strict adherence to confidentiality (particularly to avoid harm to the person against whom a fictitious complaint is raised) and thorough investigation. Ultimately, organisations should consider that "one single, well-founded concern over a period of several years can more than justify the modest expense that whistleblowing arrangements incur"[47].

## Organisation size

There is no one-size-fits-all whistleblowing policy. Small and medium-sized organisations (SMEs) do not have structures or resources comparable to large organisations and, as such, will have different needs and limitations when implementing a whistleblowing policy.

Some challenges may include insufficient resources to set up a specific team or individual dedicated to handling complaints, difficulties in maintaining confidentiality and a high burden of responsibility placed on one person (particularly in a management role). One study identified that 35.6 per cent of small organisations responded that they have no particular system in place or only an ad-hoc system as needed, when concerns are raised[48].

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[42] See, for example, Transparency International *Advocacy and legal advice centres* which offer advice on a pro-bono basis
[43] See, for example, the 'business packages' offered by Public concern at work
[44] See, for example, national and international guides issued by Baker & McKenzie, White & Case, Bindmans and Eversheds.
[45] British Standards Institute, 2008. *Whistleblowing arrangements code of practice*, p.23
[46] TRACE International, 2004. *First to know: Robust internal reporting mechanisms*, p.14
[47] British Standards Institute, 2008. *Whistleblowing arrangements code of practice*, p.35
[48] Brown, Dozo, Roberts. 2016. *Whistleblowing processes and procedures: An Australia and New Zealand snapshot (Preliminary results: Whistling while they work 2, Survey of organisational processes and procedures 2016),*. p.13

Best practices for protecting whistleblowers issued by the US Department of Labor (Occupational Safety and Health Administration) are a good reference for SMEs as each recommendation is adapted for organisation size. The British Standards Institute guidelines also consider the challenges of SMEs and recommends that they pay special attention to:

- the difference between a whistleblowing concern and a private complaint
- that employees and managers understand their role and that managers should not feel undermined if they are by-passed)
- the difficulty of maintaining confidentiality
- the benefits of an independent helpline
- how an employee can make an external disclosure

# RESOURCES

## Background studies

**Whistleblowing processes and procedures: An Australia and New Zealand snapshot (Preliminary results: Whistling while they work 2, survey of organisational processes and procedures 2016). Brown, Dozo, Roberts. 2016.**
http://www.whistlingwhiletheywork.edu.au/wp-content/uploads/2016/11/Whistleblowing-Processes-Procedures-Snapshot-Prelim-Results-Griffith-University-8-Nov-2016-FINAL2.pdf

Following on from the 2011 study (WWTW 2011), this Australia and New Zealand snapshot presents the preliminary findings of Whistling while they work 2: Improving managerial responses to whistleblowing in public and private sector organisations, a research project investigating and evaluating whistleblowing procedures in the public sector, business and non-profit organisations. This report assesses whistleblowing procedures of 702 survey respondents and the statistics provided may be a useful point of reference to organisations looking for information on how other organisations are implementing whistleblowing hotlines.

The authors find that, while many of the responding organisations have made strong efforts towards whistleblower protection in recent years, comparative cross-sectoral assessments are complicated by a distinct lack of specific guidance or a clear identification of successful practices. Through continued research, the WWTW 2 project aims to identify which organisational processes and management systems contribute to the best outcomes for both employees and organisations.

**Strength of organisational whistleblowing processes – analysis from Australia. Brown, Lawrence. 2017.**
http://www.whistlingwhiletheywork.edu.au/wp-content/uploads/2017/05/WWTW2-Strength-of-whistleblowing-processes-report-Australia-Griffith-University-2May2017.pdf

This resource presents an additional undertaking of research collected under the Whistling while they work 2 project (discussed above). The analysis uses results from five questions to create a scale measure (expressed as a score out of 10) of strength of processes reported for 699 organisations, across groups in public sector jurisdictions, private industry and not-for-profit sectors. Though restricted to Australia and New Zealand, the statistics and analysis are a useful point of reference for organisations generally.

**Protection of whistleblowers: Study on whistleblower protection frameworks, compendium of best practices and guiding principles for legislation. G20 Anti-Corruption Action Plan. 2011.**
https://www.oecd.org/g20/topics/anti-corruption/48972967.pdf

This study is a result of an initiative by G20 experts to study and summarise existing whistleblower protection legislation and enforcement mechanisms, and includes guiding principles and best practice

recommendations to support the implementation of the G20 commitment to strengthen the protection of whistleblowers. The guide focuses primarily on legislation, but chapter 4, covering the private sector, explores "voluntary measures" implemented by companies and includes a summary of whistleblowing mechanisms in B20 companies (companies from G20 countries that have volunteered to work on anti-corruption issues within the G20 context) ethics and compliance programmes.

## Comprehensive guidelines

**Whistleblowing arrangements code of practice: Publicly available specification 1998:2008. British Standards Institute (BSI).**
http://wbhelpline.org.uk/wp-content/uploads/2012/07/PAS1998_Whistleblowing1.pdf

The BSI Whistleblowing Arrangements Code of Practice is an essential and comprehensive resource for any organisation considering their whistleblowing policies, drawing together both conceptual analysis of whistleblowing and concrete instructions for organisations.

The introduction tackles preliminary issues surrounding a whistleblowing mechanism, including: the risks of ineffective arrangements, the distinction between whistleblowing and grievances, applicable national law and the differing needs of organisations of different sizes. Sections 1-3 deal with preliminary issues: clarifying the guide's scope as applying to private, public and voluntary sector organisations, defining key terms and addressing key issues to consider. Sections 4-6 then cover practical recommendations for the introduction and maintenance of a whistleblowing scheme, as well as a review and evaluation framework (an evaluation checklist is provided in the final section).

Notably, the guide discusses the merits and drawbacks of using the word "whistleblowing" when referring to reporting mechanisms. It also advocates for open whistleblowing (when a concern is raised openly) to be the default mechanism within organisations, although it recognises the possible limitations to this.

**International Chamber of Commerce guidelines on whistleblowing. International Chamber of Commerce (ICC). 2008.**
https://iccwbo.org/publication/icc-guidelines-on-whistleblowing/

The ICC guidelines on whistleblowing put forward practical steps for companies to establish and maintain internal whistleblowing mechanisms, based on the experiences of ICC member companies across a variety of sectors and jurisdictions. Starting from the preposition that it is in the best interest of the firm itself to establish reporting mechanisms, the ICC recommendations claim to be formulated by considering the criticisms made by certain countries of some aspects of a whistleblowing system. It also serves as a useful reference point for relevant international conventions and national legislation in the US, UK and France (note: the information on French law is outdated) covering whistleblowing.

**A good practice guide to whistleblowing policies. A/P Mak Yuen Teen, PhD. Certified Practicing Accountants Australia. 2007.**
http://governanceforstakeholders.com/wp-content/uploads/2013/04/Whistleblower-policy.pdf

This good practice guide from Australia's Certified Practicing Accountants body focuses on whistleblowing policies in the context of corporate governance and was created in consultation with 20 of Australia's leading corporations, regulatory bodies, individual members and organisations of various sizes. The publication refers to examples and laws from the US, UK and Australia, and is sufficiently broad in scope to be useful to a wide private sector readership. The guide is structured around key questions or prompts, such as: "who to make the disclosure to?" "What are the types of breaches that can be reported?" "How can the disclosure be made?" and sets out quite concrete advice in the form of answers to these questions. Similar to the BSI Code of Practice, some of its notable recommendations are a differentiated whistleblowing policy to the normal grievance and feedback channels and a whistleblowing hotline rather than an internal complaints channel.

**OECD guidelines for multinational enterprises. 2011.**
http://www.oecd.org/daf/inv/mne/48004323.pdf

The OECD guidelines for multinational enterprises provide non-binding recommendations by governments to multinational enterprises operating in or originating from signatory countries. The guidelines are a key multilateral comprehensive code of conduct that governments have committed to promoting (through, for example, the establishment of "national contact points" consisting of senior representatives from ministries, government officials or a group of independent experts responsible for undertaking promotional activities).

The guidelines contain general details on responsible business conduct and a clause that states: "safeguards to protect bona fide 'whistle-blowing' activities are also recommended, including protection of employees who, in the absence of timely remedial action or in the face of reasonable risk of negative employment action, report practices that contravene the law to the competent public authorities'.

**Speak up for a healthy NHS: How to implement and review whistleblowing arrangements in your organisation. Public Concern at Work, United Kingdom National Health Service. 2010.**
http://www.pcaw.org.uk/files/SpeakupNHS.pdf

This guide was commissioned by the National Health Service (NHS) Social Partnership Forum and written by Public Concern at Work (PCaW). It outlines the importance of whistleblowing, what is expected of NHS boards and their executives, and the NHS organisation employers can expect from PCaW and the Department of Health, containing case studies and a model policy. Importantly, it considers whistleblowing from the perspective of helping to "improve patient safety and minimise harm to patients".

Despite being directed at the health sector, many of the recommendations echo those of more general guidelines (for example: support from leadership, promotion and communication, auditing and review of procedures and the right to seek independent advice). The model policy is specific to NHS organisations.

**The Whistleblowing Commission: Code of Practice. Public Concern at Work. 2013.**
http://www.pcaw.co.uk/business-support/free-resources

UK-based whistleblowing charity Public Concern at Work set up a whistleblowing commission in 2013 to focus on workplace whistleblowing, which recommended the creation of a statutory code of practice to assist employers, workers and their representatives in addressing whistleblowing concerns. The code of practice is rooted in (UK) statute and, as such, can be taken into account in court cases and by regulators. It sets out 15 recommendations for workplace whistleblowing procedures, including the following key recommendations: delegation of responsibility to specific individuals for whistleblowing arrangements, confidentiality assurance where requested, assurance to staff about protection from reprisal, greater oversight of whistleblowing arrangements by non-executive directors (or equivalent) and the review of effectiveness of arrangements and publication of key data.

**Striking a balance: Whistleblowing arrangements as part of a speak up strategy. PwC. 2013.**
http://www.pwc.co.uk/fraud-academy/insights/whistleblowing-striking-a-balance.html

PwC developed this guide after consulting with their main clients. It is aimed at business leaders and covers the legal landscape affecting whistleblowing primarily in the US, UK and EU. It offers guidance in five key steps for organisations to develop a whistleblowing policy: gaining top level commitment, developing a whistleblowing policy, designing whistleblowing reporting mechanisms, embedding a whistleblowing programme and reporting, monitoring and evaluating whistleblowing arrangements. It also includes in the appendix the results of PwC's Fraud Academy survey on whistleblowing, undertaken in 2010 by industry experts and organisations.

**Whistling while they work: A good-practice guide for managing internal reporting of wrongdoing in public sector organisations. Roberts, Brown, Olsen. 2011.**
https://press.anu.edu.au/publications/series/australia-and-new-zealand-school-government-anzsog/whistling-while-they-work/download

This guide for managing internal reporting in public sector organisations was produced with data collected from over 300 Australian national, state and local agencies, including individual survey responses from approximately 10,000 public sector employees, managers and persons involved in the management or investigation of internal reporting. Aside from the more recent follow-up study, Whistling while they work 2, this is one of the only guides based on large-scale research into whistleblowing best practices and which forms recommendations based on the results of this research. It can therefore be considered essential reading for all organisations looking for information on the subject.

The guide breaks down its recommendations for whistleblowing mechanism best practices into five main categories: organisational commitment to good management of whistleblowing; facilitating reporting (reporting pathways and procedures); assessment and investigation of reports; internal witness support and protection; and an integrated organisational approach. Moreover, employers can use the checklists provided to evaluate the policies of their own organisation.

**First to know. Trace International. 2004.**
https://traceinternational.org/Uploads/PublicationFiles/FirsttoKnow-RobustInternalReportingPrograms.pdf

TRACE is an international non-profit business association that works with companies to help them meet their anti-bribery compliance obligations. This resource puts together guidelines to establish an internal reporting mechanism for general corporate wrongdoing, based on the findings of a study of 30 companies across 10 countries. Despite being published in 2004, the guide still provides relevant and useful information to all types of organisations.

This guide briefly introduces the key laws governing whistleblowing in the UK and the US, and gives examples of challenges and success stories, illustrated with case studies from the participating companies. The guide then identifies 10 key components of a robust internal reporting programme: communication, accessibility, cultural appropriateness, universality, confidentiality and anonymity, screening, data collection, remedial action and feedback, management visibility, employee protection and external communication to shareholders on actions taken and results achieved.

**Linee guida per la predisposizione di procedure in materia di whistleblowing. Transparency International Italy. 2016. (Italian)**
https://www.transparency.it/wp-content/uploads/2016/10/Transparency_Guida_WHISTLEBLOWING.pdf

Transparency International Italy developed guidelines for the application of effective whistleblowing mechanisms in companies and organisations, published with support from global law firm DLA Piper and the Hermes Centre for Transparency and Digital Human Rights. The guidelines include a summary of international and Italian relevant law before moving on to make recommendations to be implemented internally by organisations, stating that their applicability is intended for enterprises and organisations of all sizes. It identifies as key elements of a whistleblowing policy: clear written procedure, commitment from leadership, assurance of confidentiality and provision of anonymity when reporting, clear distinction of grievances from whistleblowing, feedback to and protection of reporters, multiple reporting channels and training of staff and employers. It also contains useful guidance on how to make a report (for example, useful details or information to include) and how to evaluate a report.

**Whistleblowing: An effective tool in the fight against corruption. Transparency International policy position. 2010.**
http://issuu.com/transparencyinternational/docs/2010_1_pp_whistleblowing_en?mode=window&backgroundColor=%23222222

This policy position provides a set of recommendations derived from Transparency International's draft guiding principles for drafting whistleblowing legislation, while simultaneously recognising that effective follow-up mechanisms in organisations must be established to complement any existing legal framework. The policy paper outlines key steps organisations can take to ensure an effective whistleblowing policy: transparent and robust internal policies; the assurance of confidentiality when reporting; thorough investigation in response to reports; and staff consultation and training during the design and implementation process.

**Whistleblowing: Guidance for employers and code of practice. UK Government, Department for Business Innovation & Skills. 2015.**
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/415175/bis-15-200-whistleblowing-guidance-for-employers-and-code-of-practice.pdf

The guidance and code of practice for employers, issued by the UK Government Department for Business Innovation and Skills is designed to help employers understand the law relating to whistleblowing, establish a whistleblowing policy and recognise the benefits whistleblowing can bring to an organisation. Although it contains references to UK-specific elements of whistleblowing, it is sufficiently general and can be read by organisations in any sector. The guide contains useful definitions of terms such as whistleblowing, disclosure, grievance, confidentiality and anonymity. It also identifies some general responsibilities of an employer when setting up a whistleblowing mechanism, such as training, resolution of wrongdoing, and fostering an open and supportive culture. It concludes with a whistleblowing code of practice with a concise list of best practices for employers to adopt.

**Best practices for protecting whistleblowers and preventing and addressing retaliation. United States Department of Labor (Occupational Safety and Health Administration). 2015.**
https://www.whistleblowers.gov/wpac/WPAC_BPR_42115.pdf

This guide is applicable to public, private and non-profit organisations, with special considerations in many sections for small businesses and statute (US) or industry-specific considerations. The guide focuses on how to prevent and remedy retaliation after an employee has spoken up. The publication has six sections and dos and don'ts for each. This resource is particularly useful for SMEs and organisations operating within the US.

## International instruments and guidelines for implementation

### *International instruments:*

**Convention on combating bribery of foreign public officials in international business transactions (and related documents). OECD. 2011.**
http://www.oecd.org/daf/anti-bribery/ConvCombatBribery_ENG.pdf

The 1997 OECD convention (updated in 2011) on combatting bribery of foreign public officials in international business transactions lays out a requirement for signatory states to establish reporting/whistleblowing mechanisms for public officials in clause III (7), with subsequent recommendations on how to go about this, including: assure broad accessibility, clear communication of reporting procedures, provision of alternatives to the normal chain of management for reporting and timely follow-up of reports.

**International principles for whistleblower legislation. Transparency International. 2013.**
http://www.transparency.org/whatwedo/publication/international_principles_for_whistleblower_legislation

The Transparency International principles for whistleblower legislation are intended to serve as guidance for formulating new and improving existing whistleblower legislation. They should be adapted to national context and legal frameworks of a particular country and were created taking into account lessons learned from existing laws and their implementation in practice, input from whistleblower experts, government officials, research institutes, academia and NGOs on a global scale.

There are 30 principles in total. Principle 15 covers reporting within the workplace and sets out criteria such as: highly visible and understandable procedures; maintenance of confidentiality and anonymity; and thorough, timely and independent investigation of disclosures, among others.

**Protection of whistleblowers: A brief guide for implementing a national framework. Council of Europe. 2015.**
https://rm.coe.int/16806fffbc

This guideline developed by the Council of Europe targets policy makers from member states (and states that practitioners will also find this guide useful) and encourages them to establish normative, institutional and judicial frameworks which protect, in law and in practice, whistleblowers. It recognises the proactive role member states should take in bringing about a change in culture in workplaces, in public and private sectors. It is structured with a definition of key concepts followed by four steps: review, consultation, reform and evaluation.

*Guidelines for implementation of international instruments:*

**Anti-corruption ethics compliance handbook for business. OECD, UNODC and World Bank. 2013.**
https://www.unodc.org/documents/corruption/Publications/2013/Anti-CorruptionEthicsComplianceHandbook.pdf

This handbook was developed "by companies, for companies" with assistance from the OECD, United Nations Office of Drugs and crime (UNODC) and the World Bank, as a practical tool containing compliance advice. It therefore considers whistleblowing as part of the wider framework of compliance. It is illustrated with numerous case studies, several of which include whistleblowing. The guide is structured in three parts: the international legal framework for combatting corruption, risk assessment; and developing and implementing an anti-corruption ethics and compliance programme.

**Committing to effective whistleblower protections. OECD Publishing, Paris. OECD. 2016.**
http://www.oecd.org/corporate/committing-to-effective-whistleblower-protection-9789264252639-en.htm

This report analyses whistleblower protection standards, both legislative and organisational, in the public and private sectors. It highlights and analyses trends identified through the 2014 OECD Public Sector Whistleblower Protection Survey (completed by 32 OECD Public Governance Committee member countries) and supports its analysis with evaluation reports of the OECD Working Group on Bribery of the 41 States Parties to the Anti-Bribery Convention. The report is global in scope and detailed in content. Private sector organisations can look to chapter 5 for information on private sector whistleblower protection, and chapters 2 and 3 are dedicated to the public sector.

**The United Nations Convention against Corruption: Resource guide on good practices in the protection of reporting persons. United Nations. 2015.**
http://www.unodc.org/documents/corruption/Publications/2015/15-04741_Person_Guide_eBook.pdf

This guide was developed by the Corruption and Economic Crime Branch of the UNODC and is directed at states looking to meet the requirements of the United Nations Convention against Corruption (UNCAC) in relation to assisting and protecting reporting persons (whether members of the public or whistleblowers), as outlined in UNCAC Article 33 (Protection of reporting persons). It offers technical guidance on the legal and institutional reforms national actors can make to go about this. Despite being restricted to legislative best practices, it identifies businesses, public sector and non-profit organisations (among others) as relevant stakeholders to be consulted by signatory states.

Section 2 of the guide on "Facilitating reports and protecting reporting persons" identifies essential policies and best practices applicable to employers in both the public and private sectors, such as: providing examples to distinguish whistleblowing from grievances; alternatives to reporting outside of line management; a right to confidentiality; access to an independent helpline offering confidential advice; advice on when and how a concern can be raised outside the organisation; and mention that it is a disciplinary matter to retaliate against a whistleblower or to maliciously make a false allegation.

## Resources from Transparency International

**Whistleblowing protection in Romania and Hungary. Chêne, M. 2015.**
http://www.transparency.org/whatwedo/answer/whistleblowing_protection_in_romania_and_hungary

Analysing the legal framework regulating whistleblower protection in Romania and Hungary, this resource also explores how national law in these countries requires companies to implement whistleblower protection procedures. It identifies legislative good practices in whistleblower protection extending to both public institutions and private companies including: a broad definition of a whistleblower; protection against all forms of retaliation and discrimination; clearly communicated internal and external disclosure channels (including anonymous reporting); the right to confidentiality; and the right to receive advice on rights, compensation and damages (resulting from retaliation). It identifies Romania as having a strong whistleblowing protection legal framework, although it is limited to the public sector only. Hungary, by contrast, extends whistleblower protection legislation to both public and private sectors but is considered problematic, not least in its requirement that corporate compliance officers inform targets of whistleblower disclosures that they are the subject of a complaint, undermining the credibility of a subsequent investigation.

**Best practice and challenges for whistleblowing systems in MNCs. Martini, M. 2012**
http://www.transparency.org/whatwedo/answer/best_practice_and_challenges_for_whistleblowing_systems_in_multinational_co

This overview finds that elements of an effective whistleblowing system for a multinational company (MNC) include: clear announcement of the reporting channel; accessibility to all employees (taking into account differing time zones and languages); cultural appropriateness; guarantee of confidentiality if desired; availability of reporting mechanisms to third parties; collection of data from reports; screening to detect frivolous or malicious reporting; and protection from retaliation.

The main challenges to effective whistleblowing mechanisms include: compliance with national legislation, privacy and data privacy issues and legal restrictions on outsourcing whistleblowing hotlines, among others. The resource also maps some key actors offering advice in the field, such as professional service firms and specialised companies, and NGOs and Transparency International chapters who provide whistleblowing services, such as TI Mauritius or TI Advocacy and Legal Advice Centres (ALACs) and the UK charity Public Concern at Work.

**Whistleblowing mechanisms in municipalities. Wheatland, B. 2016.**
http://www.transparency.org/files/content/corruptionqas/Whistleblowing_mechanisms_in_cities_201
6.pdf

This resource explores best practices and applications of whistleblowing mechanisms in municipalities (in an international context). It identifies that, in partnership with strong whistleblowing protection laws, good whistleblowing systems in municipalities are essential for whistleblower protection. Best practices include: allowing citizens to raise complaints against local government officials while also obliging local civil servants to report corruption; the establishment of an independent complaints office within the local government; and an independent complaints procedure that fits the local context. More specific recommendations include: ensuring confidentiality; establishing criteria for reports to be assessed as valid; and a competent body and system to investigate complaints. Case studies from South Africa, Canada, US, UK and Italy illustrate the variations of whistleblowing systems in municipalities.

**Whistleblowing in Europe: Legal protections for whistleblowers in the EU. Worth, M. 2013.**
https://www.transparency.de/fileadmin/pdfs/Themen/Hinweisgebersysteme/EU_Whistleblower_Rep
ort_final_web.pdf

This 2013 report surveys the whistleblower protection laws of 27 EU member states, and can be used as summary guidance to the legal as well as political and social contexts of the EU countries covered, bearing in mind that several updates to the national legislation of some countries have since occurred. It also examines the perception of whistleblowers in EU countries and explores the variations in terminology for whistleblowing across EU country languages.

**The business case for "speaking up": How internal reporting mechanisms strengthen private sector organisations. Transparency International. 2017 (upcoming).**

Created in consultation with Transparency International national chapters and businesses, this resource discusses the merits and challenges businesses may encounter when implementing a whistleblowing mechanism, asserting that it is within a business's interest to establish internal reporting mechanisms. It identifies and details six key benefits of an internal reporting mechanism to businesses, namely: public signal of commitment to integrity and social responsibility; prevention and mitigation of liability; prevention or mitigation of financial losses; continuous improvement in compliance and risk management; prevention or mitigation of reputational harm; and enhancement of organisational culture

**Whistleblowing: An effective tool in the fight against corruption. Transparency International policy position. 2010.**

http://issuu.com/transparencyinternational/docs/2010_1_pp_whistleblowing_en?mode=window&bac
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This policy position offers a brief set of policy and legal recommendations from Transparency International, namely: effective legal protection of whistleblowers against retaliation with full compensation in case of reprisals; adequate mechanisms in public, private and not-for-profit organisations to ensure that disclosures are properly handled and thoroughly investigated; and public research, data collection, information and training to inform the public of the benefit of whistleblowing. Section 4 addresses and makes recommendations for the need for effective follow-up mechanisms in organisations.