

Effective and Safe Whistleblowing in the Public Sector:

A Concise Professional Handbook



Southeast Europe
**COALITION ON
WHISTLEBLOWER
PROTECTION**



Introduction



Whistleblowing is among the most effective ways to prevent and remedy ethical violations, corruption, conflict of interest and other misconduct that can occur in the public sector. This handbook explains how to build effective and reliable whistleblowing practices within public institutions and agencies. It discusses how to help public employees make reports safely, and how reduce the pressure and the risks for those who report misconduct.

As more countries are requiring public institutions to establish whistleblower systems to protect their employees from retaliation, it is essential for these systems to function fairly and punctually. Otherwise, public employees who report misconduct will suffer negative consequences, while misconduct may persist and go unpunished. As a further result, public trust in government will be weakened.

Introduction

The handbook provides insights for public institutions and their directors on:

- how employees can make reports safely and reliably
- how to follow up on reports from employees
- how to ensure employees are not retaliated against after making a report
- how to set up a whistleblower protection system and office within the institution
- how to ensure the system and office are functioning properly and fairly

The keys to the success of an institution's whistleblower system are workability, effectiveness, enforceability, promptness, trustworthiness and transparency.

The whistleblower policy should:

- match the institution's overarching goals with regard to integrity, accountability and transparency,
- explain all elements of the system to institution staff in plain-spoken language,
- explain what an employee can expect after filing a report, including deadlines and potential outcomes, and
- include the roles and responsibilities of institution departments and staff involved with the system, and their contact information.

Guiding Principles: Fundamental Goals of the Whistleblower System



A properly designed whistleblower protection system within an institution should:

- facilitate and ease the ability of employees to report misconduct and retaliation
- engage employees with fairness, openness, honesty and compassion
- support and protect employees from all negative consequences
- ensure retaliation complaints are investigated and responded to promptly and fairly
- actively provide relief and compensation to victimized employees, including reinstatement and lost wages
- discipline employees who retaliate against a whistleblower or who otherwise violate the whistleblower policy
- ensure reports of misconduct are thoroughly investigated and resolved in a timely manner

Benchmarks:

Fundamentals of the Whistleblower System

Resources

The system should have:

- sufficient resources to receive, investigate and respond to reports
- properly trained and experienced staff to competently handle reports
- regular training for staff who are authorized to handle reports

Procedures

The system should have formal procedures, staff roles and deadlines to

- receive, investigate and respond to reports and retaliation complaints
- provide relief, remedies and compensation for victimized employees
- ensure reports of wrongdoing are thoroughly investigated

Case Management

The system should have a case management and tracking system to:

- ensure reports and retaliation complaints are investigated and acted upon in a thorough and timely manner
- provide regular and thorough feedback to employees



Eight Steps to Success

Roles and Responsibilities

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The policy should include all institution departments and staff involved in the internal whistleblower system, including their specific roles and duties. This should include timeframes within which each department and staff shall take action on a report, retaliation complaint or other matters.



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Reporting

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The policy should include complete information on reporting channels, including a phone number staffed during regular business hours, fax number, email addresses, contact form, physical address and mailing address.

People making reports should receive an acknowledgement of receipt within 24 hours, or 72 hours if via post. People should be given every opportunity to provide additional information related to their report, and should be kept abreast of the progress and outcome.



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Confidentiality and Anonymity

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The identity of all people who make a report or contact the whistleblower system should be protected. If the person provides his/her name, this information should be kept confidential. If the person is anonymous, the institution should make no attempts to ascertain his/her identity.

Protecting the identity of reporters should be legally and contractually enforced to the best of the institution's ability. Disciplinary measures for violating confidentiality and anonymity, or attempting or threatening to reveal a reporter's identity, should be sufficient to represent a meaningful deterrent. Disciplinary measures should increase for repeat violations.

Anonymous reports should be welcomed and treated the same as any report. Anonymous reporters should be able to communicate and follow up with the institution via an anonymized code. However, they should be informed they cannot be protected if they do not identify themselves.

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Protections and Remedies

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The policy should include complete information about the specific types of retaliation protection, remedies and compensation for which employees are eligible, including the process for requesting and receiving it.

“Retaliation” should be defined in the broadest terms. This should include threatened, proposed and actual adverse actions – whether direct or indirect – as well as acts of omission, that are done knowingly or recklessly to harm to an employee or associated person.

All employees should be protected from reprisals unless it can be clearly demonstrated that the person knowingly submitted a false report. An employee's motive for making a report should not be examined or considered.

Investigations

A designated department or team within the institution should be responsible for investigating reports of retaliation. This department or team should forward its findings to the appropriate department for any remedial action or other steps, and work to ensure remedial actions are taken.

Investigations of and decisions on retaliation protection should be completely decoupled from investigations of misconduct. Namely, protection should not be dependent on the outcome of misconduct investigations. A party person who makes a report with a reasonable belief in its accuracy should receive absolute protection if the report is incorrect, unfounded or does not result in any follow-up action.



Eight Steps to Success

Communications and Training

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Eight Steps to Success

The institution should provide concise, updated, plain-spoken information about the system to all employees. This should include a main contact, phone number, email address and contact form.

The institution should consider establishing a designated team comprised of members from key departments that would stay in regular contact about reports, complaints and cases.

All institution staff should receive information on this policy when they are hired, and “refresher” training at least annually. The system should be publicized within the institution on an ongoing basis.



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Monitoring

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A case management system should catalogue all reports and complaints, and track their progress, outcomes and follow-up actions. This system should be accessible to relevant departments and staff on a need-to-know basis, while taking care to maintain confidentiality and anonymity.

Data and information on reports from institution staff should be included in the institution's annual reports, while including no identifying or sensitive details.



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Violations and Sanctions

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The policy should include violations and sanctions that apply to institution directors and staff. These violations should include retaliation and retaliatory acts, attempted or threatened retaliation, ordering or condoning retaliation, violating confidentiality and anonymity, and knowingly making a false or misleading report to the institution.

The policy should include complete information on how suspected violations will be investigated and sanctioned, including the departments responsible for this and the types of sanctions that apply.

Operational Checklist



Here is a useful checklist to help ensure the system is functioning properly:

- 1)** Have you clearly stated your commitment to enable reporting by employees?
- 2)** Is the policy a collaborative effort by directors and employees?
- 3)** Can a whistleblower make a disclosure confidentially and anonymously?
- 4)** Do you review your whistleblowing policy and procedures annually?
- 5)** How many disclosures have you received in the past year?
- 6)** Do you have an ongoing awareness and promotion program for employees?
- 7)** Does the policy explain what steps will be taken when a report is filed – when, how and by whom?
- 8)** Are whistleblower caseworkers appropriately trained and skilled, with an employee-centered approach?
- 9)** Are whistleblowing channels tailored to the activities and context of your institution?
- 10)** Are the consequences of misconduct or breaching the policy clearly defined?