



Guidance for investigation of whistle-blower reports



**WHISTLEBLOWER
PARTNERS**

1. Set the framework for the investigation

It is essential that the company has an internal manual for investigating whistle-blower reports. Establishing an effective investigation process will promote confidence among staff and other stakeholders that any wrongdoing will be taken seriously and that individuals will be held accountable for their actions.

When a whistle-blower report is received by a company, an initial screening of the report should be carried out by the receiving team in the company. It should be assessed whether the report should be handled as a whistle-blower report. If this is not the case, the report must be forwarded to the relevant person or department in the company.

If a report falls under the whistle-blower scheme, an initial assessment should be made of the framework for investigating the report and the possible scope of the investigations. The method of investigation should be defined, including who should do what and when, and to what extent the company's management should be kept informed about the investigation.

The internal investigation process may also reveal other problematic issues in the company, such as a poor or inappropriate culture in the company or in particular departments, or specific issues of conduct among certain employees.

It is important to create a working environment where employees can be frank without fear of reprisals. Research shows that such environments foster employee involvement and innovation. Employees need to feel that they can easily and informally raise issues within companies, and it is therefore essential that companies have robust and usable communication channels to do so.

2. Identify the scope of the investigation

It is important to respond appropriately to a whistle-blower's report to ensure the company does not run the risk of being accused of sweeping issues under the carpet or ignoring facts.

However, it is also important for the person investigating the report to retain control of the process and not, for example, delegate it to the whistle-blower, who may have a particular agenda. Thus, the investigator must expand and narrow the scope of the investigation at their discretion.

3. Understand the relevant policies and procedures

It is not always clear whether a report should be dealt with under a company's whistle-blower policy or under other internal procedures, such as a Code of Conduct or other specific policies (such as policies concerning bullying and harassment).

4. Keep the investigation confidential

Confidentiality and anonymity are particularly relevant in the context of whistle-blower investigations, as the cornerstone of any whistle-blower scheme is the protection of whistle-blowers against company reprisals.

Confidentiality should be maintained as far as possible. Information should generally be shared on a "need to know" basis.

A lack of confidentiality increases the risk of leaks and can destroy trust in the process.

All cases should be treated with the utmost confidentiality to safeguard the identity of both the whistle-blower and the person reported by the whistle-blower. Therefore, the following basic principles must be followed:

- No one should try to identify a whistle-blower.
- A report should not be investigated by anyone who may be involved in or connected with the case.
- Reports must be handled confidentially by all parties involved.
- Reports should be investigated by competent and independent experts.

5. Choose the right investigator

It is essential for the completion of a successful and unproblematic investigation that the investigation is carried out by an experienced and competent investigator. An investigator without the necessary investigative skills, technical and professional knowledge and independence can undermine the whole process.

6. Respond to a report quickly and respectfully

It is essential for the building of trust in the whistle-blowing system that communication with a whistle-blower is conducted in an appropriate and predictable manner, including by providing a whistle-blower with prompt confirmation that the report has been received.

There may be situations where a report should not be accepted as a whistle-blower case. After receiving a report, the whistle-blowing team or investigator must decide whether to accept or dismiss the report.

For example, the whistle-blower team may dismiss a report if:

- the alleged conduct is not reportable under the company's whistle-blower policy,
- the report is not made in good faith or is malicious in nature,
- there is insufficient information to allow further investigation.

It can be difficult to respond properly to a whistle-blower report. In general, great care and restraint should be exercised in relation to what is communicated to a whistle-blower.

Usually, nothing is known about the whistle-blower, so caution must be exercised. It is important to be careful and concise when communicating with the whistle-blower.

This applies to every case until more is known about who the investigators are communicating with.

In all circumstances, however, the EU Whistleblower Directive makes it a requirement to respond to the whistle-blower within three months after they submitted their report. What is communicated to the whistle-blower should be considered on a case-by-case basis.

7. Proportionate action should be taken

Not all investigations require very extensive or thorough examination of all the facts. Conversely, an overly superficial investigation would normally be inappropriate in relation to more serious issues and could result in accusations of sweeping matters under the carpet or a risk of intervention by law enforcement or regulatory authorities.

The investigator should ensure that all decisions made as the investigation progresses are based on the evidence gathered. The company must manage the risk of security breaches or disputes and comply with the GDPR when collecting and storing evidence.

8. The desired output of an investigation should be defined

At the beginning of the investigation, the investigator should consider the intended result of the investigation, including whether a written report should be produced or whether, in the specific case, an oral debriefing should be carried out. It should also be specified who is to receive the report.

9. Register, delete and archive

Detailed records must always be kept for each report, and all data must be handled in accordance with applicable laws. This entails establishing a system for storing all reports and logging the actions of the whistle-blower team or investigator.

Personal data contained in whistle-blowing communication and investigation documentation should be deleted once the investigation is completed, except for personal data that must be stored for legal purposes. It is therefore recommended that automatic processes for deletion, to be activated after a certain period of time, are implemented according to detailed rules.

Archived documentation on whistle-blower reports and investigations must be anonymised absent of personal data that might potentially identify whistle-blowers who have submitted a report.