Striking a balance
Whistleblowing arrangements as part of a speak up strategy

After consultation with our clients, we discuss in this paper the value and importance of speaking up and of implementing a whistleblowing strategy

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Whistleblowing workshop and survey

On 7th October 2010, PwC Fraud Academy hosted a workshop at which several organisations and industry experts were invited to discuss the topic of whistleblowing.

PwC would like to thank the organisations and their representatives who attended and contributed to the event.

In November 2010, an on-line survey was launched via the PwC Fraud Academy. All PwC Fraud Academy members were invited to respond anonymously to the survey, which consisted of 18 multi-part questions on the subject of whistleblowing.

Responses were received from representatives of 111 organisations, each of whom also had the opportunity to record additional comments.

The analysis contained within this report is based on the 111 responses received. Some parts of the 18 questions did not require a response from each participant. Where applicable, the responses were analysed based on the number of completed valid responses.

Introduction

"The new UK Bribery Act and the US Dodd-Frank Act have contributed to a rapidly changing landscape for whistleblowing. It has long been recognised as one of the prime tools an organisation can use to foster a culture of transparency, understand its operations and identify unethical behaviour, but this has been brought into sharper focus by these developments. Indeed, it is emerging as one of the most important tools in the anti-corruption arena. Many companies have started to revise their anti-bribery procedures in the light of recent changes and they should be certainly checking that their whistleblowing procedures are fit for purpose."
Chandrashekhar Krishnan
Executive Director,
Transparency International UK

All organisations are exposed to risk where their directors, employees, contractors and other service providers act illegally, unethically or unsafely. Too often an organisation is only alerted to such behaviour when it is exposed in the media or it attracts the attention of external regulators and law enforcement agencies. Organisations therefore rely on the knowledge and resolve of individuals who are prepared to speak up and notify them of an issue before it reaches the public domain.

All organisations, should be concerned that individuals have access to facilities that allow them to report their concerns with the assurance that the organisation will investigate and manage their allegations appropriately.

The purpose of this paper is to provide insights to organisations whose senior management recognise the value and importance of whistleblowing and speaking up. We acknowledge that a 'one size fits all' approach to the design and implementation of whistleblowing and speak up arrangements is inappropriate and ineffective. We recognise that organisations are unique and that there is no simple off-the-shelf solution.

We have framed our discussion of whistleblowing arrangements within the context of a wider speak up strategy. In this context, whistleblowing is visualised as one element of an organisation's broader arrangements that promote openness and transparency over silence and opacity.

The principles and recommendations that we put forward in this paper have been informed by PwC's practical experience of helping clients achieve their ethical objectives. Many organisations, industry experts and practitioners have kindly contributed their opinions and experiences. In particular, we conducted a survey of clients' procedures and perceptions, the key results from which are included in this report. We also held a roundtable discussion with nine clients which has greatly influenced the contents of this paper. We have included anonymous comments from both survey and roundtable participants, however, the contents of this report reflect the opinion of PwC alone.

Legal and governance considerations

When designing, implementing or evaluating their whistleblowing arrangements, organisations should be mindful of the requirements of (and changes to) the law, both as it relates to the obligations it places on your organisations and the protections it affords to individuals.

PIDA, the Code and Sarbanes-Oxley

The UK Public Interest Disclosure Act was designed to "to protect individuals who make certain disclosures of information in the public interest"[1]. Put simply, any worker who believes that he would suffer a detriment if he disclosed certain types of issue to his employer is protected in the eyes of the law. While the Act does not require organisations to provide whistleblowing arrangements, a company that does not put in place adequate whistleblowing and speak up arrangements is putting itself at risk that when its employees have concerns, they will voice these concerns first outside the organisation.

The UK Corporate Governance Code (the Code), states that organisations "should review arrangements by which staff of the company may, in confidence, raise concerns about possible improprieties"[2]. Companies to whom the Code applies are required to report on how they have applied its principles or, where they have not, to provide an explanation.

The US Sarbanes-Oxley Act, by contrast, legally obliges organisations to provide whistleblowing arrangements. The arrangements should be overseen by the audit committee, and they must allow for anonymous reporting.

Recent developments

In the UK, the proposed enactment of the Bribery Act creates a corporate offence of failing to prevent bribery. In order to defend a charge of failing to prevent bribery, an organisation must be able to demonstrate that it had adequate procedures in place. The provision of effective whistleblowing facilities is widely considered to be a key element of adequate procedures for most organisations.

In the United States, the Dodd-Frank Act provides for substantial cash rewards to be granted to whistleblowers who voluntarily provide the SEC with information that leads to the successful prosecution of securities laws violations. Recently a $96m reward was made to a whistleblower in the U.S. in accordance with the Act at the conclusion of a $750m settlement against a UK pharmaceutical company.

Guidance from the EU differs slightly when it comes to anonymous reporting, largely as a result of data protection and retention regulations requiring personal data to be collected fairly. EU guidance states that Whistleblowing schemes should not encourage anonymous reporting. This is in direct conflict with the US Sarbanes-Oxley Act. It may be that separate reporting mechanisms are required or that additional procedures are adopted for anonymous reports.[3]

1 Public Interest Disclosure Act 1998, Introductory text
2 The Combined Code on Corporate Governance, paragraph 4.8
3 Whistleblowing arrangements: Code of Practice, the British Standards Institution (2008)

Whistleblowing: a definition

Whistleblowing can be defined as the process whereby someone within an organisation "raises a concern about a possible fraud, crime, danger or other serious risk that could threaten customers, colleagues, shareholders, the public or the organisation's own reputation.[3]"

Guidance from the Institute of Chartered Accountants of England and Wales states that: "an individual in an organisation who makes disclosures in the public interest about dangerous or illegal activities, in order that the misconduct or perceived misconduct can be addressed, is a whistleblower.[4]"

Speak up: a definition

A speak up strategy is often seen as the broader arrangements for reporting all business or ethical concerns and suggestions rather than simply illegal or misconduct issues.

It encompasses the range of different ways in which employees and others can seek guidance and raise questions both from line management and other parts of the organisation.

Confidentiality v. Anonymity: a definition

There is an important distinction between confidentiality and anonymity. PIDA does not give protection to anonymous whistleblowers.

The identity of a confidential whistleblower would be known to the organisation and should, insofar as possible, be protected.

Anonymity is where the employee does not identify him or herself at any stage to anyone.[3]

There is, of course, a third alternative of open whistleblowing. Here the whistleblower would not request any confidentiality.

3 Whistleblowing arrangements: Code of Practice, the British Standards Institution (2008)
4 www.icaew.com

Whistleblowing arrangements – One milestone at a time

There is no 'one size fits all' solution when it comes to the development of whistleblowing arrangements. In contrast, organisations should seek to tailor the design of their whistleblowing arrangements according to their unique operational and cultural circumstances.

Developing effective whistleblowing arrangements that are effective is no easy task. We have set out five stages, each of which should be a milestone in any design and implementation project plan. By giving appropriate consideration to each milestone, organisations can expect to provide whistleblowing arrangements that are suitably fit for purpose .
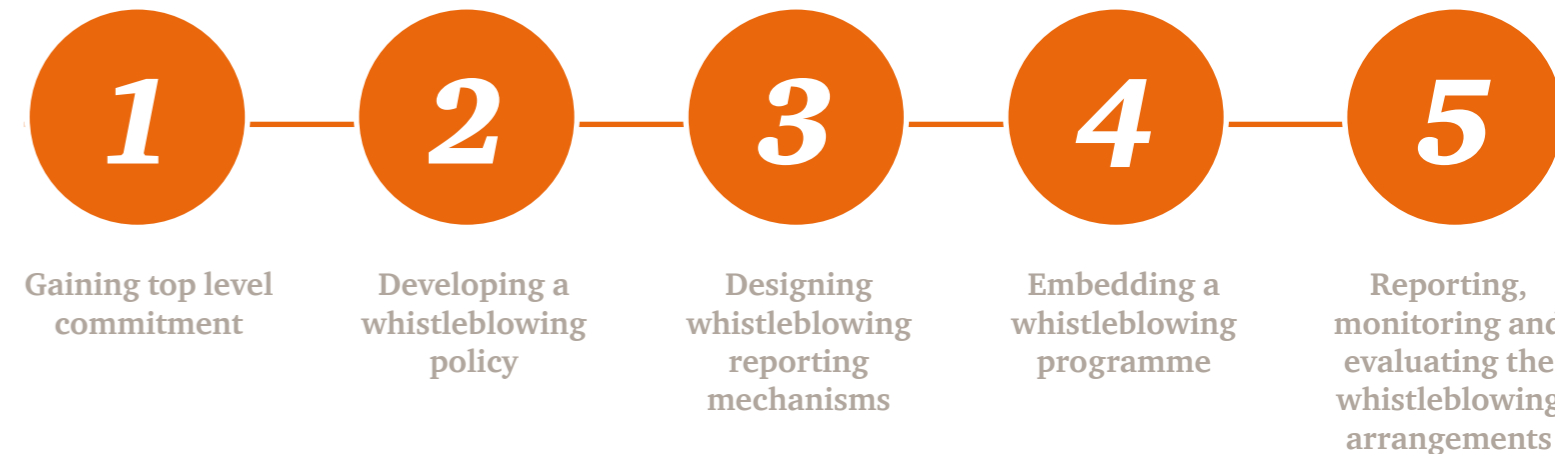
"Different companies need different solutions – each company needs to find the one that is most appropriate and effective for their specific business."
Roundtable participant

"We have to recognise that different countries…take a very different view of whistleblowing to that of the UK… management must not assume that one size fits all."
Survey participant

The **5 key** milestones in the development of an effective whistleblowing programme are :

1	**2**	**3**	**4**	**5**
Gaining top level commitment	Developing a whistleblowing policy	Designing whistleblowing reporting mechanisms	Embedding a whistleblowing programme	Reporting, monitoring and evaluating the whistleblowing arrangements

Gaining top level commitment

"Senior management should support an open culture by showing a constant and lasting commitment to it."

Survey participant

"It is imperative that the CEO actively sponsors the whistleblowing programme, shows belief in it and makes behavioural expectations crystal clear."

Roundtable participant

"All messages about whistleblowing should come from the top."

Survey participant

Ethics and culture

The ethical tone and culture of an organisation are defined from the top down. An organisation's attitude to business ethics originates from (and is cultivated by) its CEO, board and senior management through the policies and procedures they design and the example they set.

Top level buy-in is fundamental to the development and implementation of effective whistleblowing arrangements, particularly within the wider context of a speak up strategy. For a speak up strategy to be effective and sustainable, an organisation's board must openly and actively encourage upward and downward communication amongst its people. Ironically, in an open environment, individuals with serious concerns are more likely to make use of other speak up arrangements rather than the formal whistleblowing reporting mechanisms.

"**80%** of organisations say that senior management are very supportive or quite supportive in promoting an open speak up culture.

Nonetheless, **41%** of organisations also say that more support from senior management would be advantageous."

Governance and ownership

Top level commitment should not be restricted to vocalising and mentoring an organisation's whistleblowing arrangements. An organisation's senior management must also be actively involved, supporting the implementation, briefing and training for the Whistleblowing scheme as well as 'buying in' to the principles. That 41% of organisations believe more support from senior management would be advantageous suggests that either adequate time and resources are not being given or that senior management could encourage better usage and behaviours.

Where required, audit committees should oversee the operation of whistleblowing arrangements and hold senior management accountable where the arrangements are found to be inappropriate or ineffective.

Operational responsibility for whistleblowing arrangements should rest with the body or function that drives compliance within the organisation (who may or may not be accountable to the audit committee). Whether this responsibility lies with the board, an executive committee or another delegated function, the arrangement will be most effective where the ultimate process owner is also responsible for compliance risk management.

"**21%** of organisations say that responsibility for the governance of their whistleblowing arrangements is assigned to the board."

"**45%** say that responsibility for the governance of their whistleblowing arrangements is assigned to the audit committee."

"**29%** of organisations say that responsibility for the governance of their whistleblowing arrangements is assigned to another function such as an executive committee, internal audit, legal or human resources. "

Developing a policy

"**66%** of organisations define the types of concerns that their whistleblowing arrangements are designed to address."

"**75%** of organisations say that the ethical and other risks that they confront are fully written into and addressed by their whistleblowing arrangements."

An organisation's commitment to open and effective whistleblowing is embodied by its formal policy. When developing a policy, organisations must therefore consider the following questions:

- What it is the purpose of the whistleblowing arrangements?

- What risks should the whistleblowing arrangements be designed to mitigate?

- Who are the whistleblowing arrangements intended for?

- What should the policy contain?

Purpose

Organisations should seek to define the role and purpose of their whistleblowing programme. Whether an organisation's whistleblowing arrangements are intended to be an individual's first port-of-call or a last resort, it is important that the message is clearly built into its policy.

Some organisations have stated that they encourage individuals to make use of their whistleblowing facilities, as a precaution, no matter how minor their concern. In contrast, other organisations have told us that they prefer to deter individuals from reporting anything other than the most serious issues through the designated whistleblowing mechanisms on the basis that they had implemented other measures for managing less critical issues.

Regardless of how they choose to position their whistleblowing arrangements, organisations should also consider at this stage how to filter the reports they receive. Some organisations have chosen to offer alternate reporting channels to capture different types of concerns, such that reports are filtered prior to notification. Others continue to use a single reporting line whilst allocating internal resources to filter the reports manually post notification.

Risk

Organisations should consider the types of concerns that they want to be reported through their designated whistleblowing reporting mechanisms.

Examples of types of risk are set out below. Clarity is needed as to how people can speak up in relation to each of these risks, whether more than one whistleblowing arrangement is required and how different types of report will be dealt with.

- Malpractice, fraud or corruption;

- Illegal or criminal offences;

- Environmental damage;

- Health and safety risks; and

- Concealment of information relating to any of the above.

Intended users

Organisations should consider who their policy is intended for. Traditionally, whistleblowers have been an organisation's employees. Increasingly, organisations are making their whistleblowing arrangements available to third parties and the public, reflecting both the public nature of the commitment organisations now give to high standards of ethical practice and the recognition that third parties are a vital source of information in relation to inappropriate practices.

In light of recent developments, notably the introduction of the Bribery Act in the UK, it is important that organisations use their policy to define the stakeholder categories to whom their whistleblowing arrangements apply. The recent regulatory developments suggest that, if they are not already doing so, organisations would be wise to include third parties with whom they do business in this list.

Some organisations choose to encourage members of the public to make use of their whistleblowing arrangements. Whilst this is not appropriate for all organisations, it may be advantageous to do so on the basis that it clearly demonstrates an organisation's commitment to high ethical standards.

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As the embodiment of an organisation's commitment to open and effective whistleblowing, an effective whistleblowing policy should record the following:

- the organisation's commitment to the highest standards of integrity and ethical behaviour, and the prevention of non-compliance with applicable laws and legislation;

- the alternate arrangements that employees and others can use to raise concerns or seek guidance (i.e. the speak up arrangements) other than the formal whistleblowing programme;

- the purpose of the organisation's whistleblowing policy and arrangements;

- the groups and individuals to whom the organisation's policy applies;

- the availability and location of guidance and advice;

- the existence of the organisation's other policies relating to grievances and HR complaints;

- the principles that support the whistleblowing policy (i.e. confidentiality and anonymity);

- the organisation's zero tolerance approach to retaliation of any kind against an individual who has raised a concern;

- the types of concerns for which the organisation's whistleblowing policy and arrangements are intended to be used;

- the details of how, and through which reporting mechanisms, an individual can make a report; and

- the details of what happens after a concern has been raised, including details of who will investigate the allegations, how the matter will be escalated to and what feedback will be provided to the whistleblower.

"We are focused on capturing the few major issues that are at most risk of slipping through the net".
Roundtable participant

"We operate a 24-hour 'speak up' helpline – we need to hear everything."
Roundtable participant

"**55%** of organisations provide whistleblowing facilities to stakeholders other than employees (such as contractors, suppliers and third parties)."

"**35%** of organisations also provide whistleblowing facilities to members of the public."

Designing reporting mechanisms

An organisation's safety net

Whistleblowing reporting mechanisms are the channels through which organisations are notified of their people's concerns. As such, they act as an organisation's risk management safety net. The extent to which the safety net is effective will depend on:

- whether or not it reflects the purpose for which it was intended
- whether or not it reflects the factors that impact the decision of a potential whistleblower to raise a concern

We have defined three levels of reporting mechanisms, each of which is an integral part of an organisation's speak up framework.

Level 1 reporting mechanisms: direct line (1)

Organisations should encourage open communication amongst their people. When an individual wishes to raise a concern, large or small, it is important that they have the option of making a face-to-face report to their immediate manager. This enables the individual's concerns to be captured and actioned swiftly and effectively, which is to everyone's benefit.

Level 2 reporting mechanisms: direct line (2)

It may not always be appropriate or possible for an employee to raise a concern directly with a line manager, particularly where the issue specifically involves that individual. Organisations should also consider designating another trusted individual as a second direct port of call.

Such an individual could also offer local advice, as occurs with 19% of our survey respondents. The individual can come from various gatekeeper communities such as divisional management, unions, professional bodies, offices of general counsel, audit or another group. Appropriate training should be considered for staff fulfilling a Level 2 reporting role.

This requires a greater investment but provides a more independent approach.

## Level 3 reporting mechanisms: indirect line(s)

Whilst direct internal reporting lines (Levels 1 & 2) may be effective in many circumstances, organisations should be aware that some concerns, often those relating to the more serious issues, will not be reported in this way.

All organisations, regardless of size, should consider providing additional whistleblowing facilities and reporting mechanisms. The provision of multiple reporting mechanisms increases the probability that employees will feel comfortable in using at least one of the available options.

The reporting medium is also important. For example, the younger generation may be at ease using a web-based system, whereas the older generation may have faith in the traditional postal service.

"**98%** of organisations operate one or more whistleblowing reporting mechanisms."

"**91%** of organisations operate two or more whistleblowing reporting mechanisms."
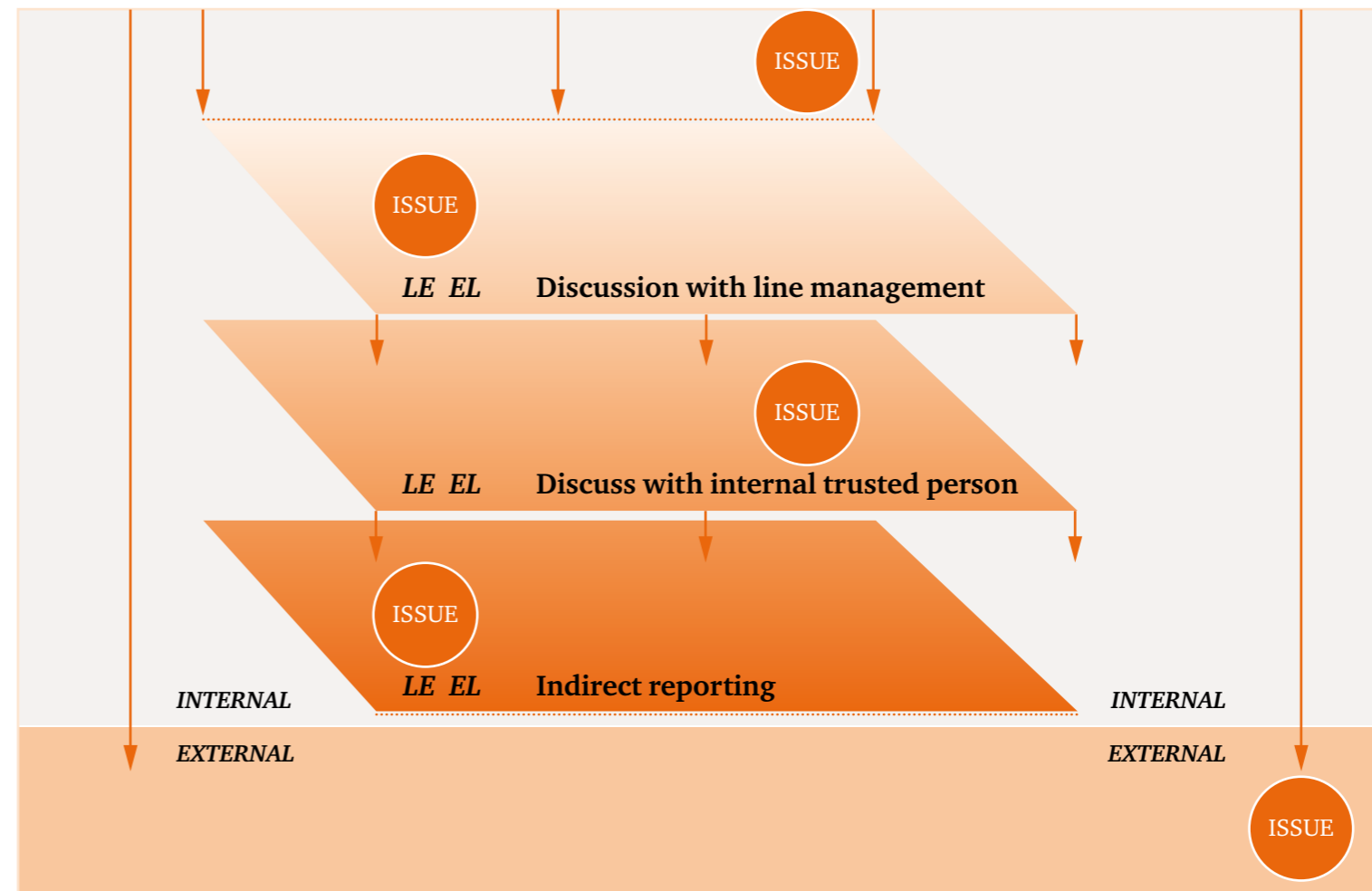
Organisations should therefore consider the potential benefits of providing a combination of the following reporting mechanisms:

- a designated address
- a designated fax number
- a designated phone line
- a designated email address
- a designated web-based system.

Regarding phone lines, organisations should consider the benefits of operating a helpline in parallel to any hotline. The British Standards Institute guidance suggests the majority of individuals who call an independent helpline go on to report their concerns formally within the organisation in a constructive way. This is discussed further in "Embedding the programme".

However, organisations should think carefully before encouraging employees to bypass the management chain. It may be appropriate, providing a level of independence and allowing employees to report on line management. However, an open culture is better fostered by encouraging employees to trust and communicate effectively with their line management.

LE EL   Discussion with line management

LE EL   Discuss with internal trusted person

INTERNAL   LE EL   Indirect reporting   *INTERNAL*

EXTERNAL   *EXTERNAL*

"**66%** of organisations operate whistleblowing hotlines hosted by external service providers."

"**73%** of organisations make their whistleblowing facilities available 24 hours a day, 7 days a week."

"**55%** of organisations offer multi-lingual whistleblowing reporting mechanisms."

"**58%** of organisations said their reporting channels were structured so as to receive allegations from whistleblowers in multiple territories whilst 28% said they weren't."

"**2%** of organisations use their whistleblowing service provider to investigate whistleblowing allegations as well."

"**63%** of organisations operate externally hosted email reporting mechanisms."

Internally vs externally hosted reporting mechanisms

Organisations must consider whether an internal function or external service provider is chosen to host their level 3 whistleblowing reporting mechanisms.

There are both advantages and disadvantages to outsourcing the operation of level 3 reporting mechanisms to an external service provider. In the first instance, external service providers are experienced in operating reporting mechanisms on behalf of other organisations. As such, they are able to do so effectively and, for larger organisations, economically.

Some external providers are able to provide the service in different languages, with greater sensitivity to local cultural nuances and with greater consistency across different parts of the group.

Additionally, the use of a third party service provider can convey the message that the arrangement is truly independent: potential whistleblowers may be encouraged by the knowledge that their report will not be received by someone known to them, and will thus have more faith in the process.

Keeping the service in-house enables an organisation to retain greater control of the implementation of the system. This enables a better fit to be achieved with the organisational culture. Depending on the anticipated level of reporting, it is likely to be slightly cheaper as those running the hotline can also have other operational duties. It may also be easier to coordinate investigation activity if the service is in-house.

The majority of organisations do not outsource the investigation of whistleblowing concerns to the external hosts of their whistleblowing reporting mechanisms. In some cases, organisations maintain specialist investigation units; other organisations use internal audit, compliance, human resources or external investigators to fulfil this role.

Considerations for international organisations

Large international organisations should be aware of the restrictions imposed by legal jurisdictions on whistleblowing arrangements in the territories in which they operate. These restrictions will have a significant impact on the provision and design of whistleblowing facilities. Professional and legal advice should be sought by organisations wanting to provide centralised, cross-border whistleblowing facilities to ensure that these restrictions are appropriately addressed. For example, there are a variety of conflicting data protection laws and banking secrecy laws globally.

In addition, organisations with overseas operations and activities should consider the value of providing multi-lingual facilities when designing their reporting mechanisms. Many organisations have found that it is effective to outsource the operation of reporting mechanisms to external service providers with continuous access to interpreters of relevant foreign languages.

Embedding the programme

"We don't publicise detailed outcomes so it is difficult to show people how useful whistleblowing is."
Roundtable participant

Training and communication

An organisation's whistleblowing arrangements will not be effective if the people for whom they are intended are unaware of what they are or how they work. This includes the individuals who may have a concern to raise as well as individuals who may become the recipient of a complaint. Effective communication was the most discussed topic during our research, and was seen by all participants as fundamental to the development of a successful whistleblowing programme.

"We publish 'It Happens Here' stories on our internal website to engage employees in our corporate code of conduct and ethics programme."
Roundtable participant

Even the best designed whistleblowing arrangements will not be effective unless they can be embedded within the wider culture of the organisation. There are many ways in which organisations can approach this key milestone.

Guidance and advice

Many large organisations choose to provide a helpline, separate to their reporting mechanisms, that allows individuals to discuss their concerns before making a formal report. Smaller organisations, on the other hand, resort to circulating documented whistleblowing procedures.

"If you don't communicate whistleblowing findings, employees cannot know the outcome of investigations and therefore lose confidence in the system."
Roundtable participant

A helpline can provide explanations on the process of reporting, how reports will be investigated and feedback provided and how the individual's confidentiality will be maintained. Perhaps more importantly, the alternative mechanisms in a broader speak up strategy can be discussed allowing complaints to be directed appropriately by the individual. It may give the whistleblower the confidence to use the organisation's line management structure.

However organisations choose to offer whistleblowing guidance, the benefit of doing so is clear. Not only will the quality of whistleblowing reports be greatly improved but the whistleblowing arrangements will become further embedded in the organisation's speak up culture.

The provision of training and regular communications is fundamental to the embedding of an organisation's whistleblowing arrangements within a wider speak up culture. Employees should be given training on how and when to raise a concern and informed about the mechanics of the reporting mechanisms and investigation process.

Employees should receive regular communications relating to compliance issues, including an organisation's whistleblowing arrangements. The communications should be delivered by senior management and other relevant parties (e.g. an external service provider) such that the concept of speaking up becomes embedded in the organisation's culture.

Organisations should also make sure that their people know what to do when a concern is reported to them directly. This is key in embedding the speak up, both in the embedding process and the roll-out of the speak up culture, as many notifications will be received through these channels. Training should focus on informing individuals about how to respond to a concern in an appropriate and consistent manner.

In addition, organisations should consider the benefits of publishing, for the benefit of its employees and other stakeholders, the outcomes of past investigations into whistleblowing allegations. This has the added advantage of demonstrating the organisation's commitment to investigating and addressing whistleblowing concerns. There may be constraints such as employee confidentiality or further inquiries which need to be carefully considered.

"We are moving in the direction of publishing whistleblowing outcomes in order to encourage people to come forward."
Roundtable participant

Organisations should recognise the value in making whistleblowing guidance available to their people. This support may come in many forms, direct and indirect, personal and impersonal, written and oral. However rolled out, the provision of relevant and constructive advice will result in a more effective whistleblowing operation.

"**78%** of organisations say that they provide feedback to whistleblowers."

"Even if they wish to remain anonymous, whistleblowers can access feedback via a case number that is allocated by our external provider."
Survey participant

"Another **26%** of organisations say that it would be advantageous to operate one."

"**36%** of organisations use the case management system to service all reporting mechanisms."

"**51%** of organisations operate an end-to-end case management system that assists them in recording, investigating and resolving the whistleblowing concerns."

Organisations should commit to providing whistleblowers with feedback on the outcome of the investigation into their concerns. This commitment should be pledged in the whistleblowing policy and demonstrated in practice. It will not always be appropriate to commit to feedback deadlines, but the simple practice of feeding back to whistleblowers has the effect of reassuring employees that the programme actually works. There are issues regarding employment and human rights of other parties connected to the investigation which must be taken in to account before feedback is provided.

In order to ensure that enquiries are made into all whistleblowing concerns, many larger organisations chose to use an end-to-end case management system. Such a system allows the organisations to record and monitor the status of all whistleblower concerns from the time they are notified until the time they are resolved.

An end-to-end case management system is put to best effect where it is used as a central hub for all investigative functions. Read-only access to sections of the system can, where appropriate, be granted to whistleblowers such that they can be assured that their concern is being taken seriously.

Case management and feedback

Organisations can facilitate the embedding of their whistleblowing arrangements by effectively managing (and being seen to manage) the whistleblowing reports they receive. Organisations should therefore consider the processes they can implement to ensure that all whistleblowing allegations are properly considered and, where necessary, investigated and that whistleblowers are kept up to date on the progress of any investigation.

"**52%** of organisations disagree that the existence of a cash reward programme encourages an open speak up culture."

Rewarding whistleblowers?

Many organisations will need to come to terms with the prospect of employees being subject to substantial financial incentives to raise concerns with external regulatory authorities.

The Dodd-Frank Wall Street Reform and Consumer Protection Act came into law mid July 2010 and introduced two parallel whistleblower programmes that will provide powerful financial incentives for individuals to report suspected securities or commodities trading violations to the SEC and Commodity Futures Trading Commission. With the mandatory awards to whistleblowers of between 10 and 30% of the monetary sanctions imposed by the SEC or other government agencies, it is suspected that this will lead to a substantial increase in the amount of investigations. A similar whistleblower incentive scheme was introduced in the US False Claims Act which resulted in over $24bn in recoveries and judgments since 1986.

Organisations need to consider the implications of this act on their business and it would be sensible to do this in conjunction with a review of whistleblowing procedures. It is likely that it would be more beneficial to the organisation for the whistleblower to keep their concerns in house but the financial rewards on offer give a huge incentive to 'go public'. Obviously, transparency should be maintained, however, and any necessary reports to regulators should be filed but it is likely that a better outcome can be achieved through a controlled and constructive dialogue than through a hostile regulatory investigation.

Around half of the organisations who responded to our survey felt that the offering of cash rewards would encourage an open speak up culture. Many respondents expressing concerns focussed on the possibility of inappropriate reports arising under such arrangements.

"Giving whistleblowers a cash incentive to inform on others could lead to a very mischievous state of affairs. The cash recipient in some cases could actually be the perpetrator or an agent provocateur."
Survey participant

Reporting, monitoring and evaluation

"53% of organisations monitor the effectiveness and performance of their whistleblowing facilities."

"45% of organisations provide senior management with regular whistleblowing management information reports."

Organisations commit considerable time and resources to the evaluation of their internal control frameworks: this is because strong controls are effective at mitigating risk and help to protect an organisation's bottom line. An organisation's whistleblowing arrangements should be monitored and retrospectively reviewed for the very same reasons. Steps should be taken by the body charged with governing an organisation's whistleblowing arrangements to ensure that they operate appropriately.

Reporting and ongoing monitoring

The body or function charged with governance should receive regular reports detailing the level of activity experienced by the organisation's reporting mechanisms. The regularity of these reports will vary depending on the level of activity, but it should be sufficiently regular such that effective ongoing monitoring is facilitated.

These reports should also disclose other relevant information. They should include details of the types of concerns that are being raised, the level of investigation being undertaken and the remedial actions proposed as a result of an issue being identified.

It is important that organisations evaluate the volume and substance of the whistleblowing reports they have received. It is not possible or appropriate for organisations to make such evaluations against a set of defined parameters, but there is value in monitoring trends over a period of time. Trend analysis of volume and, importantly, substance can identify areas of imbalance in an organisation's whistleblowing arrangements and facilitate the necessary remediation.

Organisations that use an end-to-end case management system will be at an advantage in this regard; these systems can be configured to generate regular MI reports and greatly facilitate review and oversight of an organisation's whistleblowing arrangements.

It may also provide useful insights to the organisation to monitor, over time, what happens to the whistleblower i.e. how they progress within the organisation and whether or not they have suffered detriment as a consequence of their actions, or indeed, whether their performance has improved.

> "We have stopped fretting about short term volume fluctuations – we are interested in monitoring trends and identifying underlying weaknesses."
>
> Roundtable participant

"19% of organisations say that they use staff surveys to evaluate staff awareness of and faith in whistleblowing arrangements."

"77% of organisations say that they receive less than 100 whistleblowing reports every year."

Retrospective review

From time to time, the body or function charged with governance should ensure that the organisation's whistleblowing arrangements are subjected to retrospective review such that assurance is gained over the effectiveness of the design and implementation.

The scope and regularity of retrospective reviews will depend on the size and resources of an organisation, but there are several key questions that should be answered as part of a thorough evaluation[5].

These include:

- Do the organisation's whistleblowing policy and arrangements reflect current thinking on good practice?
- How many whistleblowing concerns has the organisation received through its reporting mechanisms, and have they been well-founded?

"43% of organisations do not believe that all relevant issues are captured by their whistleblowing arrangements."

"78% of organisations consider the benefits obtained through the provision of whistleblowing arrangements are commensurate with the level of resources devoted to them."

- What evidence is there that employees and others are both aware of reporting mechanisms and are willing to use them?
- Has the organisation appropriately and consistently addressed the whistleblowing concerns it has received?
- Are employees aware of the organisation's whistleblowing facilities and do they have faith in them?
- Is the organisation aware of incidents of illegal or unethical behaviour that were not raised through its whistleblowing reporting mechanisms?
- What is the bottom line impact of operating the organisation's whistleblowing arrangements?

Note
5   The Committee on Standards in Public Life (in *Getting the Balance right* (2005) and the *Institute of Chartered Accountants on England and Wales* (in *Guidance for Audit Committees: Whistleblowing arrangements* (2004)) have both defined the areas that organisations should consider when reviewing their whistleblowing arrangements.

"**74%** of the survey respondents would be supportive of their organisation committing further resources to the whistleblowing facility."

Summary

There is no 'one size fits all' solution when it comes to the provision of whistleblowing arrangements. Rather, organisations should be concerned with developing arrangements that reflect their organisational make-up and complement their approach to fostering an open organisational culture.

The five milestones described in this paper provide a framework that can assist organisations in tailoring their own whistleblowing arrangements.

Organisations must also be guided by jurisdictional requirements with regards to the provision of whistleblowing arrangements. Particularly, organisations should not underestimate the impact of the developments introduced by the Bribery Act in the UK and the Dodd-Frank Act in the US. European data protection and other laws also bring constraints to be considered. Not only do these recent developments add new dimensions to the debate on whistleblowing, but they also signify the raising of the bar in terms of what regulators and other stakeholders have come to expect.

Ten steps to success

1 Gain top level commitment through appropriate ethical culture

2 Ensure governance and control mechanisms are in place with appropriate ownership

3 Be clear about the purpose of the whistleblowing policy and how it fits in to a broader speak up strategy

4 Identify who will be able to use the reporting system

5 Determine what combination of direct and indirect reporting mechanisms are needed and whether these will be in-house or through external service providers

6 Consider the practical and cultural implications of international reporting

7 Ensure effective communication, guidance and training is in place

8 Consider case management and feedback strategies

9 Adopt effective reporting procedures

10 Monitor, review and adapt the whistleblowing policy and mechanisms based on their success

Whistleblowing Survey 2010 results

Number of responses analyzed	111
Total number of responses collected	**173**

Please select the industry in which your organisation operates
*(Respondents could only choose a **single** response)*

Response	Chart	Frequency	Count
Financial Services		20.7%	23
Energy extraction and refinery		2.7%	3
Manufacturing		15.3%	17
Retail & Consumer		9.9%	11
Media & telecommunications		6.3%	7
Other (please specify)		**45.0%**	**50**

In which locations/continents does your organisation operate?
*(Respondents were allowed to choose **multiple** responses)*

Response	Chart	Frequency	Count
UK		**73.9%**	**82**
Europe		35.1%	39
North America		20.7%	23
South and Central America		9.9%	11
Asia		24.3%	27
Middle East		13.5%	15
Africa		8.1%	9
All of the above		23.4%	26

Approximately how many people does your organisation employ globally?
*(Respondents could only choose a **single** response)*

Response	Chart	Frequency	Count
1 - 5,000		**43.2%**	**48**
5,001 - 25,000		28.8%	32
25,001 - 50,000		10.8%	12
50,001 - 100,000		10.8%	12
>100,000		6.3%	7

Other than where it is prohibited by local legislation, does your organisation provide whistleblowing facilities in all the territories in which it does business?
*(Respondents could only choose a **single** response)*

Response	Chart	Frequency	Count
Yes		**86.5%**	**96**
No		10.8%	12
Don't know		2.7%	3

Other than where it is prohibited by local legislation, is your organisation's whistleblowing facility open to stakeholders other than employees (i.e. third parties, suppliers)?

*(Respondents could only choose a **single** response)*

Response	Chart	Frequency	Count
Yes		**55.0%**	**61**
No		37.8%	42
Don't know		7.2%	8

Other than where it is prohibited by local legislation, is your organisation's whistleblowing facility open to other members of the public?

*(Respondents could only choose a **single** response)*

Response	Chart	Frequency	Count
Yes		**62.3%**	**38**
No		31.1%	19
Don't know		6.6%	4

Through what reporting channels can an individual make a whistleblowing allegation?

Select all appropriate answers:

*(Respondents were allowed to choose **multiple** responses)*

Response	Chart	Frequency	Count
Internal email		**78.4%**	**87**
External email		63.1%	70
Internal telephone hotline		50.5%	56
External telephone hotline		65.8%	73
Web-based system		21.6%	24
Face-to-face		65.8%	73
Other (please specify)		22.5%	25
None of the above		1.8%	2

Are your organisation's whistleblowing reporting channels structured so as to receive allegations from whistleblowers in multiple territories?

*(Respondents could only choose a **single** response)*

Response	Chart	Frequency	Count
Yes		**57.7%**	**64**
No		27.9%	31
Don't know		14.4%	16

How are individuals kept informed of your organisation's whistleblowing arrangements?

Select all appropriate answers:

*(Respondents were allowed to choose **multiple** responses)*

Response	Chart	Frequency	Count
Policy manual/Code of Conduct		85.6%	95
Employment handbook		57.7%	64
Compliance training		36.0%	40
Emails from process owner		21.6%	24
Regular communications (posters/circulars/'Town Halls')		47.7%	53
Other (please specify)		18.0%	20
Don't know		2.7%	3

Notwithstanding providing feedback to the whistleblower, do you publish, on an anonymous basis, the outcomes of serious whistleblowing allegations?

*(Respondents could only choose a **single** response)*

Response	Chart	Frequency	Count
Yes		17.1%	19
No		**74.8%**	**83**
Don't know		8.1%	9

What methods of communication do you use to publish the outcomes of serious whistleblowing allegations?

Select all appropriate answers:

*(Respondents were allowed to choose **multiple** responses)*

Response	Chart	Frequency	Count
Email to staff		9.5%	2
Email to management for circulation to staff		33.3%	7
Message posted on the intranet		33.3%	7
All of the above		4.8%	1
Other (please specify)		**52.4%**	**11**
Don't know		0.0%	0

How aware would you say your organisation's employees are of the whistleblowing arrangements?

*(Respondents could only choose a **single** response)*

Response	Chart	Frequency	Count
Very aware		6.3%	7
Quite aware		**53.2%**	**59**
Neither/nor		9.0%	10
Not very aware		25.2%	28
Not at all aware		3.6%	4
Don't know		2.7%	3

What guidance and information does your organisation make available to individuals wanting to make a report?

Select all appropriate answers:

*(Respondents were allowed to choose **multiple** responses)*

Response	Chart	Frequency	Count
Documented whistleblowing procedures		**81.1%**	**90**
Internal web-page		52.3%	58
Local helpline		25.2%	28
Global helpline		28.8%	32
Local subject matter experts ('champions')		18.9%	21
Other (please specify)		11.7%	13
Don't know		4.5%	5

Are your organisation's whistleblowing reporting channels operated in the principal languages spoken across its territories?

*(Respondents could only choose a **single** response)*

Response	Chart	Frequency	Count
Yes		**54.1%**	**60**
No		31.5%	35
Don't know		14.4%	16

Is your organisation's Code of Conduct translated into the principal languages used across the territories in which it operates?

*(Respondents could only choose a **single** response)*

Response	Chart	Frequency	Count
Yes		**42.3%**	**47**
No		33.3%	37
Don't know		24.3%	27

Is whistleblowing guidance provided in all the languages in which your organisation's Code of Conduct is translated?

*(Respondents could only choose a **single** response)*

Response	Chart	Frequency	Count
Yes		**66.7%**	**40**
No		11.7%	7
Don't know		21.7%	13
Not Answered			3

Is there a difference between the number of languages in which your organisations whistleblowing facilities are operated and the number of languages into which the Code of Conduct is translated?

*(Respondents could only choose a **single** response)*

Response	Chart	Frequency	Count
Yes		13.3%	8
No		**65.0%**	**39**
Don't know		21.7%	13
Not Answered			3

Who is accountable for the day-to-day operation of your whistleblowing reporting channel(s)?

*(Respondents could only choose a **single** response)*

Response	Chart	Frequency	Count
Internal Audit		23.4%	26
Compliance function		22.5%	25
Legal function		10.8%	12
3rd party service provider		10.8%	12
Other (please specify)		**28.8%**	**32**
Don't know		3.6%	4

Does your organisation make its whistleblowing facilities available 24 hours a day, 7 days a week?

*(Respondents could only choose a **single** response)*

Response	Chart	Frequency	Count
Yes		**73.0%**	**81**
No		23.4%	26
Don't know		3.6%	4

Who is responsible for investigating the whistleblowing allegations your organisation receives?

*(Respondents could only choose a **single** response)*

Response	Chart	Frequency	Count
Internal Audit		27.9%	31
Compliance function		16.2%	18
Legal function		3.6%	4
Dedicated investigations team		15.3%	17
3rd party service provider		1.8%	2
Other (please specify)		**30.6%**	**34**
Don't know		4.5%	5

Who is ultimately responsible for deciding whether or not a whistleblowing allegation warrants further investigation?

*(Respondents could only choose a **single** response)*

Response	Chart	Frequency	Count
The individual who received the allegation		3.6%	4
The individual who is appointed as case manager		9.0%	10
The individual responsible for the reporting channel		2.7%	3
Representative from a 3rd party service provider		0.0%	0
Head of Internal Audit		16.2%	18
Head of Compliance		14.4%	16
Head of Legal		2.7%	3
Head of Investigations		10.8%	12
Other (please specify)		**33.3%**	**37**
Don't know		7.2%	8

Who is responsible for the governance of your organisation's whistleblowing programme?

*(Respondents could only choose a **single** response)*

Response	Chart	Frequency	Count
Board of Directors		20.7%	23
Audit Committee		**45.0%**	**50**
Internal Audit		4.5%	5
Compliance committee		4.5%	5
Chief Compliance Officer		4.5%	5
Independent ombudsman		0.0%	0
Other (please specify)		15.3%	17
Don't know		5.4%	6

Approximately how many whistleblowing allegations do you receive on an annual basis via your reporting channels?

Select the appropriate response:

*(Respondents could only choose a **single** response)*

Response	Chart	Frequency	Count
None		8.1%	9
1 - 10		**39.6%**	**44**
11 - 100		29.7%	33
101 - 500		7.2%	8
501 - 1000		1.8%	2
> 1000		0.0%	0
Don't know		13.5%	15

With reference to your answer above:

In your opinion, does the actual level of activity reconcile with your own expectations of your organisation's whistleblowing reporting channels?

*(Respondents could only choose a **single** response)*

Response	Chart	Frequency	Count
Yes		41.4%	46
No		**43.2%**	**48**
Don't know		15.3%	17

Does your organisation monitor the effectiveness and performance of its whistleblowing facilities?

*(Respondents could only choose a **single** response)*

Response	Chart	Frequency	Count
Yes		**53.2%**	**59**
No		39.6%	44
Don't know		7.2%	8

Where your organisation manages the effectiveness and performance of its whistleblowing facility?

Select which of the following means it uses to do so:

*(Respondents could only choose a **single** response)*

Response	Chart	Frequency	Count
Key Performance Indicators (KPIs)		10.2%	6
Periodic independent reviews		**39.0%**	**23**
Staff surveys		18.6%	11
All of the above		10.2%	6
Other (please specify)		20.3%	12
Don't know		1.7%	1
Not Answered			4

Are senior management regularly provided with reports detailing the frequency, nature and results of investigations into the allegations received?

*(Respondents could only choose a **single** response)*

Response	Chart	Frequency	Count
Yes		**83.1%**	**49**
No		15.3%	9
Don't know		1.7%	1
Not Answered			4

Does your organisation's policy define the ethical and other risks that are intended to be addressed by its whistleblowing facility?

*(Respondents could only choose a **single** response)*

Response	Chart	Frequency	Count
Yes		**65.8%**	**73**
No		24.3%	27
Don't know		9.9%	11

Where your organisation defines the ethical and other risks, is the risk selection process driven by considerations of the different legal jurisdictions in which the whistleblowing facility operates?

*(Respondents could only choose a **single** response)*

Response	Chart	Frequency	Count
Yes		**47.3%**	**35**
No		37.8%	28
Don't know		14.9%	11
Not Answered			3

Where your organisation does not define the ethical and other risks, is this due to the restrictions imposed by the different jurisdictions in which the whistleblowing facility operates?

*(Respondents could only choose a **single** response)*

Response	Chart	Frequency	Count
Yes		3.7%	1
No		**74.1%**	**20**
Don't know		22.2%	6

Are the ethical and other risks addressed by your whistleblowing facility consistent with the ethical and other risks that your organisation is confronted with?

*(Respondents could only choose a **single** response)*

Response	Chart	Frequency	Count
Yes		**74.8%**	**83**
No		11.7%	13
Don't know		13.5%	15

Has your organisation taken steps to encourage staff to use the whistleblowing facility for the purpose for which it was intended?

*(Respondents could only choose a **single** response)*

Response	Chart	Frequency	Count
Yes		**76.6%**	**85**
No		18.9%	21
Don't know		4.5%	5

Where concerns are raised outside of the whistleblowing facility, does your organisation investigate and resolve them as if they had been received through its whistleblowing reporting channels?

*(Respondents could only choose a **single** response)*

Response	Chart	Frequency	Count
Yes		**81.1%**	**90**
No		11.7%	13
Don't know		7.2%	8

Does your organisation's whistleblowing policy determine how information about the identities of individuals should be managed?

*(Respondents could only choose a **single** response)*

Response	Chart	Frequency	Count
Yes		**82.9%**	**92**
No		10.8%	12
Don't know		6.3%	7

Which of the following options reflect how your organisation manages information about the individual's identity when:

A report is submitted.

*(Respondents could only choose a **single** response)*

Response	Chart	Frequency	Count
The individual MUST provide information about their identity.		5.4%	6
The individual MAY provide information about their identity.		**79.3%**	**88**
The individual DOES NOT provide information about their identity.		5.4%	6
Don't know		9.9%	11

An allegation is investigated:

*(Respondents could only choose a **single** response)*

Response	Chart	Frequency	Count
Information about the individual's identity IS shared for the purposes of the investigation		6.3%	7
Information about the individual's identity MAY be shared for the purposes of the investigation, providing that approval is granted by the individual.		**63.1%**	**70**
Information about the individual's identity is NOT shared for the purposes of the investigation.		21.6%	24
Don't know		9.0%	10

Are whistleblowers required to consent to their personal data being processed?

*(Respondents could only choose a **single** response)*

Response	Chart	Frequency	Count
Yes		**39.6%**	**44**
No		**39.6%**	**44**
Don't know		20.7%	23

Where does the information that is reported through your organisation's whistleblowing facilities get recorded and stored?

*(Respondents could only choose a **single** response)*

Response	Chart	Frequency	Count
Local office		6.3%	7
Head Office		**57.7%**	**64**
Both of the above		18.9%	21
Other (please specify)		7.2%	8
Don't know		9.9%	11

Does your organisation operate an end-to-end case management system that assists the recording, investigation and resolution of whistleblowing allegations?

*(Respondents could only choose a **single** response)*

Response	Chart	Frequency	Count
Yes		**50.5%**	**56**
No		40.5%	45
Don't know		9.0%	10

Does the case management system service all of the intake channels operated under the whistleblowing programme?

*(Respondents could only choose a **single** response)*

Response	Chart	Frequency	Count
Yes		**70.2%**	**40**
No		22.8%	13
Don't know		7.0%	4
Not Answered			1

Does the use of an end-to-end case management system help ensure that allegations are consistently recorded, appraised, investigated and resolved?

*(Respondents could only choose a **single** response)*

Response	Chart	Frequency	Count
Yes		**91.1%**	**51**
No		5.4%	3
Don't know		3.6%	2
Not Answered			2

Do you believe that your organisation could improve the management of whistleblowing allegations by introducing an end-to-end case management system?

*(Respondents could only choose a **single** response)*

Response	Chart	Frequency	Count
Yes		**52.7%**	**29**
No		27.3%	15
Don't know		20.0%	11

Does your organisation provide feedback to whistleblowers?

*(Respondents could only choose a **single** response)*

Response	Chart	Frequency	Count
Yes		**77.5%**	**86**
No		10.8%	12
Don't know		11.7%	13

How is feedback delivered to the whistleblower?

*(Respondents were allowed to choose **multiple** responses)*

Response	Chart	Frequency	Count
Face-to-face		**46.5%**	**40**
Email		30.2%	26
Phone		40.7%	35
Other (please specify)		33.7%	29
Don't know		3.5%	3

Who is responsible for delivering the feedback?

*(Respondents could only choose a **single** response)*

Response	Chart	Frequency	Count
Line manager		1.2%	1
Case manager		17.4%	15
Initial recipient of the allegation		9.3%	8
HR representative		7.0%	6
Any of the above, depending on the nature of the allegation		**36.0%**	**31**
Other (please specify)		27.9%	24
Don't know		1.2%	1

How supportive, is your organisation's Senior Management in promoting an open and transparent whistleblowing culture?

*(Respondents could only choose a **single** response)*

Response	Chart	Frequency	Count
Very supportive		37.8%	42
Quite supportive		**42.3%**	**47**
Neither/nor		13.5%	15
Quite unsupportive		0.9%	1
Very unsupportive		0.9%	1
Don't know		4.5%	5

What does Senior Management do to actively promote an open and transparent whistleblowing culture?

*(Respondents could only choose a **single** response)*

Response	Chart	Frequency	Count
Sponsor the policy and programme		**30.6%**	**34**
Allocate sufficient resources		8.1%	9
Advertise the policy and programme through direct communication with staff		24.3%	27
All of the above		20.7%	23
None of the above		13.5%	15
Other (please specify)		2.7%	3

To what extent do you agree that further promotion of the programme by Senior Management would be advantageous?

*(Respondents could only choose a **single** response)*

Response	Chart	Frequency	Count
Strongly agree		**41.4%**	**46**
Agree		33.3%	37
Neither/nor		19.8%	22
Disagree		4.5%	5
Strongly disagree		0.9%	1
Don't know		0.0%	0

Are you aware of the new legislation in the US (the 'Dodd-Frank Act') that provides for substantial cash rewards to be granted to whistleblowers that voluntarily provide the SEC (and DoJ) with information leading to successful prosecution of securities laws violations?

*(Respondents could only choose a **single** response)*

Response	Chart	Frequency	Count
Yes		**50.5%**	**56**
No		47.7%	53
Don't know		1.8%	2

To what extent would you agree that the existence of a cash reward programme encourages an open and transparent whistleblowing culture in the region to which it applies?

*(Respondents could only choose a **single** response)*

Response	Chart	Frequency	Count
Strongly agree		3.6%	4
Agree		20.7%	23
Neither/nor		19.8%	22
Disagree		**39.6%**	**44**
Strongly disagree		12.6%	14
Don't know		3.6%	4

To what extent would you agree that the prescriptions contained within the Dodd-Frank legislation should be implemented more widely by global organisations in order to maintain an open and transparent whistleblowing culture?

*(Respondents could only choose a **single** response)*

Response	Chart	Frequency	Count
Strongly agree		3.6%	4
Agree		10.8%	12
Neither/nor		18.9%	21
Disagree		**31.5%**	**35**
Strongly disagree		9.0%	10
Don't know		26.1%	29

Do you consider the benefits obtained through the provision of your organisation's whistleblowing facility to be commensurate with the level of resources devoted to it?

*(Respondents could only choose a **single** response)*

Response	Chart	Frequency	Count
Yes		**77.5%**	**86**
No		16.2%	18
Don't know		6.3%	7

Would you be supportive of your organisation committing further resources to the whistleblowing facility?

*(Respondents could only choose a **single** response)*

Response	Chart	Frequency	Count
Yes		**73.9%**	**82**
No		20.7%	23
Don't know		5.4%	6

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If you would like to find out more about the information contained within this report, or to discuss any issues around whistleblowing and how our team can help you, please contact us.

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