



# EU Whistleblower Protection Directive

## How Can WhistleB Help You Comply?

### What is the EU Whistleblower Protection Directive?

Directive (EU) 2019/1937 (commonly referred to as the EU Whistleblower Protection Directive or the EU Whistleblowing Directive, (“the Directive”)) was adopted by the European Council in 2019. It aims to strengthen protections for people who report breaches of EU law, create safer, better-defined reporting channels across all EU member states, and move member states towards a unified legal framework.

The Directive has implications for hundreds of thousands of organisations within the EU—and beyond. December 2021 marks the deadline for member states to enact national law satisfying the requirements of the Directive for organisations of 250 people or more, leaving two further years for smaller organisations of 50 or more people. Laws will vary by country, as the Directive establishes minimum standards, which will be transposed to national law in each member state.

### What are the benefits of complying with the Directive?

Beyond the legal requirements established in the legislation, research suggests there are real benefits to organisations that encourage internal reporting. A study from George Washington University in the United States showed that higher organisational whistleblowing rates correlate with decreases in material lawsuits, settlements and negative news stories<sup>1</sup>. Low reporting numbers rarely indicate a lack of misconduct in an organisation. Rather, unreported concerns represent a serious risk, creating organisational blind spots that can become glaring (and sometimes, public) crises if left unresolved.

An effective, trusted avenue for employees and affected parties to report allegations of wrongdoing is fundamental to creating a more ethical culture in any organisation. Beyond empowering and protecting individuals who choose to speak up, the insight gained through a mature whistleblowing programme can be hugely beneficial to organisations of any size. The knowledge collected from whistleblowing can be used to identify areas of organisational risk, inform and enhance internal training programmes, and modify policies to encourage more positive operational outcomes.

<sup>1</sup>George Washington University, Evidence on the Use and Efficacy of Internal Whistleblowing Systems, 2018

## Does our current governance, risk and compliance (GRC) programme align with the Directive?

While legislation will vary at member state level, the Directive establishes several fundamental minimum requirements that organisations must satisfy. WhistleB is a straightforward solution designed to help you meet the requirements laid out in the Directive:

Whistleblower Protection Directive Requirement	WhistleB Solution Features
<p>Provide safe, accessible channels to receive whistleblowing reports to the organisation. Whistleblowers should be able to submit reports orally, in writing and/or in person.</p>	<p>WhistleB is a secure, simple-to-use, web-based system that incorporates both a reporting channel and a case management tool. It enables the reporting of suspected misconduct via an online channel that can be accessed any time, around the world, in a variety of languages and from any device. Reports captured internally, through conversations or in-person meetings, can also be added to the system, enabling all reports to be properly and securely managed and tracked in one place.</p>
<p>Maintain confidentiality for the whistleblower, the person named in the report and any third parties referenced.</p>	<p>The WhistleB system is designed to ensure the whistleblower and any third-party information remains confidential throughout the process. Where anonymous reporting is allowed, anonymity of the whistleblower is guaranteed during reporting and throughout follow-up.</p> <p>Communication is encrypted in transmission and at rest, meaning whistleblowers cannot be traced through IP addresses or other digital means. Two-factor authentication ensures the case management tool is accessible only to authorised individuals.</p> <p>All data is hosted within the EU. Audit logs are created by and stored within the application database. These contain events such as logins and actions taken with each report (case creation upon report submission, updates, etc.). These are available to the customer for the life of the contract from within the application</p>
<p>Acknowledge receipt of reports within seven days.</p>	<p>When reporting through WhistleB, whistleblowers receive a confirmation that their message has been sent. The case managers can send a response confirming receipt and they can use templates for this.</p> <p>Further, the system can be configured to notify case managers automatically, either by email or text message, that a report has been received.</p>

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<p>Respond to and follow up on reports within three months, define and detail the investigation and decision-making process.</p>	<p>The case management tool within the WhistleB system enables case managers to follow a structured process for handling cases and to provide timely feedback to interested parties.</p> <p>Cases can be assigned to different teams for processing, and case-related discussions can be held between team members securely within the system.</p> <p>If more information is needed for the investigation, the WhistleB system allows the whistleblower to upload supporting files and digital content anonymously and securely.</p> <p>WhistleB includes an advanced statistics and reporting tool that provides an overview of current and historic data, status, alerts, performance indicators and in-depth analysis.</p> <p>The EU Whistleblower online training course, part of NAVEX's training curriculum available through NAVEXEngage™, covers best practices and expectations for managers handling and escalating reports to give their employees confidence in the reporting process.</p> <p>Finally, the WhistleB Resource Centre provides users everything they need for a successful, speedy implementation.</p>
<p>Maintain auditable reporting records while adhering to confidentiality requirements.</p>	<p>WhistleB includes activity and user logs for secure record-keeping. The system is therefore an invaluable resource for auditors, investigators, and authorities and acts as a crucial safety net for organisations before, during and after an investigation.</p>
<p>Protect whistleblowers against dismissal, demotion and other forms of retaliation.</p>	<p>WhistleB is part of the NAVEX suite of incident management solutions. These help organisations create clear, auditable, thoroughly documented report management processes to help prevent and/or identify any potential retaliatory activity against whistleblowers.</p> <p>Encouraging reporting and protecting whistleblowers from retaliation goes beyond incident management. Organisations should develop, implement and maintain effective policies and processes that will protect employees from retaliation.</p> <p>A well-formed, broadly accepted code of conduct helps give employees the confidence to speak up. Policy and procedure management is key for distribution and attestation, especially when managed through an automated programme such as NAVEX's PolicyTech™. NAVEX's EU Whistleblower online training course provides employees and managers with training on best practices for reporting and how to identify and prevent retaliatory actions.</p>

Whistleblower Protection Directive Requirement	WhistleB Solution Features
<p>Localise reporting within separate legal entities; provide reporters with control over who has access to their report and how it is investigated.</p>	<p>The WhistleB system enables fine control over report intake, shared investigative resources, and outcome sharing for the purpose of ex-post auditing, compliance, or corporate governance.</p> <p>Depending on an organisation's structure, whistleblowing solutions can be implemented using multiple reporting channels to establish dedicated intake channels for separate legal entities. These channels can be linked to one account. Access to cases can be restricted to each reporting channel.</p> <p>Rules regarding inter-country report and resource sharing may be affected by state-level transpositions, which are still developing. For more details on localised reporting, please refer to our [Transposition Tracker].</p>
<p>Provide workforce with appropriate information on the existence and proper usage of reporting channels.</p>	<p>Through WhistleB, such information can be made available to users, such as employees, when they log in to the homepage of the whistleblower system. Customers can customise the homepage to provide appropriate information on internal reporting procedures as well as on external reporting procedures to relevant competent authorities, as required by the Directive. Information can be adapted for each country of operation, published in the local language, and explain organisational processes, local requirements, relevant external authorities and laws.</p> <p>Awareness materials and communications templates are available in the WhistleB Resource Centre to help create visibility and communicate the availability of the reporting channel to employees and other stakeholders.</p>
<p>Provide access to reporting channels for third-party networks to report breaches within a work-related context.</p>	<p>The WhistleB system can be extended to parties operating externally or tangentially to an organisation such as suppliers, partners, customers and the general public. These groups can report confidentially, and anonymously if desired, on misconduct committed by members of the organisation.</p>
<p>Ensure impartiality and competence of the people managing the reporting channels and handling the reports.</p>	<p>As an online system, WhistleB guides the case management process according to the Directive. It can support a team of authorised whistleblowing managers, and is thus independent of any single individual.</p> <p>When case investigations require additional expertise, both internal and external professionals can be added to the team, securely and on a case-by-case basis, maintaining the full confidentiality of the whistleblower's identity.</p> <p>Finally, WhistleB can be used for organisations that want to outsource the management of a reporting channel entirely without sacrificing security.</p>

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<p>Process any personal data in accordance with GDPR requirements.</p>	<p>The WhistleB system enables users to comply with GDPR requirements for the handling of personal data, as well as security by design and security by default. The system enables deletion of personal data when cases are closed and allows the organisation to inform potential users about differences in national reporting.</p> <p>Access to data is strictly controlled using multi-factor authentication and is limited to users appointed by the organisation. Data is strongly encrypted in transmission and at rest and is stored on servers located in the EU. The organisation itself controls the encryption, thus only the organisation can access the data. WhistleB does not have access to sensitive customer data such as whistleblower messages and dialogue, unless otherwise authorised by the organisation/customer.</p>

## Frequently Asked Questions

### What if we operate in multiple EU member states?

According to the text of the legislation, there is no legal basis requiring separate, dedicated whistleblower setups in each affected country. If member state legislation arises that does create a basis for this requirement, WhistleB enables you to create multiple intake systems customised by geographic location and/or subsidiary. Note that the European Commission has clarified its position on the Directive's demand for the establishment of separate whistleblowing channels for subsidiaries of a certain size. Here too WhistleB facilitates compliance, by allowing customers to create separate channels, with varying user access levels.

### Does my whistleblower reporting system comply with data privacy legislation?

Depending on where you operate, the data associated with your whistleblower system is likely to be governed under one or many overarching data privacy regulations. The WhistleB whistleblowing solution is tailored to help you satisfy both GDPR requirements and national data protection laws.

### How is anonymous reporting handled?

The WhistleB solution supports anonymous reporting. The ability for whistleblowers to report and follow up on allegations anonymously remains a valuable tool in the compliance toolkit.

### This is a directive, not a regulation; what will the effect be for my organisation/state?

While this document pertains to the specific requirements laid out in the text of the Directive (rather than specific legislation), the Directive will have a direct effect in each member state. Member states are still in the process of transposing the Directive into national law. The resulting laws will be legally enforceable at member state level from the date of enactment. We are closely monitoring the transposition process across all EU countries; for country-specific details please refer to our [Transposition Tracker].

## Will legal implementation differ among EU states?

The Directive seeks to establish a unified framework and legal standard across all member states. As each member state must transpose the Directive into national law, the states will have control over how individual aspects are applied at a local level. Some member states may extend their transposition to encompass a broader scope or stricter standards – this is allowable if their implementation meets or exceeds the minimum standard established in the Directive.

## Will there be additional requirements in my country?

Member state transpositions may result in expanded legal requirements at the national level. Aspects such as types of misconduct reported and whether reports have been submitted anonymously may also see some disparity in the qualification for protection in different member states. Deterrents, such as financial or legal penalties for those organisations or persons that breach the new rules, will similarly be set at member state level and are likely to produce some divergence across the 27 member states.

With many member states yet to establish final transposition of the Directive, the full extent of the differences will only become clear as those national laws are proposed, defined and enacted.

## Can I do more to encourage ethical behaviour in my organisation?

A whistleblowing platform serves as a valuable foundation for any risk and compliance management programme. The reports captured through these channels constitute a wealth of information and can provide leaders with valuable insight into the health and wellbeing of their organisation, its structures, and everyone directly involved in the operations.

Organisations that use whistleblowing and speak-up programmes to feed into their larger compliance framework see benefits in the form of deeper insights and a stronger workplace culture. NAVEX offers a comprehensive platform of solutions and products that work in concert with an organisation's whistleblowing programme.

First, all ethics and compliance programmes should be underpinned by a strong code of conduct. This document should function as a thoughtful expression of an organisation's values, and reinforce the fact that employees are encouraged to speak up when they see something wrong.

Robust training programmes act as a strong foundation for promoting a speak-up culture when paired with whistleblowing programmes. Training programmes teach employees best practices, highlight real-world examples of sometimes complex issues, and show employees their organisation takes unethical behaviour seriously.

Training and enforcement of your organisation's values is a continual process. Many organisations employ a comprehensive, programmatic policy management system to effectively update, communicate, and distribute their internal policies among a varied collection of stakeholders. Centralised repositories and digital distribution systems provide employees easy reference while providing organisations with an auditable attestation record.

When implemented thoughtfully and maintained effectively, these systems work together to foster a more ethical organisational culture.

To learn more about the details and implications of the EU Whistleblower Protection Directive, please visit [whistleb.com](https://www.whistleb.com) or contact us to discuss the details of your organisation's ethics and compliance programme.

[www.whistleb.com](https://www.whistleb.com) | [info@whistleb.com](mailto:info@whistleb.com)

NAVEX is the worldwide leader in integrated risk and compliance management software and services. Our solutions are trusted by thousands of customers around the globe to help them manage risk, address complex regulatory requirements, build corporate ESG programmes and foster ethical workplace cultures.

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