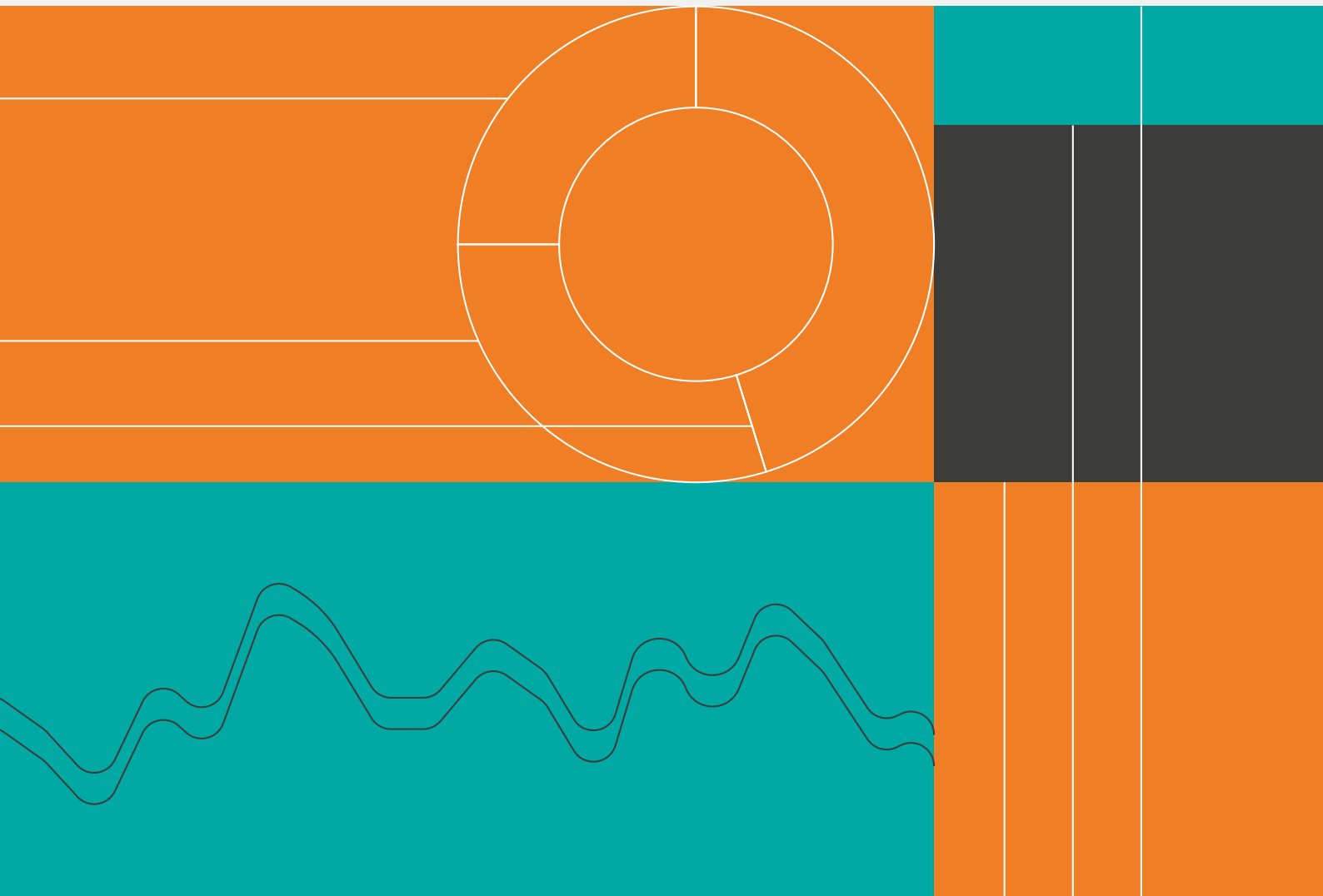


WHISTLEBLOWING IN EUROPE

2022



Embracing whistleblowing

With the European Union's Whistleblower Directive set to be adopted by member states in December, organisations need to ensure they are ready to comply with the new rules



Giles Newman,
Managing director
International,
NAVEX Global

From December, organisations will be expected to establish safe reporting channels for employees to report wrongdoing, as well as develop policies and procedures to properly investigate reports and protect whistleblowers from any retaliation. The long history of whistleblowing cases has shown the potential fallout from failing to address whistleblower complaints, which goes well beyond any regulatory sanction. Frequently it has cost senior executives their jobs, damaged the organisation's reputation and left firms nursing severe financial losses.

Complying with the directive is just one part of maintaining a successful whistleblowing programme. Key to whistleblowers truly being empowered to come forward and report misconduct is for organisations to fully adopt and promote a whistleblowing culture. And that culture of speaking up, where whistleblowing is actively encouraged rather than something that is swiftly swept under the carpet to avoid any commercial or public embarrassment, must come from the top and be echoed at every level of the business.

To help European organisations understand not only their peers' progress in addressing the EU Whistleblower Protection Directive, but crucially, the wider cultural and societal perceptions, opinions and interpretations of whistleblowing across the region, NAVEX Global has conducted one of the largest surveys of its kind. By utilising data from over 2,250 respondents across 9 European

countries, this report will provide insights into both general and localised trends that may present specific challenges for organisations to overcome in order to build an effective whistleblowing programme.

Technology is making the whistleblowing process easier to manage than ever, both for employees reporting wrongdoing and for compliance teams when dealing with incidents and keeping track of their progress. For example, tech allows whistleblowers to report anonymously and preserve that anonymity throughout any investigation. Meanwhile, whistleblowing tech can enable organisations to collate all reporting data, unlocking insights that can help compliance professionals spot patterns and trends that could potentially prevent problems from flaring up in the first place.

Integrating reporting solutions and processes across relevant departments, including compliance and human resources, means whistleblowing incidents can be managed in a more coordinated manner. When reports are properly handled, substantiated and result in appropriate actions being taken against wrongdoers, this can generate a positive feedback loop where employees gain trust in an organisation's whistleblowing system. Not only will that potentially encourage others to speak up when they witness unethical behaviour or misconduct in the workplace, but crucially it can also lead to improved business outcomes.

Is your C-suite out of touch?

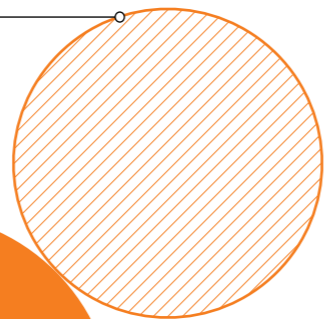
C-suite executives have more confidence than junior managers in their organisation's preparedness, processes, people and communications when implementing the EU Whistleblowing Directive. But with executives further away from implementation, is their confidence actually justified?

When former trader Howard Wilkinson raised concerns about suspicious payments being funnelled through an Estonian branch of a major European financial institution in 2013, his complaints were ignored. Five years later, when his whistleblower report was leaked to a national newspaper, the bank became embroiled in a huge money laundering scandal. It was forced to reveal that more than \$200 billion had flowed through the bank from Russia and former Soviet states, a significant proportion of which was thought to be suspicious. The revelation caused its stock market value to collapse by almost half and led to the ousting of both its CEO and chairman. The bank could yet be fined as much as €2.7 billion according to some analysts.

This case is a pertinent example of the perils of not properly investigating whistleblowing reports and the potential risks for executives and the wider business. It also underscores why C-suites across Europe need to be fully prepared for the implementation of the EU's Whistleblowing Directive in December, which seeks to

21%

of managers would feel very safe reporting misconduct in their organisation



27%

of C-suite would feel very safe reporting misconduct in their organisation

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The C-suite feel more prepared than managers, but is this confidence misplaced?

Percentage of respondents who strongly agreed with each statement

	C-suite	Director	Manager	Senior executive
My organisation's whistleblowing processes are clearly defined	40%	37%	27%	29%
The right people, with the right training, are managing these processes within my organisation	40%	37%	27%	35%
My organisation's culture supports compliance with the directive	37%	36%	26%	31%
The directive and any new processes have been clearly communicated internally within my organisation	36%	37%	23%	30%
The directive and any new processes have been clearly communicated externally (to clients, suppliers, etc)	27%	29%	20%	25%

WHISTLEBLOWING IN EUROPE SURVEY, NAVEX GLOBAL, 2021

harmonise whistleblower protections across the 27-member bloc by mandating safe reporting channels and procedures, as well as imposing appropriate penalties for anyone who retaliates against whistleblowers or obstructs such disclosures.

C-suite executives tend to be more confident than managers that their organisations are ready for the directive. For example, managers are between seven to thirteen percentage points less likely than the C-suite to agree that their business is properly prepared, including having policies in place, the right people handling the issue and offering appropriate training and guidance to help employees identify and report misconduct.



Oftentimes what you find is it's not at the bottom of the management chain, and it's not necessarily at the top of the management chain, where the issues are – it's right in the middle"

Yet with senior executives often removed from the implementation process, as well as the day-to-day realities of the whistleblowing environment, there is a potential risk that the C-suite's confidence is slightly overcooked. For starters, employees can find the prospect of speaking out against wrongdoing intimidating. Danny Vesters, a partner at Dutch law firm Boontje Advocaten, says: "The effect of going forward as an employee with a possible notification with a big company is enormous."

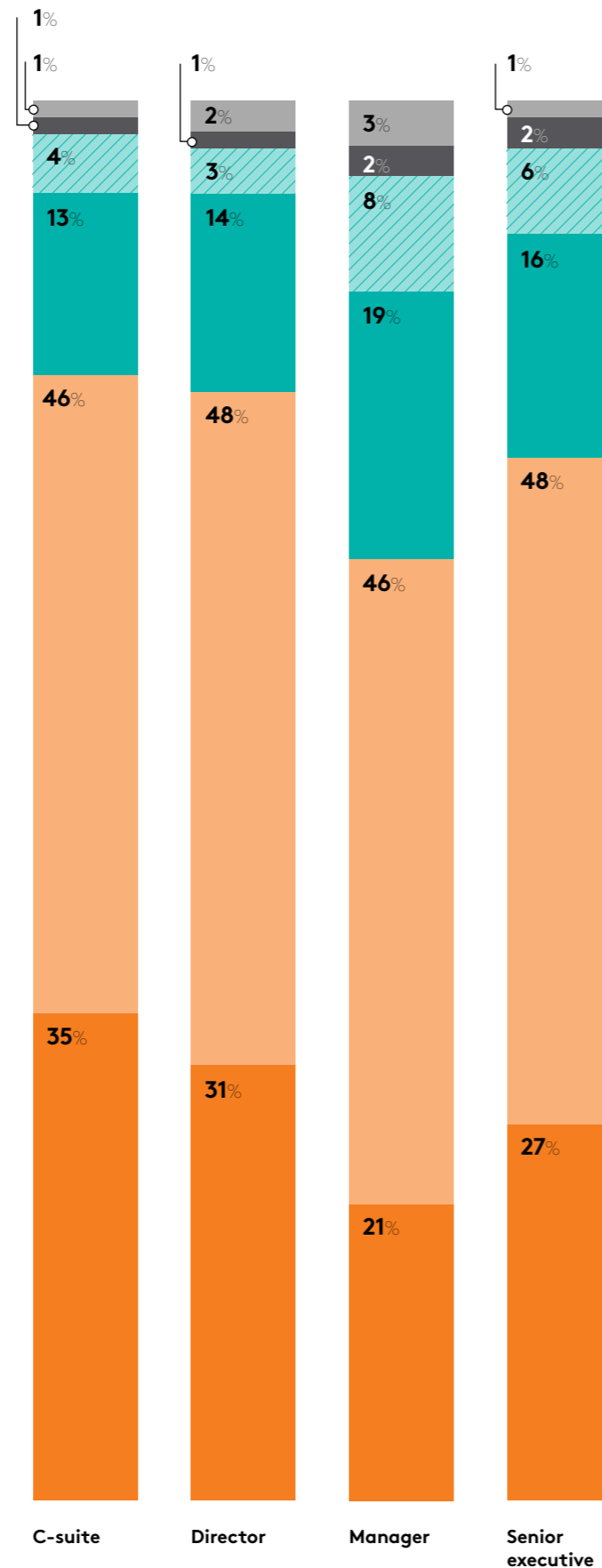
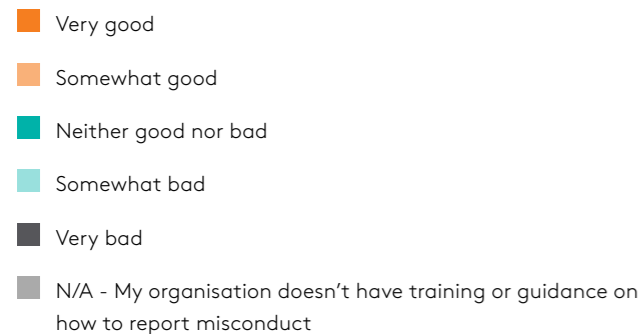
Another challenge organisations face is that middle managers sometimes sit on whistleblower complaints, concealing them from the C-suite.

"Oftentimes what you find is it's not at the bottom of the management chain, and it's not necessarily at the top of the management chain, where the issues are—it's right in the middle," says Lloydette Bai-Marrow, founding partner at Parametric Global Consulting. "Actually it never even gets to the top of the organisation."

Given these potential barriers, compliance practitioners need to communicate the risks and requirements of whistleblowing reporting to senior leaders and convince them of its importance. To begin with, leadership must recognise that for people to be more confident about reporting misconduct, they need to transform the whistleblowing culture of their organisations,

The C-suite rate their training and guidance, but managers are less likely to agree

How would you rate the training and guidance your organisation gives to employees to help them identify and report misconduct?



The recent scandals and tragedies, which have unfolded across a range of sectors and have so appalled the public, revealed a dangerous culture of silence"

says former Olympus CEO and whistleblower Michael Woodford.

"From my perspective, the recent scandals and tragedies, which have unfolded across a range of sectors and have so appalled the public, revealed a dangerous culture of silence," he says.

Woodford himself was ousted as chief executive of Olympus after just two weeks in the job when he raised concerns about certain M&A deals that were later shown to be a scheme to conceal the Japanese company's investment losses. That incident ended up costing Olympus £10 million for Woodford's unfair dismissal, but that was just a mere footnote in the overall damage it wrought on the company: its stock market valuation crashed by almost 80%, much of the board were forced to resign and a number of senior executives including the former chairman were arrested, charged and received suspended prison sentences.

Given the scale of potential fallout from whistleblowing incidents, the price of non-compliance is clear. Yet with almost one in three European organisations unable to agree that their company culture promotes compliance with the directive, there is still

more work to be done to get leadership teams to prioritise whistleblowing and move it up the value chain.

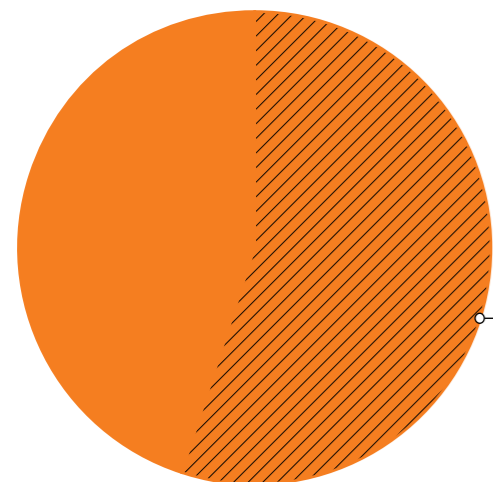
That means driving home the risks of not taking whistleblowing seriously: potential reputational and financial harm to the business and career-ending repercussions for executives. Compliance professionals should also highlight the benefits: organisations that encourage whistleblowing tend to perform better.

Carlo Majer, a partner in labour and employment law firm Littler's Milan office, says while organisations need to promote a culture of whistleblowing from the top, it also needs to be embraced throughout every layer of the business.

This starts by putting in place policies and procedures that are clearly communicated and understood. By enabling employees to report misconduct safely and adopting a zero-tolerance approach to retaliation, and by keeping whistleblowers updated on any investigations, organisations can then start to build a culture that openly welcomes whistleblowing and gives employees the confidence to speak out without fear of reprisals.

The culture barometer

What does your organisation's attitude towards whistleblowing reveal about its general health? Negative attitudes and a lack of clear reporting processes can be evidence of an unhealthy organisational culture more broadly



55%

believe that a whistleblowing programme is financially beneficial to an organisation

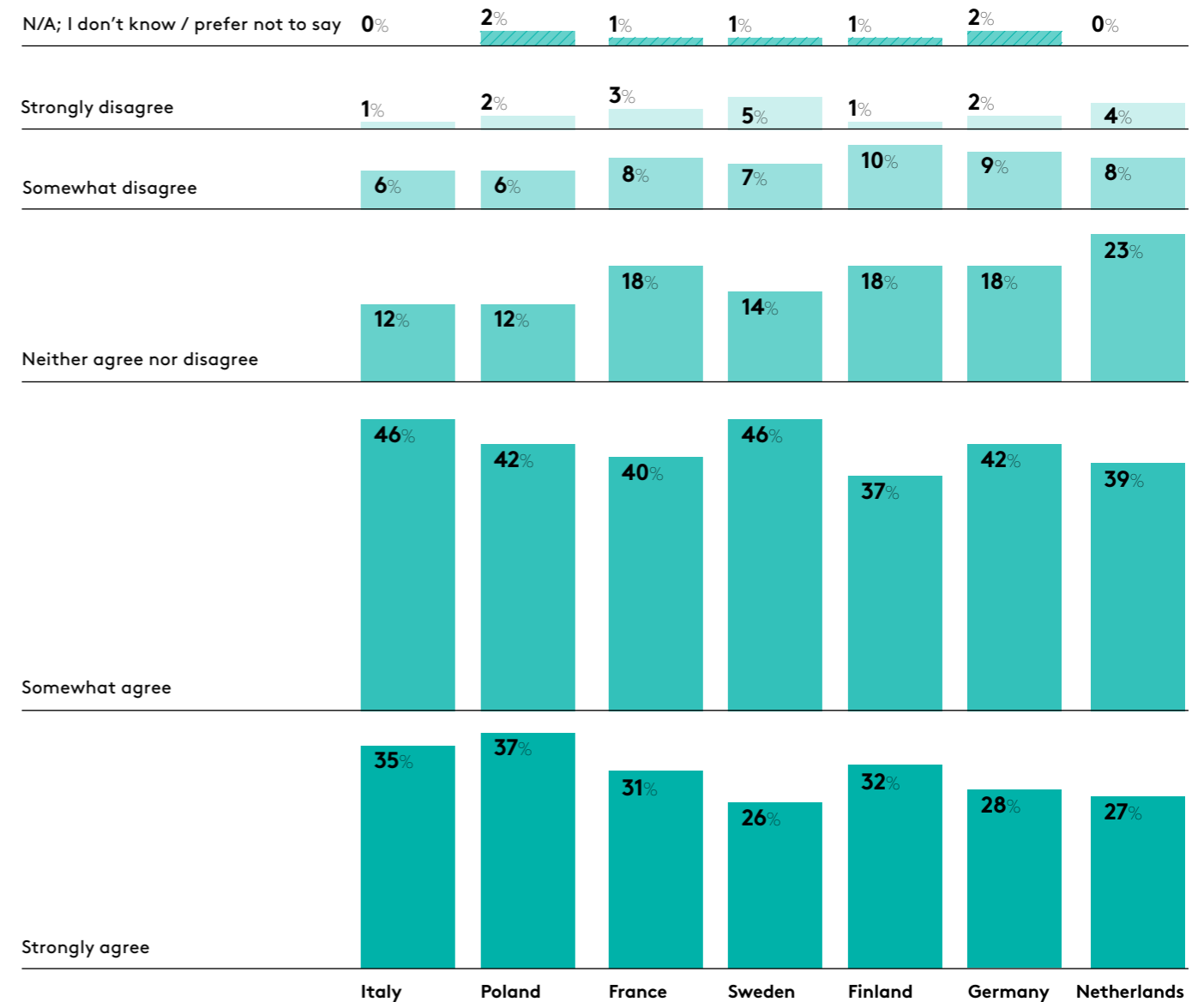
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There is still a stigma attached to whistleblowing that immediately puts some organisations on the defensive when employees report wrongdoing. While previous research has shown a clear link between a robust whistleblowing culture and positive business performance, many European organisations remain averse to providing a supportive environment for whistleblowers to come forward. Some 36% of respondents believe that fewer whistleblowing reports are better for an organisation, with more than a quarter (27%) saying 'the number of reports makes no difference'. Cultural attitudes also vary considerably across Europe. In Spain, for instance, only 14% of respondents believe whistleblowing reports are good for a firm. Such attitudes can serve as a useful barometer for the wider health of an organisation given that hostility towards whistleblowers and a lack of clear reporting processes can hint at a broader cultural malaise.

Companies that have more internal whistleblowing activity do not necessarily have more problems either, according to research from Kyle Welch of George Washington University and Stephen Stubben of the University of Utah. Instead, greater reporting volumes often reflect more open

Italy and Poland are most confident in their company culture

My organisation's culture supports compliance with the directive



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communication channels in the organisation and represent opportunities to identify and resolve issues before they are reported externally or uncovered by regulators.

Whistleblower complaints often boil down to issues around corporate culture, says MP Mary Robinson, chair of the All Party Parliamentary Group for Whistleblowing.

"We do find that so many of the cover-ups are based on poor culture in organisations," she says.

Part of the problem, says Robinson, is that organisations are more concerned with saving their own reputations rather than engaging effectively with whistleblowers.

Andy Verity, economics correspondent for the BBC and chair of a recent NAVEX Global panel on workplace whistleblowing, says this behaviour is a kind of "corporate autoimmune disorder" where instead of recognising the whistleblower as someone trying to help, the organisation views them as a threat.

26%

do not agree that their organisation's culture supported compliance

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Ways to change attitudes towards whistleblowing

1. Make sure the right systems are in place

More than half of business leaders believe that providing safe reporting channels is the top factor in building employee trust and encouraging whistleblowing.

To provide this safety, TMF Group—a leading administrative services company with more than 9,000 staff and 120 offices worldwide—created a two-tier system that gives employees two reporting options as part of an anonymous approach backed by leadership trust. Tui Ilti, TMF's chief compliance officer, says employees have an option to report locally or at a group level, with both offering the same level of protections. "We offer anonymity in terms of reporting, and we are very keen for our employees to know that there is a system of trust and confidence in place and that we will investigate their concern," he says. "It is a complex process, but we want to keep it as simple as possible, making it fully accessible to all our colleagues across the globe."

As Welch and Stubben note in their report, a well-used and promoted whistleblowing system may be enough to deter inappropriate behaviour from happening in the first place.

2. Keep channels of communication open

Use of internal whistleblowing systems to communicate concerns is a sign of a healthy organisational culture, says Lloydette Bai-Marrow at Parametric Global Consulting. Without adequate reporting systems in place, or if employees lack faith in their reliability, whistleblowers may be compelled to go outside the organisation to highlight wrongdoing.

In one case Bai-Marrow is familiar with, the incident only came to light because the whistleblower went directly to the regulator—a major red flag about the effectiveness of that organisation's whistleblowing system.

"That tells me that there is something not quite right within the organisation—that person didn't feel confident their concerns would be heard and most probably they thought they would be retaliated against," she says, underscoring why it is vital that employees have confidence in internal whistleblowing systems.

3. Less talk, more action

Another important step in changing cultural attitudes towards whistleblowing is ensuring that whistleblowers are kept informed about any investigations or actions taken. A lack of ongoing dialogue once a report has been logged can act as a deterrent to future complaints—some 39% of respondents feel that employees in their organisation might not report incidents because they do not believe any action will be taken.

The International Organization for Standardization has published guidance for setting up a whistleblowing management system, which among other things recommends that organisations provide feedback at each stage of the whistleblowing process.

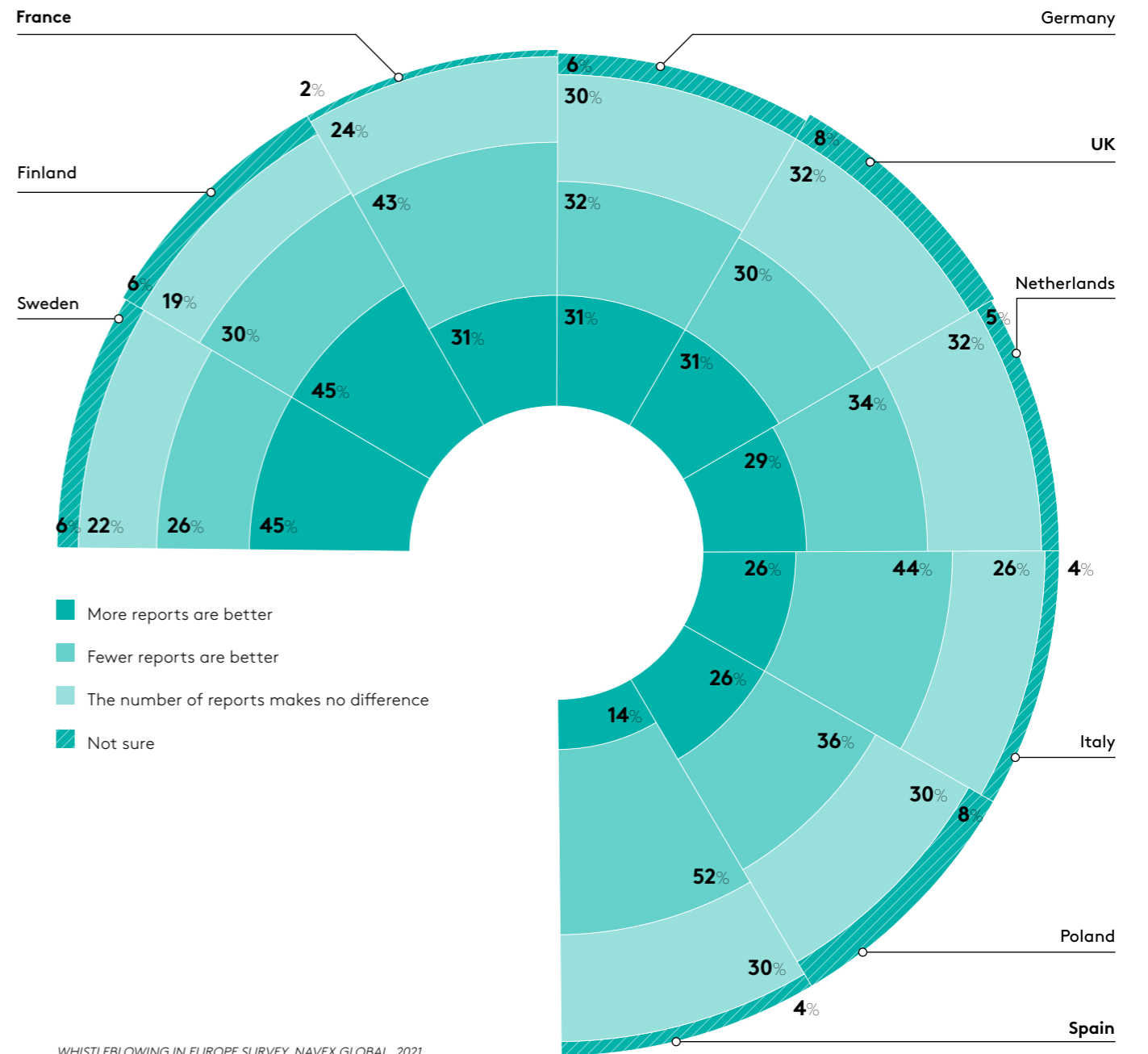
Such feedback loops can demonstrate that organisations are serious about following up and resolving reports, helping generate confidence in the system and potentially encouraging more whistleblowers to speak out.



We are very keen for our employees to know that there is a system of trust and confidence in place and that we will investigate their concern"

Swedish firms are most likely to see the value in increased whistleblowing reports

Do you believe that your organisation benefits from receiving more or fewer reports of suspected misconduct?



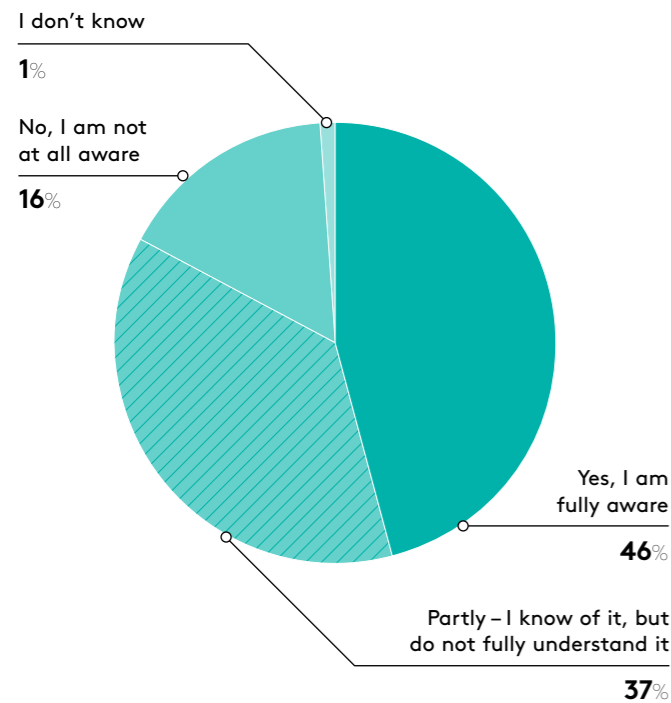
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European attitudes towards whistleblowing

The new EU directive to legally protect people who report breaches of EU law comes into force in December. How much do companies understand the new directive and are they prepared?

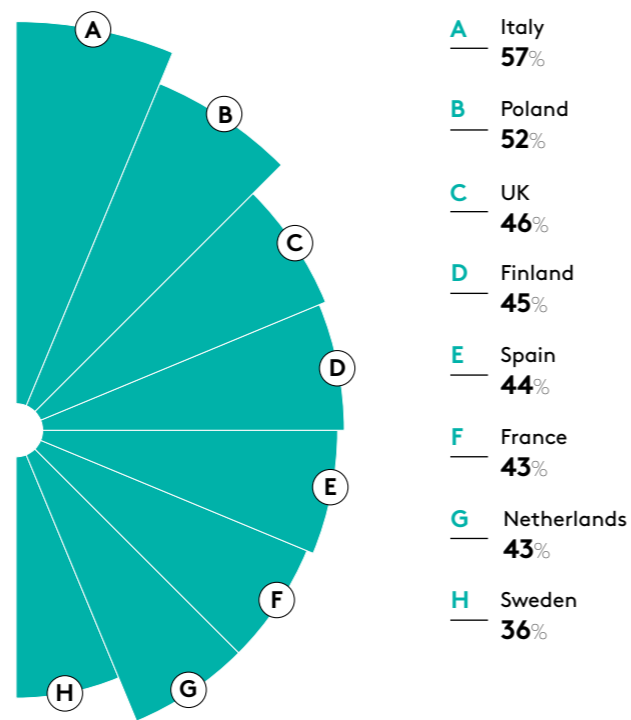
Fewer than half of senior business leaders are fully prepared for the new directive

Are you aware of the new directive to legally protect people who report breaches of EU law, which comes into force in December 2021?



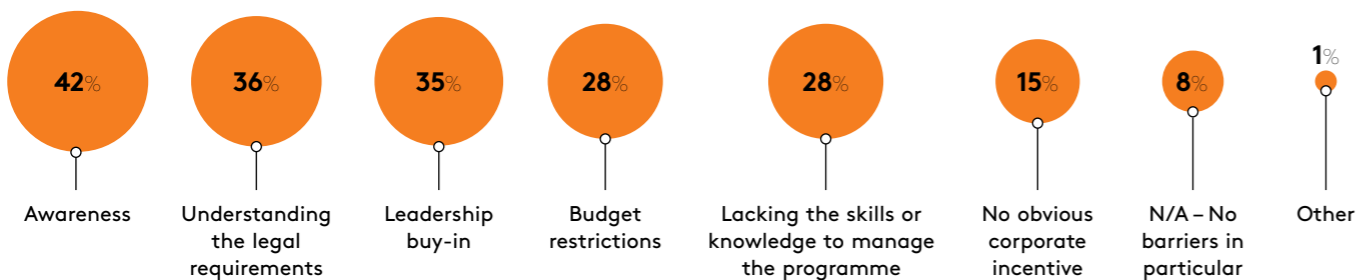
With awareness varying significantly by country...

Percentage of senior business leaders who consider themselves fully aware of the directive



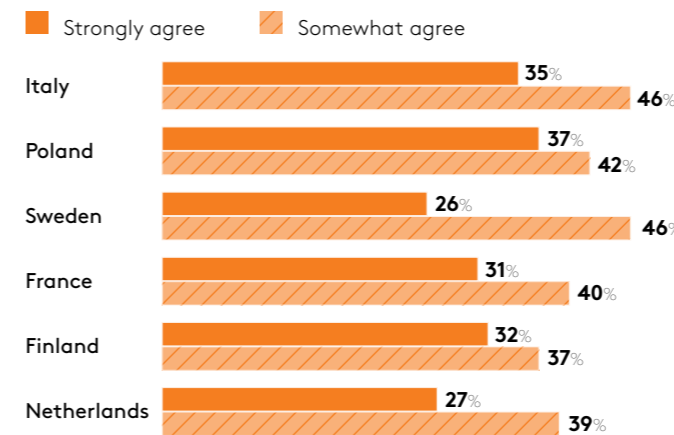
Senior business leaders feel this lack of awareness and understanding is the biggest barrier to compliance

What do you consider to be the biggest barriers for your organisation in complying with the new EU directive?



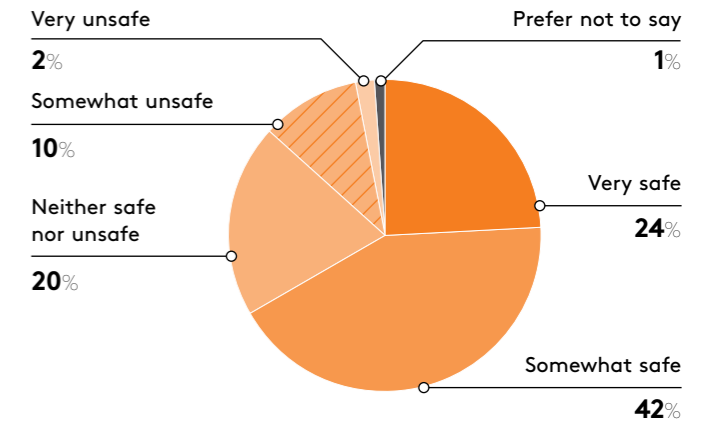
Most European countries feel their organisational culture somewhat supports compliance

Percentage of senior business leaders who agree that their organisation's culture supports compliance with the directive



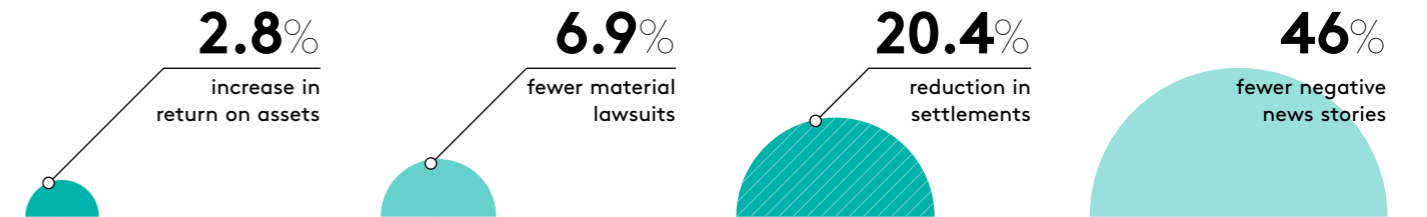
But only two thirds of senior business leaders feel safe about reporting misconduct in their organisation

How safe or unsafe would you feel about reporting misconduct in your own organisation?



But organisations that get whistleblowing right will see the benefits

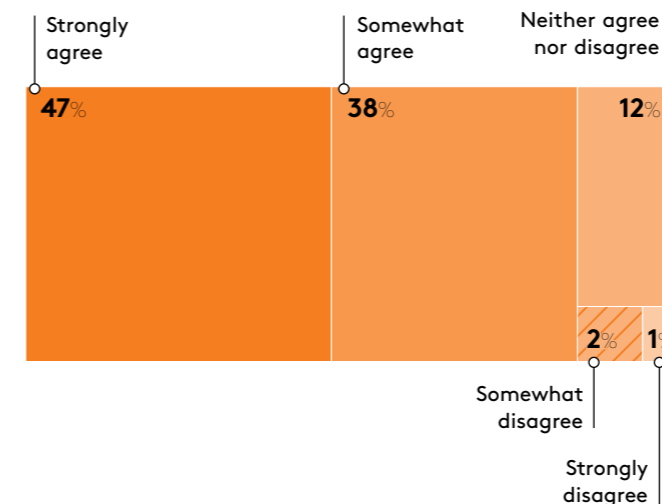
Organisational benefits of receiving a higher number of whistleblowing reports



EVIDENCE ON THE USE AND EFFICACY OF INTERNAL WHISTLEBLOWING SYSTEMS, GEORGE WASHINGTON UNIVERSITY 2018

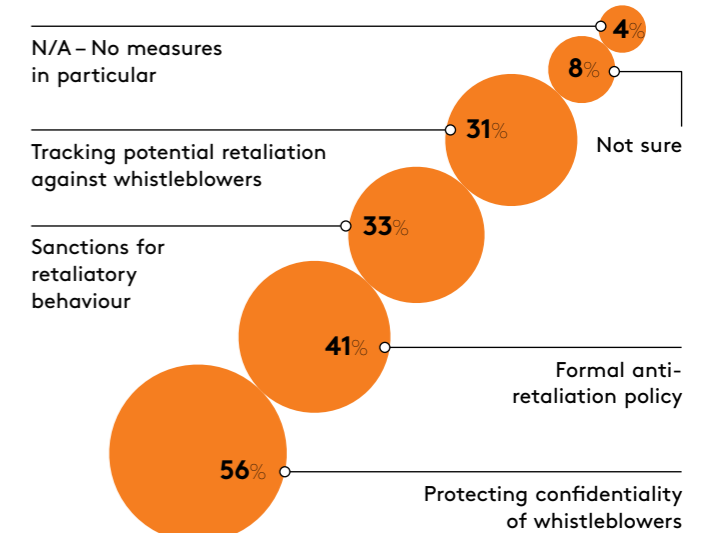
While the vast majority of organisations agree that whistleblowers should be protected...

To what extent do you agree or disagree with the following statement: "People who highlight potential breaches of law in a workplace context should be legally protected from retaliation or detrimental treatment."



...Very few of them have policies or procedures in place to monitor for and take action over retaliation

Which of the following measures does your organisation have in place to protect employees from retaliation if they report suspected misconduct?



200 million reasons to whistle

Should whistleblowers be financially rewarded or does the promise of huge sums of money sully the intentions of those who draw attention to potential wrongdoing and encourage spurious claims?

When an individual was awarded \$50 million by the US Securities and Exchange Commission (SEC) for whistleblowing last year—at the time the largest individual whistleblower award announced by the SEC—it sparked a debate about whether whistleblowers should be financially compensated for speaking out.

The question turns on whether rewarding whistleblowers with the promise of huge amounts of cash might sully the intentions of those who draw attention to potential wrongdoing, perhaps even encouraging

spurious claims. Yet is it realistic and right to expect whistleblowers to put themselves at professional and personal risk with no material reward at the end?

Since that \$50 million award was handed over in June last year, even bigger bounties have been paid out. In October last year, the SEC paid a whistleblower \$114 million, followed by another \$100 million reward in September this year. A month later, the Commodity Futures Trading Commission went even further by awarding a whistleblower a record-breaking \$200 million.

In America, the SEC whistleblowing programme and Office of the Whistleblower provide monetary awards for eligible individuals making significant claims. Whistleblowers can get between 10% and 30% of the money collected, with the SEC awarding approximately \$1.1 billion to 218 individuals since issuing its first award in 2012.

Matthew Stock, director of the whistleblower rewards practice at Zuckerman Law in Washington DC, who regularly works on SEC cases, believes the price is worth paying.

“If there is a reward then it does help incentivise,” says Stock. “Whistleblowers are taking tremendous risks; they might get blacklisted or lose their job. Rewards are certainly a plus factor in deciding whether to raise a concern. If you look at the big whistleblowing cases, like the Bernie Madoff investigation that prompted the SEC programmes, they would not have come to light if someone did not have the courage to make a report.”

Support for financial reward is more prevalent at the top of business hierarchies, with 67% of C-suite executives believing financial rewards are appropriate, compared with only 51% of managers. On a national level, companies in Finland are most positive with 64% agreeing with whistleblower compensation, while the most sceptical

\$812m

has been awarded to 151 individuals by the Securities and Exchange Commission since issuing its first award in 2012

SEC

22%

disagree that whistleblowers should be financially rewarded

57%

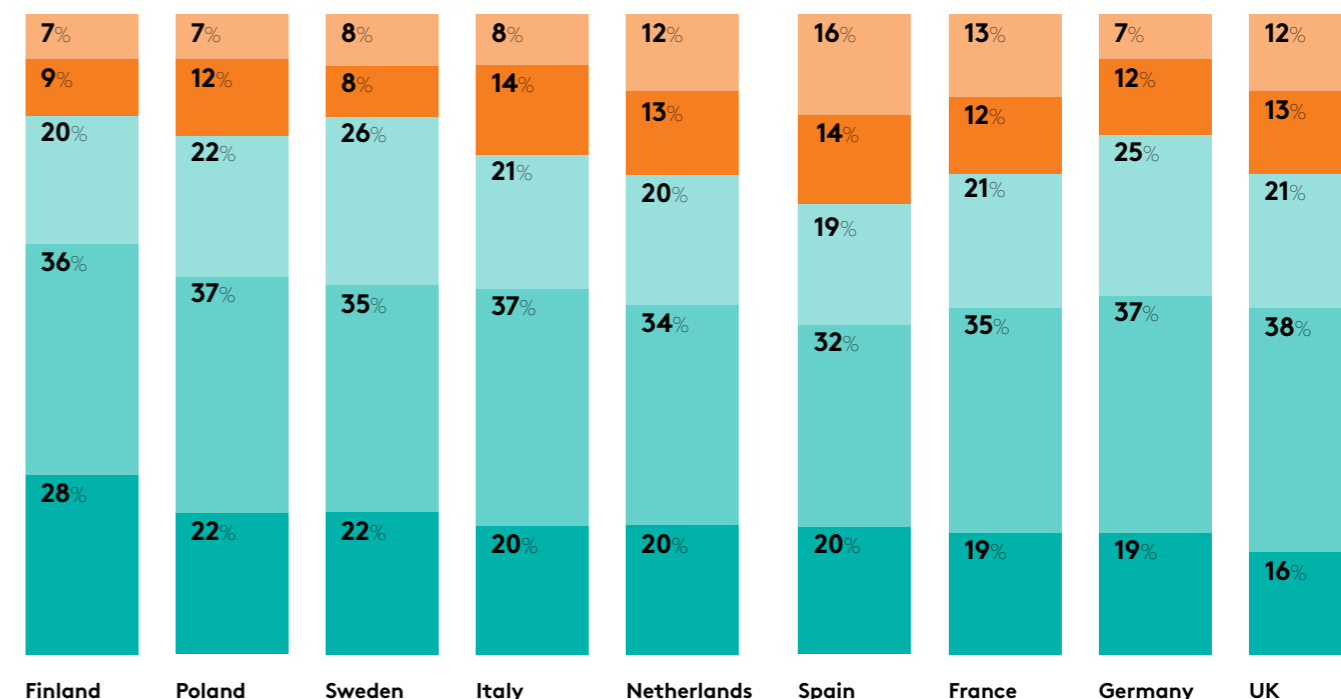
agree that whistleblowers should be financially rewarded

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Europe is fairly evenly split on the question of financial rewards

People should be financially rewarded for reporting substantiated incidents of misconduct

Strongly agree Somewhat agree Neither agree nor disagree Somewhat disagree Strongly disagree



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country surveyed is Spain, where 52% agree that whistleblowers should be financially rewarded for reporting substantiated incidents of misconduct.

Despite the incentive it offers people to speak up, NAVEX Global’s survey reveals that 22% of business leaders in Europe disagree that whistleblowers should be financially rewarded, with a further 22% undecided. The main arguments used against such schemes are that they can lead to malicious claims, while only a small number of people ultimately get the awards. The SEC is aware of the potential for abuses and recently barred two individuals from the award programme for submitting frivolous applications. Emily Pasquinelli, acting chief of the SEC’s Office of the Whistleblower, says abuse hampers their efforts and the SEC is sending “an important message that frivolous award filers will not be tolerated”.

Despite the potential for frivolous claims, rewards that encourage whistleblowing can act as a safety net for everybody who is impacted by wrongdoing, says Georgina Halford-Hall, CEO at WhistleblowersUK.

She believes speaking up should be normalised and those who speak up should not feel alone or abandoned by society.

“Being able to speak up anonymously helps people to say out loud their concern, sometimes for the first time, and it is a very important first step when they are able to speak openly and can also get help and support for themselves,” she says.

Dealing with whistleblowing is also “a global problem in need of global solutions”, which in some cases leads not just to people losing their jobs but their lives being threatened, she says.

Rewards represent “a minute amount of money in recognition for what someone has done to their career, many of whom I know will never work again and are mentally and physically scarred by the experience”, says Halford-Hall.

Ultimately, reward schemes should be the biggest incentive companies have in understanding that the whistleblower is their “best friend”.

“They should have their doors open, their ears open and effective processes in place,” she adds.

After the whistle is blown

NAVEX Global's survey reveals that, while companies are aware of the new directive and have put in place formal procedures and channels for reporting, not everyone is convinced they will be protected after raising a concern

While the EU's new whistleblowing rules ensure organisations must put in place formal procedures and channels for reporting, would-be whistleblowers remain reluctant to speak up given the potential for backlash once a report is filed. For example, almost half of respondents surveyed (49%) cite a fear of retaliation as the number-one reason not to report wrongdoing. Only 15% say a lack of awareness of how to file a report was the primary reason for staying silent. This emphasises that the vast majority of respondents know the procedures for logging complaints, they just don't always have the confidence to follow through.

50%

believe that providing safe reporting channels is the biggest factor to encourage whistleblowing

49%

say fear of retaliation is the biggest barrier to reporting

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A recent UK case suggests that fear of retaliation is sometimes justified. When a multinational postal service company employee made several whistleblowing disclosures to her manager, she was forced to retract her claims, was retaliated against and bullied. When she was dismissed, ostensibly for poor performance, her case was brought to the Supreme Court where it was found she had been unfairly dismissed.

So how can organisations give whistleblowers the confidence to speak up without fear of reprisals?

The first step is simply to ensure there are safe reporting channels available for whistleblowers to access. Some 50% of respondents say providing such channels is the biggest factor that would encourage whistleblowing. Those safe reporting channels could include partnering with an external service provider that can receive those complaints on an organisation's behalf, either through a telephone hotline or via email, giving whistleblowers assurance their reports will not simply be ignored or covered up. By handing over the administration of complaints to an independent party, it also demonstrates that organisations themselves are committed to weeding out wrongdoing and holding the wrongdoers to account rather than retaliating against those who are willing to speak up. That further helps to foster a culture where employees feel safe to come forward when they have witnessed unethical or illegal behaviour.

Such signalling is clearly important for giving people the confidence to voice their concerns: as many as a third of survey respondents could not agree that they feel safe when reporting wrongdoing.

Keeping whistleblowers up to date throughout any investigation and providing feedback at each stage of the process is also important for generating trust in the system. If there is a long investigation and whistleblowers hear nothing back, they may get the impression their concerns are being swept under the carpet, says Dr Lauren Kierans, an Irish barrister and expert in protected disclosures and whistleblowing law, who teaches at Maynooth University.

Organisations need to put in place sufficient resources and processes to monitor for retaliation—something that a majority of companies currently lack. Fewer than a third of respondents (31%) say their organisations bothered to track if any retaliation has occurred.

One company that is tracking incidents of retaliation is Serco. It offers a "speak up" line for employees to report retaliation, which is then logged and tracked against any future disciplinary action that employee may face. The company conducts employee

engagement surveys to gauge how confident its workers are that if they raise concerns, then action will be taken. If trust in the system is low, says Robert Smith, director for compliance and ethics at Serco, that could imply people fear retaliation. And if that was the case, then it would likely be because they had either seen or heard of people being retaliated against for speaking out.

Allowing for anonymous reporting can also encourage people to come forward who would otherwise be unwilling to talk. In the past, anonymous reporting may not have been properly investigated given the challenges of follow-up communication with the whistleblower. But now technology can enable two-way encrypted communication that allows complaints to be followed up on without revealing a whistleblower's identity. Some 38% of respondents believe anonymous reporting is a top-three factor for building employee trust and encouraging whistleblowing, yet almost a fifth of European organisations (17%) don't accept or investigate

32%

would not feel safe while reporting misconduct

31%

of organisations track whether retaliation occurs after a report is made

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misconduct reports that are received from anonymous sources.

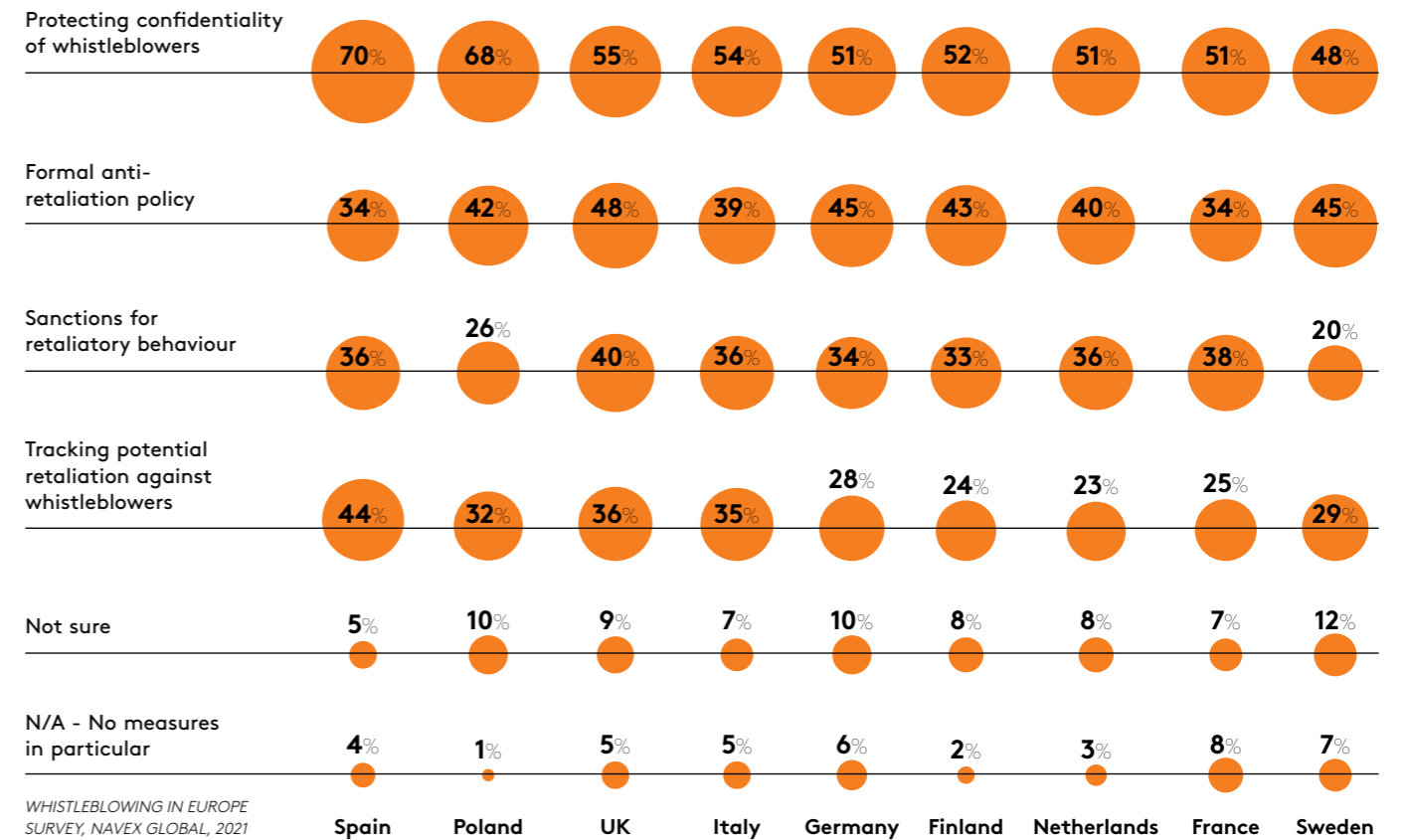
While organisations need effective protections in place for whistleblowers, they also need to ensure that those who retaliate face appropriate penalties—another area where companies are currently falling short. Only a third of respondents say their organisations have processes in place to sanction individuals who retaliate against whistleblowers.

This is where regulation can help. While the EU directive leaves it up to member states to decide on the scale of punishment for those who retaliate, in the UK the Office of the Whistleblower Bill is proposing measures that would go even further by making retaliation against whistleblowers a criminal offence. Lloydette Bai-Marrow at Parametric Global Consulting believes that this will encourage better treatment of whistleblowers.

"If we don't have serious penalties that can be levied on individuals who mistreat whistleblowers, then there is no accountability," she says.

Only a third of organisations have processes to sanction those who retaliate against whistleblowers

Which of the following measures does your organisation have in place to protect employees from retaliation if they report suspected misconduct?



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WFH: Whistleblowing from home

How is whistleblowing changing in the era of era of working from home?
Are would-be whistleblowers feeling emboldened out of the watchful eye of managers or is distance from the office creating less urgency to report?

The coronavirus pandemic has transformed how people work; it may have also spurred some whistleblowers to speak up. With many employees now working from home, away from the gaze of managers and colleagues and the fear of potential reprisals, the number of whistleblowing complaints in certain sectors is on the rise. According to the US Securities and Exchange Commission (SEC), last year it received its highest number of whistleblower tips on record, with more than 6,900 whistleblowers coming forward, a 31% increase on 2018 and more than double the number of tips received when the agency's whistleblower programme was first set up.

"When people are working from home, they feel less scrutiny of their actions, so they might feel a little bit more emboldened to make the call to a lawyer like me because they're not afraid that someone is going to overhear them in the office or see them copying documents or anything like that," says Stephen Hasegawa, a partner at specialist whistleblowing law firm Phillips & Cohen. "Another part of it is being separate from the office culture means you are much less likely to rationalise the behaviour that you see in the office. When you're in the office it might feel like something the business just does but when you're out of the office you can see the conduct for what it is."

Yet while the SEC has seen whistleblowing tips rise, perhaps driven by the awards on offer, for others, working from home may have created less urgency to report. According to the NAVEX Global Incident

48%
of reports were made online in 2020 – a 26% increase from 2017

31%
of reports were made via telephone in 2020 – the lowest level yet

NAVEX GLOBAL 2021 RISK AND COMPLIANCE INCIDENT MANAGEMENT BENCHMARK REPORT



...when you're out of the office you can see the conduct for what it is"

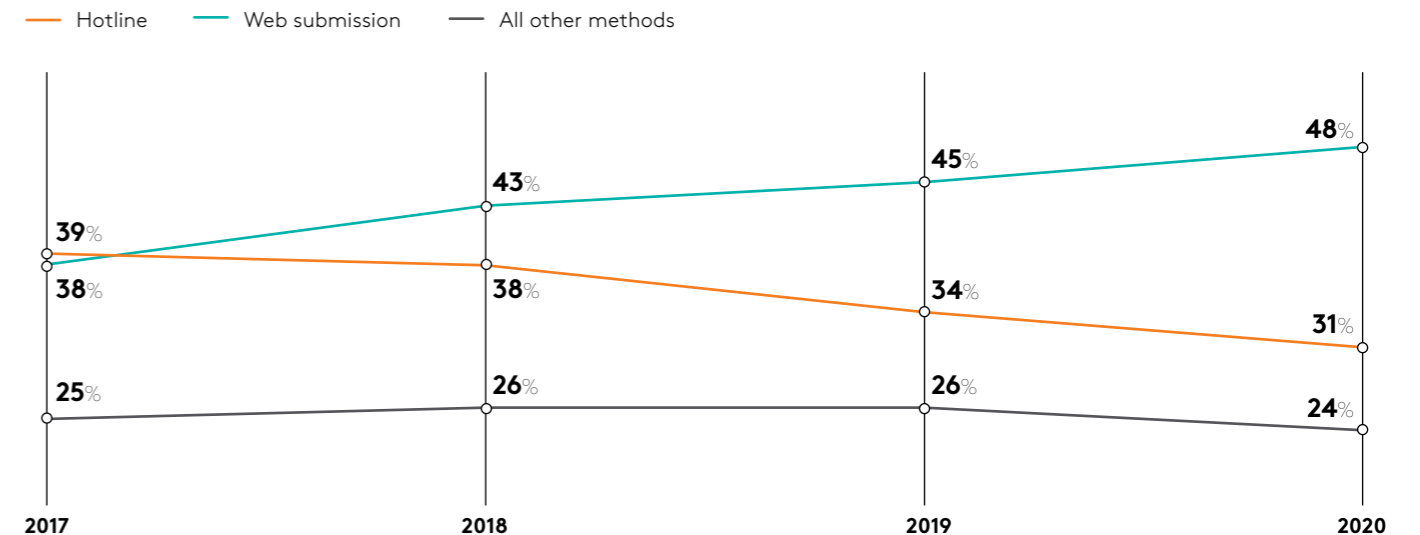
Management Benchmark Report, 2021 saw the volume of whistleblower reports decrease for the first time, dropping to 1.3 reports per 100 employees from 1.4 reports in 2019. To date, report volumes have yet to return to their pre-Covid levels.

Even so, recent high-profile cases have brought whistleblowing into sharper focus. Former Facebook employee Frances Haugen has been lauded for her efforts to raise awareness of the company's unwillingness to tackle disinformation campaigns on its platform because of the profits those campaigns generate.

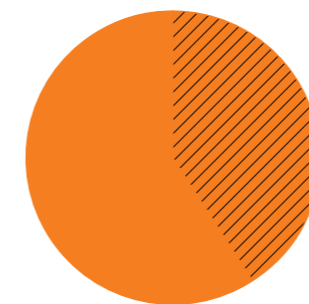
"Whistleblowing during the Covid-19 pandemic has drawn public attention to the shortcomings of institutional reporting systems and a wider appreciation of whistleblowers as uniquely placed to expose risk at early stages," says Dr Vigjilencea Abazi, assistant professor of international and European law at Maastricht University.

Online reporting is on the rise

Report intake method comparison (median)



NAVEX GLOBAL 2021 RISK AND COMPLIANCE INCIDENT MANAGEMENT BENCHMARK REPORT



41%

of employees who raised concerns around Covid-19 safety measures and possible furlough fraud found their employers were indifferent

PROTECT 2020

4,000 tips, complaints and referrals of possible corporate wrongdoings were received by the U.S. Securities and Exchange Commission from mid-March to mid-May -

35% higher than it was in the same period last year

WALL STREET JOURNAL 2020

Covid-19 may also have created an environment for wrongdoing to flourish. According to a report published at the end of last year by whistleblowing charity Protect, 62% of Covid-related calls it received on its whistleblowing advice line were about furlough fraud in the workplace. Of all the furlough fraud concerns it received, 41% were ignored by the whistleblower's employer. Worse still, a fifth of whistleblowers were dismissed for raising concerns about Covid-related issues that included furlough fraud and workplace safety, with managers more likely to face the chop for speaking out, the data shows.

Workplace bullying and harassment is also still an issue even when people are working remotely. Nearly one in three women who have reported sexual harassment to their employer say that the process has been negatively impacted by the pandemic, with harassment shifting to online work platforms and social media, according to a survey by women's rights charity Rights of Women.

Another potential issue created by the pandemic is the increase in case closure times, given that remote working is making whistleblower investigations longer and more complex to conduct. This matters because under the EU's new whistleblowing rules, organisations will be expected to investigate incidents and provide feedback within a set timeframe. Therefore organisations need to ensure they have adequate resources and procedures in place to promptly handle whistleblowing reports when staff are working remotely.

How to choose the right whistleblowing technology

How can organisations use technology to enhance their whistleblowing procedures? With so many options available, it can be confusing to know what to look for and to choose the solution that best serves your needs

As organisations increasingly digitise their operations, many are starting to understand the value of automation and data to improve workflow processes and unlock greater business insights. For compliance professionals, whistleblowing technology can deliver similar benefits and should be part of any digital transformation roadmap.

The need for whistleblowing technology has also increased since the start of the pandemic. According to the NAVEX Global 2021 Risk and Compliance Incident Management Benchmark Report, of the 1.3 million incidents reported globally last year, 48% were submitted online—a 7% increase on

the previous 12 months. Telephone reporting, by contrast, accounted for 31% of reports—a 9% decrease and the lowest level on record.

Given the amount of whistleblowing tech available, finding the right product that best serves your needs can be a headache. The first question you need to ask yourself is how much time you spend processing reports, such as ensuring they are sent to the right departments and then following up on those cases directly. If the answer is a lot, then you should consider adopting technology that automates your workflows by automatically sending reports to the correct department and allowing for cases to be followed up on electronically. That will free you up to spend more time on higher-value tasks, such as conducting actual whistleblower investigations.

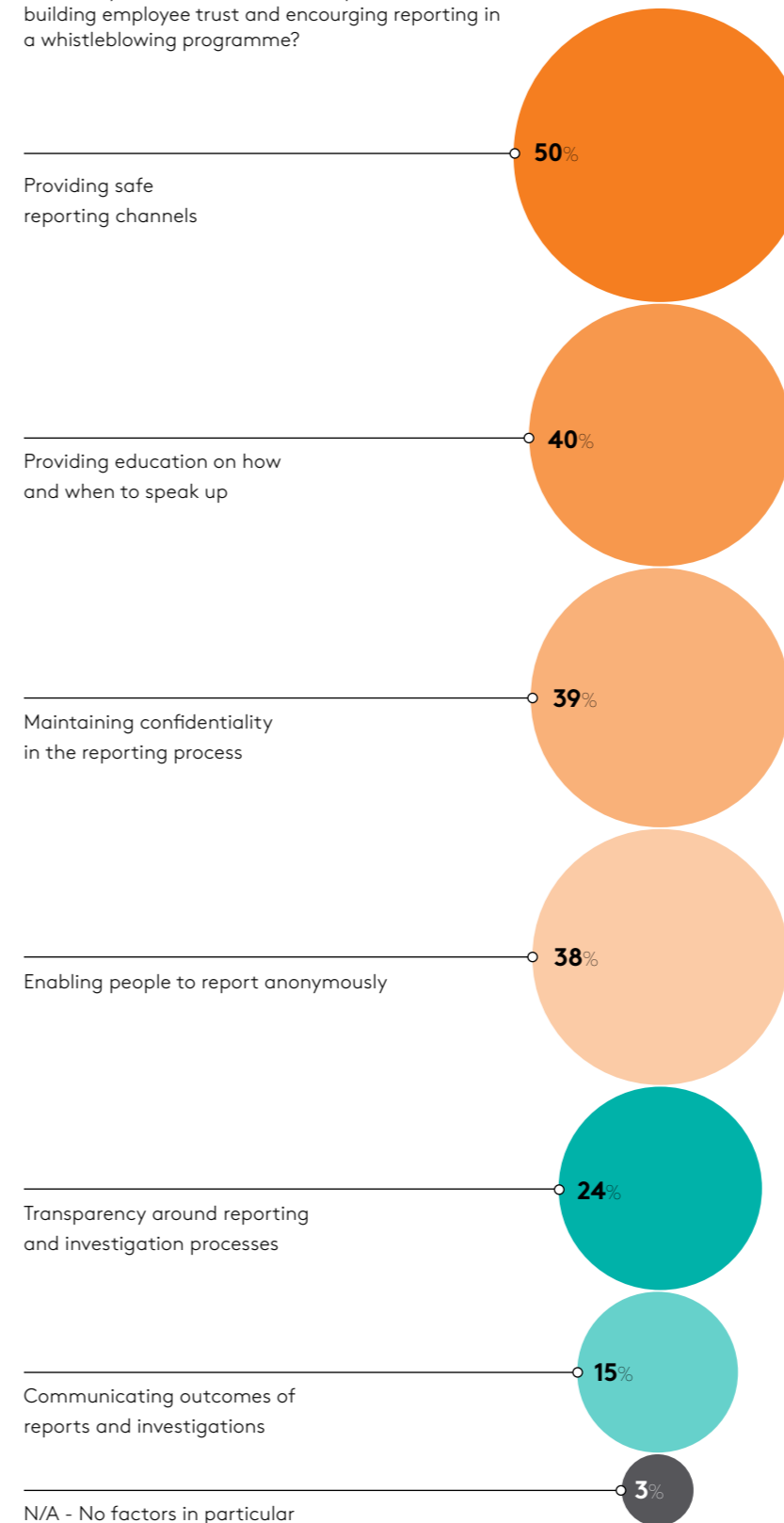
Another question to ask yourself is how much you would value being able to spot potential issues before they escalate. By adopting a system that collates all whistleblowing reports in one centralised database regardless of whether they have been submitted online or over the phone, you can then start to analyse the data in a holistic way. Such an approach can make it easier to identify patterns or trends that could help snuff out minor issues before they spiral into something more problematic.



Having the right technology can persuade would-be whistleblowers to speak up”

The right technology can build employee trust and encourage reporting

What do you think are the most important factors for building employee trust and encouraging reporting in a whistleblowing programme?



WHISTLEBLOWING IN EUROPE SURVEY, NAVEX GLOBAL, 2021

Having the right technology can also persuade would-be whistleblowers to speak up by allowing them to report anonymously. For example, 38% of survey respondents believe anonymous reporting is a top-three factor for building employee trust and encouraging whistleblowing, but almost a fifth of European organisations (17%) don't accept or investigate misconduct reports that are filed by anonymous sources. Using technology that enables two-way encrypted communication means whistleblowers can file their reports anonymously and, crucially, investigators can then follow up without the whistleblower having to unmask.

An additional consideration when choosing the right technology is the extent to which you might need to show an audit trail of your whistleblowing procedures to regulators. Having an end-to-end reporting and incident management system means there will be no information gaps in the whistleblowing process, providing a fully auditable and consistent digital paper trail for any potential investigations to follow.

As your business grows, you also need to ensure your whistleblowing technology can keep pace. That means choosing a system that is scalable and can adapt as your workforce expands or if your regulatory requirements change.

Finally, the raft of data privacy regulations being introduced around the world means organisations with cross-border operations need to take that into account when adopting whistleblowing technology. If your company has operations in multiple countries, the whistleblowing reporting system you choose also needs to be compliant with any local data privacy rules.

Key takeaways

2

Encourage a culture of whistleblowing

Organisations need to embrace a culture of whistleblowing that is led from the top but is advocated throughout the business. That means having clear policies and procedures in place for flagging wrongdoing and providing safe and secure reporting channels that employees have confidence in. By actively encouraging whistleblowers to step forward rather than treating whistleblowing as something to be suppressed to spare any embarrassment, organisations are likely to perform better overall.

4

Whistleblowing from home

The shift to remote working means organisations need to adapt their whistleblowing policies and procedures accordingly. Working from home can add complexity to whistleblowing investigations, which may take longer to conduct. With the new EU directive setting time limits on how long investigations should take and when to provide feedback, organisations need to ensure they have sufficient resources to manage whistleblowing in a remote environment.

1

Make sure the C-suite is prepared

As the new EU Whistleblowing directive comes into force, it is critical that the C-suite prioritises whistleblowing and understands why they need to move it up the value chain. That means making the risks clear: it is not just the potential for regulatory sanction they need to worry about, but as high-profile cases have shown, failing to take action on whistleblowing reports can result in severe financial and reputational harm to business and end the careers of senior executives.

3

Protect whistleblowers

Fear of retaliation is the number one reason for would-be whistleblowers to stay silent on wrongdoing. That means organisations must protect whistleblowers and adopt a zero-tolerance approach to retaliation by imposing appropriate punishment for anyone who retaliates. Organisations also need to keep whistleblowers informed on the progress of any investigations at each stage of the process in order to maintain trust in the system and potentially encourage others to speak out.

5

Picking the right whistleblowing tech

Adopting technology can help streamline the whistleblowing process by automating workflows and enabling cases to be managed electronically, improving efficiency. That can free up compliance teams to spend more time on investigating whistleblowing reports. The data generated by whistleblowing tech can also highlight patterns and trends that could potentially help compliance teams defuse issues before they escalate.

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