

NOU 2018: 6 Whistleblowing – Values and Protection

The Whistleblowing Committee's overall assessments of the measures needed to strengthen whistleblower protection in Norwegian working life	
<ul style="list-style-type: none"> ➤ Whistleblowing is of great societal significance, and protection of whistleblowers must be given priority ➤ Whistleblowing is of greatest value when the disclosure is taken seriously – and the whistleblower is given protection ➤ The employer must take responsibility for the culture for expression in the undertaking ➤ The undertaking must address the censurable conditions and deal with the disclosure at the lowest possible level ➤ Statutory provisions concerning whistleblowing must be made clearer and easier to understand ➤ Protection of privacy and the principle of contradiction must be safeguarded in whistleblowing processes ➤ All relevant parties must be given a better understanding of whistleblowing processes ➤ Whistleblowers must have access to guidance and support ➤ It must be possible to seek compensation and redress without risking large legal costs ➤ Whistleblowers must be recognised for their efforts, and those who experience exclusion at work must be taken care of. 	
Proposals for legislative measures (chapter 10)	
Recommendations regarding legislation	The whistleblowing provisions in the Working Environment Act (WEA) should be upheld. The Committee's majority considers that there is also a need for a review of a separate Act concerning whistleblowing.
Persons covered by the provisions	The groups referred to in section 1-6 of the WEA should be covered by the whistleblowing provisions of the Act when performing work (e.g. national service personnel).
Clarification of legal terms used	The WEA must include examples of the types of violations that fall under the term <i>kritikkverdige forhold</i> [censurable conditions]. The Act should state explicitly that "Complaints concerning dissatisfaction with the employee's own working conditions are not deemed censurable conditions pursuant to the present provision." The provisions of the Act must also provide better information concerning <i>forsvarlig fremgangsmåte</i> [responsible procedure] for whistleblowing. The Act should also provide examples of what may be deemed <i>retaliation</i> . The proposals will not involve any material amendments.
The employer's obligation to act	The employer's obligations regarding both the disclosure and the whistleblower (responsibility for care), should be stated in the whistleblowing provisions. The proposal is intended as a clarification of the current provisions.
Whistleblowing procedures	It should be made clear that the procedures must include "procedures for employers' handling of whistleblowing cases". There should be requirements regarding regular assessment of the undertaking's whistleblowing procedures in cooperation with the employees and their elected representatives.
Compensation and redress in connection with the prohibition against retaliation	The current rule that redress may be claimed regardless of the guilt of the employer should be upheld. The Committee proposes that compensation for financial loss also should be regulated by the WEA and with the same criterion of guilt.
Compensation and redress in connection with breaches of responsibility for care	The Committee's majority proposes that violations of the employer's responsibility for care should provide grounds for compensation and redress pursuant to general rules.
Climate for expression and reference to article 100 of the Constitution	The regard for a satisfactory climate for expression should be included in the object clause of the WEA. For pedagogical reasons, it should be made clear that whistleblowing is part of the freedom of expression regulated by article 100 of the Constitution.

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Proposals for training and information measures (chapter 11)

- Knowledge regarding whistleblowing, etc. should be included in training pursuant to sections 3-5 and 6-5 of the Working Environment Act
- Whistleblowing and handling of whistleblowing cases should be included in the curriculum for relevant studies
- Further development of the work of the Norwegian Labour Inspection Authority on whistleblowing
- Training and consciousness-raising activities under the auspices of the social partners
- Training for state employers, managers and human resources employees under the auspices of the Agency for Public Management and eGovernment (Difi)
- Competence development for judges and lawyers
- A national whistleblowing guide to be prepared by the Norwegian Labour Inspection Authority in cooperation with the social partners
- Easily accessible information on the whistleblowing provisions on websites of relevant authorities
- Continuous training and consciousness-raising activities under the auspices of the public authorities

Proposals for organisational measures (chapter 12)

Whistleblowing Ombud	A separate national Whistleblowing Ombud should be established. The primary concern of the Ombud should be to provide guidance and support to whistleblowers, the person or persons to whom disclosures apply, employers, elected representatives of the employees and safety representatives.
Whistleblowing Dispute Resolution Board	A majority of the Committee considers that a separate dispute resolution board should be established for whistleblowing cases since there is a need for a more reasonable and efficient arbitration for whistleblowing cases.