

English summary  
of Fafo-report 2019:13

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**Three experiments with  
working time schemes  
in three government  
agencies**

# Whistleblowing in Norwegian working life 2018

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The Norwegian Labour Inspection Authority is currently engaged in efforts to strengthen knowledge about whistleblowing in Norwegian working life and how this should be handled. This is the background for this study, which gives a snapshot of the situation at the turn of the year 2018/2019. The survey has been conducted by Kantar TNS and encompasses 3955 respondents, including employees, managers with personnel responsibility, safety delegates and elected trade union representatives. The three latter groups can serve as recipients of notifications of censurable conditions, and the questions they were asked pertained to the ways in which such notifications are handled by the enterprises.

In general, there is reason to assume that enterprise managers will be highly motivated to address censurable conditions, since these have the potential to damage the enterprise's economy, working environment and reputation, as well as the treatment of clients or customers.

Negative sanctioning of whistleblowers tends to attract a lot of public attention. In Norwegian studies, the proportion of whistleblowers who experience sanctions varies from 12 to 25 per cent. Most people will perceive a situation involving notification of censurable conditions as uncomfortable under any circumstances. Research has also shown that it is more risky to submit such a notification when the boss is responsible for the censurable issue, and in enterprises without whistleblowing procedures (Skivenes & Trygstad 2015; Trygstad & Ødegård 2016).

## Legal frameworks and procedures

In 2007, special provisions on whistleblowing were added to the Working Environment Act, giving employees a statutory right to submit notifications of censurable conditions and protection against retaliation in cases that comply with appropriate whistleblowing procedures. These provisions were met with criticism both prior to and after 2007, and in 2017 the Act was amended. The amendment introduced an obligation to devise whistleblowing procedures in enterprises with five employees or more. Legal amendments in recent decades have provided employees with double protection, based on Section 100 of the Constitution and the whistleblowing provisions in the Working Environment Act.

Further legal amendments are currently being considered in the wake of the report from the public commission on whistleblowing (NOU 2018:6). In addition, the legal provisions must be interpreted within a local context in each workplace. This requires employees and managers to be familiar with the provisions and have a deliberate approach to their practical application.

Familiarity with the whistleblowing provisions is clearly spreading. In 2018, altogether 73 per cent of the respondents were fully or partially familiar with the provisions, and 55 per cent report that whistleblowing procedures have been drawn up in their workplace. This is a clear increase from 2010, when the equivalent proportion amounted to 37 per cent. Whistleblowing procedures are most common in large enterprises (with 50 employees or more). Most frequently, the management and employee representatives will be the parties involved in preparation of whistleblowing procedures. A fairly large proportion of 36 per cent report that no trade union representatives, safety delegates or employees were involved in the preparation of such procedures, or they do not know whether any of these were involved in the process.

A total of 43 per cent report that the requirements in the Working Environment Act were the main reason for establishing whistleblowing procedures in their enterprise. Approximately the same proportion report that concerns for appropriate enterprise management were the key reason for preparing such procedures.

## **Whistleblowing activity**

In the survey, we use concepts and definitions used in other Norwegian and international studies. The concepts are intended as operationalisations of the provisions on whistleblowing in the Working Environment Act. Use of the same concepts helps facilitate comparisons of findings from different studies over time, provided that the surveys target the same samples. In the studies that we have undertaken over the last eight years (Fafo 2010–Fafo 2018/2019) we have asked the employees the following question:

‘In the course of the last 12 months, have you witnessed or experienced censurable conditions that ought to have been halted in your workplace? By censurable conditions we mean unethical and/or illegal incidents, episodes or practices.’

Those who answered 'yes' to this question were presented with 17 examples of possible censurable conditions and an 'other' category (that could be specified in free text).

Sixteen per cent had witnessed, uncovered or experienced censurable conditions that ought to have been halted in their workplace, and a little more than five out of ten had submitted a notification to this effect (notification activity). The most important reason for refraining from blowing the whistle is fear of the consequences. 'Destructive management practices that harm the working environment' was the most frequent cause for notifications. Nearly seven out of ten report that a manager was responsible for the censurable condition.

### **Positive and negative reactions to whistleblowing**

Four out of ten report that the notification helped rectify the issue (whistleblowing effectiveness). Psychosocial issues are the most difficult conditions to report. It is also perceived to be more challenging when the person responsible for the censurable issue occupies a high-ranking position in the enterprise.

Nineteen per cent have experienced negative reactions/sanctions because of whistleblowing. Being stripped of responsibilities or reproached by a superior are the most common forms. One in five report that their career opportunities suffered. However, 33 per cent of the whistleblowers were met with positive reactions.

Seven out of ten whistleblowers answer that they would have notified again. Those who were met with negative reactions/sanctions were less inclined to submit another notification.

The majority of the whistleblowers believe that the action taken against the person responsible for the wrongdoing was inadequate in relation to the seriousness of the censurable issue.

## Development over the last decade

The table below presents an overview of the results from a number of surveys, including the present one (Fafo 2018):

Table: Key findings from studies undertaken in the period 2006–2018. Per cent.

	Statistic Norway 2006	Matthiesen et al. 2008	Fafo 2010	Bjørkelo et al. 2010	Status for freedom of speech 2013	Fafo 2016	Fafo 2018
Whistleblowing activity	77	55	53	12*	64	53	52
Whistleblowing effectiveness	-	51	50	59	52	36	39
Exposed to sanctions	12	18	13	7	12	25	19
Prop. That would blow the whistle again	-	81	82	-	84	71	70

\* The share of 12 per cent is of the total sample, that is, all employees as a whole. It is not the share of employees that have experienced censurable conditions/wrongdoing.

In terms of whistleblowing effectiveness, negative reactions/sanctions and questions about willingness to blow the whistle again there is a negative trend over the period. Various circumstances may help explain this trend, which most likely is due to a combination of factors.

First, the whistleblowing provisions may not be well enough known in Norwegian enterprises, even though 70 per cent of the respondents report to be fully or partly familiar with them. Those who are unfamiliar with the provisions will also be unaware of the right of employees to report censurable conditions and that sanctions against employees who submit such notifications in an appropriate manner are illegal.

Second, even if the employees, safety delegates, trade union representatives and managers are aware of the provisions, it is by no means certain that the handling of notifications and whistleblowers has been discussed at the workplace. Such discussions would include ways to ensure that both the whistleblower and the person identified as responsible for the wrongdoing are treated fairly and in accordance with the regulations. Nor can we be certain that the benefits of whistleblowing, such as combatting corruption and preventing harmful working environment issues or untenable

treatment of clients/customers, have been sufficiently elucidated in such discussions.

Third, there is a possibility that issues brought to light by whistleblowers nowadays are of a more serious nature than in 2010. It is not unreasonable to assume that the discussions around censurable conditions and whistleblowing have raised the threshold for characterising an issue as censurable. Consequently, the issues may be of a more serious nature than before, in the sense that calling attention to them might harm the reputation of the management and the enterprise. The whistleblower may meet resistance because he or she challenges powerful leaders.

Fourth, it might be that the climate and conditions for voicing criticism in Norwegian working life are poorer in 2018 than they were in 2010.

### **Receipt of notifications**

A large responsibility rests on those who receive and process notifications, and managers have a special responsibility in this respect. In most enterprises, however, trade union representatives and safety delegates will also be important recipients. The majority of Norwegian employees submit notifications to these groups first, which is in accordance with what is referred to as 'appropriate notification procedures'.

Seventeen per cent of all notification recipients have received a notification during the last year, and seven out of ten report that they dealt with the matter. Eight out of ten handled the case in line with the notification procedures (among those who have such routines in their workplace), and the majority shared the employee's concern about the matter at hand. The vast majority of notification recipients believe that whistleblowing provides an opportunity to rectify errors in the enterprise. Six out of ten respond that whistleblowing cases are challenging because it is often one person's word against another's. Moreover, 24 per cent of the respondents believe that the whistleblowing provisions have made it easier to put forward groundless accusations.

Eight out of ten report that the case was handled confidentially and that the person accused was given the opportunity to provide his or her version of the issue. Less than half of all notification recipients had questioned the impartiality of those charged with processing the case, and four out of ten did not investigate what happened to the whistleblower.

## **The role of the Labour Inspection Authority and indicators**

The guidance provided by and the role played by the Labour Inspection Authority in cases involving whistleblowing form a key part of this report. We have drawn up a list of indicators that can be used to measure trends in the years to come. For example, they can assess employees' knowledge of how to notify public authorities, the role of the Labour Inspection Authority in cases involving whistleblowing and the utility of the guidance that the inspectorate provides.

The key indication of a positive trend would be that whistleblowing activity increases, that the use of sanctions is strongly curtailed, and that the proportion of those who report to be willing to blow the whistle again increases (see the table above). In addition, the following factors can be measured:

- familiarity with the whistleblowing provisions
- establishment of procedures/discussion in the workplaces
- employee participation in preparation of procedures
- awareness of the opportunity to notify public authorities
- awareness of the duty to notify censurable conditions
- assessment of the impartiality of those who will deal with the matter (the notification)
- proportion of recipients who investigate whether the whistleblower has been exposed to sanctions.