

Whistleblower Hotlines & Case Management Solutions: Major Challenges and Best Practice Recommendations

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Whistleblower Hotlines: Making Headlines

Many organisations are seeing the value of incorporating a professionally developed and managed whistleblower hotline and incident management system to reduce unethical and/or illegal behaviour among employees and within their supply chains. Recently, these initiatives are getting even more attention than usual.

For example, the recent French legislation, Sapin II, established a standard definition of a whistleblower in France and a national body has been created to detect and prevent corruption. Further, companies are required to implement "appropriate" whistleblowing procedures and to collect reports from their staff and business partners. This is a huge step forward in whistleblower legislation and has rippling effects across Europe and, for international companies, across the globe.

Similarly, the FCA/PRA in the United Kingdom launched the Rules for Whistleblowing as a part of the Senior Manager's Regime which requires financial services organisations in the UK to have a whistleblower hotline and adequate procedures to follow.

For organisations looking to develop and implement whistleblower programmes, there are a number of key challenges related to the systems, processes and technology by which alleged violations will be submitted, tracked, prioritised, investigated and – ultimately – resolved.

The Whistleblower Hotline: Simple Strategy, Complex Challenges

The purpose of an organisation's whistleblower programme is straightforward: to reduce employee misconduct and reduce organisational risk by identifying and resolving allegations of ethics and compliance violations – as quickly and as efficiently as possible.

Complexity arises when considering the full scope of designing, developing, implementing and maintaining the necessary people, processes and technology on a large-scale, quickly – and with minimal available internal personnel and financial resources.

The 9 key challenges related to development and management of an effective and efficient hotline are as follows:

1. It is essential that the hotline be perceived as independent and credible
2. The hotline must be universally accessible and user-friendly
3. Systems, tools and processes must enable accurate, intelligent tracking, reporting and decision-making
4. It is critical that data can be analysed to rapidly identify broader trends
5. The technology infrastructure must be secure, scalable and future-proofed
6. Potential whistleblowers need to be educated on when and how to use the hotline
7. The hotline must comply with various international regulations
8. The programme requires dedicated expertise in ethics and compliance, integration and programme management
9. The programme's results and efficiency must be apparent to key stakeholders

The following pages outline each of the above challenges as well as recommended best practices for addressing them.

CHALLENGE 1: IT IS ESSENTIAL THAT THE HOTLINE BE PERCEIVED AS INDEPENDENT AND CREDIBLE.

Best Practice: Ensure total confidence that the Whistleblower Hotline process is confidential and—if desired— anonymous.

- » Calls will be answered by a live operator, as anonymous reporters will almost never leave voicemail messages.
- » Reports and related information will be kept private and in a secure manner, whether or not a reporter prefers to remain anonymous.
- » The system assigns Personal Identification Numbers (PINs) or other confidential identifiers by which the organisation can communicate with anonymous whistleblowers to provide updates and ask follow up questions. This process also allows an anonymous caller to identify him/herself to the organisation as an investigation progresses.

Best Practice: Prevent real or perceived conflicts of interest or fear of retaliation

- » Hotline and incident management systems are operated and overseen separately and independently from:
 - The organisations and individuals that are potential subjects of whistleblower complaints
 - Individuals or departments within the organisation or elsewhere that have any interest in the organisations or individuals that are potential subjects of complaints
 - Individuals or departments within the organisation or elsewhere that have any interest in the status or outcome of potential violations

CHALLENGE 2: THE HOTLINE MUST BE UNIVERSALLY ACCESSIBLE AND USER-FRIENDLY.

Best Practice: Provide reporting channels that address how and when potential whistleblowers need to use the hotline

- » Provide multiple channels for reporting to meet capabilities and preferences of all potential whistleblowers: phone, mobile, web and other
- » Provide 24x7 x365 access (50% of calls come outside of business hours due to concerns about privacy and calls coming from various timezones)
- » Facilitate reports from international audiences in multiple languages and accessible by international callers

Best Practice: Ensure the hotline and related processes are highly functional as well as easy-to-use and understand

- » User-friendly interfaces
- » Customised scripting tailored to the type and source of allegation, as well as the targeted identity (i.e. public company vs. private, for-profit vs. academic, etc.);
- » Scripts administered by trained professionals

Best Practice: Assure users that complaints will be handled professionally and efficiently

- » Professional, skilled interviewers who are trained on the questions that will elicit the details needed for appropriate follow up
- » Integrated systems and processes to track status of each report
- » Proven processes to ensure timely feedback and updates
- » A clear follow up process is communicated to reporters

CHALLENGE 3: SYSTEMS, TOOLS AND PROCESSES MUST ENABLE ACCURATE, INTELLIGENT TRACKING, REPORTING AND DECISION-MAKING

Best Practice: Implement proven processes to handle a wide range of situations

- » Key processes include handling and tracking of reports via multiple channels (phone, mobile, web, in-person); analysing trends to identify broader issues or process breakdowns; and hand-offs between hotline staff and oversight/investigation teams
- » Hotlines, reporting and data handling must meet regulatory requirements that may differ depending on company division and country in which the report originates or where the alleged activity occurred
- » Escalation policies and procedures for time-sensitive issues: what topics, what characteristics, criteria should be prioritised
- » Dedicated processes for handling anonymous reporters, including a unique, confidential coding system

Best Practice: Implement integrated, streamlined incident management

- » Automated, software-based incident management including workflow automation and process controls that enable consistent and thorough documentation and investigation of policy and procedure issues, violations and concerns
- » Direct entry method for tracking issues reported by means other than the hotline (Open Door Policy), for complete and centralised management of issues
- » Mobile incident management for anytime, anywhere access
- » Analytics, including robust tracking, reporting and trending issues, with summary—and detail-level information

Best Practice: Intelligent data collection

- » Complex reports require live interaction by professionally trained personnel
- » Enables probing to ensure informed questions are asked and proper information is collected
- » Custom scripting addresses situations unique to the organisation and the industry in which it operates

CHALLENGE 4: IT IS CRITICAL THAT DATA CAN BE ANALYSED RAPIDLY TO IDENTIFY BROADER TRENDS

Best Practice: Reporting and analytics that yield useful, comprehensive management tools

- » Automated, on-demand and online reporting tools integrated with hotline and incident management systems
- » Trend analysis to detect widespread or repetitive issues in real-time
- » Centralised database for distributed organisations
- » Ability to provide on-demand holistic view as well as by office, region, category, etc.

CHALLENGE 5: THE TECHNOLOGY INFRASTRUCTURE MUST BE SECURE, SCALABLE AND FUTURE-PROOFED

Best Practice: Robust, secure, compliant and scalable technology infrastructure

- » Systems, infrastructure and processes designed with an emphasis on security and privacy, including:
- » SAS 70 Type II Certification
- » Privacy Shield Certification for provider and all interpretation and translation vendors
- » Independent security and vulnerability assessments
- » Software-as-a-Service (SaaS) model ensures that new versions and updates will be centrally deployed and not drain organisational resources
- » Call and data routing and handling, management and storage systems and platforms that can quickly and cost-effectively scale as needed to meet demand.

CHALLENGE 6: POTENTIAL WHISTLEBLOWERS NEED TO BE EDUCATED ON WHEN AND HOW TO USE THE HOTLINE

Best Practice: Launch and create awareness of hotline.

- » Create a custom, multi-channel campaign to raise initial awareness
- » Develop ongoing education campaigns to boost/maintain mindshare
- » Create materials in multiple languages for international audiences

Best Practice: Educate audience on when and how to use the hotline.

- » Develop materials to explain what the hotline does and does not cover
- » Reinforce the independence and discretion that is built into the programme
- » Create materials in multiple languages for international audiences

CHALLENGE 7: THE HOTLINE MUST COMPLY WITH VARIOUS INTERNATIONAL REGULATIONS

Best Practice: Meet laws and standards in all relevant jurisdictions.

- » Operate a European Union-Compliant data center to ensure meeting data privacy and other EU-specific requirements
- » Ensure design and functionality of Hotline intake, Incident Management processes, access and retention policies support regulatory requirements, i.e. the ability limit allegation reporting, minimise distribution of reports and "sanitise" information to comply with data privacy requirements
- » Follow and maintain compliance with changing regulations on a country-by-country basis, including Sapin II (France), APD/LOPD (Spain), UK Bribery Act (UK), PIPEDA (Canada), etc.

CHALLENGE 8: THE PROGRAMME REQUIRES DEDICATED EXPERTISE IN ETHICS AND COMPLIANCE, INTEGRATION AND PROGRAMME MANAGEMENT

Best Practice: Dedicated People and expertise

- » Define overall business and operational ownership of the whistleblower programme as well as for key elements
- » Determine the types of middle management, supervisory and front-line staff needed to implement and maintain the hotline
- » Develop a plan for acquiring and training the teams needed to properly handle reports, manage the investigation process, analyse trends and make key decisions

Best Practice: Comprehensive and integrated strategy and planning

- » Define the types of allegations should – and may be covered by the hotline programme and the multiple jurisdictions in which it will operate
- » Define potential whistleblowers and where they may be located
- » Gauge and prioritise potential whistleblowers' needs and concerns (i.e. confidentiality/ privacy)
- » Develop a plan for integrating the hotline into other existing business processes – what will it complement or replace?
- » Profile the users/administrators and define how will they interact with the hotline systems
- » Determine and prioritise the requirements/scope of the hotline (i.e. should it operate during business hours only or 24x7x365?)

CHALLENGE 9: THE PROGRAMME'S RESULTS AND EFFICIENCY MUST BE APPARENT TO KEY STAKEHOLDERS

Best Practice: Real-time visibility into key trends by allegation type and organisation

- » Provide executive-level and board-level reporting and analysis that enables strategic assessment and diagnosis of the whistleblower programme's performance and trajectory
- » Generate on-demand reports that enable the organisation to spot trends before they result in larger problems that are visible to the general public
- » Deliver analyses that show bottom line reduction in misconduct

Sourcing Considerations for the Whistleblower Hotline

A THIRD PARTY HELPS ESTABLISH THE PROGRAMME'S INDEPENDENCE AND CREDIBILITY

There is a singularly unique aspect of a hotline that is, in and of itself, a reason to strongly consider selecting an expert third-party source to develop and maintain it:

“External management of the organisation's whistleblower hotline ensures – both in practice and perception – that the entire process is separate from and independent of any potential conflicts. This independence will, in turn, encourage a potential whistleblower to contact the organisation regarding suspected ethics and compliance misconduct.”

MANAGING THE PROGRAMME'S OVERALL COMPLEXITY

As described in previously, there is a degree of complexity involved in developing, deploying and managing the type of hotline and incident management system required by an organisation, from multi-lingual phone support to customised incident management workflows to intelligent reporting and analytical tools.

Simply put, the vast majority of organisations, whether in the public, private or government sector, are not equipped to, nor can they justify building and integrating the individual elements – people, processes and technology – to meet the requirements of an initiative such as a whistleblower programme.

While there are numerous companies that provide general outsourcing services to government agencies – from government contractors to call center operators to business process outsourcing firms – there is a small sub-set of ultra-specialised firms that can meet the complex and varied requirements described above.

These specialised firms (like NAVEX Global) have dedicated hotline, incident management and reporting solutions and services – with expert consultants on staff to help develop the appropriate strategy and plan for an organisation's whistleblower hotline and incident management systems.

PERFORMANCE, PRIVACY AND COMPLIANCE FACTORS RELATED TO OUTSOURCING

The specialised purpose and function of an effective whistleblower hotline and incident management system translates into highly specialised requirements in areas such as:

- » **Delivery against service levels** - Most organisations find it too labour-intensive to staff and operate the hotline and incident management system 24 x 7 x 365 to accommodate calls outside of business hours, from international locations – and in multiple languages
- » **Ability to properly train** - Continually hiring and training personnel to staff the hotline and perform incident management functions is complex and costly – and better suited to a specialised third party
- » **Efficient call and data routing and handling** - Sophisticated software and processes are required to automate workflows and ensure the entire system performs accurately and will scale to meet demand
- » **Ensuring security and privacy** - The systems, infrastructure and processes required to handle and store information in a secure and private manner mandates specialised expertise and processes typically not found outside of specialised service providers
- » **Maintaining international compliance** - In most incidents the expertise and cost of complying with multiple and changing regulations and guidelines cannot be justified by sourcing inhouse

COST IMPLICATIONS OF SOURCING DECISION

There are significant considerations regarding cost and cost-effectiveness required for the overall design, development and maintenance of a hotline and incident management system. Typically, a single organisation cannot justify the high costs of building or acquiring the necessary components – people, processes and technology – and integrating them. Considerations include:

- » **Up-front Investment.** An in-house hotline means devoting capital to purchasing or developing technology, software and systems as well as other expenses such as facilities and full-time staff
- » **Future-Proofing Technology.** Software, hardware and other system components require upgrading and updating over time so that they do not become obsolete relative to the overall needs of the programme
- » **Budgeting Predictability.** The variable month-to-month and quarter-to-quarter expenses associated with managing a hotline and incident management system can present challenges to budgeting and planning processes

In Summary

The integrated hotline and incident management components are the employee facing “front end” of any whistleblower programme. As such, their proper implementation and management will determine how the programme is perceived by potential whistleblowers and other key stakeholders.

The hotline will also largely conclude how effective and efficient the programme is in meeting its overall objectives.

In planning, developing, implementing and managing its whistleblower programme to achieve its core goals for risk reduction, an organisation must take into account several key factors:

- » It is critical to both the performance and perception of the whistleblower programme that reports are handled in an independent and confidential manner
- » The range and depth of requirements translates into a high degree of complexity for the organisation to plan, implement and maintain the people, processes and technology behind a successful hotline and incident management initiatives
- » The development and maintenance of the programme, including the necessary specialised expertise, processes and technology, carries a significant cost – as well as a very high risk of obsolescence

Based on these factors, the organisation must decide whether to manage the hotline and incident management elements of its whistleblower programme internally or seek a qualified third-party provider. The latter has proven to be a successful strategy for a number of organisations that have deployed hotlines that meet legislative best practice. If the organisation chooses to outsource, it should seek an organisation that specialises in providing ethics and compliance solutions and offers proven and scalable systems, processes, technology and expertise.

ABOUT THE AUTHOR



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Ed Petry, Ph.D., is vice president, NAVEX Global's Advisory Services. Ed joined the organisation in 2004 after almost ten years as executive director of the Ethics and Compliance Officer Association (ECO). Ed served on the Advisory Panel to the U.S. Sentencing Commission, which was responsible for the 2004 revisions. Earlier in his career he was a tenured professor of ethics and a prolific author and researcher. While others may claim to know best practices, Ed's work with the ECOA and the Sentencing Commission actually helped establish those practices, as well as the standards by which they are measured. At NAVEX Global, Ed applies his more than 25 years of experience to help companies assess their ethics and compliance programmes. He has also written many of the most admired codes of conduct for companies worldwide across nearly every industry.

ABOUT NAVEX GLOBAL

NAVEX Global's comprehensive suite of ethics and compliance software, content and services helps organisations protect their people, reputation and bottom line. Trusted by 95 of the FORTUNE 100 and more than 12,500 clients, our solutions are informed by the largest ethics and compliance community in the world.