

The frontline of the “Whistleblowing System” that is essential for global companies(Part 3)

Design and operation of global Whistleblowing Systems

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Introduction: For an effective system

For companies operating globally, the design and operation of a Whistleblowing System differs from a domestic-only system in that many legal and cultural factors need to be taken into account. A strategic approach is essential to building an effective system. This chapter explains the key points in the design and operation of a global Whistleblowing System.



1. Key points in the design of the system

1. Selection of reporting channels and multilingual support

It is important to provide multiple reporting channels so that employees can report matters without fear. Generally, it is recommended to set up both an internal contact point and an “external contact point”, such as a lawyer’s office or a specialist firm. Unlike the internal contact, the external contact is independent of the company and can therefore be expected to conduct fair investigations.

In addition, multilingual support is essential for global companies. Convenience can be enhanced by installing a system that can receive reports 24/7 from anywhere in the world.

2. Ensuring anonymity and protection of whistleblowers

Protecting the anonymity of whistleblowers and protecting them from retaliation is of paramount importance for the credibility of the system. If information is leaked, whistleblowers may stop reporting for fear of retaliation and lose a valuable source of information.

To prevent this, it is essential to ensure “strict confidentiality”, which means that the personal information of the whistleblower is not disclosed without his or her consent, and “no retaliatory measures”. A system that provides the option of anonymous reporting and allows communication to continue with a unique ID is also effective.

3. Drafting rules and regulations and local law review

When introducing a system, it is essential to prepare “rules and regulations” to set out detailed rules on receiving reports, investigation procedures, corrective measures, protection of whistleblowers, etc., and to review the local laws of each overseas office where the system is introduced.

In particular, compliance with the “personal data protection laws” of each country (e.g. EU GDPR, Chinese personal data protection law, etc.) is extremely important in global Whistleblowing Systems, as personal data is expected to be transferred across borders. As each country has special regulations, such as the obligation to store personal data on local servers in Russia, it is necessary to adapt the regulations to local laws. In addition, any regulations drawn up must be accurately translated into the local language so that they can be understood by local officers and employees.

4. Group-wide uniformity and flexibility

The establishment of a global Whistleblowing System requires a balance between a unified Group-wide policy

and flexibility to suit the situation at each location. For example, although the term “sexual harassment” has the same abstract meaning, the specifics (cases in which sexual harassment is established) often differ from country to country. Therefore, when educating employees, it is necessary to inform them about what constitutes a case of violation of local law in line with local law and practice. On the other hand, it is also important for the head office to define the minimum standards that must be complied with in the regulations and to unify the policies of the entire group. The most appropriate system should be selected according to the size and business activities of each company.

2. Operational challenges and solutions

1. Increasing the number of reports and dealing with harassment cases

As awareness of the system increases, the number of reports increases, but many of these are harassment-related cases only, and important reports of misconduct may be buried.

One solution is to establish group-wide “materiality criteria” for reporting, and prioritise responses based on criteria such as human life and safety, impact on earnings, and legal violations. It is also effective to separate the “Fraud Reporting Desk” and the “Harassment Consultation Desk” and assign a specialised person to each, and to utilise AI to analyse reports and streamline risk assessment.

2. Restrictions on investigative authority and cross-border investigations

Fraud investigations at overseas locations pose a number of difficulties, including restrictions on investigative authority, data transfer challenges and the complexity of local laws. In particular, in cases of fraud involving local management, it can be difficult for the head office to lead the investigation.

A possible solution is to actively utilise lawyers and experts who are familiar with local laws, regulations and business practices to ensure neutrality and fairness. Measures such as anonymising the content of reports when sharing them with local investigators are also necessary.

3. The impact of cultural differences on reporting behaviour and investigations

The culture and business practices of different countries have a significant impact on whistleblowing behaviour and investigations. For example, similar to Japan's “do not disturb the harmony” culture, many Asian countries may be reluctant to accuse their superiors or colleagues of wrongdoing. In some regions, bribery is customary in overseas subsidiaries, which can make it difficult to detect irregularities.

In this regard, and overlapping with the above, a system that allows anonymous reporting and the use of external third-party organisations as reporting channels is key to reducing cultural resistance and facilitating reporting. It is also essential to encourage ethical behaviour and embed the importance of the Whistleblowing System in the culture through a thorough global code of conduct and ongoing compliance training.

4. Preventing staff shortages, the accumulation of know-how and the impersonalisation of staff in charge

The operation of a Whistleblowing System requires specialist knowledge, but particularly in small and medium-sized enterprises and overseas offices, the lack of personnel and know-how of those in charge and the individualisation of responses tend to be challenges. This can be minimised by outsourcing the operation of the Whistleblowing System to an external lawyer or other expert to receive professional support and minimise legal risks. In addition, the development of a manual on whistleblowing and regular training programmes can prevent the use of a single person in handling cases, and promote the sharing of know-how.

3. Lessons learned from successes and failures

To improve the effectiveness of the Whistleblowing System, it is essential to learn from past successes and failures and apply the lessons learned to the design and operation of the system in your company.

1. Analysis of success stories

The success of a Whistleblowing System is measured not only by the number of whistleblowing cases, but also by whether the whistleblowing is handled appropriately and leads to the correction of irregularities and the prevention of recurrence.

For example, a major automobile company has introduced a global “SpeakUp” system and maintains a high number of whistleblowing cases. In the case of a major Japanese heavy industry manufacturer, a global whistleblowing platform was used to improve efficiency through the use of external experts and the introduction of the system.

Rather than introducing the system at all sites at once, it is also effective to introduce the system on a trial basis at specific sites with high risk, and to introduce the system step by step as experience is gained.

2. Analysis of failure cases and lessons learned

If the Whistleblowing System is operated incorrectly, there is a risk that the problem may be exacerbated.

(1) Ensure whistleblower protection: there have been cases where whistleblowers' confidentiality was not protected and they were retaliated against. It is essential to put in place strict rules that personal information is not disclosed without the person's consent and prohibit retaliatory measures.

(2) Conduct thorough fact-finding investigations: there have been cases where insufficient investigations have failed to uncover the full extent of the wrongdoing and the problem has later escalated. Prompt and thorough investigations are crucial.

(3) Ensure independence from management: if management is involved in the fraud, fair investigations cannot be expected, and this is a major factor in the system becoming disorganised. An independent operational system must be established, for example, by appointing external experts.

(4) Take effective measures to prevent recurrence: formal measures do not solve fundamental problems, and similar problems have occurred repeatedly; continuous improvement efforts, such as the PDCA cycle (plan, do, assess, improve), are essential.

4. Finally.

Although it is important that the Whistleblowing System itself is designed and operated in accordance with the specific circumstances within each company and the regulations of each country, it is advisable to make good use of the system to prevent fraud and harassment by referring to examples of other companies.

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