

# COVID-19 implications: the whistle-blowing function

Minds made for protecting financial services

## Introduction

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In times of significant disruption, the risk profiles of organizations increase. This is due to a combination of an increase in inherent risks, such as internal and external fraud, bribery and corruption, and employee misconduct, as well as the possibility of internal disruption impacting the efficacy of key control functions.

The natural organizational response to disruption is to focus on revenue generation and customer-serving activity. While this supports business continuity, it means there may be less focus on whistle-blowing or “speak-up” processes and business integrity.

This paper examines the whistle-blowing function as a key control and highlights issues to consider in the coming weeks to ensure the control remains effective and responsive in the current business environment.

## Read other EY Financial Services COVID-19 implication papers:

- ▶ Bribery and corruption risks
- ▶ External fraud
- ▶ Internal fraud
- ▶ Market abuse
- ▶ Navigating the impacts of the pandemic on financial crime compliance
- ▶ The internal investigation process

## Observations in the market

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During the COVID-19 crisis, organizations will need to keep core operations running; this may lead to investigation teams being redeployed or asked to curtail investigations if it impacts key or front-office employees.

It is likely that, as employees adapt to new ways of working, there could be a short-term increase in whistle-blowing cases. This could be attributed to employees having more time away from established teams, line managers and offices to consider possible reporting.

Any increase in whistle-blowing cases in the next few weeks will likely be comprised of allegations or concerns around behavior observed before the lockdown. While there will be operational challenges and data constraints, the cases are likely to be similar in nature to those seen historically.

As we move further into the future, and the longer face-to-face contact between employees is curtailed, the change in working environments may translate into a changing portfolio of cases to be investigated. Continual monitoring of case volume and case types over the coming weeks will be required to ensure that the whistle-blowing function continues to have appropriate triage and investigation capacity to deal with these cases.

# What does this mean for you?

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It is always difficult to predict whistle-blowing caseloads, but in the current business environment, this task becomes even more challenging. In our experience, it is organizations that can quickly adapt to changing circumstances and have the confidence to experiment with new thinking and ways of working that are best able to adapt and thrive.

There are several areas where organizations should take action immediately:

## Stabilize the whistle-blowing function

Organizations should review their whistle-blowing reporting process and assess whether it is available to all employees (e.g., those without laptops, those with poor English language skills or those with disabilities, such as hearing or visual impairment).

If organizations rely on third parties for elements of their whistle-blowing function (such as an external whistle-blowing line, investigation specialists or translation services), these arrangements should be reviewed to ensure there is no reduction in service levels.

The governance model should also be reviewed, and changes made if necessary, so that alterations to reporting lines, case triage or the investigation approach can be made quickly.

Lastly, the case portfolio should be reviewed, and decisions made on whether to start, stop or continue investigations. These decisions must be clearly documented and applied consistently across all cases.

## Consider the agility of the whistle-blowing function

The triage process is key to ensuring reports are investigated efficiently and effectively, and clarification is likely to be needed on cases raised in response to COVID-19. Cases concerning poor line manager conduct, which previously would have been classified as grievances, may now have health and safety implications (e.g., if employees are told to travel unnecessarily), which may mean the situation should be classified as a whistle-blowing case. The existing triage guidance should be reviewed and clarified if necessary.

Whistle-blowing teams should be conscious of the increased risk that cases may be raised as a protective measure against operational change and redundancy resulting from the COVID-19 crisis. The risk is that any employment termination action after a whistle-blowing case is raised may appear to be in direct response to the action of whistle-blowing. Cases should be clearly documented and performed in line with agreed procedures.

As new types of cases are reported and investigated, the whistle-blowing team should consider carefully any lessons learned and raise remediation recommendations quickly and clearly across the business.

Organizations should consider and document procedures for how to engage with furloughed employees, and ensure that these employees are aware of their rights and obligations under the furlough scheme. For example, under the current rules, employees are not able to work for their employer. If required to work in breach of government rules employees will have protections afforded to them under whistleblowing legislation.

## Working with the business

Organizations can support the whistle-blowing function by utilizing the resources that they have within the business.

Line managers are key points of contact for employees, and these relationships become more important during remote working. It is the line manager who will have the most regular contact and be best able to assess employees' personal circumstances, and key in disseminating news and key messages from the business. They can inform employees of how to report issues, and direct them to other support functions, such as counselling helplines.

Line managers should receive guidance on how to receive and progress whistle-blowing reports virtually. Additional training on effective management of remote employees may also be helpful.

Organizations should clearly communicate conduct expectations to employees and emphasize the need to behave in a professional manner while working with others remotely.

## Remind employees of how to report concerns

Employees have recently undergone a significant shift in their working practices. Organizations should take this opportunity to remind them of the importance of reporting misconduct and the methods of reporting, and reiterate that employees who report matters will be protected and not suffer detriment.

Organizations should review the information available to employees in their whistle-blowing material or on their intranet site. Any specific cases or examples included in this resource should be considered for relevance, and organizations should also consider adding specific COVID-19 examples.

## Key contacts

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For further information, please contact the Financial Crime and Forensics team.

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