



Whistleblowing procedure in NMS

Adopted by LS (item 57/19) 13.09.2019

Objective

- Unlawful or unethical practices must be identified and resolved as soon as possible.
- Provide clear guidelines for internal communication and whistleblowing.
- Reporting unlawful or unethical practices in the organisation must be known and easily accessible.

What is whistleblowing?

- To whistleblow is to report unlawful or unethical practices in the workplace, including violation of law or regulations, or breach of guidelines or ethical norms
- Internal or external whistleblowing
 - In *internal whistleblowing* the employee reports the issue of concern to someone in his/her own organisation who has a capability to rectify the matter, for example to his/her own supervisor or to an internal receiving unit
 - In *external whistleblowing* the employee reports the issue of concern to someone outside the organisation who has a capability to rectify the matter, for example to a public authority.
- Examples of matters that may be relevant to report:
 - Failure of safety procedures
 - Working conditions in violation of Working Environment Act requirements and NMS guidelines
 - Inappropriate case handling
 - Corruption and other financial misconduct
 - Statements and practices in breach of NMS' fundamental values
 - Discrimination and bullying/harassment/sexual violations in the workplace
- The following is not considered as situations to be reported:
 - Personnel conflicts
 - Professional disagreement
 - Private agreements
 - Ordinary non-conformance reports through the HSE system and similar.

Who may report issues of concern?

The whistleblowing procedure applies to all employees of NMS, local employees with NMS partners, hired labour and voluntary workers in NMS. Employee rights/duties as concerns whistleblowing are regulated by law. There is no separate legislation within this area for voluntary workers/local employees.

However, if voluntary workers /local employees report concerns the matter will be handled according to the same internal procedure.

Employees' rights and duties

- The Working Environment Act, § 2 A-1 (1), establishes that employees have a right to report censurable conditions.
- It is important for employees to exercise this right. Employees speaking up is often the only way whereby a negative culture and illegal conditions may be uncovered. Whistleblowing provides an opportunity for sorting out the problems and preventing them from escalating.
- The employees' line of action when whistleblowing must be appropriate (in accordance with NMS whistleblowing procedures), see § 2 WEA A-1 (2)
- In a sound working environment there must be a low threshold for reporting concerns. At the same time, the employee must make sure that the employer, the working environment, and colleagues are not put under strain without grounds.
- Under the Working Environment Act § 2-3 (2), employees have a duty to report concerns if there is a risk to life and health, or if one observes harassment or discrimination. However, one has also individual responsibility for helping to avoid such occurrence.

Employer's responsibility

NMS will:

- Work toward a healthy organizational culture which motivates for open and good communication
- Create a sense of security allowing censurable conditions to be addressed
- Facilitate for an environment that allows whistleblowing (Employer's duty, see WEA § 3-6)
- Ensure that whistleblowing is followed up in an appropriate manner
- Ensure that the whistleblower is not exposed to retaliation and that the person(s) the report relates to is (are) not judged in advance.

How to report

- The report must be justifiable. This means that the employee must be in good faith that there exists a blameworthy condition (but it is permissible to be wrong).
- Whistleblowing may be done internally or externally. These guidelines address internal whistleblowing. Employees are encouraged to report issues of concern internally to start with. Cases where external reporting nevertheless may be considered are:
 - If the employer's whistleblowing procedures are inadequate
 - If the procedure is not perceived as secure enough to the whistleblower
 - When the censurable conditions are of such a grave character that internal whistleblowing will be associated with major risk to the whistleblower or a risk of evidence being tampered with.
- Issues of concern may be reported to the immediate superior.

- In the event of very serious issues of concern, suspicion of concerns directed at management, or if it is impossible to report to the immediate superior, the report may be directed to NMS's Whistleblowing committee (VU). The VU will consider how the matter is to be further dealt with, including whether the VU is to deal with the report or forward it to a different level of management /body. The VU has the following members:
 - Secretary-general
 - Personnel manager/ consultant
 - Financial Manager (in cases of suspected corruption)
 - Safety delegate
- Whistleblowing may be done both verbally and in writing, however preferably in writing via an online form on <https://nms.no/varsling/>. When submitting a whistleblowing report it is important to state clearly that this is to be considered as whistleblowing according to these guidelines.
- The report may be submitted anonymously. However, you should be aware that if the report is made anonymously, there are very limited possibilities for following up potential sanctions should the report relate to wrongful acts to which the whistleblower himself/herself has been exposed.
- The report should contain specific information about the place, time, incident and person(s) involved, potential witnesses and other relevant information that enables an appropriate processing of the case.

How whistleblowing reports are to be handled

- All whistleblowing reports must be taken seriously.
- All allegations must be thoroughly examined, and potential conditions must be sorted out soonest possible.
- Whistleblowing made within the line, must be sought resolved there. The VU may when required assist the leader in the handling of the case.
- Whistleblowing reports to the VU are considered by the VU.
- Whistleblowing reports about corruption, bullying, harassment or sexual violations are dealt with based on separate guidelines. In cases where the VU receives reports which thematically and directly include corruption, bullying/harassment or sexual violations, the report will be forwarded to the correct body.
- The body in question will initially have a meeting with the whistleblower about the matter. The whistleblower may bring an employee representative/trusted person to the meeting. Minutes of the meeting will be taken, and signed by the body in question, as well as the whistleblower, and filed inaccessible to unauthorized persons. The whistleblower will get a copy.
- An examination is then initiated. If the report relates to persons, they will be invited for a meeting, and they may bring their employee representative/observer. Minutes of the meeting will be taken, and signed by the body in question as well as the person concerned, and filed inaccessible to unauthorized persons in the personnel manager's file. The person concerned will receive a copy.
- After that it may be required to speak with relevant witnesses, or acquire relevant information, e.g. text messages or e-mails.

- The body in question prepares a written note which comprises what the report addresses and the cause of action that the examinations have identified.
- With basis in the evidence and facts revealed in the matter, a decision/conclusion is made, and measures are implemented.
- If the whistleblowing report concerns individuals, the person in question will have a right to receive information about the matter and right to access information about himself/herself.
- VU or another body dealing with the matter has a right to consult external bodies/professional communities if this is found useful in considering the case.
- All journaling in the matter is to be performed by the personnel section.

How the whistleblower is to be followed up

- The whistleblower is to get a confirmation that the report has been received within two weeks after it was reported, as well as information about further processing.
- The whistleblower's identity is treated as confidential information.
- The matter reported must be in focus, not the whistleblower.
- The whistleblower is to receive feedback on the outcome of the matter within two months after the report was received.
- Employees who in good faith report on concerns or misconduct must be protected against any form of retaliation. Protection in this context means that NMS will not remove, suspend, threaten, harass or discriminate an employee who reports about such conditions. Any breach of this rule must be reported to the Personnel Manager.

How the person reported is to be followed up

- The accused has a right to defend himself/herself and get access to the accusation and the identity of the whistleblower, if this is relevant to the matter (the right of contraction and access), but he/she may not demand access to internal investigation documents.
- The accused must be considered innocent until the opposite has been found sufficiently proven (50 % preponderance of the evidence), and he/she has been given a chance to defend himself/herself against false accusations.
- In the event of grave accusations the accused may be suspended during examination of the case.

How breaches of the law and other censurable conditions are met by sanctions

- Depending on the seriousness of the matter, the following sanctions may become relevant:
 - Verbal or written warning
 - Relocation
 - Dismissal, or at worst
 - Summary dismissal
 - Claim of compensation from NMS (e.g. in the event of corruption/financial misconduct)

- Violations of the law under the Criminal Code (Norw. *straffeloven*) are reported to the Police

How NMS deals with erroneous and false reports

- The whistleblower will be told that the body in question has concluded that the report is incorrect and will learn the basis of the conclusion.
- If the report relates to persons, best efforts must be made to restore the trust of the person accused. This entails giving information about the decision that has been made to all bodies and persons who the employer has informed about the matter.
- The person who has been wrongfully accused should be offered assistance in dealing with the emotional stresses caused by the case, and should receive reimbursement of potential financial outlays relating to processing of the case.
- If, after consideration of the case, it is concluded that the accusations are false, the necessary disciplinary action will be implemented against the whistleblower /whistleblowers, for example dismissal/summary dismissal from their position with NMS. False accusations may also result in legal proceedings.

How to make complaints in a whistleblowing case

- The whistleblower or the accused has a right to appeal the decision in the matter if they feel that the outcome is incorrect or unjust.
- The appeal must be filed in writing, giving a detailed explanation of the basis of the appeal, and will be handed in to the supervisor/alternatively the body that has handled the matter, within 2 weeks after decision in the matter was made.

Evaluation

These guidelines are normally to be evaluated during each national council period.

Information on procedures

Information will be provided in the shared Skype-info for employees + via mail, and will be posted on Perleporten as well as on NMS' external web pages. All supervisors with personnel responsibility are encouraged to review the procedures with his/her staff. The procedures are attached to the personnel handbook and incorporated into internal control documents.