

Whistleblowing and freedom of speech in Norwegian working life 2016

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I work in a small business. Every week, we have an internal meeting where we address what has been done and what remains to be done. There is a great deal of acceptance of matters to be addressed, and the boss listens to everybody! (Quote from the survey)

In general, I believe that whistleblowing has no consequences whatsoever – ethical guidelines are hard to interpret. It's one person's word against that of another. But criticism of individuals must be conveyed behind a closed door, and this often fails to happen. (Quote from the survey)

The conditions for free speech and whistleblowing are assessed in varying ways in Norwegian working life, as shown by the two quotes above. In this report, we have studied assessments of the freedom of speech in a representative sample of Norwegian employees and the degree to which they blow the whistle on acts of wrongdoing. In recent years, these topics have attracted widespread public attention. Terms such as 'muzzle' and 'culture of fear' have been used to describe parts of the Norwegian labour market, at a time when employees' freedom of speech has formally never been greater. In this study, we have examined in detail:

- internal and external opportunities for exercising freedom of speech
- familiarity with routines for reporting of discrepancies and whistleblowing
- when acts of wrongdoing are reported – about what and to whom
- how the cases and whistleblowers are dealt with
- how the recipients address the cases submitted to them

Internal and external tolerance

The legal protection for freedom of speech provided to Norwegian employees will not necessarily be reflected in the workplaces. The employees who have responded to this survey work in enterprises of varying size. Some work in large and complex organizations that are also regarded as key social institutions. Others work in small enterprises, in which making public statements about workplace issues is an alien notion. Our findings show that in general,

discussing work-related issues at work is perceived as uncontroversial. However, when voicing critical views of workplace issues, one in four employees encounters management displeasure. This is a significantly higher proportion than was seen in the study *The status of freedom of speech in Norway* (2014), in which the same question was also posed to a representative sample of Norwegian employees.

When asking employees to assess their right to voice concerns externally, we have emphasized that this does not include statements that violate the statutory duty of confidentiality. One in three Norwegian employees reports having signed an agreement with their employer restricting their opportunity to voice concerns publicly, out of concern for the enterprise's reputation. Moreover, one in three believes that their opportunity to publicly voice concerns about seriously acts of wrongdoing is restricted by superiors. In our opinion, these are large numbers.

Are wrongdoing reported in Norwegian working life?

The objective of the provisions on whistleblowing that were added to the Working Environment Act in 2007 was to provide employees with a right to report wrongdoing in the workplace without needing to face retaliation.

Familiarity with the provisions on whistleblowing and the availability of a system that facilitates this in the workplace are therefore key premises for ensuring real protection of whistleblowers. Viewing the entire sample as a whole, one in three respondents states that they were *not* familiar with these provisions before being introduced to them in the study. This is a lower proportion than the one we found in 2010. The majority of Norwegian employees, however, have never participated in a discussion of what should be seen as wrongdoing or how whistleblowing should be understood. Such discussions could help establish a shared understanding of what can be considered wrongdoing, and the rules that apply to those who receive reports from whistleblowers, and thus also help ensure that the case or cases in question as well as the employees who submit such reports are better dealt with.

How are censurable conditions addressed?

Altogether 16 per cent of those who responded to the survey had witnessed, experienced or disclosed acts of wrongdoing during the preceding year. The most prevalent reprehensible issues include 'destructive leadership that is detrimental to the working environment', 'violations of ethical guidelines' and 'conditions that may pose a risk to life and health'. Altogether 53 per cent of those who had witnessed, disclosed or experienced one or more acts of wrongdoing during the preceding year had reported it. This proportion is in line with results from other studies. This notwithstanding, the study shows that a considerable proportion did *not* report. The main reasons for remaining silent are an apprehension of severely unpleasant consequences as a result of making such a report, and also fears of retaliations. This fear is more evident than we have registered in previous studies. Moreover, some disconcerting findings indicate that such fears may be justified. One in every four Norwegian employees who makes such a report is met with reprisals. We have never previously measured such a high proportion in the Norwegian labour market.

Furthermore, this study shows that 43 per cent of those who are the main recipients of whistleblowing reports, i.e. managers, safety delegates and trade union officials, failed to investigate whether the employee who submitted the report to them was exposed to reprisals during or after the whistleblowing process. Here, there is clearly room for improvement. Investigating the consequences for the reporting employee ought to be included as a separate item in an enterprise's whistleblowing routine.

Does whistleblowing have any effect?

So what about the cases that are brought to light? Altogether 36 per cent of the respondents believe that whistleblowing has effect. This is a lower proportion than we have previously found: in the report 'Status for freedom of speech in Norway' (2014), a total of 54 per cent of the respondents stated that whistleblowing has an effect (so-called 'whistleblowing effectiveness').

Previous studies have shown that witnessing reprehensible conditions is a strain on those involved, and it also has a demoralizing and de-motivating effect (Miceli et al. 2012). On the other hand, the same studies show that if these conditions are rectified, the negative consequences are minimized. Four out of ten respondents in our study believe that their whistleblowing has no effect. In addition to the consequences described above, it is reasonable to assume that this may have the effect of silencing other employees who are in a position to blow the whistle.

We have seen that the majority of the cases are related to the working environment in general and management in particular. In conjunction with the trade union representatives and the safety delegates, the management has a particular responsibility for ensuring a fully acceptable working environment, pursuant to the Norwegian Working Environment Act. We have also seen that fear of reprisals is a key reason for failing to blow the whistle. Overall, this indicates that a significant proportion of the employees find it difficult to voice criticism and report wrongdoing.

At the same time, the study shows that a low tolerance of criticism and whistleblowing is found not only among managers. Even colleagues may help establish a working environment in which blowing the whistle on wrongdoing may entail major personal repercussions. It will be essential to discuss measures that can promote a culture in which criticism and whistleblowing are handled constructively, and where there is tolerance of critical viewpoints. This makes demands not only of the recipients of criticism and whistleblowing, but also of the messengers. It is conditioned by provision of information and a willingness to discuss difficult cases.

Seen in a larger context

In conclusion, we compare findings from this study with those from other studies along a number of key dimensions that pertain to whistleblowing. A number of large-scale studies of whistleblowing have been conducted in Norway during the last decade. All of them have been in the form of mapping studies and analyses of self-reported whistleblowing and its consequences. In other words, the analyses are based on responses from employees who have

experienced acts of wrongdoing in their workplace and the subsequent course of events. All these studies are sample-based, of varying scope. Some studies have targeted Norwegian employees across sectors and industries. Others have concentrated on selected sectors or groups of professions, whereas some have targeted specific functions, for example managers, trade union representatives or safety delegates. The table below summarizes the main points of those studies that cover the entire labour market. The first of these, the Living Conditions Study 2006, was conducted before the current provisions on whistleblowing in the Working Environment Act entered into force.

Table 7.1 Findings from studies conducted during the period 2006–2016.

	SSB LKU 2006	Matthiesen et al. 2008	Trygstad 2010	Bjørkelo et al. 2010	Status for freedom of speech 2013	Trygstad & Ødegård 2016
Sample	Norwegian labour market	Norwegian labour market				
Whistleblowing activity	77%	55%	53%	12% *	64%	53%
Whistleblowing effectiveness	-	51%	50%	59%	52%	36%
Exposed to reprisals	12%	18%	13%	7%	15%	25%
Proportion that would blow the whistle again?	-	81%	82%	-	84%	71%

* The percentage has been estimated on the basis of the sample, not on the basis of those familiar with reprehensible conditions in the workplace.

The table shows the variations in findings along selected variables. With the exception of the questions on whistleblowing that were included in the Living Conditions Survey 2006, identical questions have been used in the different surveys. As regards whistleblowing activity, this has remained relatively stable from 2008 to 2016, although the proportion in 2013 was higher than in other studies. When it comes to whistleblowing effectiveness, we see a decline from 2013 to 2016. The same can be observed in the study of members of seven trade unions (Ødegård et al. 2016). There is also a clear increase in the proportion of employees who respond that they face reprisals because of having blown the whistle on censurable conditions and a clearly reduced proportion who report their willingness to do the same again should they find themselves in a similar position. The findings underscore the reasons for concern over developments in Norwegian working life when it comes to whistleblowing.