



Whistleblower Protection Legislation and Mechanisms



Leah Ambler
Anti-Corruption Division
OECD
Leah.Ambler@oecd.org



Overview

- Defining Whistleblower Protection
- Benefits to Combating Corruption
- Legal Sources
- Main Features of Protection Mechanisms
- Private Sector Protection
- Challenges to Overcome



Whistleblower Protection

- “Protection from discriminatory or disciplinary action public and private sector employees who report in good faith and on reasonable grounds suspicions of corruption to competent authorities”
- Not to be confused with:
 - Witness Protection



Use in combating corruption

- Encourages reporting of misconduct, fraud and corruption;
- Decreases corruption risks;
- Increases detection of corruption;
- Creates a more accountable workplace;
- Helps authorities monitor compliance with anti-corruption laws.



Legal Sources

- **Sectoral laws**, *e.g.* anti-corruption laws, labour law, employment law, companies and securities laws, environmental protection laws.
- **Specific dedicated laws**, *e.g.* comprehensive whistleblower protection laws, public interest disclosure laws.
- **International anti-corruption instruments**, *e.g.* UNCAC, Council of Europe Civil and Criminal Law Conventions on Corruption, OECD Anti-Bribery Convention.



Features of Whistleblower Protection Mechanisms

Mechanisms for Protection:

- Protection against retaliation
- Protection against civil and criminal liability
- Anonymity and Confidentiality
- Burden of Proof





Features of Whistleblower Protection Mechanisms

Reporting

Procedures:

- Prescribed channels for reporting
- Hotlines
- Incentives





Features of Whistleblower Protection Mechanisms

Enforcement

Mechanisms:

- Oversight and Enforcement Authorities
- Availability of Judicial Review
- Remedies and Sanctions for Retaliation





Features of Whistleblower Protection Mechanisms

Awareness-raising and Evaluation

Mechanisms:

- Promotion within places of employment;
- Legal requirements for employers to keep employees informed of whistleblower mechanisms;
- Periodic evaluation of effectiveness of whistleblower protection system;
- Surveys



Private Sector Protection Mechanisms

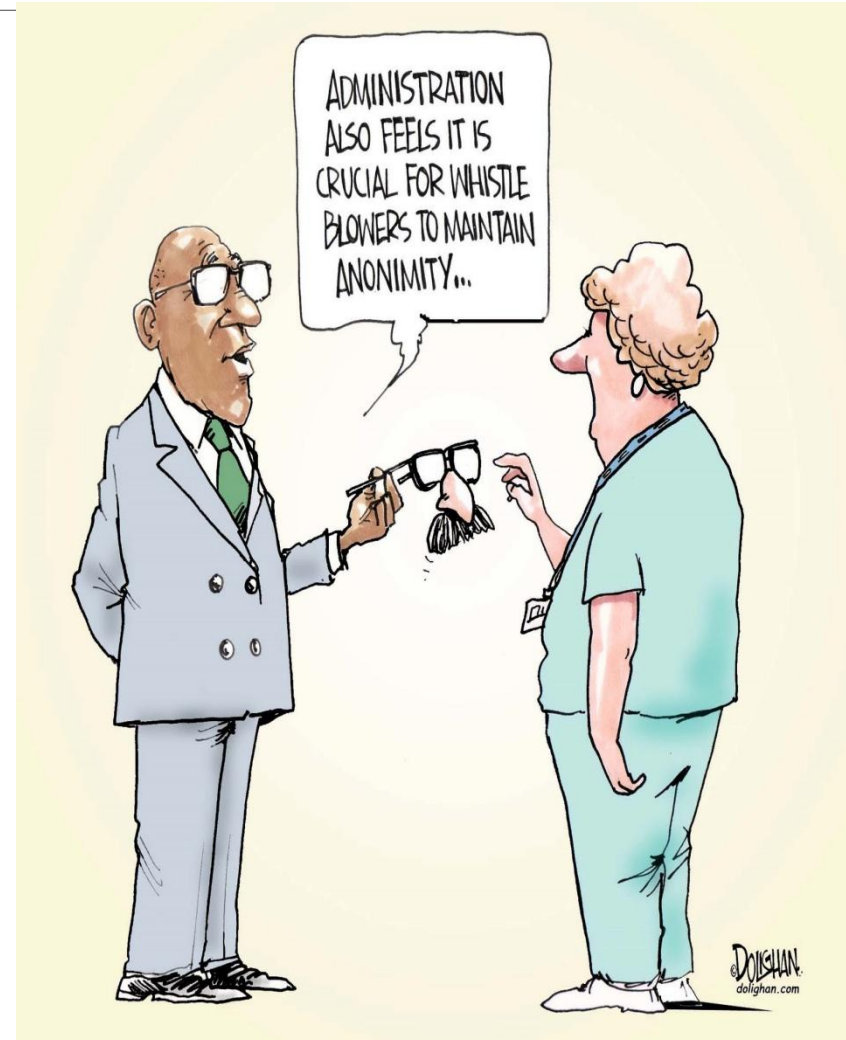
- Domestic laws with comprehensive coverage of protected persons, *e.g.* Japan, Korea, United Kingdom, United States.
- Voluntary measures taken by private sector
- Impact of introduction of comprehensive anti-bribery laws, *e.g.* UK Bribery Act.





Challenges

- Insufficient knowledge of law
- Fear of reprisals
- Lack of meaningful implementation of the law
- Confidentiality / loyalty provisions
- Cultural, historical barriers





Overcoming Challenges

- Education
- Awareness-raising of rules and procedures
- Ensuring effective protection is provided
- Creating an organisational culture of transparency which supports whistleblowing

