

# What do we know about whistleblowing in Norway

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**Peer Review on «Enhancing whistleblower protection through better collaboration between responsible authorities – a tool to prevent work-related crime»**



# The agenda

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- How to define whistleblowing
- Legal framework and the Norwegian labour market model
- New challenges related to the EU enlargement
- What do we know about whistleblowing and its significance in Norway
- Summing up

# Definitions

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## Wrongdoings and whistleblowing:

The disclosure by organization members (former or current) of illegal, immoral, or illegitimate practices under the control of their employers, to persons or organizations that may be able to effect action” (Near & Miceli 1985:4).

Includes internal as well as external whistleblowing, e.g. to report wrongdoing to authorities or media outside the organization.



➤ *Democracy*

➤ *Welfare*

➤ *Efficiency*

# Institutional framework

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## **The Norwegian Labour Market Model:**

Inclusive employment regime with a rather high and stable union density and collective agreement coverage with different channels for the expression of views. Rather strong employment protection through the Working Environment Act (WEA).

- Co-determination and representation at the company board
- Co-operation between employers and employees at company level
- Work environment committees, HSE & TU representatives at different levels in the company

The role of shop stewards and HSE representatives (safety inspectors) in whistleblowing cases is emphasized in the WEA.



**Have the legal amendments since 2004 and 2007 made whistleblowing more frequent, effective and safe?**

# The Constitution, §100 Free speech

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Grounds must be given for restricting the freedom of expression of employees, not the other way around:

(...) this applies to statements that would, when seen in isolation, be of an obviously disloyal nature. Such statements may nevertheless be both permissible and desirable, because it is the public notification of the fact that the workplace of the person in question is involved in corrupt, illegal, immoral or other harmful practices that in itself constitutes the means to bring this activity to a halt (NOU, (2003-2004) p. 101).



# WEA 2007/2017

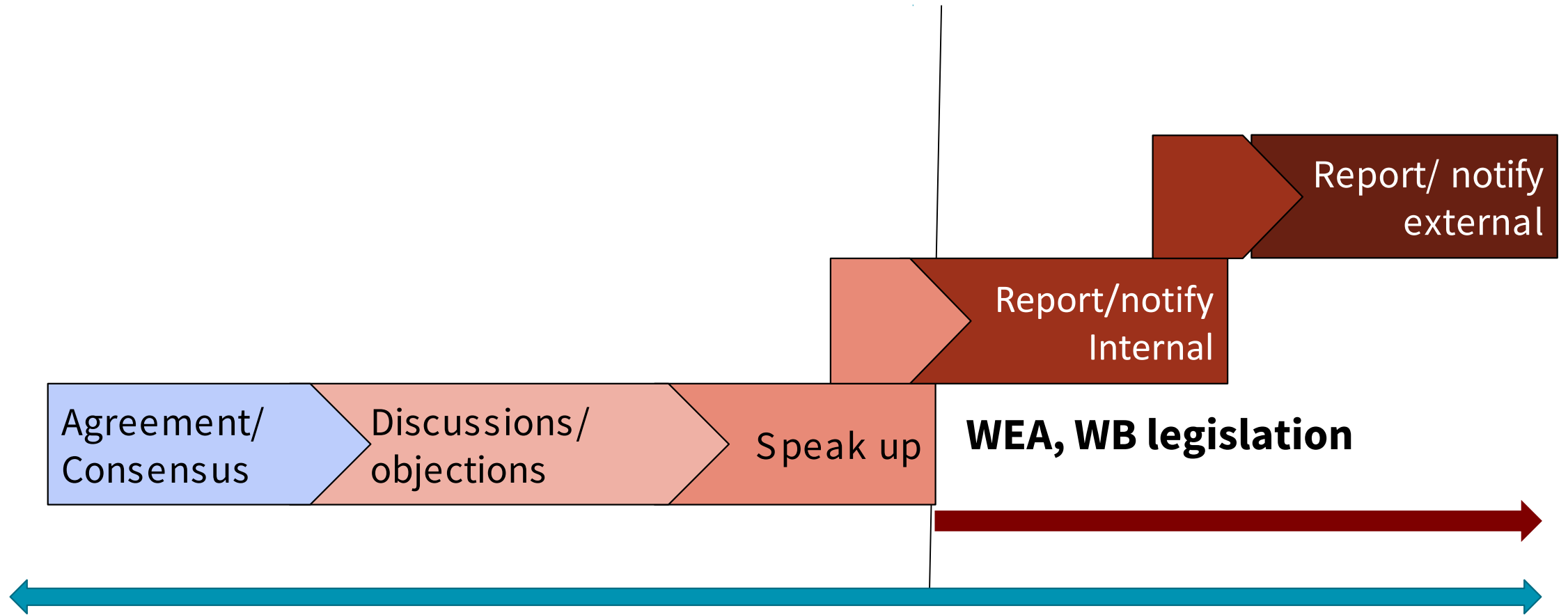
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- Workers have ‘a right to notify censurable conditions at the undertaking’, and this concerns both internal and external whistleblowing’ (§2A-1).
- Workers who have followed the appropriate procedures should be protected against retaliation (Section 2A-2).
- Enterprises with at least five employees are obliged to establish WB procedures. Such procedures should be drawn up in consultation with the employees and their elected representatives (2A-3 (2) (3)).
- Inspectorates that receive WB reports have a duty of confidentiality (2A-4).
- The legal amendment (2017) also included workers hired from temporary agencies.

**It is always considered appropriate to notify HSE & TU reps as well as to public authorities!**



# Freedom of expression – the right to notify



**The Constitution, Free Speech §100**

# Work-related crime

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EU enlargements in 2004 and 2007:

- high inflow of labour migrants and service providers
- Encompasses the free movement of both people and services, and can be divided into three groups:
  - Individual workers
  - Workers posted for service assignments, tenders and construction projects
  - Solo self-employed (false self-employed)
- Concepts such as ‘social dumping’ and ‘labour market crime’ have become commonplace in Norwegian public debate

# Whistleblowing activity, effectiveness and reactions

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- Incidents of wrongdoing and W B activity:
  - “During the last 12 months have you witnessed, discovered or experienced wrongdoing that should have been corrected at your workplace? By wrongdoing we mean unethical and/or illegal incidents, occurrences or practices.”
  - If “yes”: Did you notify the wrongdoing to someone that may be able to effect action?»
- W B effectiveness:
  - ‘the extent to which the questionable or wrongful practice (or omission) is terminated at least partly because of whistleblowing and within a reasonable time frame’ (Near & Miceli (1995, p. 681).
- Reactions:
  - From awards to sanctions

# Who do they notify first?

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- Immediate supervisor (44 per cent)
- The top management (14 per cent)
- TU & HSE representatives (14 per cent)
- Public authorities (2 per cent)
- Media (non)

Norwegian employees report in a responsible way!

<b>Representative surveys in the Norwegian labour market</b>	<b>Matthiesen et al. 2008 N=1604</b>	<b>Trygstad 2010 N= 6000</b>	<b>Trygstad et al. 2013. N=1161</b>	<b>Trygstad &amp; Ødegård 2016 N=3100</b>	<b>Trygstad &amp; Ødegård 2018 N=4000</b>
WB activity	55 %	53 %	62	53 %	53
Effectiveness of WB	51 %	50 %	52 %	36 %	42
Sanctions	18 %	13 %	15 %	25 %	19

# Work-related reported wrongdoings

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- Destructive leadership that is detrimental to the working environment (44 per cent)
- Harassment (37 per cent)
- Conditions that can cause danger to life and health (17 per cent)
- Social dumping (7 per cent)

# What make a difference?

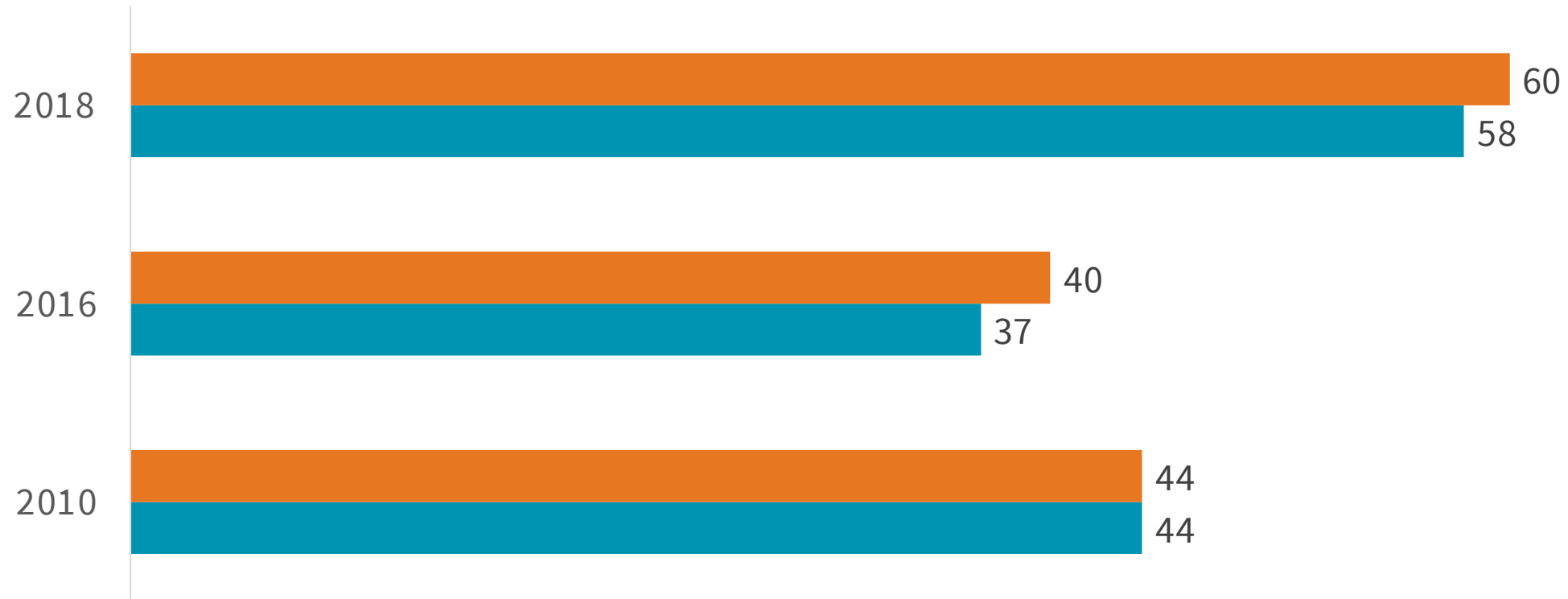
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- Those who have W B-procedures at the work-place
- Those who claim that the responsible for the wrongdoing is a subordinate or a colleague,
- Those who have not been through reorganization processes for the last two years...

...succeed better and have a lower risk for retaliation than others!



# Easier and safer to notify? Responses from TU & HSE-reps



- The WB legislation has made it safer to notify
- The WB legislation has made it easier to notify

# Have WB protection made any difference?

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Hard to isolate the effects of the legal changes alone, but WB procedures at the work-places have increased:

- From 19 per cent in 2010 to 62 per cent in 2018.

The share of whistleblowers is stable, but it has become less effective and more risky to blow the whistle!

Whistleblowing is probably most common in the organised part of the labour market.

