

18 September 2025

NFU reply to EC's Whistleblower Directive call for feedback in advance of its review

Under Article 27(3) of the Whistleblower Protection Directive (EU 1937/2019), the Commission is required to submit a report to the European Parliament and to the Council. It should assess the impact of national law that transposes the Directive. The call for feedback by the European Commission will evaluate whether the rules are working as intended and consider areas where additional measures or amendments are needed.

NFU's historical position:

NFU had been advocating during the original legislative procedure of the Whistleblower Directive in 2014. At the time NFU's core demands were the following:

Anonymity and confidentiality

- Employees must be able to report infringements securely and anonymously.
- The identity of whistleblowers must be fully protected; employers must be prohibited from inquiring into it.
- Confidentiality should only be lifted where required by national law in the context of investigations or judicial proceedings.

Protection against retaliation

- Whistleblowers must be shielded from sanctions such as dismissal, demotion, pay freezes, bullying or denial of promotion.
- Burden of proof should be reversed or eased, as in other areas of labour law.
- Compensation must be sufficient both to remedy harm and to deter employers from retaliatory actions.
- Financial institutions must be explicitly prohibited from investigating who reported breaches.

Scope of protection

18 September 2025

- Legal safeguards should extend to all categories of workers: permanent staff, temporary and short-term employees, consultant and interns.
- A positive right to blow the whistle should be recognised, alongside indirect protection against retaliation.

Evidence and reporting standards

- Reports should be allowed based on reasonable suspicion, not only hard evidence, so as not to deter whistleblowers.

External reporting channels

- Competent authorities (e.g. financial supervisory authorities) must establish secure, independent whistleblowing systems.
- Employees must be able to report directly to external authorities without first using internal channels.

Internal reporting systems

- Internal reporting remains valuable and should include the option to notify employee representatives.
- Internal systems must not limit the right to go directly to external authorities, given the risk of retaliation.

Communication channels

- Authorities should offer multiple secure channels: written submissions, phone (recorded/unrecorded), physical meetings, and online portals.
- Online systems must guarantee anonymity and data security.
- Telephone reports should be properly documented or recorded in durable form.
- Authority websites should clearly describe all reporting options and follow-up procedures, in an easily accessible section

Many of these demands have been covered through national law transposing the Whistleblower Protection Directive (EU 1937/2019), such as establishment of internal

18 September 2025

reporting channels, the prohibition of retaliation or partial reversal of the burden of proof (employers must prove unfavorable treatment is not retaliation).

In the following NFU concentrates on remaining gaps and areas where our member unions see room for stronger protections through further-going harmonisation. Overall NFU concludes that the standard has been raised compared to the pre-Directive situation

Here's how NFU suggest revising and amending the Directive:

Adequate Coverage: Protection must extend to all categories of workers: permanent, temporary, short-term, consultants, interns. This ensures that the most precarious workers, often the least likely to speak out are protected.

Anonymity: While formally recognised, in practice employers can sometimes still identify whistleblowers. The Danish Working Environment Authority model shows stronger anonymity is possible. Whistleblowers must be able to report securely and remain anonymous, unless disclosure is legally required in judicial proceedings. Employers should be prohibited from inquiring into the identity of whistleblowers. Authorities should provide multiple secure channels: written, online, telephone (recorded or documented), in-person. Online reporting systems must guarantee data protection and whistleblower confidentiality.

Burden of proof: Only partially reversed; unlike in workplace environment law, there is no full reversal obliging the employer to prove actions are not retaliatory. Reporting should be possible based on reasonable suspicion, without requiring hard evidence from the reporting person.

Compensation: Remedies remain weak (6–9 months' salary), far below what would be dissuasive in financial services. Compensation must be substantial and deterrent, we propose a benchmark of 24 months' salary.

Subtle retaliation: Informal sanctions (task reassignment, stalled promotion, isolation) remain under-addressed.

Confidentiality breaches: No clear sanctions exist if a whistleblower's identity is compromised.

Towards Stronger EU Harmonisation

With the Directive now forming a baseline, NFU argues for **stronger, practical minimum standards across the EU:**

- Guaranteed anonymity vis-à-vis employers,

18 September 2025

- Full reversal of the burden of proof,
- Dissuasive compensation standards,
- Explicit coverage of subtle retaliation,
- Harmonised procedures for cross-border cases,
- Minimum institutional quality requirements (independence, deadlines, external channels, access to legal/psychological support).