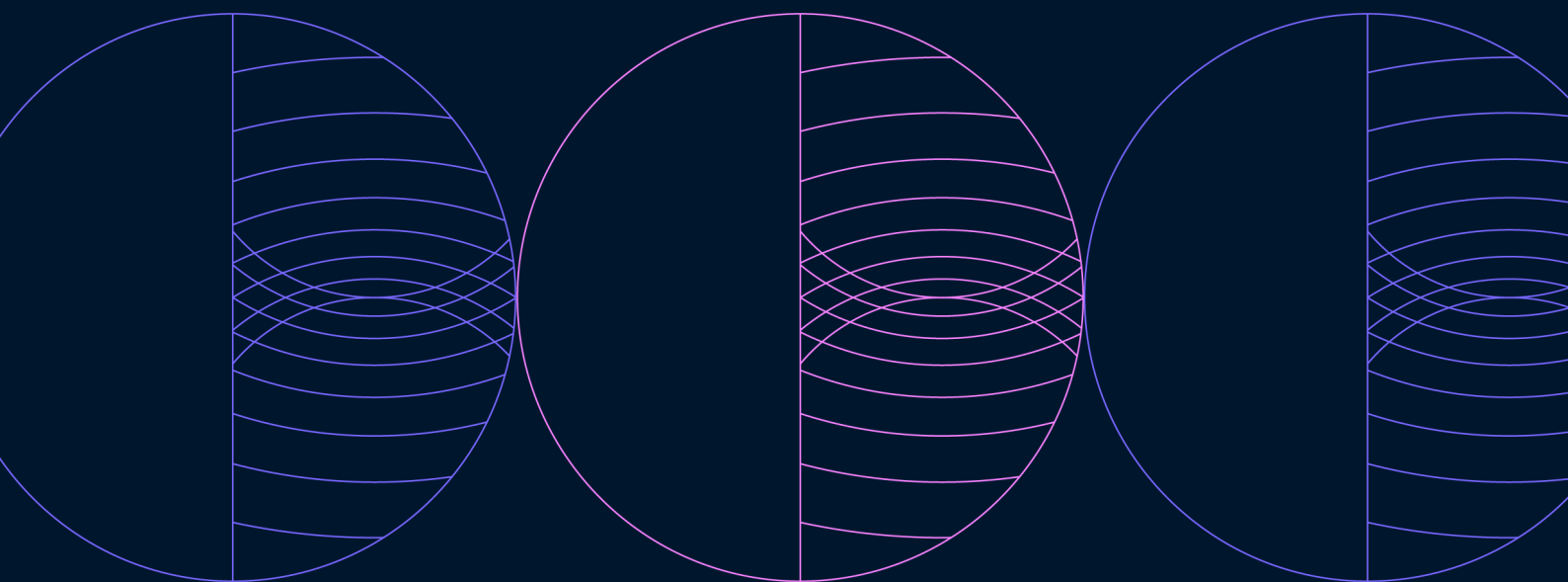


IN-HOUSE VIEW

Whistleblowing

WHISTLEBLOWING REGIME IN JAPAN



LEXOLOGY

Whistleblowing

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This Lexology In-House View discusses the key organisational ramifications of the evolving whistleblowing landscape. Among other things, it examines the rise of digital whistleblowing platforms, data privacy concerns, whistleblower rewards and incentives, and the intersection with broader ESG criteria.

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Whistleblowing Regime in Japan

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Introduction

In February 2024, the Consumer Affairs Agency, the authority concerned with the effectiveness of whistleblowing systems and whistleblower protection in Japan, released the results of a questionnaire survey of workers nationwide (the Worker Questionnaire). It was conducted with the aim of ascertaining their understanding of whistleblowing systems, their awareness of the whistleblowing hotlines at their workplaces and their attitude towards whistleblowing, and to obtain data to refer to in implementing measures to improve the effectiveness of the whistleblowing systems at corporations^{[1],[2]} and 10,000 valid responses were received. According to the Worker Questionnaire, only 38.6 per cent of the respondents responded that they were 'familiar' or 'somewhat familiar' with the whistleblowing system, while 61.4 per cent responded that they had 'only heard of the name' or 'did not know of' the whistleblowing system. These results suggest that workers' understanding of whistleblowing systems is inadequate.

In addition, in March 2024, the Consumer Affairs Agency released the results of a study summarising the main issues hindering the effective operation of whistleblowing systems, based on an analysis of 265 investigation reports on corporate wrongdoing published since January 2019, with the aim of organising and analysing factors hindering the effective operation of whistleblowing systems and to obtain recommendations for early detection and correction of misconduct.^[3] The results of the study identified the following five factors hindering the effectiveness of whistleblowing systems: (1) weakened normative consciousness, (2) problems with whistleblowing hotlines, (3) lack of awareness of whistleblowing systems, (4) psychological factors that prevent whistleblowing and (5) inappropriate responses after whistleblowing.

Furthermore, in April 2024, the Consumer Affairs Agency released the results of a questionnaire survey of companies nationwide (3,389 valid responses were received in Survey 1 conducted in December 2023, and 2,373 valid responses were received in Survey 2 conducted in March 2024 (the Private Enterprises Survey)) that was conducted with the aim of investigating the level of awareness of the Whistleblower Protection Act (enacted in April 2006 and revised in June 2022 (the Whistleblower Protection Act or the Revised Act)) and the actual status of the development and operation of whistleblowing systems in enterprises nationwide.^{[4],[5],[6]} In the Private Enterprises Survey (Survey 1), 99.9 per cent of listed enterprises with more than 300 employees responded that they have 'introduced' a whistleblowing system, while 82.6 per cent of non-listed enterprises with more than 300 employees responded that they have done so.^[7] Of the enterprises that responded that they have 'introduced' a whistleblowing system (2,448 enterprises), 35.9 per cent responded that they either received '0 whistleblowing reports' or 'do not know the number of whistleblowing reports' received on the whistleblowing disclosure hotline during the year. These results suggest that the use of whistleblowing hotlines is limited.

Related laws and guidelines

In Japan, in addition to the Whistleblower Protection Act,^[8] which is a comprehensive law on the whistleblower protection system, the 'Clause-by-Clause Commentary',^[9] the 'Guidelines Necessary for the Appropriate and Effective Implementation of the Measures to

Be Taken by Enterprises Pursuant to article 11, paragraphs (1) and (2) of the Whistleblower Protection Act' (the Statutory Guidelines)^[10] and the 'Commentaries on the Guidelines under the Whistleblower Protection Act (Cabinet Office Notification No. 118 of 2021)' (the Commentaries on the Guidelines)^[11] have been issued.^[12]

In the 'Clause-by-Clause Commentary', the purpose, interpretation and explanation of related issues are presented with respect to each article of the Whistleblower Protection Act. In addition, the Statutory Guidelines provide necessary matters for appropriate and effective implementation of measures to be taken by enterprises under article 11 of the Whistleblower Protection Act, such as the designation of a person to engage in the activity of dealing with whistleblowing disclosures (paragraph (1) of the same article) and the establishment of a system for dealing with internal whistleblowing disclosures, and other necessary measures (paragraph (2) of the same article). Furthermore, in order to encourage each enterprise to consider the specific details of measures to be taken in accordance with the Statutory Guidelines, the Commentaries on the Guidelines provide approaches to refer to and examples of specific measures for compliance with the Statutory Guidelines, as well as approaches to and specific examples of recommended matters that enterprises are expected to voluntarily address beyond the efforts to comply with the Statutory Guidelines.

In addition to the above, the Consumer Affairs Agency, the competent authority for whistleblower protection systems, released a Whistleblowing Handbook^[13] that explains the details of the Whistleblower Protection Act and provides responses to frequently asked questions in an easy-to-understand manner for enterprises and workers in general.^[14]

Overview of the Whistleblower Protection Act

The Whistleblower Protection Act provides for (1) nullity of dismissal and prohibition of disadvantageous treatment of whistleblowers on the grounds of whistleblowing disclosure, and (2) the measures and other similar actions that an enterprise or administrative organ should take concerning whistleblowing disclosures, with the aim of protecting whistleblowers, as well as promoting compliance with the laws and regulations concerning the protection of life, wellbeing, property and other interests of citizens, thereby contributing to the stabilisation of the general welfare of the life of the citizens and to sound socio-economic development (article 1 of the Whistleblower Protection Act). The following is an overview of the Whistleblower Protection Act. Japan's current whistleblower protection system does not have a bounty system (a system in which the government, etc, pays a reward to the whistleblower if the whistleblower's report satisfies certain conditions), as exists in the United States and other countries.

Requirements to constitute whistleblowing

The Whistleblower Protection Act defines whistleblowing as when (1) a prescribed person makes a report, without a wrongful purpose, (2) about a reportable fact that has occurred or is about to occur concerning a recipient of services or other designated person, (3) to a hotline (article 2, paragraph (1) of the Act).

'Prescribed persons' refer to informants and include, in addition to workers (including regular employees, contract employees, dispatched workers, part-time workers and

probationary workers, as well as public officials), retirees within one year of retirement and officers (each item of paragraph (1), article 2 of the Act).

'Reportable facts' are facts about criminal acts or acts subject to a fine that violate the Whistleblower Protection Act and other laws provided for by Cabinet Order as 'laws concerning the protection of the life, wellbeing, property, or other interests of the citizens' (the Subject Laws) or acts that ultimately lead to a penalty or fine (article 2, paragraph (3) of the Act). A total of 493 laws (as of June 2022) are defined as Subject Laws, including the Whistleblower Protection Act, the Penal Code, the Food Sanitation Act, the Financial Instruments and Exchange Act, the Act against Unjustifiable Premiums and Misleading Representations, the Air Pollution Control Act, the Act on Waste Management and Public Cleaning, the Antimonopoly Act, the Unfair Competition Prevention Act, the Act on Protection of Personal Information, the Labor Standards Act and the Copyright Act.

There are three types of hotlines: (1) a hotline set up internally within a company (including those set up by the company in advance, such as hotlines connected to outside law firms), (2) a hotline connected to an administrative organ or other designated person (an administrative organ that has the authority to impose a disposition or make a recommendation regarding the reportable fact, including a person designated by the administrative organ in advance), and (3) hotlines connected to other parties outside the enterprise (those approved as necessary for preventing the occurrence, etc, of the relevant reportable fact, such as news media and consumer groups). As described in 'Requirements for whistleblower protection' below, each hotline has its own requirements for whistleblower protection (article 3 of the Act).

Requirements for whistleblower protection

First, in the case of reporting to a hotline within the enterprise, the protection applies when the whistleblower considers that a reportable fact has occurred or is about to occur (article 3, item 1 of the Act).

Second, in the case of reporting to a hotline connected to an administrative organ or other designated person, the protection applies when (a) the whistleblower has reasonable grounds to believe that a reportable fact has occurred or is about to occur, or (b) the whistleblower considers that a reportable fact has occurred, or is about to occur, and submits a document stating the prescribed matters (the name and address of the whistleblower, the details of the reportable fact, and the reasons for considering that the reportable fact has occurred or is about to occur); however, (b) is not applicable if the whistleblower is an officer (article 3, item 2 of the Whistleblower Protection Act).

Lastly, in the case of reporting to other parties outside of the enterprise, the protection applies when the whistleblower has reasonable grounds to believe that a reportable fact has occurred or is about to occur, and the prescribed conditions are satisfied (eg, (1) the whistleblower has reasonable grounds to believe that if they make a whistleblowing disclosure to the hotline set up within the enterprise or the hotline connected to an administrative organ, they will be subject to dismissal or disadvantageous treatment; (2) the whistleblower has reasonable grounds to believe that if they make a whistleblowing disclosure to the hotline set up within the enterprise, the evidence pertaining to the reportable fact may be concealed, etc; or (3) 20 days have elapsed from the day of making a whistleblowing disclosure provided for in article 3, item 1 of the Whistleblower Protection

Act to the hotline within the enterprise in writing and the whistleblower does not receive a notice from the relevant enterprise, etc, about the commencement of an investigation on the reportable fact, or the relevant enterprise, etc, does not investigate the reportable fact without just cause) (article 3, item 3 of the Whistleblower Protection Act).

Details of whistleblower protection

If a worker, etc, who has made a whistleblowing disclosure satisfies the requirements for protection, such person shall receive the protections discussed below.

First, if the whistleblower is a worker, the dismissal or termination of their worker dispatch contract on the grounds of making a whistleblowing disclosure shall be nullified (articles 3 and 4 of the Act), and detrimental treatment against the whistleblower shall be prohibited (article 5 of the Act). Disadvantageous treatment includes acts with legal effect such as disciplinary actions (suspension from work, demotion, salary reduction, etc); exercise of personnel authority (demotion, reassignment, secondment, transfer, etc); amendment of a labour contract (salary reduction, change from permanent to a fixed-term employment contract, etc); and execution of separation agreements, as well as de facto acts such as not assigning work, assigning excessive work, or causing the whistleblower to be engaged exclusively in miscellaneous work.

Second, if the whistleblower is an officer, their dismissal on the grounds of making a whistleblowing disclosure shall not be nullified; however, the whistleblower may claim compensation for damage resulting from the dismissal (article 6 of the Whistleblower Protection Act). In addition, as in the case of workers, detrimental treatment shall be prohibited on the grounds of making a whistleblowing disclosure.

Furthermore, an enterprise cannot claim damages from a whistleblower on the grounds of making a whistleblowing disclosure (article 7 of the Act).

Measures to be taken by enterprises with respect to whistleblowing disclosures

The Whistleblower Protection Act imposes on enterprises the obligation to designate persons to engage in the activity of dealing with whistleblowing disclosures (article 11, paragraph (1) of the Act) and to establish a whistleblower response system or take other necessary measures (article 11, paragraph (2) of the Act); however, enterprises with 300 or fewer employees are only obligated to make efforts. The Statutory Guidelines prescribe the details of these obligations, and the Commentaries on the Guidelines provide approaches and specific examples for compliance with the content of the Statutory Guidelines. Below is an overview of these obligations (ie, measures to be taken by companies).

Designation of a person engaged in the activity of dealing with whistleblowing disclosures (article 11, paragraph (1) of the Act)

Enterprises are required to designate a person (an engaged person) who is to deal with whistleblowing disclosures with respect to internal whistleblowing disclosures received on the enterprise's internal whistleblowing disclosure hotline and to whom information that enables the identification of whistleblowers is conveyed in connection with such activity.

In addition to designating, as an engaged person, a person in charge of the department whose main function is to conduct the activity of dealing with whistleblowing disclosures, it is also necessary to designate, as an engaged person, any other person from another department as long as such person satisfies the above conditions.

'Information that enables the identification of whistleblowers' means matters and information that exclusively identify a particular person as the whistleblower; and in addition to the name and employee number of the whistleblower, even general attributes, such as gender, fall under the category of 'information that allowing the identification of whistleblowers' if, when checked against other matters, such attributes can exclusively determine that a particular person is the whistleblower. For example, if there is only one woman in Department A of the enterprise concerned, and if the information 'there is only one woman in Department A' is matched with the information 'a woman in Department A made the whistleblowing disclosure', it would be possible to exclusively determine the particular person who is the whistleblower; therefore, the information 'a woman in Department A made the whistleblowing disclosure' would be considered to constitute 'information that allowing the identification of whistleblowers'.

With regard to the method of designating engaged persons, the enterprise must designate them in writing or by some other method that makes it clear to the persons themselves that they are to assume the position of engaged person. Possible methods taken by the enterprise would be, in addition to individually notifying each engaged person, designating, by specifying in internal rules, etc, specific attributes such as the department, team within a department, and position, etc, thereof. Similarly, when outsourcing such activity of engaged persons to a party outside of the enterprise (attorneys from an outside law firm, etc), the enterprise must employ a method that makes it clear to the persons themselves that they are to assume the position of engaged person.

Establishment of a system for dealing with internal whistleblowing disclosures, and other necessary measures (article 11, paragraph (2) of the Act)

Enterprises are required to establish a system for dealing with internal whistleblowing disclosures, and other necessary measures in the following ways.

Establishment of a system for conducting cross-functional activity of dealing with whistleblowing disclosures

Establishment of an internal whistleblowing disclosure hotline and related measures

It is necessary to set up an internal whistleblowing disclosure hotline, and clearly designate departments and responsible persons that will receive, investigate and take necessary measures in relation to the internal whistleblowing disclosures received on the hotline. The internal whistleblowing disclosure hotline does not have to be set up in a department within the company; it may be set up outside of the company (within an outside law firm, parent company, etc) or both inside and outside of the company.

Measures for securing independence from organisational heads and other executives

With respect to the activity of dealing with whistleblowing disclosures, in handling cases involving an organisational head or other executives, it is necessary to take measures to ensure independence from them. Possible methods would be, for example, requiring the enterprise to report to outside directors or auditing organisations (corporate auditors, audit committee, audit and supervisory committee, etc), and to conduct the activity of dealing with whistleblowing disclosures under monitoring by these outside directors or auditing organisations.

Measures for conducting the activity of dealing with whistleblowing disclosures

The enterprise must receive internal whistleblowing disclosures at the internal whistleblowing disclosure hotline and conduct necessary investigations, except in cases where there are justifiable reasons.^[15] If the results of such investigations reveal a violation of laws and regulations pertaining to the reportable fact, it would be necessary to promptly take necessary measures to correct the situation. In addition, after taking the necessary measures for correction, it is necessary to check whether such measures are functioning properly, and if not, it would be necessary to once again take the necessary measures for correction.

Measures for eliminating conflicts of interest in the activity of dealing with whistleblowing disclosures

With respect to the activity of dealing with whistleblowing disclosures performed in relation to internal whistleblowing disclosures received on the internal whistleblowing disclosure hotline, it is necessary to take measures to prevent parties related to the case (eg, a person who will be substantially disadvantaged by the revelation of a violation of laws and regulations or by the result of an investigation, a person who has a definite family relationship with the whistleblower or the person subject to the whistleblowing disclosure, etc) from being involved in the activity of dealing with whistleblowing disclosures.

Establishment of a system for protecting whistleblowers

Measures for preventing detrimental treatment: in addition to taking measures to prevent workers and officers of the enterprise from conducting detrimental treatment against whistleblowers, it is necessary to take measures to ascertain whether whistleblowers are being treated detrimentally, and to take appropriate remedial and restorative measures if detrimental treatment is ascertained. In addition, if detrimental treatment is found, it would be necessary to take disciplinary action or other appropriate measures against the worker or officer who committed such act, taking into consideration various circumstances, including the manner of the act, the degree of damage and other circumstances.

Measures for preventing sharing beyond the minimum required degree and other violations: it is necessary to take measures to prevent sharing beyond the minimum required degree by workers and officers of the enterprise, and to take appropriate remedial and restorative measures if sharing beyond the minimum required degree occurs. In addition, it is necessary to take measures to prevent workers and officers of the enterprise from conducting a search for the whistleblower, except in unavoidable circumstances, such as when a highly necessary investigation cannot be conducted without identifying the whistleblower. In the event of sharing beyond the minimum required degree or search for

the whistleblower, it would be necessary to take disciplinary action or other appropriate measures against the worker or officer who committed such behaviour, taking into consideration various circumstances, including the manner of the act, the degree of damage and other circumstances.

Measures for effectively operating the system for dealing with internal whistleblowing disclosures

Measures for providing education and disseminating information to workers or corresponding persons, officers and retirees

It is necessary to provide education and disseminate information about the Whistleblower Protection Act and the system for dealing with internal whistleblowing disclosures to the company's workers or corresponding persons, and officers and retirees. In addition, the engaged persons should be well trained, especially in the handling of information that allows the identification of whistleblowers. It is also necessary to respond to questions and consultations from workers regarding the structure of the system for dealing with internal whistleblowing disclosures and detrimental treatment.

Measures for giving notification of rectification measures and other measures

In the event that the company receives an internal whistleblowing disclosure in writing, the company is required to notify, depending on the result of the related investigation, the whistleblower of the fact that the company has resolved the reportable fact associated with the internal whistleblowing disclosure or has taken other measures necessary for rectification, or of the fact that the alleged reportable fact associated with the internal whistleblowing disclosure does not exist, in each case to the extent that the notification will not hinder the company's proper performance of its business or the protection of the secrets, credibility, reputation, privacy, etc, of the interested persons.

There is no specified method of notification, and various methods can be taken depending on the circumstances. In cases in which it is impossible to give notice, for example, if it is difficult to notify the whistleblower because the internal whistleblowing disclosure was made anonymously, or if the whistleblower does not wish to be notified, it is permissible not to notify the whistleblower.

Measures for retaining records, reviewing and improving the system for dealing with internal whistleblowing disclosures and disclosing the operation results to workers or corresponding persons and officers

It is necessary to prepare and keep records of handling of internal whistleblowing disclosures for an appropriate period of time, to regularly evaluate and check the system for dealing with internal whistleblowing disclosures, and improve the system as necessary, and to disclose, to workers and officers, an overview of the results of the system's operation with respect to internal whistleblowing disclosures received on the internal whistleblowing disclosure hotline to the extent that it does not hinder the company's proper performance of its business or the protection of the secrets, credibility, reputation, privacy, etc, of the interested persons.

Measures for establishing and applying internal rules

The matters required by the Statutory Guidelines must be stipulated in the internal rules, and the company must operate in accordance with such rules.

Enforcement

Persons currently or formerly engaged in the activity of dealing with whistleblowing disclosures shall be obliged to maintain confidentiality regarding the matters that come to the person's knowledge in connection with the activity of dealing with whistleblowing disclosures that enable the identification of the whistleblower (article 12 of the Whistleblower Protection Act), and are subject to criminal penalties (a fine of not more than ¥300,000) if they violate such confidentiality obligation (article 21 of the Act).

In addition, the Prime Minister (and the Commissioner of the Consumer Affairs Agency to whom the Prime Minister has delegated authority) may request reports from, and provide advice, guidance and recommendations to, enterprises (article 15 of the Act) with respect to their obligation to designate persons to be engaged in the activity of dealing with whistleblowing disclosures (article 11, paragraph (1) of the Act) and to establish a system for dealing with internal whistleblowing disclosures, and other necessary measures (article 11, paragraph (2) of the Act), and if the enterprise that received the recommendation fails to follow it, the Prime Minister may publicise such fact (article 16 of the Act). If the enterprise fails to submit a report or submits a false report in response to the above request, the enterprise shall be subject to administrative penalties (a civil fine of not more than ¥200,000) (article 22 of the Act).

Characteristics of Japanese companies and internal whistleblowing systems

Today, many Japanese companies try to utilise internal whistleblowing systems as effective systems for detecting violations of laws and regulations and misconduct within the company. In fact, many of the recent corporate wrongdoing that has attracted public attention has been discovered by internal whistleblowing from employees.

On the other hand, it is not always easy for Japanese companies to make internal whistleblowing systems function effectively due to the characteristics of the traditional employment practices of Japanese companies and the Japanese culture. Although it is gradually changing today, traditional Japanese corporate employment practices have characteristics such as long-term employment and a seniority-based promotion system. There is a view that, in general, Western culture emphasises the discovery and expression of one's unique attributes and independence from others; and an 'independent self-construal' in which the self is distinct and exists independently from the surrounding people and things is predominant, whereas Eastern and Japanese culture emphasises consideration for and conformity to, and harmonious interdependent relationships with, others; and an 'interdependent self-construal' in which the self exists in interdependent relationships through the surrounding people and things is predominant.^[16] Given this background, it is considered that Japanese workers working for Japanese companies would face significant disadvantages and risks caused by being excluded from the community when they make an internal whistleblowing disclosure about misconduct in their workplace

or department and that there may be considerable psychological resistance to and anxiety in using the internal whistleblowing system.^[17]

Therefore, in order for the whistleblowing system to function effectively, Japanese companies must ensure the confidentiality and management of information related to whistleblowing (especially information that can identify whistleblowers) and prohibit the detrimental treatment of whistleblowers. In addition, it is important to continue efforts to enhance trust in the company's internal whistleblowing system by disseminating, through internal messages and training programmes, the message that the whistleblowing disclosure is a positive behaviour to improve the organisation, and taking strict measures such as disciplinary action, if retaliations are identified.

Recent precedents regarding internal whistleblowing systems

One recent case regarding internal whistleblowing systems is a case^[18] disclosed by Japan Post Co, Ltd in July 2021. In this case, in October 2018, several postmasters in a district made an internal whistleblowing disclosure regarding another postmaster in the district (Postmaster A). When the then executive officer in charge of the compliance department to which the internal whistleblowing disclosure was made interviewed a postmaster who was in a position to oversee the district and who was thought to be possibly involved in the case (the father of Postmaster A (Postmaster B)), the then executive officer communicated to Postmaster B the information, which was capable of identifying the whistleblowers, that '(Postmaster A) seems to be having trouble with other postmasters'. After the interview, Postmaster B identified the whistleblowers and abused his authority by harassing them. Japan Post demanded that the then executive officer return their remuneration, claiming that the act of communicating the information by which the whistleblowers might be identified could lead to the identification of the whistleblowers and, as a result, damage the trust of employees in the Japan Post Group's internal whistleblowing system. Postmaster B was convicted of attempted coercion, in a criminal trial (Fukuoka District Court judgment of 8 June 2021) for attempting to coerce the whistleblowers to admit that they had made the internal whistleblowing disclosure.

Current enforcement status and future revisions

The Consumer Affairs Agency has been actively providing guidance to enterprises, having issued 22 cases of administrative guidance^[19] during the period from the enforcement of the Whistleblower Protection Act on 1 June 2022 to the end of January 2024. Various surveys conducted by the Consumer Affairs Agency as mentioned in the 'Introduction' above indicate that the understanding of whistleblowing systems is inadequate among both enterprises and users, and that a considerable number of enterprises do not have in place the systems required by the Whistleblower Protection Act. It is expected that the Consumer Affairs Agency will continue to proactively take various measures, including providing guidance to enterprises.

In addition, since a certain period of time has passed since the enforcement of the Whistleblower Protection Act, the Consumer Affairs Agency announced^[20] that it will launch a 'Whistleblower Protection System Study Group', consisting of experts, to study issues

based on recent changes in the domestic and international environment surrounding whistleblower protection systems and the enforcement status of the Whistleblower Protection Act and will summarise the study results by the end of 2024. A close eye will need to be kept on what discussions and recommendations are made by the study group in the future.

Endnotes

- 1 'Results of a Survey of 10,000 Workers regarding Whistleblower Systems' (February 2024, Consumer Affairs Agency), https://www.caa.go.jp/policies/policy/consumer_partnerships/whistleblower_protection_system/research/assets/research_240229_0001.pdf (available in Japanese only). ^ [Back to section](#)
- 2 'Awareness Survey on Whistleblowing System - Results of Questionnaire Survey of 10,000 Workers' (February 2024, Consumer Affairs Agency). ^ [Back to section](#)
- 3 'Research and Analysis of the Effectiveness of Whistleblowing Systems in Corporate Wrongdoings - Recommendations to Top Management for Early Detection and Correction of Misconduct' (March 2024, Consumer Affairs Agency), https://www.caa.go.jp/policies/policy/consumer_partnerships/whistleblower_protection_system/research/assets/research_240326_0002.pdf (available in Japanese only). ^ [Back to section](#)
- 4 'Responses of Private Enterprises to Whistleblowing – Overview of the Results of the Survey' (April 2024, Consumer Affairs Agency) https://www.caa.go.jp/policies/policy/consumer_partnerships/whistleblower_protection_system/research/assets/research_240426_0001.pdf (available in Japanese only). ^ [Back to section](#)
- 5 'Report on the Survey of Whistleblowing Systems in Private Enterprises in Fiscal Year 2023' (April 2024, Consumer Affairs Agency) https://www.caa.go.jp/policies/policy/consumer_partnerships/whistleblower_protection_system/research/assets/research_240418_0002.pdf (available in Japanese only). ^ [Back to section](#)
- 6 'Survey on the Level of Awareness of the Whistleblower Protection Act among Private Enterprises' (April 2024, Consumer Affairs Agency) https://www.caa.go.jp/policies/policy/consumer_partnerships/whistleblower_protection_system/research/assets/research_240418_0003.pdf (available in Japanese only). ^ [Back to section](#)
- 7 However, the valid response rate in the Private Enterprises Survey (Survey 1) was approximately 30 per cent, and certain analyses suggest that companies that properly comply with the Whistleblower Protection Act may have submitted their responses more proactively (ie, respondent bias cannot be eliminated), and the actual percentage of companies that have an internal whistleblowing system may be even lower than the above when companies that have not responded are accounted for. ^ [Back to section](#)

- 8 Whistleblower Protection Act (Act No. 122 of June 18, 2004), <https://www.japaneselawtranslation.go.jp/ja/laws/view/4220>. ^ [Back to section](#)
- 9 'Clause-by-Clause Commentary', https://www.caa.go.jp/policies/policy/consumer_partnerships/whistleblower_protection_system/overview/annotations/index.html (available in Japanese only). ^ [Back to section](#)
- 10 'Guidelines Necessary for the Appropriate and Effective Implementation of the Measures to Be Taken by Enterprises Pursuant to Article 11, Paragraphs (1) and (2) of the Whistleblower Protection Act' (Cabinet Office Notification No. 118 of August 20, 2021), <https://www.japaneselawtranslation.go.jp/notices/view/172>. ^ [Back to section](#)
- 11 'Commentaries on the Guidelines under the Whistleblower Protection Act (Cabinet Office Notification No. 118 of 2021)', (Consumer Affairs Agency, October 2021) <https://www.japaneselawtranslation.go.jp/notices/view/169>. ^ [Back to section](#)
- 12 An English version of the guidelines for private companies, (<https://www.japaneselawtranslation.go.jp/notices/view/104>) was available before the enforcement of the Revised Act (until May 2022); however, since the Revised Act came into effect (since June 2022), the content of the guidelines has been integrated into the Statutory Guidelines and the Commentaries on the Guidelines; thus, it is necessary to refer to the Statutory Guidelines and the Commentaries on the Guidelines. ^ [Back to section](#)
- 13 'Whistleblowing Handbook: Version Compliant with the Revised Act (effective as of June 2022)' (June 2022, Consumer Affairs Agency), https://www.caa.go.jp/policies/policy/consumer_partnerships/whistleblower_protection_system/overview/assets/overview_220705_0001.pdf sp;(available in Japanese only). ^ [Back to section](#)
- 14 Web pages dedicated to the Whistleblower Protection Systems, on the Consumer Affairs Agency website, https://www.caa.go.jp/policies/policy/consumer_partnerships/whistleblower_protection_system/ (available in Japanese only). ^ [Back to section](#)
- 15 Examples of cases with a 'justifiable reason' for non-investigation include cases where the reports relate to matters that have already been resolved, or cases where the whistleblower cannot be reached and a confirmation of the facts is difficult to achieve. ^ [Back to section](#)
- 16 Hazel Rose Markus & Shinobu Kitayama, 'Culture and the Self: Implications for Cognition, Emotion, and Motivation' (*Psychological Review*, 1991). ^ [Back to section](#)
- 17 In the Worker Questionnaire (see footnote 1), 41.1 per cent of the respondents (10,000 workers) responded that they 'probably would not consult or report' (30.2 per cent) or 'definitely would not consult or report' (10.9 per cent) if they learned of a serious violation of laws and regulations at their workplaces. ^ [Back to section](#)

- 18 'Improper Handling of Internal Whistleblowing' (Japan Post Co, Ltd, 16 July 2021), https://www.post.japanpost.jp/notification/pressrelease/2021/00_honsha/0716_03_01.pdf (available in Japanese only). ^ [Back to section](#)
- 19 'Summary of Press Conference by Commissioner Arai of the Consumer Affairs Agency' (29 February 2024), (<https://www.caa.go.jp/notice/statement/arai/036631.html>-) (available in Japanese only). ^ [Back to section](#)
- 20 Web pages dedicated to the Whistleblower Protection System Study Group, on the Consumer Affairs Agency website, (https://www.caa.go.jp/policies/policy/consumer_partnerships/meeting_materials/review_meeting_004/) (available in Japanese only). ^ [Back to section](#)

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