



Whistleblower Hotlines: A Look at Best Practices, Current Trends

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The whistleblower provisions of the Sarbanes-Oxley Act (SOX) have received plenty of press since the law was passed in 2002, but audit committees have had to improvise the nuts and bolts of documenting and following-up on the complaints that come through their compliance hotline systems. The law was not precise on that point.

Yet for any organization that has not reviewed its compliance procedures mandated by SOX Section 301.4 in the past few years, it might be worthwhile to examine current best practices and the technology available today to make them happen.

“Different organizations are at different maturity points,” explains Pam Verick Stone, national product lead for Protiviti’s Fraud Risk Management practice. “Many Fortune 1000 companies have outsourced their phone and Internet-based hotline activities and tied it in so it is monitored internally utilizing online technology.” Smaller organizations may have enlisted a variety of solutions at the outset that are worth reviewing since better solutions exist today at all price points ranging from a few thousand dollars a year on up, Stone adds.

Sharene Rekow is non-profit channel director for EthicsPoint, Inc., a Portland, Oregon-based technology company that provides hotline solutions to public, private and non-profit organizations. She believes that organizations might want to expand their goals for what their hotline systems can contribute. SOX compliance is one thing, but “Depending on how you design your system, you can bring every constituency you touch into the ethics process of your organization. You get people talking about ethics on every level of the organization – leadership, staff, human resources, communications, vendors and suppliers – even customers and donors.”

Here are some key points for audit committees to review:

Phone, Internet ...or both?

Obviously, organizations have to evaluate how their employees and other key constituencies communicate best. Some organizations live on the Internet; others employ people who are less computer-literate and require a phone solution. Today, affordable turnkey solutions are available that accommodate phone and online users, guaranteeing anonymity and providing detailed, time-stamped reports the company can act upon and file. However, when considering a phone-based system, an organization needs to decide whether it can afford a live-operator system to handle intake or whether an automated system will suffice.

A 24/7 system ... or 9 to 5?

For worldwide organizations, it is almost essential to have 24-hour system availability, even if activities in certain countries may not necessarily fall under SOX purview. Yet, all organizations may want to consider making their hotlines available past regular working hours so employees concerned about detection can file anonymous reports out of sight or hearing range from fellow workers.

Who is responsible?

No matter how sophisticated the technology, the right people have to be in place to accept complaints and act on them. In designing or re-designing a hotline system, it makes sense to involve audit, IT, legal and other key constituencies (corporate communications, human resources, etc.) to get the right responders and reporting procedures in place. There can be too many responders or too few based on the organization – only the organization can decide. The human system needs to be designed to prevent information bottlenecks and ensure that key decision-makers are not shut out of the process. Lastly, one person should be in charge of the entire effort with clear reporting responsibilities to the board.

Do you understand your system usage?

If your organization has not been diligent about tracking hotline usage, it is time to start. Some organizations see a surge in complaints after something bad happens; others experience more activity when there is a reminder of hotline procedures (which should be done periodically, experts suggest).

How is your follow-up?

SOX Section 301.4 requires that a public company's audit committee establish procedures for the receipt, retention and treatment of complaints regarding accounting, internal controls and other auditing matters. However, the law does not provide detailed guidance on how to handle and follow-up on complaints.

Again, naming the right human responders in the organization to handle and process complaints is key; technological solutions cannot do it all. Yet technology that supports decision-makers with precise intake procedures, time-stamping and response timing and tracking can be a potentially huge money- and reputation-saver.

According to Stone, doing whatever it takes to follow-up on complaints in a sensitive manner for both the whistleblower and the organization is critical. This is done not only for potential liability and financial loss, but because employees need to know their complaints are taken seriously or they might take them outside.

"You can catch a complaint six months and a few thousand dollars into an infraction instead of two years when hundreds of thousands of dollars may be lost and you might see the employee's report on the front page of your morning newspaper," says Rekow.

Does anonymity work?

It is tough to have an effective system without it. Computer and phone-based hotlines are best handled by a third party that can create an identity firewall between the whistleblower and responder in the organization taking action on the complaint. Also, the design of the system and the degree of documentation and description it demands may be an effective way to minimize frivolous complaints.

"When we talk about hotlines, success is dependent on how well you communicate your objectives, who will use the system, how the information will be processed, and the expectations you set among the users that they'll be heard," says Stone. "The success of your system depends on employee awareness and whether people believe their information will be heard and acted upon."

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