

| Overview  | Legal Change  | Action required   |
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| <p><b>New German Whistleblower Protection Act (WPA) implementing the EU Whistleblower Directive</b></p> | <p>The WPA came into force on <b>July 2<sup>nd</sup> 2023</b>. The law is the German implementation of the EU Whistleblower Directive of December 16<sup>th</sup> 2019.</p> <p>The WPA requires that employers provide channels through which their employees can report violations of the law.</p> <p>The act requires that:</p> <ul style="list-style-type: none"> <li>- Employers with more than 50 employees, or employers in the financial sector, regardless of headcount, are required to establish internal whistleblower reporting channels for employees (these are the 'affected employers');</li> <li>- Employers with more than 250 employees and employers in the financial sector must comply <b>immediately</b>, whilst those with between 50 and 249 employees must do so by <b>December 17<sup>th</sup> 2023</b>.</li> </ul> <p>Whistleblowers are protected against reprisals, including work-related acts or omissions.</p> <p>Whistleblowers may claim compensation for material or immaterial damages resulting from the reprisal.</p> <p>In court, the burden of proof is on the employer to show that any action taken against the employee was not taken because of the whistleblowing.</p> <p>Violations of any key requirements of the WPA are punishable by fines of up to EUR 500,000.</p> | <p>Affected employers must facilitate the following:</p> <ul style="list-style-type: none"> <li>- The reporting channel must allow for reports to be made verbally, in writing, or in person.</li> <li>- Companies are not obliged to design the reporting process so as to allow reports to be made anonymously, but the reporting channel should manage reports received anonymously and must keep confidential the identities of the whistleblower and any persons who are the subjects of a report.</li> <li>- The reporting channel must confirm receipt of the report to the whistleblower within seven days of receiving it. Subsequently, the company must investigate the report and take appropriate actions.</li> <li>- Three months after the confirming the receipt of the report, the company must provide feedback to the whistleblower.</li> <li>- Data protection laws must be observed at all times. Companies must document and keep reports for in general three years after the end of the whistleblower proceedings.</li> <li>- Employers may outsource their reporting channels to law firms, groups of businesses or works councils.</li> </ul> |

**This is a high level general update only. Legal advice should be obtained on specific circumstances.**

