



RMG

Whistleblowing Policies

The Hidden window into your business

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The Economic Times defines a whistleblower as a person who discloses information to the public or a higher authority about any wrongdoing including, but not limited to, commercial crime. The South African legislation states that any person can be a whistleblower when they suspect, witness, or observe behaviour or actions that they believe to be illegal or in contravention of the financial management laws of the country.

Benefits of a whistleblowing

Sound Governance in an organisation is associated with whistleblowing, to achieve an open and transparent corporate climate where policies on wrongdoing and whistleblowing are made clear. This tool can be used to detect malpractice early on, and resultingly avoid a scandal that may be disastrous to the reputation of the organisation.

Bridgehouse, a commercial news webpage, states that no matter how thorough a screening process is to regulate employees, or how detrimental punishments the company can defend itself with, there is always the potential for the illegal or immoral activity to take place.

Though not mandatory to have a whistleblowing policy in place, it is highly advised. Even within a small business, with few employees, threats and intimidation can be used to curb the enthusiasm of those employees to disclose information about those who are linked to wrongdoing. In the case of larger corporations, it would be advisable that a properly adjudicated third party be involved, this will allow members of the board to report with confidence that illicit activities detected through whistleblowing are dealt with in a transparent and objective manner and as leadership starts at the head of any

organisation and even the members of the highest rank are still bound to company policy.

One of the benefits of having a whistleblower policy in place is that it is a sign of strong corporate governance and firmly establishes the company culture as one that takes such claims seriously. A whistleblower policy may act as a necessary deterrent to those thinking of committing a crime within the company, thus reducing the likelihood of false accusations, because employees will clearly understand the consequences of actions if they are aware of the events taking place.

The Conversation reported that whistleblowing is one of the key mechanisms to deter the spread of corruption and commercial crime.

Having an effective whistleblower policy in place will encourage accountability, transparency, and high standards of expected governance. If the whistleblower helps combat criminal activity, the state does offer some protection to whistleblowers, however, the South African public were shocked to learn of the murder of a woman who had exposed corruption in the procurement of COVID-19 personal protective equipment.

Real-Life Examples of Whistleblowing

Because of the nature of whistleblowing, there is an ever-present danger for the whistleblowers that come after reporting a crime. The Society for Human Resource Management makes the statement that protecting whistleblowers protects the interests

of business owners. Powerful South African legislation which has governed since 2000, is referred to as the Protected Disclosures Act 26 of 2000. In terms of this Act, businesses are required to implement measures to facilitate whistleblowing. After two decades, several best practices have emerged, that smaller businesses can use as stepping-stones to attain an ethical business model.

One example of an effective whistleblowing system comes from Swedish telecoms operator Telia had in 2014 developed an internal whistleblowing system called the Speak-Up Line. Within a year the system had received 92 reports of suspected incidents of conflict of interest, corruption, misusing authorised allocation of funds, procurement fraud, and human resource matters.

This system had great results for Telia in the coming years as encouraging a company culture focused on ethics and integrity produced extraordinary results. The Line assisted in exposing potentially fraudulent activity involving a former senior manager, and third-party relationships related to personal gain that had been entered in breach of the standard procurement process, possibly to support the re-allocation of company funds along with several breaches of the company's Code of Conduct, all of which fall under the banner of what defines corruption in the corporate environment. Telia directly commented on the events by noting the importance of engaging employees to be able to reap all the benefits that come along with the security of a whistleblowing system.



However, the second example proposes how an employee can destroy a corrupt company if the management of a company had fallen into ill-fated company culture. The employee, Antoine Deltour, leaked documents from his employer, LuxLeaks, that helped expose around 340 businesses who were avoiding tax by creating complex financial structures and obtaining tax rulings that allowed the use of these structures within Luxembourg. The nefarious flock of companies had at that point channeled billions of Euros through the Grand Duchy with some organisations paying near decimal amounts of tax on their profits.

These documents were passed on to a French journalist, Edouard Perrin, who then went on television to expose the information to the public. Though there was significant backlash from the company, Deltour was awarded for his actions by the European Parliament and officially recognised as a whistleblower.

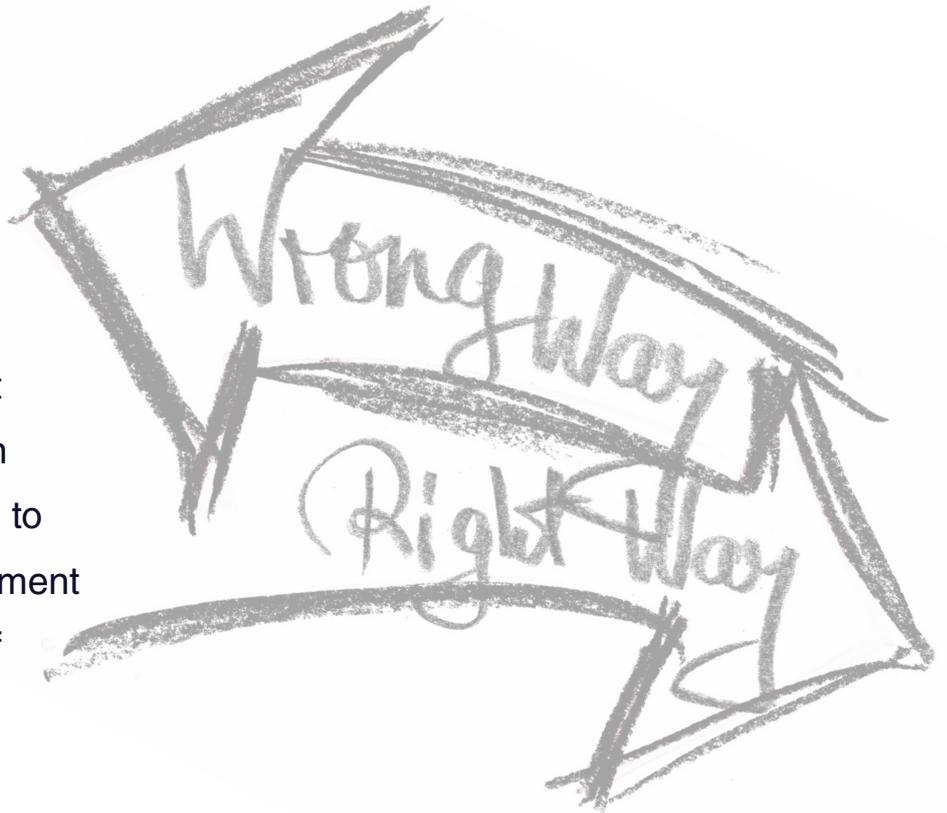
The amount of retaliation and public backlash that followed these events were directly attributed to the creation of more stringent whistleblowing laws in the European Union and the Whistleblowing Directive. Those who uncover illicit activity are covered by this directive if their claims are substantiated.

A similar example was reported by recode when a former Facebook data scientist spoke out and shared evidence that revealed the social media giant had repeatedly failed to stop widespread political misuse of the platform.

The scientist in question, Sophie Zhang, had found issues in 2017 wherein she became aware of deeper issues that were violating the standards of the platform that she was representing, especially in certain middle eastern countries. Unfortunately, Zhang was fired within 8 months of her hiring due to poor performance but had since gone on public platforms to speak out against Facebook. She was invited to speak at numerous events and summits, including the European Parliament. Facebook (now Meta) had responded to these claims that the company will act by co-ordinating actions to remove these politically motivated posts and to dispose of the fake accounts in the affected countries.

The third example takes place within South Africa and is still an ongoing struggle. A whistleblower, Athol Williams, who testified at the state inquiry into massive corruption allegations has left the country fearing for his life. As one of over 278 witnesses who testified before the Zondo-Commission (named after the judge chairing the inquiry), he named 39 people and companies involved in the nationwide scandal.

His actions followed the murder, previously mentioned, of a woman who was targeted due to being a witness in an ongoing investigation into fraudulent contracts worth R332million awarded to her department to buy personal protective equipment to help stop the spread of the virus. As of the writing of this article, 6 people have



been charged with her murder and she was lauded by President Ramaphosa as being a hero and a patriot - the president reminding us that this senseless killing was a stark reminder of the high stakes involved in our collective quest to remove this cancer from our society.

Though South Africa has legislation to protect whistleblowers it has often been critiqued for not being robust enough to guarantee the safety of the people who expose corruption in high-profile cases.

Learning from this example, it is simple to understand why a company with a positive leadership group takes measures to ensure that anonymity is awarded to the reporting party should they come under the same tempest of circumstance.

Larger corporations can encourage their suppliers and customers by hosting seminars to educate people about how low-level commercial crime can still have a damaging effect on the bottom line of the business, whether it's a few tools that go missing or millions of Rands that are taken by persons for financial gain - both crimes must suffer the same severity of punishment and retribution.

Pinset Masons published an article in March of 2022 that states that Zondo Commission report includes a recommendation that bounties be introduced to encourage whistleblowers in South Africa and to curb the spread of corruption. This system is widely used and well developed in the United States. This idea holds that whistleblowers would receive an incentivising reward for coming forward with information about corrupt or illicit activities.

Tips for an Effective Whistleblower Policy

The Center for Association Leadership (ASAE) reports that an effective whistleblowing programme can follow a basic, yet important guideline. It is important that the business understands that whistleblowers must be protected when they come forward with information. A good whistleblower policy must encompass a wide range of conduct, thus all persons under the umbrella of the company must fall under its jurisdiction.

A point that must be made very clear in the forms of retaliation, this must include employee transgressions that seem small to the larger commercial crimes. All possible forms of legal retaliation must be stated and defined clearly. The whistleblower policy must also include a clear definition of the mechanisms, platforms, or hotlines used to report employee misconduct.

Furthermore, the whistleblower policy must be reviewed by a legal professional to ascertain the legal validity of the document and to ensure compliance with other personal information-related legislation. Once created, this policy must be widely communicated and distributed throughout the company. The company must be sure

to include a clause that deals with false allegations made on malicious grounds. False allegations can be treated as employee misconduct if it can be proven to have been information that was falsified, based on hearsay or to incriminate a fellow employee.

Conclusion

In leu of the current legislative and economic culture whistleblowers will not come forward unless they are afforded a guarantee of their safety their jobs and their reputation. If a large enough company can afford to employ an objective independent third- party to manage this, public perceptions can be reported and addressed beneficially. During the actions of an investigation by internal departments, the person who must be reported to and investigate these claims should undergo extensive ethical and moral vetting to ensure that corruption does not seep into where it is supposed to be reported. Safely we can assume that a simple help email, or anonymous call line can help small businesses become aware of commercial crime that can then be effectively addressed.

Bibliography

Vox

NiDirect

BBC

AsaeCenter

RMG

Government South Africa

BHC Secretaries

Government United Kingdom

The Conversation

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