

WHISTLE-BLOWER PROTECTION LEGISLATION: FREQUENTLY ASKED QUESTIONS

What is a Whistle-blower?

- ❖ A whistle-blower is any person who has and reports knowledge of misconduct/ illegal activities occurring in an organization. Whistle-blowers can be employees, suppliers, contractors, clients or any individual who somehow becomes aware of misconduct/ illegal activities taking place either through witnessing the behaviour or even being told about it.
- ❖ The alleged misconduct/ illegal activities may be classified in many ways; for example, a violation of a law, rule, regulation and/or a direct threat to public interest, such as fraud, health and safety violations and corruption. Whistle-blowers may make their allegations internally (for example, to other people within the accused organization) or externally (to regulators, law enforcement agencies, to the media or to groups concerned with the issues (such as Transparency International Zimbabwe).

What is Whistle-blower protection?

- ❖ Whistle-blower protection legislation protects and encourages people willing to take the risk of speaking out about corruption from retaliation. Where whistle-blower protection legislation is in place, an employer or individual cannot retaliate by taking "adverse action" against workers or colleagues who report allegations of misconduct/ illegal activity.

Why is Whistle-blower protection necessary?

- ❖ Corruption often goes unchallenged when people do not speak out about it. Witness accounts offer invaluable insights into corruption, and are powerful tools in the fight against it. From exposing multi-million dollar financial scams to dangerous medical practices, whistle-blowers play a crucial role in saving resources and even lives.
- ❖ In some countries, blowing the whistle can carry high personal risk – particularly when there is little legal protection against dismissal, humiliation or even physical abuse. Controls on information, defamation laws, and inadequate investigation of whistle-blowers' claims can all deter people from speaking out.
- ❖ Whistle-blowers are less likely to report workplace misconduct when their employers do not provide clear internal reporting channels. And in some settings, whistleblowing carries connotations of betrayal rather than being seen as a benefit to the public. Ultimately, societies, institutions and citizens lose out when there is no one willing to cry foul in the face of corruption.

What are the key components of whistle- blower protection legislation?

Whistle-blower protection legislation ought to;

- ❖ be simple and easy to understand;
- ❖ cover as much of the populace as possible;
- ❖ clearly set out the standards of behaviour expected of duty-bearers;
- ❖ make clear what sorts of disclosures\ or malpractices are covered;
- ❖ make clear how and who to approach with any concerns (including contact details);

- ❖ allow the populace to circumvent the person or organisation to which the concern relates. Confidential whistle-blowing hotlines ensure employees feel confident and comfortable making disclosures;
- ❖ give an outline of the procedural steps involved in investigating any concerns and what steps may be taken should wrongdoing be established;
- ❖ make clear that citizens who blow the whistle in good faith will not suffer any sort of detriment or dismissal as a result; and
- ❖ warn that the victimisation of genuine whistle-blowers, including malicious allegations and other abuses of the whistle-blowing legislation, are criminal offences.

Does Zimbabwe have whistle-blower protection legislation?

- ❖ No. Although there are some aspects of the Zimbabwean legal system that can be relied upon to protect whistle-blowers (such as Part XIVA of the Criminal Procedure and Evidence Act - Protection of Vulnerable Witnesses) - Zimbabwe does not have a comprehensive, national whistle-blowers protection Act.

What is Transparency International doing about it?

- ❖ Transparency International believes that the individual right to freedom of expression includes the right to point out acts of wrongdoing – both in government and in private companies. Even beyond this basic right is the simple fact that people who step forward to disclose wrongdoing – particularly when public safety, health or resources are at stake – should be acknowledged and protected, not punished and ostracised.
- ❖ To help to ensure that whistle-blowers are adequately protected from reprisals, and to provide them with easy-to-access avenues to make their disclosures, Transparency International Zimbabwe is engaged in a wide range of advocacy, public awareness and research activities in all regions of the world. Through our Advocacy and Legal Advice Centres, located in Harare, Bulawayo and Mutare (but also through Mobile Legal Aid Clinics encompassing other areas), we advise whistle-blowers in making their disclosures and work to make sure that their disclosures are duly addressed by appropriate authorities. We work closely with advocacy groups, legal experts and whistle-blowers toward enhancing whistle-blower protections and rights.
- ❖ To promote responsible whistle-blowing and adequate protection of whistle-blowers, Transparency International Zimbabwe (TI Z) relies on international principles for whistle-blower legislation developed by Transparency International, which many countries and international organisations have used to develop their own legislation and standards. Relying on these principles, TI Z has approached many Members of Parliament, Portfolio Committees and other state institutions to advocate for the enactment of whistle-blower protection legislation.