

BUSINESS BRIEF: WHISTLEBLOWING

Whistleblowing is increasingly recognised as an important tool in the prevention and detection of corruption and other malpractices. By disclosing wrongdoing in an organisation, whistleblowers can prevent and detect corruption before it reach the public, this can save businesses the reputational and financial losses that comes with a corruption scandal. The clandestine nature of corrupt behaviour means that it may never come to light unless cases are reported by people who discover them in the course of their work. But reporting can come at a high price: whistleblowers often expose themselves to great personal and professional risks in order to protect the companies' best interest. As a result of speaking out, they may lose their jobs, dampen their career prospects, and even put their own lives and their family's at risk.

This Business Brief will provide the private sector with some guidance on whistleblowing policy/procedure.

What is Whistleblowing?

Whistleblowing is the disclosure of information about perceived wrongdoing in an organisation, or the risk thereof, to individuals or entities believed to be able to effect action. The ultimate goal of whistleblowing for companies is to protect the companies' best interest and reputation. It achieves this by informing people or organisations that are in a position to prevent harm, to investigate or to take action against those responsible for wrongdoing¹.

The role of whistleblowing in the fight against corruption

Corruption is by nature hard to detect and it is usually only those engaged in corrupt deals or those who work with them that are aware of it. Insiders are among the few people who are able to report cases of corruption (past or ongoing) and identify the risk of future wrongdoing. By helping to detect corruption cases, whistleblowers play a critical role in converting a vicious cycle of secrecy into a virtuous cycle.

Detection of corruption is a pre-condition to initiate related investigations and prosecution. However, only if corruption cases are effectively investigated can a culture of corruption change and a culture of integrity prevail.

Major bribery and corruption scandals demonstrate the damage done by the failure to report wrongdoing as soon as it is discovered. Yet indifference, fear of reprisal, and misplaced loyalty as well as an overall culture of silence often deter potential witnesses and whistleblowers from speaking out².

Whistleblowing in Cambodian Anti-Corruption Law

Article 13 of the Cambodian Anti-Corruption Law states that measures should be taken to ensure the whistleblowers safety. However, in article 41 of the same law, whistleblowers who report could face the threat of imprisonment from 1 to 6 months and fines from 100,000 to 1,000,000 riels (approx. 25 to 250 US dollars) if their claim is later on found to be a false accusation³. TI Cambodia's own study has found a potential correlation between this legal threat and a low level of reporting.⁴ Apparently in an attempt to promote corruption reporting, the Royal Government of Cambodia has now begun drafting a whistleblower protection law.

Transparency International Cambodia, for its part, recently issued a policy brief on "The Need for a Good Whistleblower Protection Law in Cambodia" in January 2016.

What is a good Whistleblowing Policy and Procedure for Business?

Whistleblowing policies should encourage employees to speak out if they have legitimate concerns about wrongdoing, as distinct from individual grievances. They should also establish an accessible procedure for doing so. The policy may be self-standing or part of a wider code of conduct. A good whistleblowing policy should:

- be simple and easy to understand;

² Policy Position, Transparency International Secretariat 2010

³ Cambodian Anti-Corruption Law 2010

⁴ Youth Integrity Survey, Transparency International Cambodia, 2015

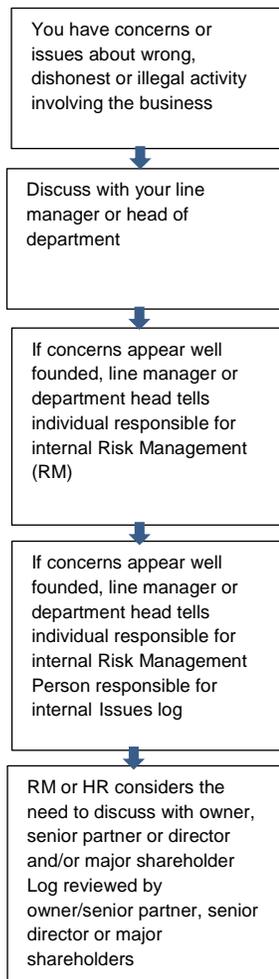
¹ Policy Position, Transparency International Secretariat 2010

- cover as much of the workforce as possible;
- Clearly set out the standards of behaviour expected of employees;
- make clear what sorts of disclosures or malpractices are covered;
- make clear how and who to approach with any concerns (including contact details);
- let employees circumvent the person or part of the business to which the concern relates. Many organisations now have confidential whistleblowing hotlines to 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;
- Establish an encouraging protection policy for good faith whistleblowers.

Why Businesses need to have Whistleblowing Policy?

In summary, whistleblowing policy/procedure is a necessary component within an organization. Without it, fraud, misconduct, and failure can become prominent within an organization. This can in extension lead to significant negative reputational and financial impact. By promoting clear communication, keeping the organization's goals in focus for the entire organization, one can certainly minimize their chances of reaching an organizational disaster. A clear whistleblowing procedure is also a key for a building a culture of integrity within a business, empowering employees to speak up by setting a clear tone from the top.

For more information on whistleblowing policy/procedure, please contact TIC's Technical Advisor: matsstridsman@ticambodia.org.



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