



# LEADERSHIP AND INTEGRITY WORKSHOP

Virtual Forum

*“Implementation of Whistle-Blower Policies and Systems Requirements”*

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# Agenda



- ❑ Introduction and Objective Setting
- ❑ Whistleblowing Policies: Best Practices
- ❑ Implementing Effective Whistleblowing Systems
- ❑ Emerging Trends in Whistleblowing
- ❑ Q & A

# Objectives



**By the end of this session, the participants will be able to:**

- 1. Understand** the significance of whistleblowing in their organisations
- 2. Highlight** best practices in the implementation of whistleblowing policies
- 3. Distinguish** the key components of an effective whistleblowing system

# Definition



**Whistleblowing** is the term used when a person passes on information concerning wrongdoing, such as corruption, misconduct, sexual harassment, abuse of power etc. The person is usually closely associated with the organisation, often an employee, but also sometimes a supplier or a customer. They become a whistleblower when they observe behaviour or actions that they believe to be misconduct, illegal and not in line with the organisation's Code of Conduct, and report that suspicion as a whistleblowing matter.

# Prominent Whistle-blowers



**David Munyakei – Goldenberg Scandal**



**John Githongo – Anglo-leasing Scandal**

# Organisational Whistleblowing



Organisational whistleblowing is a **preventive** and **detective** tool for organisations to reduce the risks of fraud, malpractice and other irregularities. Empowering employees and other relevant stakeholders to blow the whistle increases the chances of managers obtaining information on irregularities that should be acted upon at an early stage. Organisations that take their Code of Conduct seriously will therefore put in place mechanisms to enable organisational whistleblowing, such as a secure corporate whistleblowing system or hotline and a whistleblowing policy or guidelines.

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# Benefits of Organisational Whistleblowing



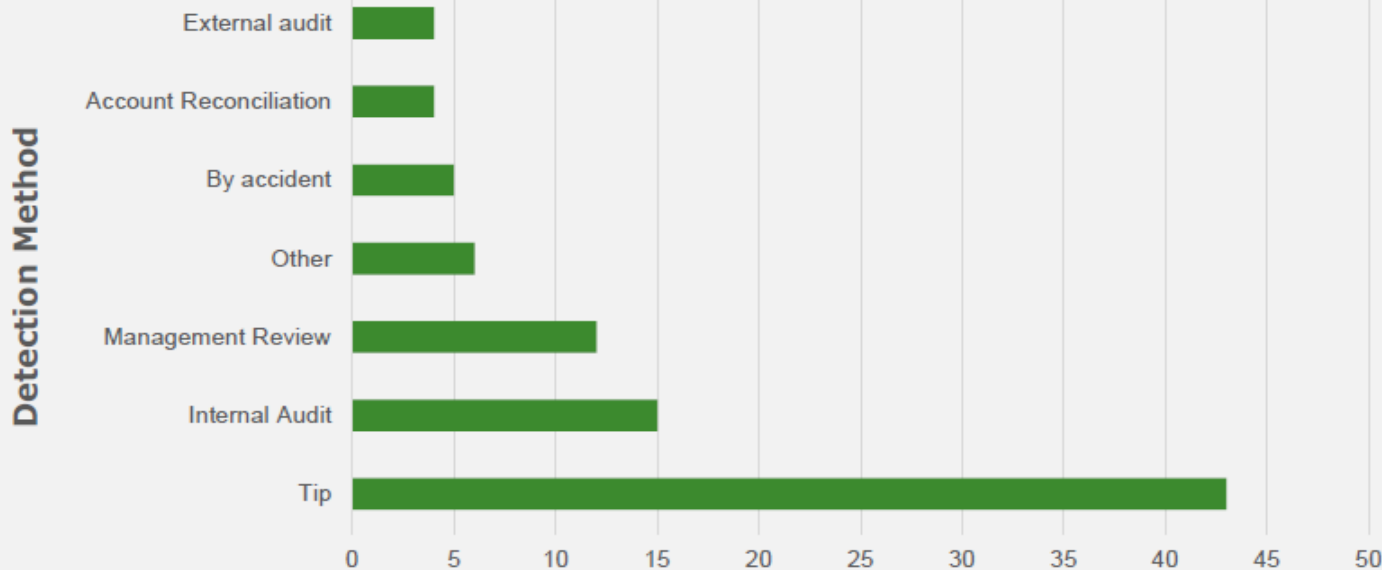
Whistleblowing provides the below benefits to the organisation:

- Deterrence, as wrong-doers are forced to think twice.
- Access to hard-to-reach information while protecting the whistleblower.
- Early detection of fraud/ misconduct and reduced losses.
- Take care of things internally by investigating incident reports.
- Build trust in your brand.
- Ensures legal compliance.

# The Power of Whistleblowing



- ❖ According to the ACFE, organisations lose an estimated **5% of revenues to fraud each year.**
- ❖ Organisations with an effective whistleblowing system were **50% more likely to detect fraud** than those that did not.
- ❖ Highest detection method of fraud is via tip offs, **by more than double!**



source: ACFE  
report to the  
nations on  
occupational  
fraud and  
abuse: 2020

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# Whistleblowing and Fraud Risk Management



## Fraud Risk Management Framework

A

### Governance and Strategy

Strategy

Fraud Risk Definition

Accountability and Governance

Reporting Lines

Fraud Policy including response plan

3 lines of defence

Internal Audit: Validation and Assurance

Commitment

## Fraud Risk Management Controls

B

### Prevention

- **Ethics Programme**
- Fraud risk business process review
- Code of conduct
- Employee due diligence
- Customer due diligence
- Suppliers' due diligence
- Declaration of Interest
- Segregation of duties

C

### Detection

- Skills and resources
- **Whistleblowing**
- Reporting and analytics
- Staff rotations
- Data analytic tools and techniques

D

### Response

- Fraud Response plan
- Post fraud control review
- Stakeholder communication

# Designing Whistleblowing Policies



- A good whistleblowing policy should set out to achieve the following objectives:
- i. Provide guidelines that **empower** every employee to be a whistleblower.
  - ii. Ensure the company stays committed to **protecting employees who make disclosures of wrongdoing** by people in positions of responsibility and decision-making that potentially have negative impact on business continuity.
  - iii. **Establish uniform procedures and guidelines** for the administration and processing of protected disclosures made by whistle-blowers.
  - iv. Identify protections for **whistle-blowers who wish to retain anonymity**.
  - v. **Ensure there is no negative employment action or unfair treatment** that will be taken against a whistleblower for making a protected disclosure under the Policy.
  - vi. **Ensure all staff understand the Policy** on protected disclosures and the process of making such disclosures.

# Defining Scope in Whistleblowing Policies



The Whistleblowing Policy should be applicable to all directors, management and staff members. The Policy should cover concerns which include but are not limited to:

1. Fraud, corruption and abuse of office
2. Failure to comply with a legal obligation or legislation
3. Sexual harassment
4. Improper conduct or unethical behaviour
5. Attempts to conceal any of the above irregularities.
6. Retribution/retaliation towards a whistleblower

# Types of Whistleblowing



The Whistleblowing Policy should provide for the two types of whistleblowing as defined below:

- **Confidential whistleblowing** - the whistle-blower's name is known but will not be disclosed, without their consent, unless required by law.
- **Anonymous whistleblowing** - the whistle-blower does not identify themselves to anyone at any stage. The organisation must provide for mechanisms that ensure full anonymity of whistle-blowers such as hotlines, emails, portals etc.

# Investigation and feedback



The Whistleblowing Policy should ensure that all reasonable allegations will be treated seriously and systematically, and will be properly investigated.

**Remember: The sustenance of an ethical culture in an organisation is dependent on employees' perception that the organisation has a zero tolerance towards fraud and other misconduct.**

Upon completion of the investigation, the Human Resource Management Office should formally update whistle-blowers on the status and findings of investigations so long as it does not infringe on privacy laws and policies.

# Escalation Matrix



The Whistleblowing Policy should provide an escalation matrix for the making of disclosures to higher authorities depending on the level of staff implicated. A typical escalation matrix is as below:

Staff implicated	To report to
Ordinary staff	Line Manager/HR Office
Line Management	CEO/Managing Director
CEO/C-Suite	Board of Directors

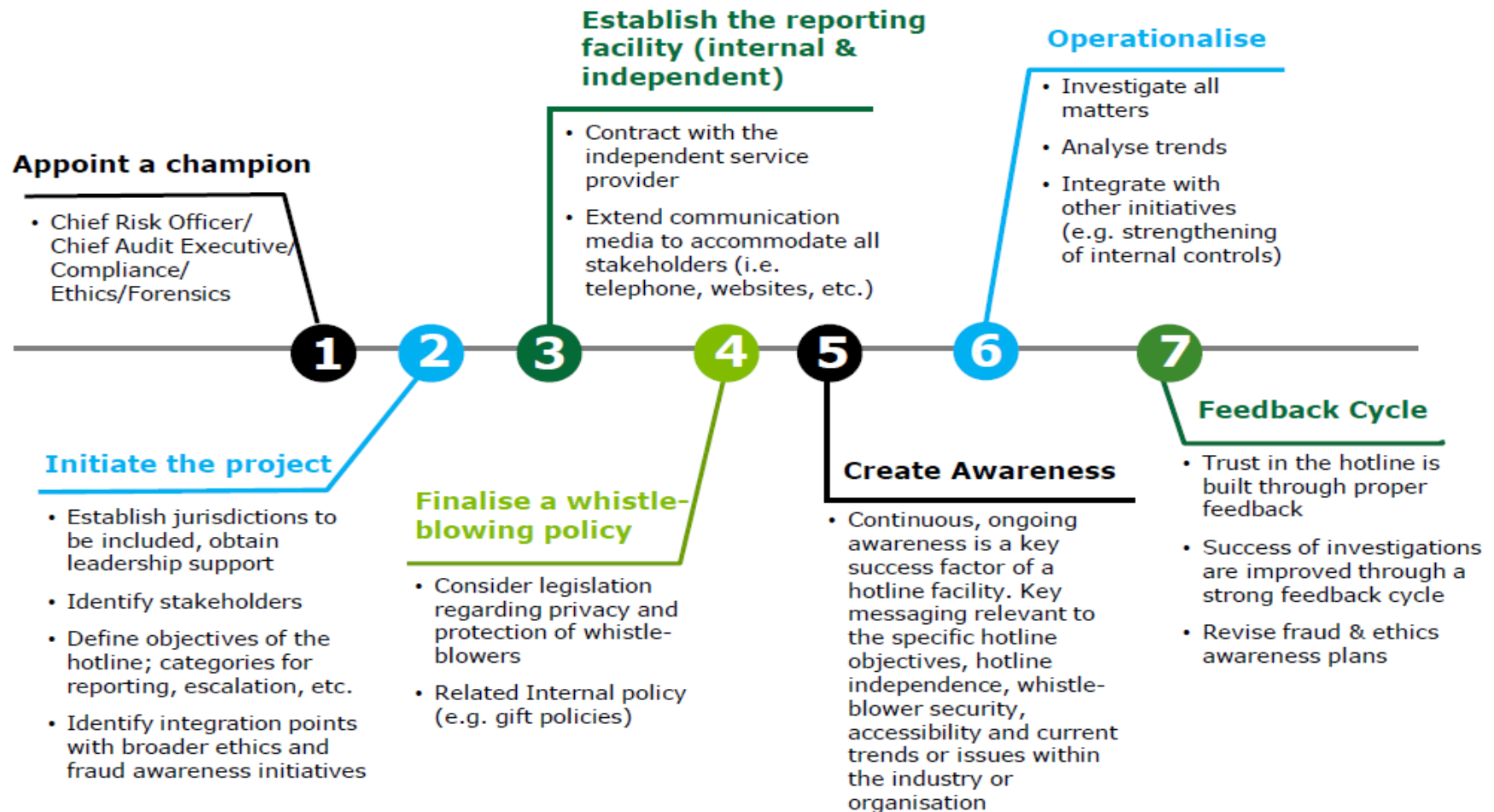
# Effective Whistleblowing Systems



An effective whistleblowing system should have the following characteristics:

1. **Simplicity** – Making reports should not be unnecessarily complicated. It should be as easy as a phone call or writing an email
2. **Versatility** – The system should provide different options for the whistleblower to use
3. **Anonymity** – Full anonymity must be guaranteed!
4. **Security** – Whistleblower reports should be maintained in a highly secure environment
5. **Awareness** – The organisation must create awareness around the existence of whistleblowing options
6. **Tracking and Feedback** – A good system should be able to manage all whistleblowing reports made and provide feedback to management and whistle-blowers on the status of investigations

# Establishing an effective whistleblowing system



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# Emerging trends - Legislation



Most countries are now updating their laws to require mandatory protection of whistle-blowers. In Kenya, the **Whistleblower Protection Bill** was introduced to Parliament in October 2021. The key features of the bill include:

- Definition of improper conduct in both the private and public sector that will be within the scope of the law
- The disclosure process
- Disclosures protected by law
- Requirement for both private and public bodies to put in place whistleblowing policies and procedures
- Protection of whistle-blowers in the workplace
- Establishment of Whistleblower Reward Fund

NB: Whistle-blowers are protected in various other Acts such as the Bribery Act, 2016 and the Anti-Corruption and Economic Crimes Act, 2003 (ACECA).

# Emerging trends - Outsourcing



To meet anonymity requirements, many organisations are now turning to full outsourcing of their whistleblowing programs to external entities that guarantee anonymity and information security.

## **Benefits of outsourcing**

- Guaranteed anonymity of whistle-blowers as all personal information pertaining to the whistleblower is redacted before being shared with the organisation.
- Some outsourcing platforms are managed by professional investigators who are able to extract as much relevant information from the whistleblower as possible to ensure that reports made are more actionable
- Outsourcing platforms are able to provide feedback to the whistleblower while maintaining an arms length relationship with the organisation

# Key Take-Aways



Ultimately, whistleblowing only works if:

- The organisation demonstrates a **commitment to abiding by ethical principles** and lives by these principles in the form of day-to-day conduct;
- The whistleblowing platform is **robust and reliable**, giving users the **certainty that their disclosures will remain confidential and will be dealt with appropriately**, including minimising their exposure and addressing the risk of victimisation or retaliation; and
- The whistleblowing platform is **easy to use** and allows users to communicate issues through several alternatives. It should cater for potential users reaching out at any time and through the means they find most comfortable – mail, phone, message, etc.

## Parting Shot



*“The world is a dangerous place, not because of those who do evil, but because of those who look on and do nothing.”*

**Albert Einstein**

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# Q & A

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