

Whistle Blowing

AGENDA

- What is Whistle Blowing ?
- Purpose of Whistle Blowing
- Characteristics of Whistle Blowing
- Criteria – Is Whistle Blowing Justified ?
- Stages of a Whistle-Blowing Incident
- Conclusion



What is Whistle Blowing ?

- “Whistle Blowing” is the term used to refer to unauthorized reporting or disclosure of confidential information in institutional settings
- The whistleblower steps outside the approved channels of communication to disclose information to an audience who normally would not be entitled to it

What is Whistle Blowing ?

- The unauthorized public disclosure of privileged information by an employee to protect the public interest
 - must be unauthorized
 - must be public
 - must be information the employee has access to by virtue of their job position
 - i.e. not simply personal opinion

Purpose of Whistle Blowing

- To draw attention to unethical, inappropriate or incompetent conduct which has or may have detrimental effects either for the institution or for those affected by its functions
- It extends to situations where an individual believes that an activity is harmful while others involved are not aware of it or reject the perception that is involved

Characteristics of Whistle Blowing

- The whistleblowers are prepared to take full responsibility for their actions
- Implies a concern for the preservation of ethical values which overrides a concern for self-preservation
- Whistleblowers open themselves to the risk of losing personal and financial security, counter-accusation and alienation and yet they feel compelled to make the disclosure and to stand by it

Criteria – Is Whistle-Blowing Justified?

- Is the whistle-blower acting in the public interest?
 - what is the public interest?
 - life
 - health
 - safety
 - environment?
 - wasting tax dollars?
 - who should judge?
 - the whistle-blower?
 - the government
 - a third party

Criteria – Is Whistle-Blowing Justified

- Is the whistle-blower acting in the public interest?
 - Does the whistle-blowing seem likely to contribute to changes protecting the public interest?
 - has the threat to the public interest already been rectified?

Criteria – Is Whistle-Blowing Justified?

- Is the whistle-blower acting in good faith?
 - Does it matter if the whistle-blower is right or wrong?
 - How wrong is acceptable? (i.e. what is the standard of proof that the whistle-blower ought to assume?)

Criteria – Is Whistle-Blowing Justified?

- Has the whistle-blower exhausted internal channels?
 - does pursuing the issue through internal channels make sense in the circumstances?

Criteria – Is Whistle-Blowing Justified?

- Is the whistle-blower acting in the public interest?
- Is the whistle-blower acting in good faith?
- Has the whistle-blower exhausted internal channels?
- Does the whistle-blowing prejudice the ability of the whistle-blower to do their job?
 - undermine the ability of the office to perform its functions?

Criteria – Is Whistle-Blowing Justified?

- Were the actions of the whistle-blower proportionate to the public interest at stake?
 - release only of necessary information
 - release of information in appropriate public forum?

Stages of a Whistle Blowing Incident

- Stage One – Is There a Potential Whistle Blowing Scenario ?
- Stage Two – Seriousness Test
- Stage Three – Reality Check
- Stage Four – Becoming Aware of the Big Picture
- Stage Five – Forcing Management Recognition of the Problem
- Stage Six – Taking the Problem to Upper Management
- Stage Seven – Going Outside the Organization
- Stage Eight – Living with The Results

Stage One – Is There a Potential Whistle Blowing Scenario ?

- A potential whistle blowing incident begins with 3 conditions :
 - You learn that your organization, or someone in your organization, is pursuing a course of action you believe is ethically wrong
 - You believe that you know some relevant information that is not generally known, typically this information is related to your professional expertise
 - You believe that if what you know is correct, and if it became widely known and understood, the course of action would be changed

Stage Two

– Seriousness Test

- Ask yourself if the issue is serious enough to merit your concern
- Most concerns that pass through stage one are likely to fail the seriousness test

Stage Three – Reality Check

- Before you begin to take any action, you should first pause, consider it all again, gather more information, and try to be certain that you are right
- No matter how intelligent and experienced you are, there is always the possibility that your initial impression of the situation is not completely correct
- One way to check your assessment is through discussions with your colleagues, you need to be certain that you understand your colleagues' reasoning and that you can rationally explain why you reached a different conclusion

Stage Four – Becoming Aware of the Big Picture

- View the problem in a broader setting, beyond your individual perspective
- An organization of any substantial size is likely to have multiple areas of expertise and levels of management, final decisions may depend on input from several technical, financial, and marketing experts, as well as an assessment of compatibility with the company's long term strategic plan
- Once you have convinced that the 'Big Picture' does not change anything, you have arrived at the beginning of the truly difficult decisions and actions

Stage Five – Forcing Management Recognition of the Problem

- You should start out this stage with the goal of getting the problem remedied from inside the organization and with as few bad feelings as possible
- The first step is to make middle management aware of the problem in a clear and positive manner
- From the very beginning of this stage, you should be preparing for the possibility that you will be forced to go outside your organization with your concerns. One aspect of this preparation is the accumulation of supporting documents
- Another aspect is to be thinking about how you might get support from professional societies and whom you might contact should you need legal assistance
- A third aspect of this preparation is to be aware that your career path may change abruptly in the near future

Stage Six – Taking the Problem to Upper Management

- When you are thoroughly convinced that the immediate level of management is not going to address the problem, you might need to take your concerns to a higher level. The danger for you in “going over the boss’s head” is that this almost certainly puts your job on the line
- Another option at this point is to attempt to pass the information up the management ladder anonymously. People generally take anonymous information less seriously simply because it is anonymous
- Up to this stage, you may quickly reach the point at which you feel you can no longer address the problem within the organization, you are then at the threshold of fully blowing the whistle

Stage Seven – Going Outside the Organization

- Once you have decided that the organization will not address the problem unless there is pressure from the outside, Whistle Blowing is the only alternative left
- The most effective forum and format for the whistle blowing will, of course, depend on the specifics of the situation
- It may be tempting to think of going to reporters and getting lots of publicity, however, professional and governmental regulatory bodies may be a better choice
- Another better alternative is Regulatory agencies and legal authorities because they may be able to impose fines, close operations, or do other things that get the organization's attention immediately

Stage Eight – Living with the Results

- If you have not experienced a change in job status already, you almost certainly will now. The less dramatic change is for the organization to transfer you to a career dead end. The more direct change is an ultimatum to quit or be fired
- The whistle blower essentially never continues a happy career in the same organization
- You should of course be concerned for your financial security
- If you are a member of a professional organization, it may help in providing moral and other forms of support

Laws Protecting Whistle Blowers

- Whistle Blowers in some areas are not without legal support. In United States, both federal and state laws are aimed at protecting those who undertake whistle blowing.
- However, even with this support, the potential whistle blower must still contemplate a difficult and dangerous path.
- The primary protection law is the Federal Whistle Blower Protection Act of 1989
- Another Federal Law is the False Claims Act, which has been around since 1863
- Many state governments have passed their own whistle blower protection acts

Conclusion

- A whistle blowing incident is probably the most emotionally difficult thing you can experience as a professional
- Not every incident that should result in whistle blowing does, sometimes the whistle is “swallowed” rather than blown
- In some cases, there are federal and state laws meant to provide protection for the whistle blowers
- If you find yourself in a possible whistle-blowing incident, you should exhaust all internal alternatives for addressing the problem and accumulate all documentation possible. If blowing the whistle becomes the only alternative, then you should anticipate a job change and you should get good legal representation