



SOCIETY

Tone From the Top

The treatment of whistleblowers has been called into question

Bernadette Young



Transparency International's recently published 'Corruption Perceptions Index 2019', which ranks 180 countries according to perceived levels of public sector corruption, made several recommendations to improve trust in politics and end corruption. One of those recommendations was to protect whistleblowers. Whilst the report is focused on government and public sector behaviours, the need to safeguard those who speak up about suspected wrongdoing applies equally to all organisations.

Within the UK, whistleblowers should have been able to rely on employment protections since the enactment of the Public Interest Disclosure Act 1998. And similar regimes elsewhere in the world have also been introduced to ensure whistleblowers should be able to raise their concerns with confidence. However despite these legislative developments, those who stick their heads above the corporate parapet to raise concerns about illegal or unsafe practices, often still find themselves ignored, victimised, fired and/or blacklisted. The degree of courage often needed to become a whistleblower must inevitably discourage many from speaking up.

There are gaps in current legislation, at least in the UK, which could and should be addressed to provide greater security for whistleblowers. But equally there are sound

commercial reasons for organisations to ensure that, regardless of any legal loopholes, their policies and practices to support potential whistleblowers are rigorous and effective.

Take, for example, the detection of fraud. The Association of Certified Fraud Examiners publishes an annual 'Report to the Nations', a global study on occupational fraud and abuse. The 2018 report indicated that 40% of corporate frauds are uncovered through a tip off, of which more than 50% come from an employee. This compares with only 15% of fraudulent activities being discovered by internal audit.

Quite simply, your workforce are the eyes and ears of your company and when they get so concerned that they escalate an issue through the whistleblowing procedures, you would be wise to listen.

Management which chooses to ignore or seeks to undermine, and discredit reported concerns cannot truly be acting in the best long-term interests of their company. Their reaction may be motivated by self-interest or they may simply be misguided, but either way they do a disservice, not only to the whistleblower, but to the entire organisation and its stakeholders.

Even amongst large and credible organisations, there are, however, ready and recent examples of poor (and sometimes

shocking) practice when it comes to the treatment of whistleblowers. In one high-profile case, Barclays Bank chief executive, Jes Staley, was found to have personally instructed the head of security to uncover the writer of two anonymous letters criticising him in relation to the recruitment by him, and the behaviour, of a former colleague. Resulting in personal fines levied on Mr Staley, as well as a US \$15m fine for Barclays, the case raised issues about the bank's culture and how such treatment of whistleblowers might seriously impact the future willingness of others to raise concerns.

The issue of organisational culture is one for which the board must take full responsibility. The so-called 'tone from the top' is not some sort of ethereal, indefinable and unmeasurable nice-to-have. Directors who constantly demonstrate, through their day-to-day actions and decisions, that the organisation's ethos is underpinned by the principle of 'doing the right thing', send a powerful and empowering message to their colleagues about the behaviours that are expected of them.

No amount of well-designed, glossy internal communications espousing positive corporate policies will convince employees that they work for a supportive and ethical organisation if they see that such words are not backed up by actions. Increasingly, investors and other stakeholders are choosing to vote with their feet (or at least their funds, custom and willingness to work for an organisation) where they detect that a company's purpose and activities are defined by narrow and short-term financial considerations. Poor treatment of whistleblowers which, as Barclays discovered to their cost, can be both reputationally and financially damaging, may be viewed by many such stakeholders as a key indicator of toxicity going well beyond the original subject of the complaint.

For those of us working in governance, with opportunities, and more-than-likely responsibilities, to influence the design, implementation and response to arrangements for colleagues to speak up in confidence, a thoughtful approach is needed. Having no reported whistleblowing incidents may be less a source of comfort that all is well and more an indicator that employees fear to raise concerns, are unaware of the right process to use or that their reports are being suppressed.

None of those scenarios bode well.

Bernadette Young FCG IS
 DIRECTOR OF COMPANY SECRETARIAL
 CONSULTANCY CHADWICK CORPORATE
 CONSULTING