



INTERNAL WHISTLEBLOWER POLICY
FAQ
2013



INTERNAL AUDIT SECTION

1. What is whistleblowing?

It is a voluntary act by any employee/public (in so far as services provided) to report a wrongdoing within the organization that goes against the rules of the organization or any legislated law in Malaysia.

2. What is wrongdoing?

The following are types of wrong doing:

- 1. Fraud, corruption or forgery*
- 2. Criminal breach of trust*
- 3. Bribery*
- 4. Abuse of power*
- 5. Conflict of interest*
- 6. Theft or insider trading*
- 7. Misuse of Organizations funds or assets*
- 8. Violation of the SSM's procedures policies, other rules of conduct or SSM contractual obligations or statutory obligations*
- 9. Damage to the environment*
- 10. Danger to health and safety of any individual*
- 11. Breach of confidentiality*

12. *Involvement in unlawful acts*
13. *Financial malpractices*
14. *Gross mismanagement*
15. *Any attempt to conceal or suppress information relating to any misconduct or wrongdoing*
16. *Any other conduct which may cause loss to the Organization, or otherwise be detrimental to the interests of the shareholders, clients and the public*

3. Why is the policy in place?

To ensure that the staff irrespective of rank or level have an avenue to channel any instance of conduct by another employee of the organization irrespective of rank that has in the manner of their conduct flouted rules and any legislated law in force.

4. Let's say I am not affected in any way however the victim is a colleague of mine and is too afraid or has been harassed to the point of submission. Can I whistle blow?

Of course you can, say for example your colleague is being sexually harassed by another colleague and has

been harassed to submission. You can whistle blow the incident.

5. What is the protection offered to me in the event I whistle blow?

The protection is as follows:

- 1. Your identity is not revealed to anyone.*
- 2. You won't be used as a witness to any subsequent prosecution*
- 3. In the event if there is any issue arising where there is an issue of discovery by someone in authority in your organization and if you can prove that they have taken retributive steps against you or the victim, the organization that you have complained too is obligated to act in order to protect you.*
- 4. If there is any referral done to another enforcement agency, you would be informed.*

6. Who can i whistle blow too?

Any enforcement agency either at state or federal level as there is no closed door policy, no agency can tell you to go to another. In SSM, IAS is authorized to investigate all whistle blower complaints however you can choose at your discretion to go to another

enforcement agency if you feel they would be able to act faster or more efficiently.

Under the Whistle Blower Protection Act 2010, there can be no barriers imposed on staff of the organization with regard to whistle blowing.

Remember it is an offence to impose barriers on anyone who intends to whistle blow.

7. What are the advantages of going to an external agency?

- 1. The nature of the complaint would be within their scope of operations, corruption (MACC) , criminal activity (police), sexual harassment, (labor department, police), adultery (religious authority)*
- 2. Protection for you in case of any retributive steps by your organization may be faster and would act as a deterrent to any party within for attempting to do so.*
- 3. Trained to handle the situations better i.e for sexual harassment the labor department and police have dedicated trained personnel and lines and have the necessary skills to handle such tasks with finesse.*

4. The possibility that an employee can whistle blow remains as a deterrent to officers within the organization more so when they have the option to go to an external agency.

8. In what medium can I whistle blow?

In SSM we have a suggested format via a form however this is only suggestive, you can call the HOS of IAS directly, write to him in a letter or call to meet up and discuss the issue. You can email however in the interest of security a written or face to face meeting is always better and not in the confines of the office. Even if you choose to call, please don't do this in the confines of the office as remember the walls have ears and people have mouths some too big for their own good.

For other enforcement agencies MACC has an online complaints system together with hotline, the police have dedicated number together with the labor department. All these contacts are stated on the suggested form in the event you wish to complain directly.

9. What happens if someone discourages or attempts to intimidate me from whistle blowing by taking detrimental action?

Here the WP Act 2010 states detrimental action covers either taking or threatens to take or if the person permits or incites another person to take action commits an offence which can be punished by a jail term of 15 years or RM100,000 fine or both. Section 10 (6) WP 2010.

A whistleblower can make a complaint to any enforcement agency of any detrimental action against them by any party. Section 10(2) WP 2010.

10. What is detrimental action?

Its defined by WP 2010 as includes action causing injury , loss or damage, intimidation or harassment, interference with lawful employment or livelihood including discrimination, discharge, termination or adverse treatment in relation to the persons employment, career , profession, trade or business or taking disciplinary action or threats to take any action that have so far been stated.

11. In what instances can Whistle blower protection cease to apply?

- 1. Whistleblower participation in the act reported.*
- 2. Willful disclosure knowing at the material time that the information has no basis and was false and misleading.*
- 3. Disclosure involves questioning government policy or the policy of the organization.*
- 4. Made with the motive of avoiding dismissal or other disciplinary action.*

12. What other instances can the protection be lost?

Where the whistle blower him /herself had disclosed to other persons their act and it has become general knowledge.

13. What happens if I had made the disclosure and it was found without basis?

If it was made in good faith and at the material time when disclosure was made, if you had in good faith believed that an offence was committed, no reprisal action can be taken.

14. What happens if I knew and made the complaint knowing that it had no basis and was done in bad faith?

The organization/defendant has to prove that it was done in bad faith and that you knowingly at the time of making the disclosure were aware of this, then action can be taken against you.

15. What can happen to me?

You can be charged for making a false statement Section 21 WP 2010 and if found guilty can be fined up to RM20,000 or imprisoned 5 years or both.

16. Does the organization accept anonymous complaints?

Yes it does, all anonymous complaints would be resolved with the knowledge and approval of the ARMC. Other enforcement agencies such as MACC accept them as well.

17. What are the confidence that I have and the safeguards that my complaint would be acted upon?

*As we have mentioned earlier, if the agency that you reported to does not do anything i.e for example if IAS (or any other enforcement agency) had not initiated anything or gave any feedback to you, you are free to go to any other agency where once reported, IAS (or any other enforcement agency) can be held accountable for inaction. **Remember everyone inclusive of those charged with acting on whistle blowers reports are accountable.***

18. What can I expect when I have made my complaint?

For starters within 3 working days from the date you have made the complaint, you would be informed of the preliminary findings. In addition where there is a need to refer your complaint to the appropriate enforcement agency, you would be informed of this matter however your identity is always protected. You have an option to approach the agency directly to whistleblow.

19. What is the escalation guide that is shown in the internal whistle blower policy?

This escalation is to address the nature of the allegation to a higher authority that such an allegation exists involving someone under their supervision. Remember they only know the allegation but not the whistleblower.

20. What are do's and don'ts for both employee and their supervisors in general?

Employees

- 1. This is not a means for revenge or retribution against your colleagues and superiors.*
- 2. With great power comes great responsibility, you have been given a powerful tool just as you expect justice and fairplay, ensure you mete that out as well.*
- 3. You have to be honest about yourself before raising issues with perceived injustice.*
- 4. Check your facts first before acting; don't act on what you were told by others.*
- 5. Try not to fight other's battles for them if they don't have the will to fight for themselves.*
- 6. Be objective in your self assessment.*
- 7. Don't confide in others on your action to whistleblow*

8. *Some of us are critical of our colleagues and superiors without realizing that we have similar faults or worse.*
9. *Remember it's easy to make an allegation but its very difficult to clear someone's name.*

Supervisors

1. *Ensure that you have proper SOP's in place and these are adhered to.*
2. *Always have proper basis for your decision and make sure the said basis is legally acceptable.*
3. *Transparency and accountability should be practiced at all times.*
4. *You have the prerogative on certain matters however exercise them judiciously, remember never let the decision that you make and the consequences to haunt you.*
5. *Act on staff complaints before they escalate into something bigger.*
6. *There should be people management not management by proxies.*
7. *Always if you need to take detrimental action follow the due process and ensure that warnings , assessments and proper counseling has been performed.*

- 8. Do not allow your actions to be open for questions and criticism.*
- 9. As we have mentioned earlier, with great power comes great responsibility, ensure that you exercise your authority with due care.*