

Set of general policies for the encouragement and protection of persons disclosing corruption related information (Whistle Blowers).

Introduction

Formulating a policy by each of the institutions such as government institutions, semi government institutions, provincial government institutions or private institutions for ensuring the protection of Whistle Blowers who disclose information on corruption and malpractices within the said institutions is of utmost importance towards the affluence and good governance of the said institution as well as for the public interest. Through a strong methodology for whistle blowing, the employees of institutions are encouraged to disclose serious unlawful activities and perilous activities which take place in respective entities to boards of directors or regulating authorities and in the absence of a strong mechanism of reporting corruption and malpractices taking place in institutions; inquiries into the institutional level shortcomings made by the controlling authorities and trust boards and the concurrent remedial measures adopted are not likely to be productive or results oriented.

Whistle Blowing in this context means the disclosure of information on activities that are unlawful or unethical in certain ways which are not open for the public or disclosure of any activity which has a detrimental impact on the public interest committed by individuals within or outside a certain institution and it will massively contribute towards taking productive steps to minimize corruption.

An activity of corruption taking place in any government, semi-government, provincial government, non-governmental or private sectors and such activity will directly have an unfavorable bearing on the public interest and therefore, it is the utmost responsibility of a state and the duty of the entire society to take measures

to steer clear of such corruption. At that point, Whistle Blowing carries significant importance and to ensure the protection of the whistle blower is a responsibility of the state.

Preamble

Considering bribery and corruption being still prevalent as the major obstacle further and significantly against economic, political and social development, despite the matter of prevention of bribery and corruption has been a major topic of concern during the period of around last three decades,

(Section 28 of the Constitution – Fundamental Duties of citizens and that the citizen should be protected for that)

Emphasizing that bribery and corruption are no longer limited to the government sector but encroaching to all the sectors such as government, non governmental and private sectors, weakening public interest and protection and also fundamental human rights and human dignity,

Pointing out that although a number of isolated endeavors like the introduction of Emphasizing the ad hoc efforts such as introducing the Bribery Act of 1954 for the suppression of bribery and corruption, appointment of the Thalpathpitiya Commission in the year 1956, establishment of the Commission to investigate allegations against bribery and corruption in the year 1994, ratification of the United Nations Convention Against Corruption, Nineteenth amendment to the Constitution and the establishment of Financial Crimes Investigation Division in the year 2015 and the absence of a proper infrastructure facilitation and encouragement required for interconnection of the above isolated endeavors for a productive utilization of the same,

Emphasizing the absence forming the national legislative framework to ensure the protection of the Whistle Blowers, the legal provisions against misuse of authority by the public officers, and updating the laws pertaining to bribery and corruption in a manner that it includes the private sector as well in line with the provisions stipulated by the United Nations Convention Against corruption that Sri Lanka has ratified,

Stressing that the Whistle blowers are subjected to a serious descend and a risky situation through the Bribery Act itself which is the principle law against bribery and corruption and through certain provisions of the Establishment code which is the basic system of regulations providing the major contribution towards up keeping discipline and formality of Public administration and through the provisions of Press Council Act,

However, expressing contentment over the minimum protection indirectly received by the Whistle Blowers through the Protection of Victims of Crime and Witnesses Act introduced in the year 2015 and through the Right to Information Act yet to be passed,

For the encouragement and the protection of the internal Whistle Blowers who disclose information on corruption and malpractices which take place further in government institutions, semi government institutions, non governmental institutions or private institutions which result in the detriment of the said institutions or the public,

We, being a trade union and civil society alliance against corruption , as an major step towards introducing legal provisions for the protection of Whistle Blowers who disclose information on corruption and malpractices,

present this set of common policies for the encouragement and protection of these Whistle Blowers to all the departments and institutions in the government, semi governmental and provincial government sectors to encourage institutional level actions against corruption and the expression of commitment towards the same, **as the initial stage**, in partnership with the Public services Commission **which is the major stakeholder for working against corruption in the public sector** of the country and with other stakeholders such as the **provincial public services commissions**, and request that this policy be properly implemented in government, semi-governmental and **provincial government** sectors to ensure the commitment vested with them in minimizing corruption and also by presenting this policy to **non governmental and private sectors as well.**

Accepting the Policy

1. The director boards, trust boards and heads of institutions of all institutions of government, semi-governmental, non- governmental, and private sectors who adhere to the policy to protect these Whistle Blowers, should ensure their commitment towards the accomplishment of the following objectives.

- To encourage the persons within their institutions towards the disclosure of information related to various corruptions, malpractices or misconducts taking place in their institutions
- To avoid retaliation of any nature against the protection of Whistle Blowers who disclose information on such corruptions, malpractices or misconducts and to assure their protection
- Similarly, to assure the indemnity of various economic or non economic losses which are incurred as a result of whistle blowing.

- To formulate a formal procedure for reporting corruption, malpractices or misconducts.
- To achieve public interest through enhancement of efficiency, profit and sustainability by manipulating corruption, malpractices or misconducts.
- To ensure taking necessary measures within a specific time frame pertaining to corruption, malpractices or misconducts which have been disclosed.
- To reinforce the internal auditing process enabling to make recommendations, going beyond simply providing observations, through the internal audits which can be conducted within the institutions in relation to relevant corruptions, malpractices or misconducts
- To reinforce the functions of the investigation officers.

2. Everyone including secretaries, managers, department heads, directors, staff grade officers, heads of institutions, officers, workers, contractors, voluntary workers, trainees and interns in each of the government institutions, semi government institutions, non governmental institutions, or private institutions which adhere to accept and implement the policy to protect these Whistle Blowers ,shall bound to protect this policy.

This policy to protect the Whistle Blowers shall be an agreement bound by mutual respect between the two parties of employers and employees in an institution and shall also be a part of the administrative regulations of the said institution.

Being a whistle Blower - a duty of employee

3. It shall be the responsibility of everyone including secretaries, managers, department heads, directors staff grade officers, heads of institutions, officers, workers, contractors, voluntary workers, trainees and interns in each of the government institutions, semi government institutions, non governmental institutions, or private institutions mentioned above to report to a complaint/compliance officer appointed by their institution, in case of an understanding or a suspicion on the violation of rules , regulations or provisions which have a bearing on the control, operations, or the financial control of their institutions or in case of a government institution, the establishment code and financial regulations and in case of non-governmental or private sector institutions, the constitutions, financial and administrative provisions or some other general laws in case of all these institutions, or the occurrence of a malpractice which is harmful to the public interest.

Inability to disclose information to the compliance officer of government, semi government or provincial government sectors.

4. In relation to an institution of the government, semi-government or provincial government sector, in a situation where either the person committing the malpractice or a party related to that or the officer appointed to report the above information , shall himself be the head of the institution, such information should be informed to **Public Services Commission / Provincial Public Services Commission which is the enforcing authority for the implementation of this policy (and in case of government institutions for which the Establishment code is not relevant, should be informed to the boards of control which enforce pertaining to each of such institutions).** In case of situations where the complaining officer and the person who engages in the malpractice are not the head of the institution, the disclosure of such information to the head of the institution or the head of the administrative board should be covered through this policy.

Inability to disclose information to the compliance officer of the non government or private sector

5. In case of a non government or private sector institution, if the individual engaged in the said violation or a party related to it, is the head of the institution being appointed to report the above information, the disclosure of relevant information to the chief of the director board or a nominated director board member or to an institution with appropriate legal authority over the functions of the relevant institution should be covered through this policy.

Whistle Blower should not be subjected to retaliation of any nature.

6. An individual informing of any unlawful or anti disciplinary action or action that are harmful for public interest taking place in a government institution, semi-government institution, non government institution or a private institution, shall not be subjected to any direct or indirect retaliation or harassment or a disciplinary inquiry, a suspension of service, a termination of service, a transfer or a demotion as a result of such disclosure.

Entitlement of protection from the policy

7. Any person disclosing information with a good intention, believing such information to be accurate and reasonable, without any purposeful objective of humiliating a certain officer or a policy of the institution or without any objective of a temporary deception to obtain a person gain, should be protected by the section/clause number 04 above.

Implementation of the policy and encouragement for the same.

8. Actions should be taken by the heads in the institutions and the executive Boards of the institutions that endorse and agree to implement this policy, to encourage their employees towards Whistle Blowing and enlighten them on the protection coverage given by the policy , at the recruitment of employees itself and when in

relation to the employees already employed in the institution, within the first month of endorsement of the policy.

9. In case if any employee or any other party connected to the functions of the institution in any manner, has been subjected to any form of retaliation, owing to Whistle Blowing, and if any complaint has been received to that effect, priority should be given to the matter and be investigated by the board which has received the complaint, and if proven of being subjected to retaliation, all the possible concessions should be provided and financial losses, if any, should be reimbursed.

It is the responsibility of the heads of the particular institution or the director board or the [disciplinary boards](#) to impose sanctions up to conducting disciplinary inquiries, interdiction of service and termination of service.

[Appointment of a Complaint / Compliance Officer](#)

10. All institutions that endorse this policy are expected to name a duly authorized **complaint/ compliance officer** from within the place of employment in order for the whistleblowers to bring to light any acts which are illegal, anti disciplinary or detrimental to public interest. [An Additional Secretary from the respective Ministry should always be appointed as a complaint authority and the said complaint officer should always be free from the influence of the Head of the Institution when taking action regarding any information disclosed by a whistleblower.](#)

[Not disclosing the identity of a complaint](#)

11. A **complaint/ compliance officer** should not reveal the identity of any complaint on any acts which are illegal, anti disciplinary or detrimental to public interest received by him/her. Once such a complaint is received, immediate action should be taken to refer the complaint to a special investigation unit or the internal

audit unit established in the institution in order to verify the said complaint and conduct a proper investigation.

Steps to be taken regarding verified information on corruption

12. If the disclosed information is confirmed after the proper examination carried out by either the Special Investigation Unit or Internal Audit Unit which is tasked with the investigation of the complaint, recommendations to rectify the matter or to take punitive measures against the perpetrators of the illegal act should be made in accordance with the institutional administrative rules.

Right for follow-up

13. The party which disclosed the information should be informed by the Complaint Officer of the steps taken with regard to such information.

Scope for appeal by a whistleblower

14. If the board of management evades the implementation of any recommendation made by the Special Investigation Unit or the Internal Audit Unit, or if the fairly reliable information disclosed to the Complaint Officer is not referred to a further investigation, or if no relief is granted to a whistleblower subjected to an act of vengeance, the whistleblower may appeal to the Public Service Commission or Provincial Public Service Commission which is the authority implementing this policy. (Priority)

15. The need for a Parliamentary Committee/ bringing the matter under the scope of the Public Petitions Committee