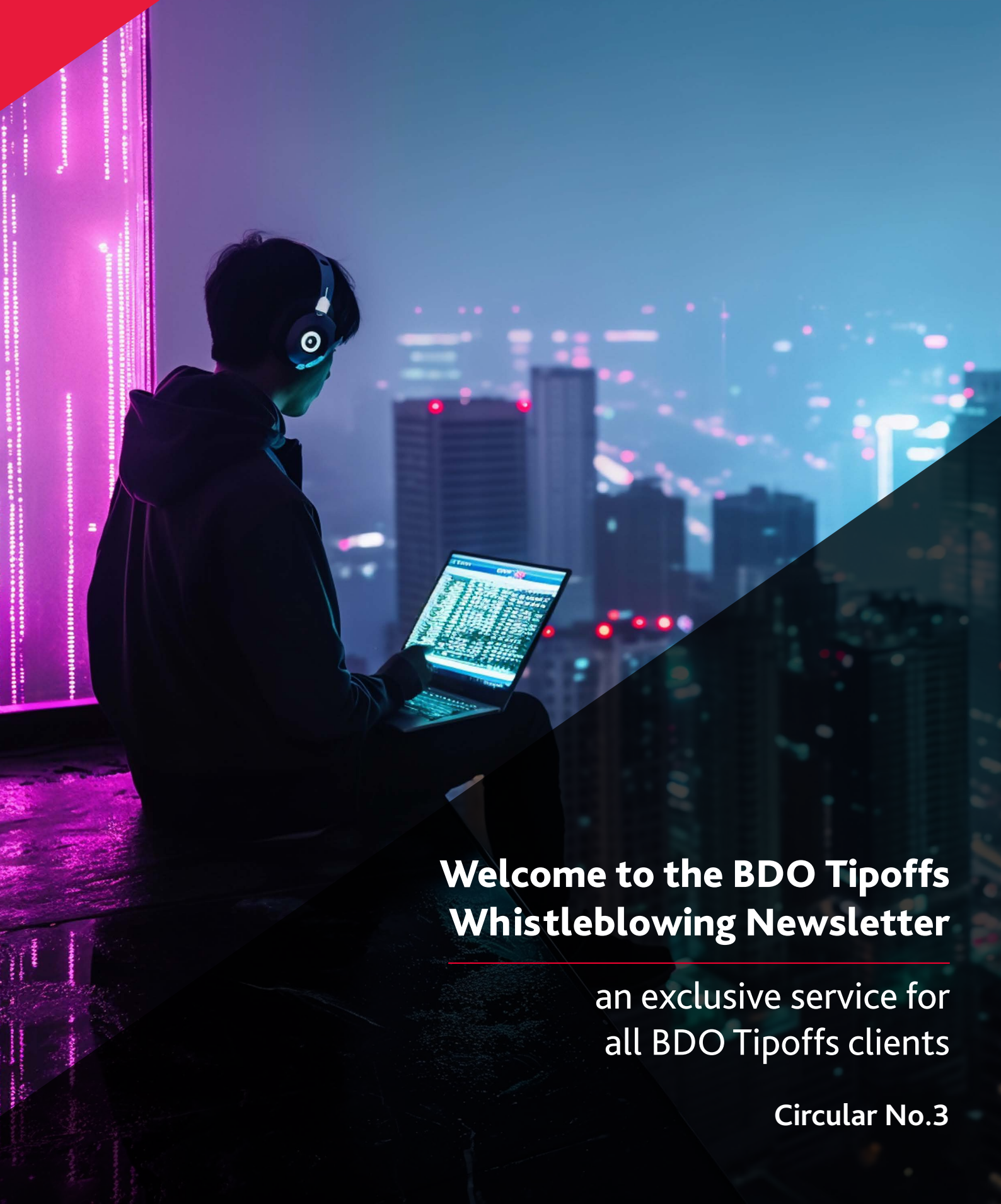




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Welcome to the BDO Tipoffs Whistleblowing Newsletter

an exclusive service for
all BDO Tipoffs clients

Circular No.3

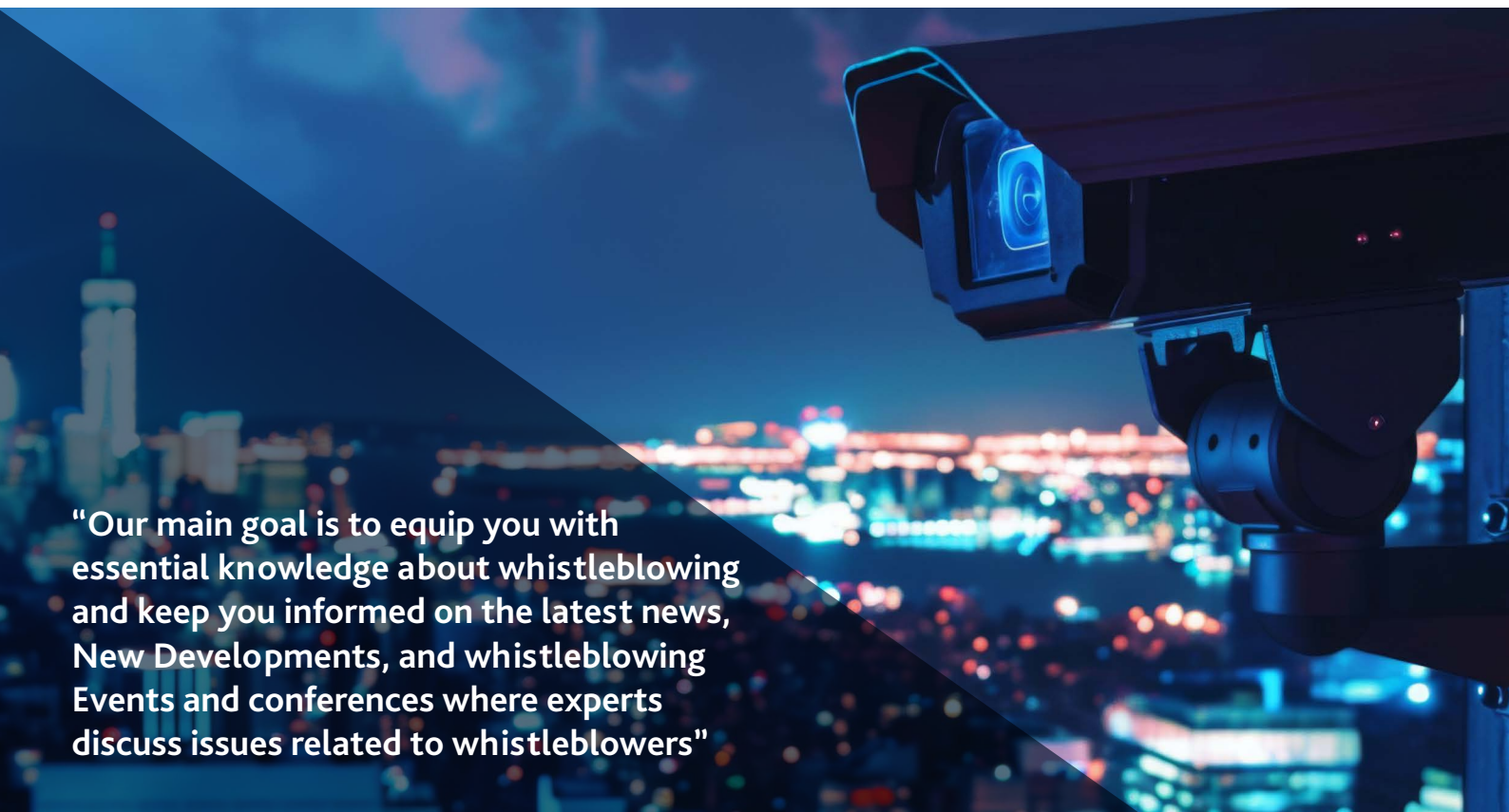
We often hear and speak about whistleblowers celebrating their heroic efforts to fight corruption by exposing wrongdoings. These individuals are praised for their courage in speaking up on unethical behavior and holding wrongdoers accountable. However, the often unseen impact that speaking up has on their lives is mostly overlooked. The reality is that whistleblowers face numerous challenges personal, professional, emotional challenges that can deeply affect their lives and well-being as a result of speaking up.

These brave Individuals have played a crucial role in the society, by providing crucial information assisting journalist, forensic investigators, law enforcements, regulatory bodies uncover wrongdoing. Their efforts in most cases lead to legal action, policy changes, and even reformation within organizations, yet they still face retaliation, rejection, and other consequences for their decision to speak up.

In this edition, we dive deep into understanding the concept of whistleblowers exploring who these individuals are, what drives them to take such courageous steps, and why they choose to risk so much in order to expose wrongdoing in various sectors. Whistleblowers are not just heroes in the fight against corruption they are often ordinary people who find themselves in difficult circumstances, forced to make tough choices.

Circular No. 3 will thoroughly unpack the concept of whistleblowers by providing detailed information on the following key areas:

1. Who can be a whistleblower – An overview of who typically becomes a whistleblower, including the different types of individuals who step forward to report wrongdoing.
2. The motivational factors behind whistleblowing – A deep dive into what drives whistleblowers to take such bold steps.
3. The two different types of reporting of whistleblowers that the Organisation should beware of-How to differentiate between reliable reporting of whistleblowers and suspicious reporting of whistleblowers
4. Challenges Faced by Whistleblowers – An exploration of the personal, professional, and psychological toll that whistleblowing can take, including retaliation, job loss, and social isolation.
5. Support Systems for Whistleblowers – Information on the resources and support available to individuals who choose to blow the whistle, including legal aid, counseling, and whistleblower protection programs.
6. The Legal Framework – Insights into the legal protections available for whistleblowers and the ethical considerations surrounding their decisions to expose misconduct.



“Our main goal is to equip you with essential knowledge about whistleblowing and keep you informed on the latest news, New Developments, and whistleblowing Events and conferences where experts discuss issues related to whistleblowers”

1. Who can be a whistleblower? The definition and role of those who speak up?

A whistleblower can be anyone whether it's you, me, or someone we know. In essence, a whistleblower is any individual who decides to report wrongdoing they have either directly witnessed or become aware of. This could include current employees, former employees, contractors, suppliers, clients, or even external observers who have knowledge of unethical or illegal activities. What unites all whistleblowers, regardless of their background or industry, is their courage and a strong sense of responsibility to expose wrongdoing, even when doing so may come with personal, professional, and emotional risks.

Whistleblowers come from all walks of life and can work in many different industries. Some are employed by private sector and while others are employed by public sector or non-profit organizations, while others are ordinary citizens that share a common goal to "**Do the Right Thing**" and bringing unethical behavior to light, no matter the consequences.

2. What motivates whistleblowers

It takes a strong spirit of fearlessness for an individual to stand up against what they perceive to be injustice and wrongdoing. Whistleblowers often face great risks, however their push by courage and resilience to speak up, even when it appears challenging.

These qualities are common among whistleblowers, as they are driven by a powerful sense of right and wrong, and their determination helps them overcome the obstacles they might face.

Whistleblowers are often motivated by several powerful factors that drive their decision to speak up. These motivations can vary depending on the circumstances, but some of the most common factors include:

2.1 Prevailing the Law

Most whistleblowers feel they have an obligation to abide by the law and uphold in place policies, As they believe it is their personal duty to ensure that the laws in place are there to be respected and enforced especially when they witness violations. They are also of the view that the law serves to safeguard ethical behavior, and they feel compelled to act when they see that these laws are being ignored or broken.

2.2 Restoring order

Another motivation for whistleblowers in speaking up is to restore order and to ensure that those who did wrong are held responsible. They feel it's their duty to fix injustices, to make sure that the rules that were broken have been repaired in order to help build trust in organizational policies. By speaking up, whistleblowers help ensure that proper actions are taken and that wrongdoers face the consequences of their behavior.

2.3 Ethics and morals

Some whistleblowers are deeply motivated by their strong sense of ethics and morality. They believe that it is their responsibility to stand up against what they know and see as wrong. They cannot turn a blind eye to unethical actions or let them go unchallenged, even if it means putting themselves at risk personally or professionally. For them, speaking up is the only way to preserve their integrity and ensure that what is right prevails.

2.4 Eradicate wrongdoing

Whistleblowers are often driven by the goal of eradicating corruption and misconduct in all forms. Whether it's fraud, abuse of power, or safety violations, they want to expose and stop these wrongdoings. Their actions are focused on creating a safer, fairer, and more accountable environment, where individuals and organizations are held responsible for their actions. They believe that by speaking up, they can help prevent future wrongdoing and make a positive difference.

3. The two types of whistleblowers report

Organisations should beware that the reporting of whistleblowers can be divided into two categories: Reliable reporting and Suspicious reporting.

3.1 Reliable reporting

Reliable reporting is when a whistleblower reports wrongdoing with the intention of seeing justice served, without any hidden agenda. They have a genuine desire to expose unethical actions or illegal behavior, driven by a sense of responsibility and fairness. Their motivation purely comes from a place of doing what is right, and thus expect nothing in return except for the hope that the wrongdoers will be held accountable. These whistleblowers act in good faith, often at great personal risk, because they believe in the importance of truth and justice.

3.2 Suspicious reporting

Suspicious reporting on the other hand, is when a whistleblower reports misconduct after being involved in the wrongdoing themselves. Their decision to blow the whistle is often driven by feelings of betrayal or frustration, typically because they did not receive the compensation, recognition, or reward they expected after participating in the wrongdoing. Their motivation may be less about exposing the truth and more about seeking revenge or punishing those they feel have wronged them. In this case, the whistleblower's actions are often seen as self-serving or retaliatory rather than motivated by a sense of good faith.

Note: Both of these types of whistleblowers play significant roles in revealing wrongdoing, but the motivations behind their actions can have a major impact on the outcomes and the way their reports are received. Understanding these differences is crucial for organisations when managing whistleblower reports and ensuring that ethical standards are upheld.

4. Challenges faced by whistleblowers

While the work of whistleblowers is often seen as heroic and crucial for exposing wrongdoing, it's important to recognize that they face a wide range of significant challenges, personally, professionally, and emotionally.

The decision to speak up is never easy, and many whistleblowers must confront serious obstacles that can impact their lives in profound ways. Despite legal protections designed to safeguard whistleblowers from retaliation, these laws often do not fully shield them from the hardships they face. Whistleblowers still encounter significant risk such as the following: including job loss, career setbacks, legal battles, and emotional distress, which can outweigh the protections intended to support them.

- 4.1 Death
- 4.2 Emotional distress
- 4.3 Loss of employment
- 4.4 Legal battles
- 4.5 Risk to personal safety
- 4.6 Financial hardships

"South Africa's whistleblowers who suffered for exposing the truth"



Our lives could be in danger: Inside Babita Deokaran's R850m 'fraud' probe

Babita Deokaran tried to stop R100 million in dodgy payments and flagged nearly R850 million in other suspicious transactions at the Gauteng Department of Health just days before she was killed - confiding in colleagues that her last investigation could result in her death.

"...I am just worried that the guys in Tembisa are going to realise we are not releasing their payments and know that we on to something. Our lives could be in danger," Deokaran said in a WhatsApp message to her boss.

Deokaran - a senior manager at the Gauteng health department - was ambushed by hitmen outside her home in Winchester Hills, south Johannesburg. She was shot nine times while pulling into her driveway after dropping off her daughter at school and later died in hospital. (News 24)

FOR SUBSCRIBERS

18 Jun 2021



Gupta whistleblower Bianca Goodson: telling the truth left me broke, divorced and suicidal

YOU Robyn Lucas

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06:49



Bianca Goodson, the courageous Eskom whistleblower who lifted the lid on its corrupt dealings with Trillian, has broken her silence about being left in the lurch after her sensational evidence in September 2016. In a searing letter to Eskom CEO André de Ruyter, Goodson bares her pain and anguish at the treatment from the agencies that had benefited from her brave decision to expose Trillian Management Consulting for its corrupt relationship with Eskom executives. Unemployed and alone, the former Trillian CEO also speaks for the other whistleblowers who deserve recognition, not ostracisation, for lancing the boil of corruption. – Derek Alberts



5. Support system for Whistleblowers

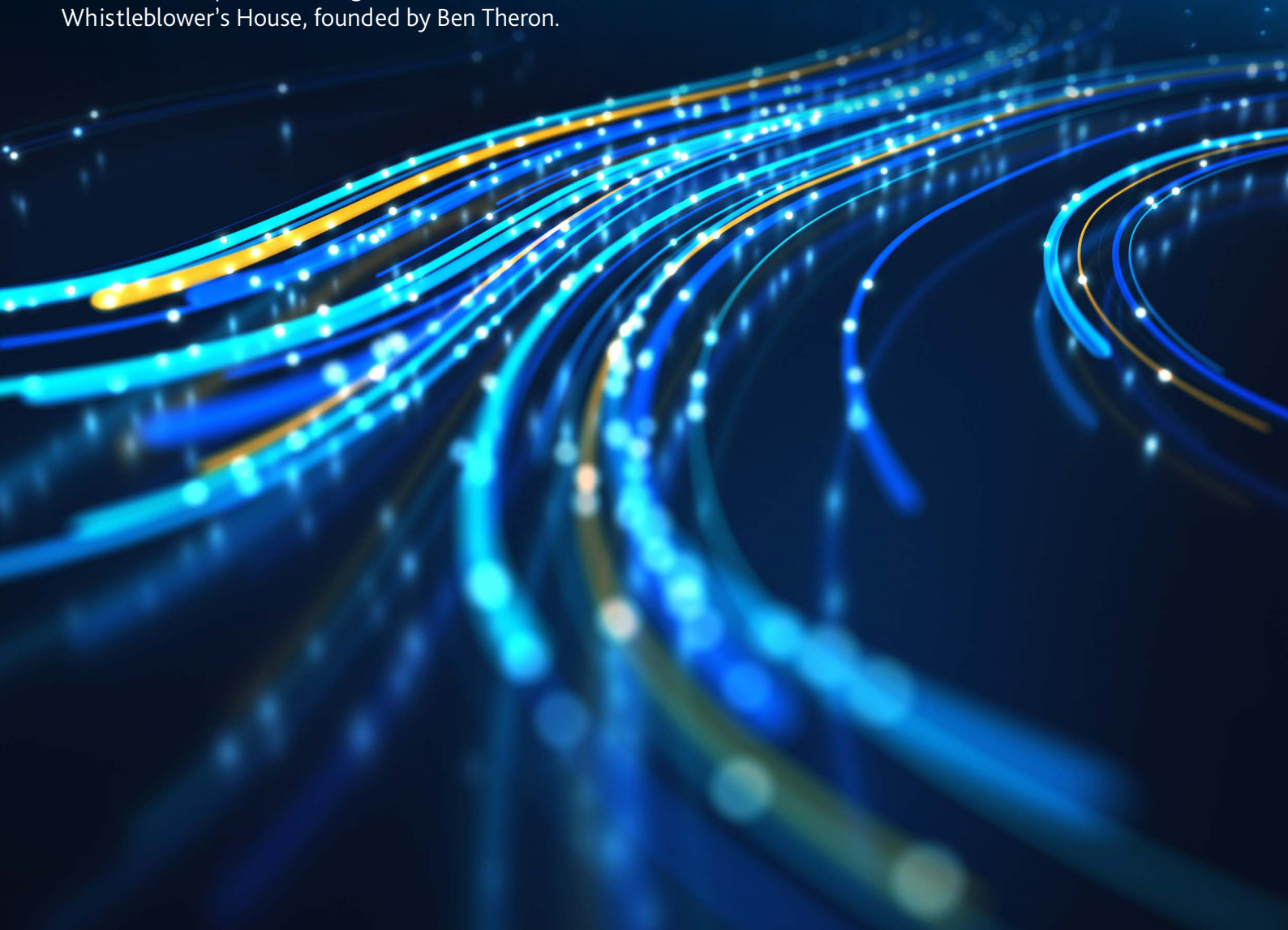
Whistleblowers are protected by the law to prevent many challenges they face. When whistleblowers are protected it would make it easier for others to come forward and blow the whistle in future as they would realise that no harm is caused when you want to fix wrongdoing. Whether the current legislative protection is enough, that is debatable.

As stated in the words of Justice Raymond Zondo during the State Capture Commission "The commission has heard a lot of evidence from whistleblowers. If we do not look after these whistleblowers during state capture, they won't be around next time. Others will look at how whistleblowers were treated and will not come forward.....We must assure that they are properly protected"

One important way to support them is through whistleblower protection organisations, such as the Whistleblower's House, founded by Ben Theron.

The Whistleblower House commenced operations on 22 February 2022, with the objection to support whistleblowers throughout their journey. This Organisation provides a safe place for whistleblowers and offer the help they need at every stage of their journey.

The Whistleblower's House helps whistleblowers by offering free legal support, financial aid, psychological support, and protection for their safety and security. This support is important for helping whistleblowers feel confident and secure as they speak up against wrongdoing. www.whistleblowerhouse.org The organisation believes that by providing whistleblowers with dedicated support at every step, the Whistleblower's House ensures they are not left to face risks alone, offering the tools and protection needed to stand up for what's right.



Key Legislation Protecting whistleblowers

- ▶ The Constitution of the Republic of South Africa, 1996 Sections 9, 14, 16 and 23 of the Bill of Rights
- ▶ The Companies Act 71 OF 2008 Section 159
- ▶ Financial Intelligence Centre Act 38 of 2001 Sections 28, 29, 37 and 38 Section 29 of FICA
- ▶ Labour Relations Act 66 of 1995 Section 185
- ▶ National Environmental Management Act 107 of 1998 Section 31
- ▶ Protected Disclosures Act 26 of 2000 as amended by the Protected Disclosures Amendment Act 5 of 2017 Section/s 1.2
- ▶ Prevention and Combating of Corrupt Activities Act 12 of 2004 Sections 18 and 34
- ▶ Pension Funds Act 24 of 1956 Sections 9B, 13B (10) and 37(1) Section 9B (1)
- ▶ Protection from Harassment Act 17 of 2011 Sections 1 and 2
- ▶ The ILO190 Violence and Harassment Convention
- ▶ Witness Protection Act 112 of 1998 Section 7



It is extremely important that employees take the below section into consideration

4 No. 34572

GOVERNMENT GAZETTE, 31 AUGUST 2011

SCHEDULE

PRACTICAL GUIDELINES FOR EMPLOYEES

THE PROTECTED DISCLOSURES ACT, 2000 (ACT 26 OF 2000): PRACTICAL GUIDELINES FOR EMPLOYEES

INTRODUCTION

By remaining silent about corruption, offences or other malpractices taking place in the workplace, an employee contributes to, and becomes part of, a culture of fostering such improprieties which will undermine his or her own career as well as be detrimental to the legitimate interests of the South African society in general.

Every employer and employee has a responsibility to disclose criminal and other irregular conduct in the workplace.

Every employer has a responsibility to take all necessary steps to ensure that employees who disclose such information are protected from any reprisals as a result of such disclosure.

PART I

1. Purpose of the Protected Disclosures Act, 2000¹

The purpose of the Protected Disclosures Act, 2000, is to provide **procedures** and to offer **protection**. The Act provides—

¹ These guidelines are issued by the Minister of Justice and Constitutional Development in terms of section 10(4) of the Protected Disclosures Act, 2000 (Act 26 of 2000). They are aimed at providing employees, who wish to disclose certain information, with a short summary of the Act, but do not deal comprehensively with all the provisions of the Act. The provisions of the Act are reflected at the back of the guidelines.

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