

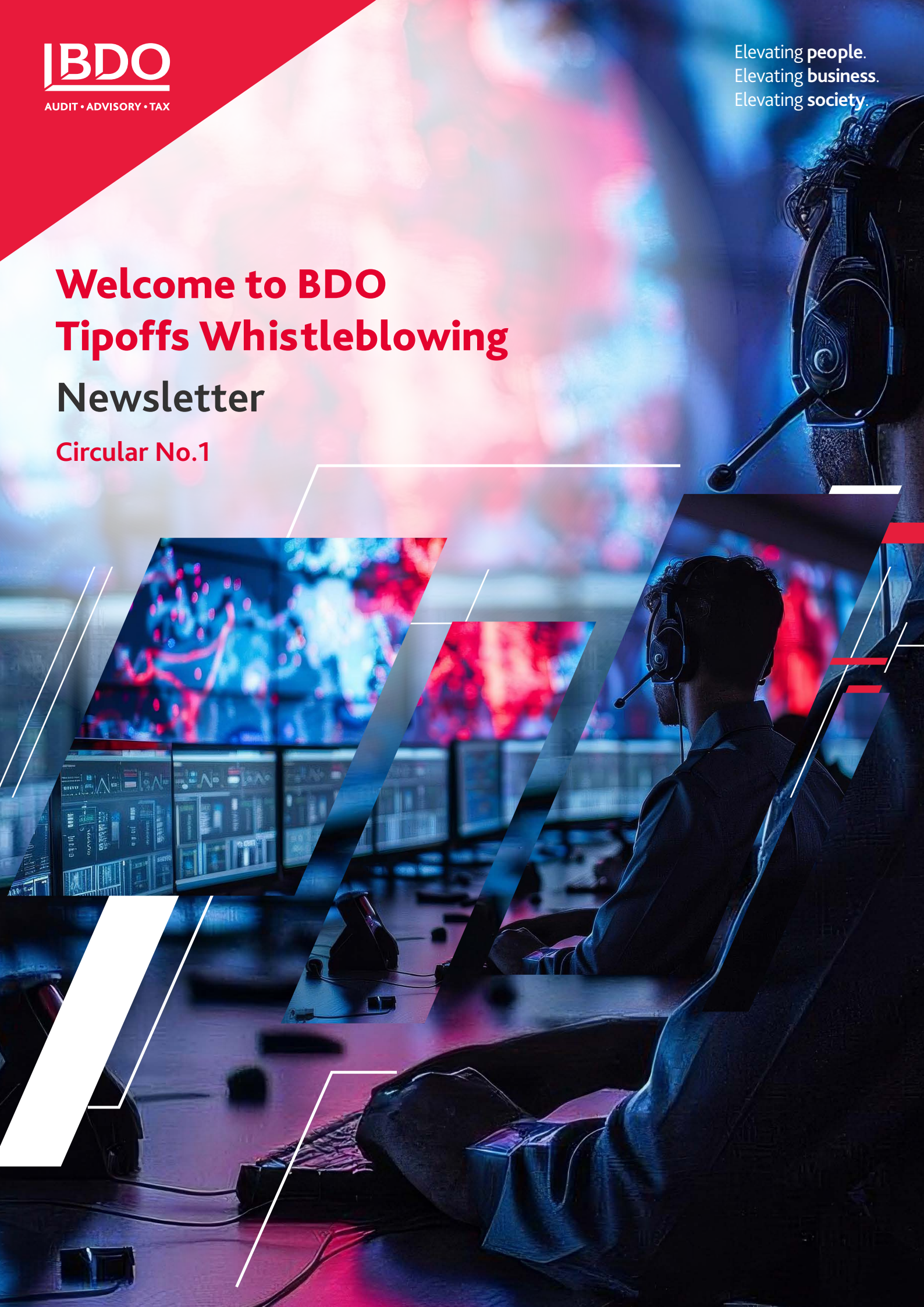
BDO

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Elevating business.
Elevating society.

Welcome to BDO Tipoffs Whistleblowing Newsletter

Circular No.1



The aim of this monthly newsletter is to equip you with essential knowledge about whistleblowing and keep you informed on the latest news, developments, and relevant conferences where experts discuss issues related to whistleblowers.

This month, we unpack the importance of whistleblowing and how whistleblowing reports should be managed to ensure a supportive and effective response. It is crucial for our clients to have a thorough understanding of whistleblowing to effectively manage reports and mitigate risk.

The importance of whistleblowing

Whistleblowing is a key component in the fight against corruption and fraud. It helps uncover hidden issues within organisations, allowing them to become aware of the wrongdoings that may be happening right under their noses. In simple terms, whistleblowing enables organisations to identify ongoing unethical behavior and understand who is involved.

This process not only highlights problematic practices but also grants organisations an opportunity to take action and address these issues timeously. By encouraging employees to report wrongdoings as they arise, whistleblowing promotes a culture of transparency and accountability, leading to a healthier working environment. Moreover, it helps protect the organisation's reputation and ensures compliance with laws and regulations.

The 2024 ACFE Report to the Nations states:

"Tips were the most common way fraudulent activities came to light, with 43% of cases being uncovered due to a tip from a whistleblower. This is more than three times as many cases as any other detection mechanism. This finding has been consistent with the ACFE prior studies, all of which have shown tips to be by far the most common way fraud is detected. Other common detection methods included internal audit (14%) and management review (13%). Collectively, these three detection methods accounted for 70% of the cases with ACFE data"

Whistleblowing Reports

It is crucial for BDO Tipoffs Clients to pay close attention to section 3B (1) of the Protected Disclosures Amendment Act, 2017. This provision states that any individual or organisation receiving a whistleblower report must respond as soon as reasonably possible. Specifically, they are required to act within 21 days from the date the report is submitted:

3B. (1) Any person or body to whom a protected disclosure has been

made in terms of section 6, 7 or 8, respectively, must, subject to subsection

(3), as soon as reasonably possible, but in any event within 21 days after the

protected disclosure has been made.



This means that Clients should:

1. **Acknowledge receipt:** Confirm that the whistleblower's report has been received to reassure whistleblowers that their concerns are being taken seriously.
2. **Decide on the way forward:** Decide if the whistleblower's report should be investigated. Look at the details of the report to see if there are enough reasons to act on the report.
3. **Refer the report:** If necessary, direct the report to another person or organisation that is better equipped to conduct the investigation.

What are the best ways for BDO clients to effectively manage reports?

When reports are managed properly, it helps whistleblowers to feel safe and This is vital for building trust and making employees comfortable with reporting issues.

1. **Maintain confidentiality in reports:** Ensure that the whistleblower's report is kept confidential and that no information from the report is leaked.
2. **Whistleblowing Policy:** Have a clear policy in place for employees to know the type of misconduct that should be reported, how to compile a report, and what to expect during the process.
3. **Legal Compliance:** All whistleblowing reports should be addressed in terms of the PDA Amendment Act 2017 3B (1) to help organisations to stay compliant with laws and regulations, reducing the risk of legal trouble.

4. **Communicate feedback:** Keep the whistleblower informed about the status of the investigation and any actions being taken, ensuring that they feel supported throughout the process.

Reports should be managed carefully, as this practice greatly benefits organisations in many ways. When reports are managed diligently, it builds trust among employees. As they see that their concerns are taken seriously and addressed properly, they feel valued and respected. This trust is key to creating an open environment where employees feel comfortable raising issues of misconduct and irregularities, knowing that their voices will be heard.

ACFE 2024 Annual Conference Insight on Whistleblowing

From 9 to 11 September 2024, BDO attended and exhibited its services at the Annual Association of Certified Fraud Examiners Conference. Whistleblowing was one of the key topics presented over the three days. On Day 1 Ben Theron, a certified fraud examiner and the founder and CEO of the Whistleblowers House, delivered an insightful presentation on whistleblowing. He emphasised the importance of empathy, urging organisations to put themselves in the shoes of whistleblowers when addressing their reports. Theron highlighted that these reports often arise from a genuine concern to deter misconduct, fraud, and corruption, as well as a desire for justice to prevail. He emphasised the importance of handling these reports confidentially to safeguard whistleblowers and create a supportive environment for reporting concerns.

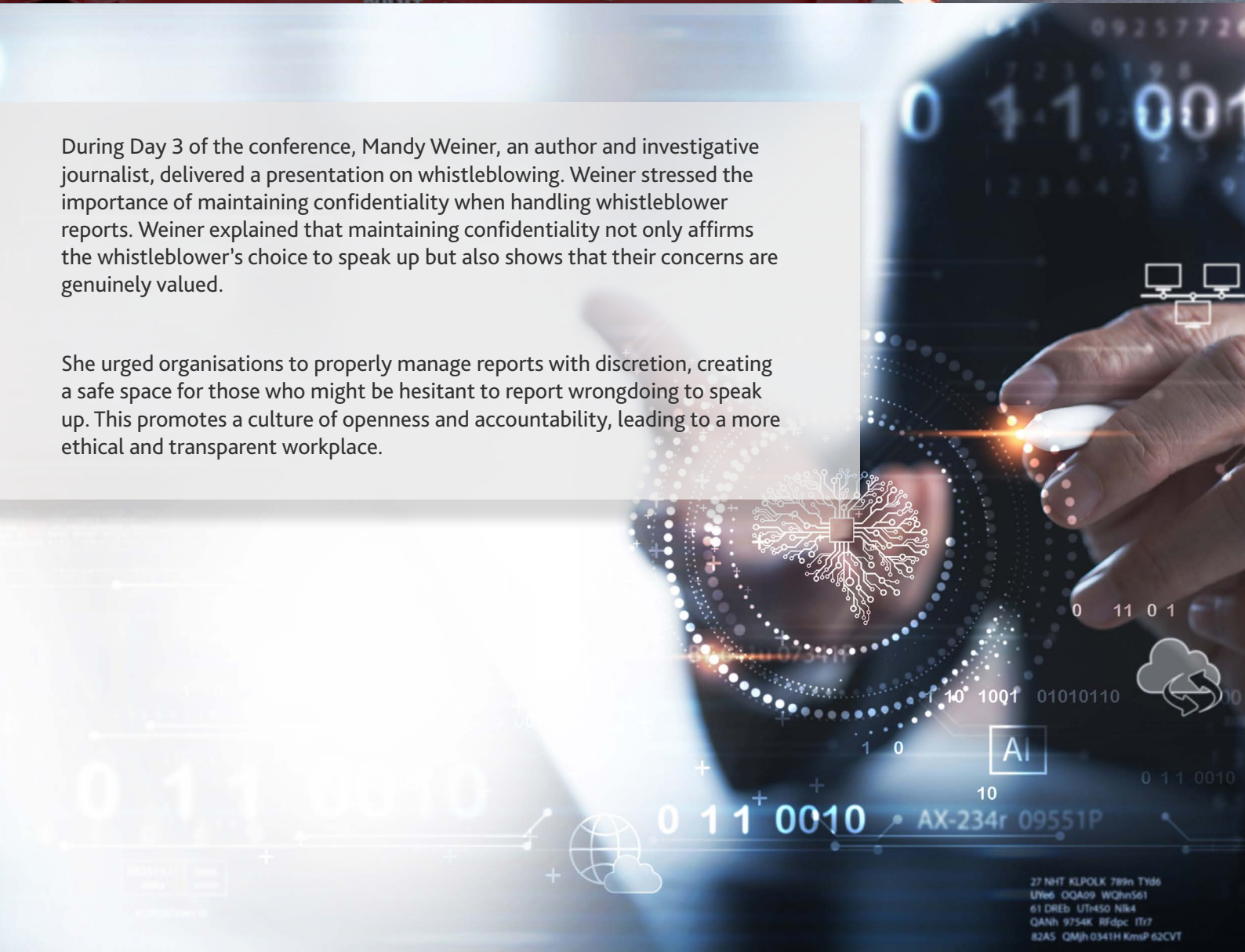




Captured By: BDO Marketing Department
Date: Monday, 9 September 2024

During Day 3 of the conference, Mandy Weiner, an author and investigative journalist, delivered a presentation on whistleblowing. Weiner stressed the importance of maintaining confidentiality when handling whistleblower reports. Weiner explained that maintaining confidentiality not only affirms the whistleblower's choice to speak up but also shows that their concerns are genuinely valued.

She urged organisations to properly manage reports with discretion, creating a safe space for those who might be hesitant to report wrongdoing to speak up. This promotes a culture of openness and accountability, leading to a more ethical and transparent workplace.



Legislation you should know

Circular No1. Legislation Overview

Protected Disclosures Amendment Act, 2017

Duty to inform employee or worker

3B. (1) Any person or body to whom a protected disclosure has been made in terms of section 6, 7 or 8, respectively, must, subject to subsection (3), as soon as reasonably possible, but in any event within 21 days after the protected disclosure has been made—

(a) decide whether to—

(i) investigate the matter or not; or

(ii) refer the disclosure to another person or body if that disclosure could be investigated or dealt with more appropriately by that other person or body; and

(b) in writing acknowledge receipt of the disclosure by informing the employee or worker of the decision—

(i) to investigate the matter, and where possible, the time-frame within which the investigation will be completed;

(ii) not to investigate the matter and the reasons for such decision; or

(iii) to refer the disclosure to another person or body.

(2) The person or body to whom a disclosure is referred as contemplated in subsection (1)(a)(ii) must, subject to subsection (3), as soon as reasonably possible, but in any event within 21 days after such referral—

(a) decide whether to investigate the matter or not; and

(b) in writing inform the employee or worker of the decision—

(i) to investigate the matter, and where possible, the time-frame within which the investigation will be completed; or

(ii) not to investigate the matter and the reasons for such decision.

(3) The person or body, referred to in subsection (1) or (2), who is unable to decide within 21 days whether a matter should be investigated or not, must—

(a) in writing inform the employee or worker—

(i) that he, she or it is unable to take the decision within 21 days; and

Legislation you should know

Continuation of Circular No1. Legislation Overview

(ii) on a regular basis, at intervals of not more than two months at a time, that the decision is still pending; and

(b) as soon as reasonably possible, but in any event within six months after the protected disclosure has been made or after the referral has been made, as the case may be, in writing inform the employee or worker of the decision—

(i) to investigate the matter, and where possible, the time-frame within which the investigation will be completed; or

(ii) not to investigate the matter and the reasons for such decision.

(4) The person or body, referred to in subsection (1) or (2), must, at the conclusion of an investigation, inform the employee or worker of the outcome thereof.

(5) The person or body, referred to in subsection (1) or (2), does not have to comply with—

(a) subsection (1)(b), (2)(b), (3) or (4) if that person or body does not know the identity and contact details of the employee or worker who has made the disclosure; or

(b) subsection (1)(b), (2)(b) or (3) if it is necessary to avoid prejudice to the prevention, detection or investigation of a criminal offence."



Tribute to:
**Marumo Eric
Phenya**



Businessman **Marumo Eric Phenya** was killed in a hail of bullets after receiving death threats when he blew the whistle on a dodgy multimillion-rand tender at the Department of Home Affairs.

(Death Commemoration of Eric Marumo Phenya whistleblower who was gunned down on the 31 October 2022)