Creating and leading a whistleblowing program: What to consider

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Whistleblowing is the term used when a worker or an individual passes on information concerning wrongdoings to the management of an organization or to the general public. It is the process by which people get to report ills and infractions within an organization to the management or institutions of governments responsible for enforcing compliance with laws and regulations. It is the disclosure of discreet information. The person who passes along the information is known as the whistleblower. Whenever a whistle is blown, it alerts an organization of what has happened in the past, what is happening, or what is about to happen.

An organization’s commitment to a whistleblowing program is a demonstration of willingness to enforce ethical compliance and best practices. There is no hard and fast rule on how a whistleblowing program should be designed or implemented. In some organizations, the whistleblowing program is made a part or a subset of a larger compliance program, and in others, it runs independently of the compliance program. Whether it runs independently or as a subset of other programs, the program should contribute to the overall growth and development of a healthy work culture and the values in an organization.

The benefits of a whistleblowing program

Compliance blind spots are those areas where an organization is bleeding
without the knowledge of management or there are areas of infraction unknown to management or regulators. It is called a blind spot, because the compliance risk identification or due diligence procedures cannot identify the risk or detect that such risk exists. It is under the radar of the compliance program or regulatory oversight. One of the ways to see through compliance blind spots is to have a whistleblowing program. Whistleblowing provides an opportunity for managers to see through the eyes of the whistleblower to uncover actions or inactions that may pose a compliance risk to the organization. Whistleblowing helps the organization to know what its risk identification system may fail to detect.

Another benefit of a whistleblowing program is that it provides some level of comfort as a safety net to employees. One of the characteristics of whistleblowing policies is that they offer protection and assurance to employees who decide to provide information to the organization. This inspires confidence and increases employees’ loyalty. The sense of confidentiality employees get from the administration of the whistleblowing program goes a long way to give comfort to whistleblowers. By confidentiality, it means how the organization treats disclosed information, which presupposes that details about the whistleblower or other related information will not be disclosed to the public or affected individuals within the organization. The relationship between the whistleblower and the management of an organization is essentially centered on trust and protection from retaliation. When employees are not sure how management will handle the information given by the employees, they will be discouraged from making any reasonable disclosure.

Additionally, whistleblowing programs help increase overall brand perception and reputation of organizations. An organization that communicates its whistleblowing policies to relevant stakeholders and business partners makes its position known on bribery, corruption, and other anti-compliance conducts. The desired effect of this is that the organization will be held in high esteem by vendors and other venture partners, and the public perception of the organization will be good. An organization with zero tolerance for corruption that demands the same level of commitment from other stakeholders will enjoy good ratings from the general public. In the event of a compliance violation, having an effective and robust whistleblowing program will go a long way in showing the organization’s commitment to compliance program implementation, which may reduce sanctions or penalties on the organization.
The interesting aspect of this is that employees will have to be very careful in their dealings with vendors. In a situation where procurement officers and contract engineers demand gratification before awarding a contract or before enlisting vendors to participate in a bid or call for tender, a collaborative whistleblowing program that fully integrates vendors may reduce the level of corruption within the supply chain of the organization.

Two things may happen as a result of the integration of a whistleblowing program. First, the vendors that have been forcefully extorted may decide to blow the whistle, or second, other competitors or co-bidders who lost out may decide to blow the whistle against such officers. The challenge with vendors’ integration in a whistleblowing program is that the intention of the whistleblowing vendor is already tainted. This, in most cases, affects the merit of the investigation, because it is often assumed that the whistleblowing vendor reported because it lost out of the contract bid. Organizations that integrate vendors into the whistleblowing program must provide assurance for an unbiased investigation and provide a guarantee that the vendor will not be silently blacklisted. It is advised that incentives should be given to vendors who blow the whistle in order to encourage more of such reports.

The confidentiality issue

As stated earlier, a whistleblowing program is built on the foundation of trust and confidentiality. If the information management system cannot be trusted, then employees and vendors will stay away from the whistleblowing program. A classic example of lack of trust and confidence was clearly seen in a case of a consulting firm where an anonymous email account was set up for employees to communicate their grievances on any matter that bothers management or practices within the organization. Although some employees were cautious in voicing their grievances, others were very blunt and direct. Management of the consulting firm was troubled by the various comments and responses, and it called for a retreat with the aim of clearing the air and providing some clarifications to the concerns raised in the emails—not knowing that some members of the management team were looking for spotlights that would enable them to match the comments in the emails to any of the employees. Later, the IT and HR managers were instructed to unravel the sources of the email, which they did. During a retreat, the aggrieved members of the management team were further provoked by the contributions of the
employees and bluntly brought the disclosed information out in the open in an attempt to force the responsible employees to take ownership of the emails. Days after the retreat, some employees were asked to voluntarily resign. This organization flourished in hypocrisy under the deception of transparency.

Another story arising from another organization is the case of an employee that spoke his mind during a speak-up session. Some people were aggrieved by his comments and decided to make life unbearable for him. This nave employee became the subject of attack for any little infraction and was eventually told that he had mouth odor and was unfit for a corporate environment. In most jurisdictions, there is no direct legal obligation to protect whistleblowers or keep information confidential. However, unlawful dismissal of whistleblowers may give rise to a court action if there is obvious victimization, regardless of whether there is a breach of the employment contract. It is best practice for organizations to protect the confidentiality of a whistleblower.

How to run an effective whistleblowing program

One of the requirements for running an efficient whistleblowing program is that organizations must have a clear policy. The employees and other stakeholders should clearly understand what the program is all about without any room for conjecture—an end-to-end explanation of the program (a see-through or transparent program) where employees can predict the execution of the processes involved in the program. That element of certainty is a major trust-building component of a whistleblowing program. Also, a clear policy must be accompanied with clear communication. This is because a policy may be clear on the face but badly communicated. The communication channels must drive home the message in a manner that will get the attention of the employees. This can be through different platforms, such as webinars, newsletters, the intranet, or employee briefings.

Training for employees and vendors on how to make disclosures and for officers who receive the disclosures are equally important. Information in the hands of an untrained employee may not be useful to the organization or may be presented in a manner that will be detrimental to the employee. Therefore, employees must understand the processes involved and how to make disclosures. More so, recipients of disclosed information must understand the
sensitive nature of the task and the importance of treating information received with a high degree of confidentiality. The officers must know what to do next and the level of escalation required, the person who should be consulted, and the various limitations. The recipients of the disclosed information must be guided by a written policy and procedure adopted by the company.

Lastly, organizations must be committed to the protection of whistleblowers and provide a channel for providing feedback to employees. An organization’s nonretaliation policy must be developed with the career, safety, reputation, and protection of the whistleblower in mind. The best comfort whistleblowers can have is to know that no harm will befall them after making disclosures. This assurance inspires confidence and gives motivation to employees to buy in to the whistleblowing program. Similarly, giving feedback to employees is a way of showing that an organization is true to its word. Tell the whistleblower about the steps that have been taken, what is being done, and how the issues have been dealt with by the organization. This is important, because some complaints cannot be resolved immediately. Therefore, it is good for the organization to carry the whistleblower along in the process.

Conclusion

A whistleblowing policy is a good tool for enhancing the efficacy of compliance program, but if it is not managed well, the consequences often leave an indelible footprint in the life of the organization and the whistleblower.

Takeaways

- Whenever a whistle is blown, it alerts an organization of what has happened in the past, what is happening now, or what is about to happen.
- Whistleblowing provides an opportunity for organizations to see through the eyes of the whistleblower to uncover actions or inactions that may pose a compliance risk to the organization.
- The relationship between the whistleblower and management of an organization is essentially centered on trust and protection from retaliation.
• The element of certainty is a major trust-building component of a whistleblowing program.

• An organization’s nonretaliation policy must be developed with the career, safety, reputation, and protection of the whistleblower in mind.

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