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A Guide to Whistleblowing in Ghana

Revised Edition



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Ghana Anti-Corruption Coalition

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PREFACE

Corruption continues to impede the progress of development in this country and most Ghanaians seem unconcerned. To curb this, the Whistleblower Act, 2006 (Act 720) was enacted to empower people to expose corrupt practices and wrongdoing. Regrettably, the Act was not accessible to most Ghanaians. Citizens need to understand the law in a simplified way and apply it so that it will be able to achieve the purpose for which it was intended.

The Ghana Anti-Corruption Coalition (GACC) realised the need to simplify the Act and make it user friendly for the ordinary person to understand and be confident about blowing the whistle. GACC therefore developed the Guide in 2010 with funding from the British High Commission. The Guide has been used to educate individuals, CSOs, CBOs and the media on how to use the Act. The Guide also served as a key reference document for potential whistleblowers because it answered some of the important questions prospective whistleblowers needed to reflect on and understand about whistleblowing.

Two years since the publication of the Guide, GACC has found it necessary to review it to capture some of the issues and challenges, individuals and implementing agencies have encountered in the operation of the law to enhance its effective use. The reviewed Guide seeks to increase the use of the law and has captured some of the recent challenges in the implementation of the whistleblower legislation. The reviewed Guide is expected to empower stakeholders on the effective use of the law and help curb

corruption. It will also enhance transparency and accountability at the local level.

I would like to thank the Open Society Initiative for West Africa (OSIWA) that supported the review of the Guide and the translation of the reviewed Guide into three local languages; Twi, Ewe and Hausa. I also wish to thank Mrs. Estelle M. Appiah, Legislative Counsel, former Director of Legislative Drafting, Attorney-General's Department of the Ministry of Justice for leading the review of the Guide. Finally, I wish to commend the team of experts and the stakeholders that supported the review of the Guide.

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MAY, 2012

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INTRODUCTION

Corruption is the abuse of trust for private gain by persons in whom trust is vested. Many persons who serve in public office and those who work for themselves in the private sector engage in corruption. A common example of corruption is the payment of bribes by business people in order to obtain contracts for the supply of goods and the construction of roads and buildings. Bribes are given to public officers in order to secure employment, gain school admission for children, or to quickly obtain a service that is being provided slowly. Some politicians induce voters with “gifts” of cash, food, clothing and other items in order to obtain their votes. Some public officials falsely increase the cost of building projects and pocket the difference. In the course of their regular duties, many professionals such as administrators, accountants, architects, bankers, doctors, insurers, lawyers, manufacturers and pharmacists engage in illegal practices that cost the nation billions of cedis and enrich themselves. This behavior has many negative effects on Ghana’s development.

Corruption goes beyond giving and taking bribes .In addition to economic crimes, many forms of unlawful and improper conduct negatively effect the development of the country. Examples of this conduct is

- (a) failing to obey the law;
- (b) wasting/mismanaging public resources or using them for purposes other than what they were intended for;
- © undermining the administration of justice;

- (d) destroying the environment ;and
- (e) engaging in actions which threaten or endanger the safety of individuals and the public.

Although the country has many laws to deal with different forms of corruption and other improper behavior, the laws are not always effective. This is partly because most of these practices occur in secret and those who engage in them take steps to “cover their tracks”. Sometimes, however, some individuals witness corrupt and improper acts, or get to know about them. Indeed, every year, thousands of employees, managers, corporate executives and other officials witness serious acts of impropriety or wrongdoing that cost the nation a great deal. Sadly, most of them do not disclose the wrongdoing mainly because they are afraid of being victimised. They know of instances where those who disclosed or spoke out against corruption and other forms of wrongdoing, instead of being praised and rewarded, were rather demoted, dismissed, transferred, intimidated, harassed or even put on trial.

Sometimes, patriotic citizens with information about impropriety do not disclose it because they are not sure whether the persons to whom they report the acts will act properly to protect the public interest, to stop the improper act from taking place, or to have those who have engaged in the impropriety dealt with in accordance with the law. Sometimes, they are worried that if they report the conduct, their time will be wasted in a fruitless process of being required to report to the police countless times.

42. What can I expect after making a disclosure?

You have a right to expect courteous treatment and prompt and professional action on your disclosure. You also have a right to be informed of the outcome of the investigation within six months of making the disclosure. Undue delay in the processing of your complaint may be matter of administrative in justice. In that case, you can file a complaint of administrative justice with CHRAJ.

In general, you can expect two forms of reactions when it becomes public knowledge that you have blown the whistle in a particular case. First, some people will respect you for your courage and patriotism, shower you with praise, and treat you like a real hero. People may walk up to you and congratulate you for doing the right thing for Ghana.

Second, you may be victimised in your workplace. You may be rejected by friends and colleagues. Someone may even attack you verbally or physically. Others may try to harm you or a member of your family, or try to destroy your property. If you believe you are being victimised, or that you are at risk of being victimised in any way, you should report it to CHRAJ. Remember that CHRAJ has offices in all Regional and most District capitals of the country.

THE WHISTLEBLOWER LAW AS AN ANTI-CORRUPTION TOOL

41. *How should I handle public and media requests for interviews and comments while my disclosure is under investigation?* Unfortunately, despite our best efforts to keep your disclosure confidential, the information you disclosed may become public because other people may not be so careful in handling the information, or may even leak it to the media. If a situation like that happens and you are contacted by the media, you should politely tell them you cannot, or do not wish to, comment on the matter. However, if you think it is absolutely necessary for you to speak to the media in order to explain your side of the issue, it will be a good idea for you to seek advice from CHRAJ, the Ghana Anti-Corruption Coalition, the Ghana Integrity Initiative, or even a lawyer. Such bodies or persons may be able to offer you advice on how to deal with the media in your particular circumstances. They may also give you moral support in dealing with public criticisms.

While your disclosure is being investigated, you should avoid granting media interviews or participating in public discussions about the contents of your disclosure. If, however, it becomes public knowledge that you are the whistle blower in a particular case, you may become the target of very unkind criticisms in the media. Others may want to hurt you. Although you may get Police protection, it is far better to prevent such a situation than to deal with its consequences. Remember, prevention is better than cure.

Parliament of Ghana passed the Whistleblower Act (Act 720) in 2006 as an important anti-corruption tool. The purpose of the Act is to improve the nation's ability to fight corruption and other forms of unlawful conduct that negatively affect our development. The law is based on the idea that if ordinary citizens are empowered to disclose, without fear of victimisation, the corrupt and other unlawful acts of other persons, millions of cedis will be saved each year, respect for decent behavior and integrity will increase, the quality of public service will improve, and Ghana will see speedy development.

For these reasons, the law encourages and supports individuals to “blow the whistle” on unlawful or other illegal conduct or corrupt practices of other persons. It also protects any person who “blows the whistle” or exposes the corrupt or other unlawful conduct of another person. This is necessary in order to ensure that whistle blowers are not victimised by being fired from their work, harassed, intimidated, discriminated against, assaulted or even killed by those who engaged in the improper conduct, or who may benefit from it. In addition, the law rewards whistleblowers in certain circumstances.

This Guide provides information on the whistleblower law in Ghana. The goal is to educate the public on the purpose and importance of the whistleblower law so that many people will understand the law and know how to “blow the whistle” on corrupt, improper and other unlawful acts of other persons or institutions.

Using a question and answer format, the Guide also provides information on:

- The meaning and benefits of “whistleblowing”
- Types of corruption and other unlawful conduct on which the whistle can be blown
- How and where to blow the whistle
- The legal protections available to the whistleblower
- How to access legal assistance during the investigation
- How to work with the media after blowing the whistle
- How the whistleblower should compose himself or herself after the whistle has been blown.

Specifically, the Guide answers the following frequently asked questions about the Whistleblower’s Act:

1. What is Whistle blowing?
2. Can I blow the whistle about anyone?
3. Does Whistleblowing apply to the private sector?
4. To whom can I make a disclosure of impropriety?
5. In what form can I make a disclosure of impropriety?
6. Can I disclose an impropriety by using the telephone?
7. What should I do if I am too sick or injured to go to a specified person to make an oral disclosure?
8. Can I instruct my lawyer to make a disclosure on my behalf?

qualified persons and that the right thing will be done to protect the public interest. Therefore, after blowing the whistle on impropriety, you should not make the contents of your disclosure public. This means two things: First, you should not make your disclosure the subject of conversation in public. For example, do not discuss it while you are with friends or strangers in a taxi cab, a trotro or other public transport. Second, you should avoid talking to the media about your disclosure. If your disclosure becomes public, other persons may hide or destroy important documents or items (evidence) or interfere with the investigations. This may make it difficult or impossible to prove the allegations contained in your disclosure.

40. Are there any other reasons why I should not report my disclosure to the media?

Informing the media about your disclosure of impropriety may result in your becoming a subject of media discussion. Your motives, reputation and integrity may also be unfairly attacked. Others may interfere with the investigations; the result of such a situation may be that your disclosure may not be effectively investigated and, therefore, no useful purpose will be achieved. Remember that whistleblowing is a process that allows you, in a private and confidential manner, to disclose information about corruption and other acts of impropriety to specified persons and authorities only. You must do everything you can to ensure that you do not become the focus of media attention or controversy.

maybe entitled.

37. After I make a disclosure can I be protected by the Police?

Yes. If after making a disclosure you have a reasonable belief that your life or property, or the life or property of a member of your family is at risk or likely to be at risk, you can request for police protection. The police will have to provide you with the kind of protection it will consider to be adequate based on your circumstances. On its own, CHRAJ or the Attorney-General may also order the police to protect you and your family. This includes your spouse, father, mother, child, grandchild, brother and sister.

38. Can the property of a whistleblower be protected if it falls outside the definition of family in section 17, spouse, father, mother, child, grandchild, brother and sister?

Associates and other persons are not entitled to police protection.

39. Should I go public with my information after I have blown the whistle or made a disclosure?

No. Under the Act, a disclosure is a confidential process; it is not a matter for public discussion or analysis on FM radio stations or in newspapers. It is a discreet step that you take to ensure that corruption or other impropriety will be properly investigated, that the investigation will be undertaken only by

9. What must a disclosure of impropriety contain?
10. Does the law concern only impropriety that has already taken place?
11. What is meant by the requirement of have “reasonable cause” as a condition for making disclosure?
12. What are the forms of impropriety that may be disclosed under the Whistleblower Act?
13. I am a person who cannot read or write. Can I blow the whistle?
14. If I make a verbal disclosure to a person or institution, what will they do?
15. What will the person to whom I blow the whistle do?
16. If I blow the whistle to my family head and the chief of a nearby village who are both illiterate, can they invite a local school teacher, a catechist or an imam to write down the information?
17. What happens if the person to whom I blow the whistle fails to keep the information confidential?
18. How can I be sure that my identity or identifying information will not be disclosed?
19. How can my identity be concealed in court proceedings?
20. What factors may a whistle blower take into account in deciding to whom to report an impropriety?
21. Can I be sued for blowing the whistle?
22. When does the law protect a whistle blower?
23. Do disclosures to journalists fall within the law to be protected.

24. Are there any conditions for a whistle blower to be protected by the law?
25. What are the forms of protection available to me under the Whistle blower Act?
26. If I am given money or an incentive to make a disclosure, will this affect the truthfulness of the disclosure?
27. If I abuse my protection rights by participating in improper conduct such as accepting money, making a false statement or a frivolous disclosure, can the protection be revoked?
28. Is there a difference between whistleblowing, making a disclosure of impropriety, and leaking information?
29. What are the benefits of whistleblowing compared with reporting the information to a journalist?
30. Who is responsible for investigating the disclosure?
31. How can I trust that investigators will act efficiently and properly?
32. From what forms of victimisation am I protected as a whistleblower?
33. What can I do if I feel I am being victimized?
34. What will CHRAJ do with my complaint?
35. Do I have a right to legal assistance during the hearing at CHRAJ?

After the hearing, CHRAJ will make an order it considers just and proper under the circumstances. The order may instruct that you be restored to your position, your transfer be cancelled or reversed, you be transferred to another establishment. If it is appropriate in your case, CHRAJ can order that you be paid a monetary reward.

35. Do I have a right to legal assistance during the hearing at CHRAJ?

Yes, you have a right to legal assistance during the enquiry or hearing by CHRAJ. However, if CHRAJ itself considers that you need of legal assistance, it will give you a special note (called a certificate) to present to the Legal Aid Board to provide you with legal aid. CHRAJ may also give you a certificate to obtain legal assistance from a different body such as the Ghana Bar Association. Of course, you can retain a lawyer of your own choice if you can afford it.

36. What will happen if a person CHRAJ ordered to stop victimising me disregards the order?

An order of CHRAJ made under this Act has the same effect as a judgment of the High Court. If the person disobeys the order, CHRAJ can go court to compel the person to obey the order. You can also sue at High Court the person who victimised you. You can claim damages from your employer, for instance, for breach of contract or for another relief or remedy to which you

33. What can I do if I feel I am being victimised?

If you honestly and reasonably believe you have been victimised or you are about to be victimised for blowing the whistle, you may file a complaint with the Commission on Human Rights and Administrative Justice (CHRAJ). THE complaint must contain the following facts:

- (a) your name, description and address;
- (b) the name, description and address of the employer or of any other person who you claim has victimized you or is about to victimise you; and
- (c) The specific acts which you consider as amounting to victimization.

34. What will CHRAJ do with my complaint?

CHRAJ will have to hold an inquiry into your complaint of victimization. The CHRAJ will invite you and the person against whom you complained to a hearing, and hear each of you, as well as all relevant witnesses.

During the enquiry, CHRAJ can make a temporary order that it considers necessary. For instance, it can ask the other person not to transfer you or change your conditions of employment while the enquiry is still under way.

- 36. What will happen if a person CHRAJ ordered to stop victimizing me disregards the order?
- 37. After I make a disclosure can I be protected by the Police?
- 38. Can my property be protected if it falls outside the definition of family as stated in the Act: spouse, father, mother, child, grandchild, brother and sister?
- 39. Should I go public with my information after I have blown the whistle or made a disclosure?
- 40. Are there any other reasons why I should not report my disclosure to the media?
- 41. How should I handle public and media requests for interviews and comments while my disclosure is under investigation?
- 42. What can I expect after making a disclosure?

This Guide has been produced by the Ghana Anti-Corruption Coalition. We hope that you will find it useful to increase your awareness of what can be done to combat unlawful and other illegal and corrupt practices in Ghana, and increase honesty and good behavior in relation to public moneys, property and other resources. We also trust that you will share the information with others and encourage your family, friends, colleagues and neighbours to also fight acts of impropriety in our society.

FREQUENTLY ASKED QUESTIONS

1. *What is Whistleblowing?*

Whistleblowing is the act of revealing or disclosing information about another person's impropriety to one or more persons or institutions specified by the Whistleblower Act in order to fight corruption, ensure the rule of law, promote good public ethics and preserve the public interest.

2. *Can I blow the whistle about anyone?*

Yes. You can blow the whistle about any person or institution as long as you have good reason to believe that you have reliable information that indicates an impropriety. No person is above the law, and you can blow the whistle on any person or institution. If you are an employee, you can blow the whistle on your employer or another employee or co-worker. If you are an employer, you can also blow the whistle on employees and other persons or institutions.

3. *Does whistleblowing apply to the private sector?*

Yes it applies to public and private institutions because a person is defined in Section 32 of the Act to include an individual, body of persons, an institution or a corporation so the whistle can be blown about anyone in the public or private sector.

4. *To whom can I make a disclosure of impropriety?*

You can make a disclosure of impropriety to anyone or more

preserves. Where a person willing to provide evidence or information to the investigator is being pressured, induced or intimidated from doing so by another person, the investigator can ask the court for an order to prevent or restrain that person from interfering with the person willing to provide the information.

32. *From what forms of victimisation am I protected as a whistleblower?*

No person has a right to victimise you for blowing the whistle or making a disclosure of impropriety under the Act. The law will consider that you have been victimised at your workplace if, after your disclosure, your employer or fellow employee subjects you to any of the following:

- (a) dismissal;
- (b) suspension;
- (c) declaration of redundancy;
- (d) denial of a promotion;
- (e) transfer against your will;
- (f) harassment;
- (g) intimidation;
- (h) threats with any of the above punishments;
- (i) discrimination

Outside the employment context, the law will consider that you have been victimised if any person or institution treats you negatively because you made a disclosure under the Act.

30. Who is responsible for investigating the disclosure?

The person who receives the investigation has the duty to investigate the allegation contained in it, after sending a copy of the disclosure to the Attorney-General. If the person does not have the ability to investigate it, she/he must send it to the Attorney-General within seven working days of receiving the disclosure. Sometimes, the Attorney-general may direct the person to send the disclosure to another person or body to investigate. In all cases, however, the Attorney-General can direct that the matter be investigated by another person or body, instead of the one who received it.

31. How can I trust that investigators will act efficiently and properly?

The law requires anyone who has a duty to investigate a disclosure of impropriety to do so very quickly and in any event within seven working days. This investigation must be undertaken and completed within sixty (60) days after receiving the disclosure or the directive from the Attorney-General. If a person who is investigating a disclosure conceals or hides evidence, he/she can be jailed for two to five years when convicted.

If the investigator believes that any evidence or document important to the investigation may be destroyed, hidden or altered, the investigator can ask the court to order that the evidence or document be

of the following persons or institutions:

- (a) Your employer
- (b) A police officer
- (c) The Attorney-General
- (d) The Auditor-General
- (e) A staff of the Intelligence Agencies
- (f) A Member of Parliament
- (g) The Serious Fraud office
- (h) The Commission on Human Rights and Administrative Justice
- (i) The National Media Commission
- (j) The Narcotics Control Board
- (k) A chief
- (l) The head or the elder of the family of the whistleblower
- (m) A head of a recognised religious body
- (n) A member of a District Assembly;
- (o) A Minister of State;
- (p) The Office of the President;
- (q) The Ghana Revenue Commission; or
- (r) A District Chief Executive.

In this Guide to the Whistleblower's Act, the persons or institutions in the list are referred to as "specified persons".

5. In what form can I make a disclosure of impropriety?

A disclosure of impropriety can be made in two forms – written or verbal. To make a disclosure, a person simply provides any of

the specified persons with an allegation and the facts that support it. This can be done in writing or orally. If you choose to disclose an impropriety in a written form, you will have to write down your allegation and the information on which it is based and hand the document over to one of the persons or bodies specified in the Whistleblower Act. Alternatively, you can simply tell the allegation and the supporting information to one or more of the specified persons or institutions.

6. Can I disclose an impropriety by using the telephone?

Yes, you can use the telephone to make an oral disclosure. However, you must still find time to personally see the specified person to whom you made the disclosure on phone. This personal contact is necessary because, the Whistleblower Act requires that:

- (a) The person who received your disclosure by telephone must write down the allegation and the information supporting it;
- (b) The person must read over the contents of the disclosure to you in order to ensure that they are accurate and complete;
- (c) You must place your mark at the bottom of the document; and
- (d) The person must give you a receipt.

If the steps listed above are not followed, your disclosure may be incomplete and the person to whom you spoke on the phone may not be able to act on it.

- (ii) continuing;
retrieving or recovering funds or state resources; and
- (iii) prosecuting the persons who engaged in the impropriety.
- (d) you will be protected from victimisation;
- (e) If necessary, the State will provide you with legal assistance during the investigation of the information you cannot be successfully sued for blowing the whistle;
- (f) you will be paid a monetary reward if the information leads to the arrest and conviction of the accused person;
- (g) You will be paid 10% of any money recovered as a result of the disclosure you made. Sometimes, however, the amount of money paid may be more or less than 10% of the money recovered; in that case, the Attorney-General will decide on the amount after discussing the matter with the Inspector-General of Police;
- (i) Corruption and other forms of impropriety will be controlled;
- (j) Lawfulness, honesty and integrity in public life will increase, and Ghana will develop faster.

Furthermore, the law protects you from any law suit if you blow the whistle in good faith. However, if a police officer or a journalist accidentally or recklessly discloses your identity as the person who provided them with information, another person who is negatively affected by that disclosure may successfully sue you in a court of law.

Unlike giving tips to the police and leaking information to journalists, whistle blowing is a legal way of getting the State and other persons to act in a manner that stops or prevents corruption and other improprieties, improves public ethics and promotes integrity in national life.

29. What are the benefits of whistleblowing compared with reporting the information to a journalist?

Blowing the whistle has many advantages. At minimum, whistle blowing guarantees that:

- (a) the information you provide will be honestly investigated by a competent person or institution;
- (b) a report on the investigation will be reviewed by the Attorney- General; and
- (c) specific actions will be taken by the appropriate persons or authorities to address the impropriety if the allegation contained in your disclosure is proven to be factual. These actions may include:
 - (l) preventing the impropriety from occurring or

7. What should I do if I am too sick or injured to go to a specified person to make an oral disclosure?

The Whistle blower Act does not say anything about this situation. However, if you wish to make a disclosure orally but you are physically incapable of going out, you may make a request for one of the specified persons to visit you at the place where you are, so that you can make your disclosure to the person.

8. Can I instruct my lawyer to make a disclosure on my behalf?

Yes, if the whistleblower is the client of the lawyer, the lawyer may be instructed to make the disclosure.

9. What must a disclosure of impropriety contain?

Every disclosure should, contain the following information:

- (a) The full name, address and occupation of the whistle blower;
- (b) The nature of the impropriety to be disclosed;
- © The name of the person(s) against whom the disclosure is made;
- (d) The time and place where the alleged impropriety is taking place, took place or is likely to take place;
- (e) The full name, address and description of any person who witnessed the alleged impropriety;
- (f) Whether the whistle blower has made a disclosure of the same or of some other impropriety on a previous occasion and if so, about whom and to whom the disclosure was

made; and

- (g) If the person is an employee making a disclosure about the person's employer or a fellow employee, whether the whistle blower remains in the same employment.

10. Does the law concern only impropriety that has already taken place?

No. The law encourages and supports disclosure about impropriety that:

- (a) has already occurred;
- (b) is still occurring; and
- (c) is about to occur. The most important thing is that the disclosure must be based on facts, not suspicions, suppositions, assumptions and conjectures.

11. What is meant by the requirement of have "reasonable cause" as a condition for making a disclosure?

Under the law, a person who intends to make a disclosure of impropriety must have "reasonable cause" for doing so. This means that before blowing the whistle, a person must be sure of two things.

First, that an act of impropriety has occurred, is occurring, or is likely to occur. Thus, mere suspicion is not enough. The law does not permit individuals to make disclosures based only on suspicion, speculation, hunches or guesses. Whistleblowers must have evidence to support the disclosures they make.

Whistleblowing without a credible basis will undermine the

26. If I am given money or any incentive to make a disclosure, will this affect the truthfulness of the disclosure?

A. Yes, because it will be difficult to ascertain if there is reasonable cause to believe that the information or alleged impropriety is substantially true.

27. If I abuse protection rights by participating in improper conduct such as accepting money, makes a false statement or a frivolous disclosure, can the protection be revoked?

The protection will continue but you will be prosecuted for improper conduct

28. Is there a difference between whistleblowing, making a disclosure of impropriety, and leaking information?

No. Whistle blowing is the same as making a disclosure of impropriety. But there is a difference between whistle blowing and giving a tip off to the police or leaking information to another person such as a journalist. When you blow the whistle, the person who receives the information has a legal duty to start acting on the disclosure within seven days and to file a report on it with the Attorney-General within sixty days. When you give a tip-off to the police, it is not compulsory for the police to act on the information; the police will exercise their discretion on how to treat the information you gave them. In the same way, when you leak information to journalists, they decide whether to use the information, and if so, how to use it; neither you nor the state has any control over that.

whistle blower must have a clean and honest motive and a good reason to believe that the information being disclosed is truthful. The goal of the whistle blower must be to protect the public interest, not to attack personal, political, religious or other enemies. The law will not protect a person who tells lies about another person or institution under the pretence of “blowing the whistle”.

25. What are the forms of protection available to me under the Whistle blower Act?

The following are some of the ways the law will protect you if you obey the law in blowing the whistle on impropriety:

- (a) Law suit–The law will protect you from being sued;
- (b) cease and desist – CHRAJ can order anyone who victimises or harasses you to stop doing so and to refrain from it;
- © police protection – You may be given police protection to ensure your security
- (d) identity change– In rare cases, the state may change your “identity” by giving you a new name, identity card and other documents in order to better protect you.
- (e) location change– The state may also ensue your safety and security by moving you from where you live or work, and locating you somewhere else.

effort to fight corruption and other acts of impropriety. It could also result in the waste of significant state and individual resources which will be devoted to investigating baseless “disclosures”.

Second, the whistleblower must be sure that the conduct about which the disclosure is being made is unlawful, illegal or corrupt, or that it amounts to a form of impropriety under the Whistle blower Act. Examples of this conduct can be found from Question 10.

12. What are the forms of impropriety that may be disclosed under the Whistle blower Act?

The Whistleblower Act does not cover any form of improper act. This means that, it is not every kind of impropriety that a person can disclose under the Act. There are six types of impropriety that can be disclosed. They are the following:

- (a) economic crime
- (b) breaking a law or failing to obey a law which a person has a duty to obey
- © miscarriage of justice
- (d) waste, misappropriation or mismanagement of public resources
- (e) environmental degradation; and
- (f) endangering individual or public safety

Examples

Below are some examples of the six types of impropriety that can be disclosed under the Act.

1. *Economic crime*

- Stealing, fraud, bribery and corruption
- Smuggling
- Money laundering
- Wilfully causing financial loss
- Making false travel, per diem and medical expense claims
- Keeping “ghost names” on payrolls
- Over-invoicing and under-invoicing
- Awarding contracts to friends and relatives through unfair means
- Using public property for private purposes
- Evading tax
- Making full payment for work not done or not fully completed
- Making false claims in advertisements
- Using the internet to commit crime (cyber crime)

2. *Law Breaking or non-compliance with law Rigging elections—breaking electoral rules, corrupting electoral*

- Processes or cheating during elections
- Human trafficking
- Drug trafficking
- Engaging in examination malpractices
- Giving public jobs mainly or exclusively to members of your political party, ethnic group or religion

suppositions. Finally, you must disclose the information to only one or more of the persons or bodies specified in the law. Note that you can be sued if you disclose the information to a journalist, a teacher, your friend or any other person who is not one of the “specified persons or institutions” under the law.

22. *When does the law protect a whistle blower?*

The Whistleblower law protects only persons who follow the prescribed steps in making a disclosure of impropriety. In order to be protected, a whistleblower must make the disclosure only to persons or institutions specified in the Whistleblower Act. Under the law, a person who has information about an act of impropriety can report it quietly to an appropriate person, institution or authority, so that the conduct can be effectively investigated and the appropriate action taken.

23. *Do disclosures to journalists fall within the law to be protected?*

Disclosures to journalists are not within the law and are therefore not protected. A disclosure to a journalist does not therefore give protection from victimisation

24. *Are there any conditions for a whistle blower to be protected by the law?*

Yes. In making a disclosure of corruption or other impropriety, a

- (b) areas on cable belief or fear that someone may conceal or destroy evidence that is relevant to the impropriety;(c) the likelihood that the person receiving the disclosure will not frustrate the objective;
- (d) the seriousness of the disclosure and need to quickly take action on it; and
- (e) the place where the whistleblower lives and the conditions under which he/she lives. It is advisable for the whistle blower, wherever possible, to reduce the disclosure in to writing, and to keep a copy of it.

21. Can I be sued for blowing the whistle?

You cannot be sued for blowing the whistle if:

- (a) at the time of blowing the whistle, you sincerely believed that the conduct you were disclosing was an impropriety under the Act;
- (b) at the time of blowing the whistle, you had good reason to believe that the information you disclosed and the allegation of impropriety based on that information were largely true; and
- © you make the disclosure to one or more of the persons or bodies specified under the Act.

In short, in making a disclosure, you must sincerely believe that your information is truthful, and your allegations must be based on facts, not assumptions, conjectures and

- Discriminating against persons based on their ethnic, religious or political background
- Diverting drugs and other medical supplies meant for public hospitals
- Making illegal connections to the water and electricity system and not paying for the utility consumed

3. *Miscarriage of justice*

- Giving judgment in favor of persons after taking money from them
- Hiding vital information from a law court to ensure a particular result
- Lying to a court to ensure that an innocent person is convicted or a guilty person is freed
- Using state security personnel against personal enemies or political opponents
- Providing police protection for a criminal for private benefit
Allowing crime suspects to escape from lawful custody

4. *Waste, misappropriation or mismanagement of public resources*

- Failing to take good care of public property under your care
- Using inferior materials to construct public buildings while charging the state for superior quality materials
- Using public funds for a personal purpose

5. *Environmental Degradation*

- Dumping of garbage or rubbish improperly
- Spilling oil or toxic substances
- Using poisonous or toxic substances in fishing
- Engaging in illegal timber felling, gold mining and salt and sand winning
- Illegal burning or cutting down trees on a large scale

6. *Endangering individual or public safety*

- Throwing a bomb or other explosive device into a house or public gathering
- Spreading a rumour that can cause public fear or panic

evidence being given in camera or behind a screen. The reference to the whistleblower in documents tendered in evidence can be disguised.

20. *What factors may a whistle blower take into account in deciding to whom to report an impropriety?*

Not every person or authority listed above may be suitable to receive a disclosure of each kind of impropriety. There are several reasons for this: some persons who receive a disclosure may fail to act appropriately because they may personally have an interest in the matter, or they may be connected with the person(s) against whom the disclosure is made. In some cases, the person receiving the disclosure may alert the persons against whom the disclosure is made, or even destroy the evidence on which the disclosure is based. Where the disclosure is made to the whistleblower's employer, that employer may dismiss, suspend harass, intimidate or discriminate against the whistleblower.

Therefore, a person who intends to blow the whistle must decide carefully to whom and how to make the disclosure.

In deciding to whom to make the disclosure, the whistle blower may take the following factors into account:

- (a) reasonable belief or fear of victimisation, e.g., that the whistleblower may not be dismissed, suspended, harassed, discriminated against or intimidated;

16. If I blow the whistle to my family head and the chief of a nearby village who are both illiterate, can they invite a local school teacher, a catechist or an imam to write down the information?

No. If you blow the whistle to a chief, a religious leader or your family head or elder who cannot read and write that person will have to assist you to make the disclosure directly to anyone or more of the specified persons.

17. What happens if the person to whom I blow the whistle fails to keep the information confidential?

The ability to keep disclosed information confidential is important to the success of the Whistleblower Act. Any person who receives a disclosure of impropriety and fails to keep it confidential commits a criminal offence. If [tried and] convicted [summarily] the person may be sentenced to a heavy fine, or imprisonment ranging from two to four years, or even to a both fine and a term of imprisonment.

18. How can I be sure that my identity or identifying information will not be disclosed?

Section 6 of the Act provides that the writing in which the disclosure is made should be kept confidential

19. How can the identity of a whistleblower be concealed in court proceedings?

The identity of a whistleblower witness can be concealed by the

THE WHISTLEBLOWER ACT (ACT 720) 2006

The WHISTLEBLOWER ACT (Act 720) is a Law that was passed by Parliament in 2006



What is Whistle blowing?

It is an important anti-corruption tool. The purpose of the Act is to improve the nation's ability to fight corruption and other forms of unlawful conduct that negatively affect our development

The law encourage and supports individual to "blow the whistle" on unlawful or other illegal conduct or corrupt of practices of other persons



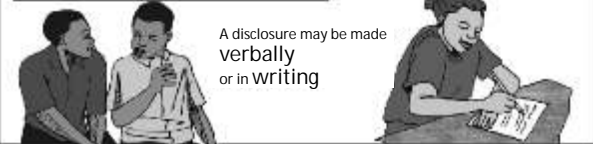
Can I blow the whistle about anyone?

Yes. You can blow the whistle about any person or institution as long as you have good reason to believe that you have reliable information that indicates an impropriety. No person is above the law



How can a disclosure of impropriety be made?

A disclosure may be made verbally or in writing




What must a disclosure of impropriety contain?

a. The full name, address and occupation of the whistleblower;
 b. The nature of the impropriety to be disclosed
 c. The name of the person(s) against whom the disclosure is made
 d. The time and place where the alleged impropriety is taking place, took place or is likely to take place

Does the law concern only impropriety that has already taken place?

No. The law encourages and supports disclosure about impropriety that: (a) has already occurred; (b) is still occurring; and (c) is about to occur




What is meant by the requirement of have "reasonable" cause as a condition for making a disclosure?

I saw him pilfering from the company's coffers at 9:00pm



The forms of impropriety which may be disclosed under the Whistleblowers Act?

1. Economic crime
2. Breaking a law or failing to obey a law which a person has a duty to obey
3. Miscarriage of justice
4. Waste, misappropriation or mismanagement of public resources
5. Environmental degradation and
6. Endangering individual or public safety



I am a person who cannot read or write. Can I blow the whistle?

Yes. As long as the information which you have amounts to impropriety.



Who are the persons or bodies to whom I can make a disclosure of impropriety?

- ◆ The employer of the whistleblower
- ◆ A police officer
- ◆ The Attorney-General
- ◆ The Auditor-General
- ◆ A staff of the Intelligence Agencies
- ◆ A Member of Parliament
- ◆ The Serious Fraud office
- ◆ The Commission on Human Rights and Administration Justice
- ◆ The National Media Commission
- ◆ The Narcotics Control Board
- ◆ A chief
- ◆ The head or the elder of the family of the whistleblower
- ◆ A head of a recognized religious body
- ◆ A member of the district Assembly.
- ◆ A Minister of State
- ◆ The Office of the President;
- ◆ The Revenue Agencies Governing Board; or
- ◆ A District Chief Executive.

- Have your information reduced in to writing;
- Have the written information read over, interpreted and explained to you in a language you understand;
- Have you place your mark or finger print at the bottom of the paper which contains the information. The mark will indicate that you approve the information as accurate; and
- Attach to the written information a certificate indicating that the information was read out, interpreted and explained to you in a language you understood, and that you accepted the contents as accurately reflecting what you told the person.

15. What will the person to whom I blow the whistle do?

Any person or body that receives a disclosure of impropriety from you will take the following actions:

- Record the time (and date) and place where you blew the whistle [Made the disclosure];
- Give you a receipt showing that you have blown the whistle [Made the disclosure];
- Keep the record of the disclosure confidential and safe until the matter is investigated; and
- Submit a copy of the written disclosure to the Attorney-General within seven (7) working days.

and Development Association of the police officer investigating the matter, and use funds from the hospital's account to pay for the education of the Police Superintendent's daughter at a college in the United Kingdom, all in an effort to silence the police.

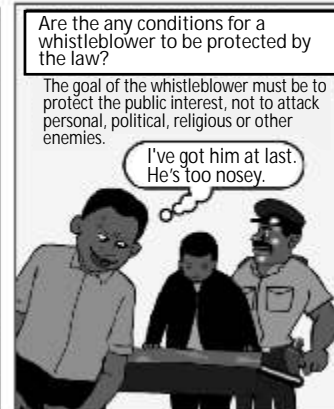
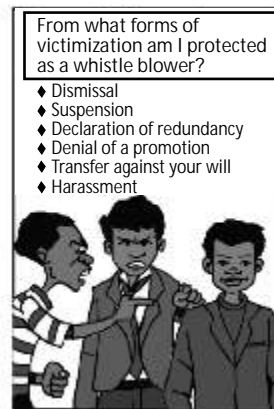
The illegal and improper conduct of the doctor and the pharmacist will fall into several of the above categories:

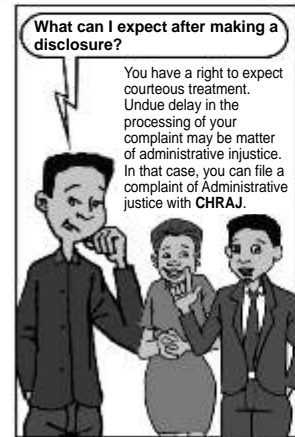
- (a) economic crime,
- (b) failure to comply with the law,
- (c) miscarriage of justice, mismanagement of public resources, and
- (d) endangerment of individual and public safety.

13. I am a person who cannot read or write. Can I blow the whistle? Yes. You can blow the whistle as long as you have information which you honestly believe amounts to impropriety. You do not have to be literate to blow the whistle. All you need to do is to tell your story to one or more of the persons or institutions prescribed by the law and they will write down the information.

14. If I make a verbal disclosure to a person or institution, what will they do?

The person or body who receives your verbal disclosure of impropriety must immediately do the following:





- Failing to ensure public safety

Any improper conduct about which a person wishes to blow the whistle must fall into one or more of the above categories.

The failure of a person to stop at a traffic light when it turns red, though improper and illegal, may not be an impropriety to disclose under the Act. However, if a person recklessly drives speedily along a busy street, causes fear and panic, kills a number of people and runs away with his vehicle, the persons conduct will be a proper subject to disclose under the Act because of its very serious impact on society.

The six categories of impropriety listed above are not fixed or water-tight. An impropriety that may be disclosed under the Act may fall under more than one of these categories.

Illustration

Suppose a doctor and a pharmacist at a public hospital team up to inflate the cost of drugs they purchase for the hospital so that the drug manufacturer will later give them a "kick-back". Suppose they then divert the drugs to the doctor's private clinic and bring to the hospital expired drugs from a chemical shop owned by the pharmacist. Suppose again that they have the expired drugs administered by then nurses to patient's on admission. And suppose they then pay a bribe to a journalist whose relative has died as a result of having been treated with the expired drug. Finally, suppose they donate a pick-up truck to the Town Welfare