



**NACAC**  
National  
Anti-Corruption  
Advisory Council



# **STRENGTHENING WHISTLEBLOWER PROTECTION MECHANISMS IN SOUTH AFRICA**

## **Hive Document**

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## 1. EXECUTIVE SUMMARY

In a country still emerging from the grip of State Capture, the urgency to protect whistleblowers has never been greater. South Africa stands at a critical juncture in strengthening its anti-corruption architecture, with a particular focus on protecting whistleblowers.

The [Platform to Protect Whistleblowers in Africa](#) (PPLAAF) and the [National Anti-Corruption Advisory Council](#) (NACAC) convened a high-level conference in March 2025 to assess and bolster whistleblower protection mechanisms and generate actionable recommendations. Participants represented civil society, the media, state authorities, whistleblowing experts, and whistleblowers.

The conference highlighted deep legal, structural, and cultural gaps that continue to deter individuals from exposing wrongdoing. However, with President Cyril Ramaphosa's announcement of a new Whistleblower Protections Bill in 2025, the moment is prime for implementing a robust, unified legislative and institutional response to support whistleblowers and foster accountability.

As the country awaits the public comment period for the Whistleblower Protections Bill and/or amendments to the Protected Disclosures Act (PDA), the conference acted as a crucial opportunity to garner consensus on approaches and positions on both the PDA and the broader legislation that may serve as legal protection of whistleblowers in the country.

This document acts as a *Hive Document*. Designed to be shared and disseminated in preparation for the public comment period, it consolidates key recommendations debated and agreed on at the conference.

## I. BACKGROUND AND CONTEXT

Whistleblowers have been essential in exposing corruption scandals in South Africa, saving the country millions. Yet, many continue to suffer dire consequences, including harassment, job loss, various threats, and serious financial ramifications. While the PDA provides a legal framework that meets numerous international standards, it falls short on many accounts.

In 2023, the Department of Justice and Constitutional Development (DOJ) released a [discussion document](#) on proposed reforms for South Africa's whistleblower protection regime. Recently, in his 2025 State of the Nation Address, President Cyril Ramaphosa stated that, during this financial year, the revised framework will be finalised and the **Whistleblower Protections Bill** introduced in Parliament. This Bill and revised framework are the result of combined efforts by NACAC, the DOJ, and the Presidency.

Importantly, South Africa has a decentralised, collaborative, and multi-agency approach to fighting corruption. Furthermore, legislation protecting whistleblowers extends beyond the PDA, which must be read with the legislation that impacts its enforcement. PPLAAF's positions on the below topics therefore take this broader framework into consideration.

## II. POLICY CHALLENGES

While the PDA is considered amongst the strongest and most progressive in Africa, meeting international standards in several respects, significant gaps leave whistleblowers vulnerable. The conference identified several notable challenges that face the implementation and efficacy of South Africa's whistleblower protection mechanisms, including:

- **Fragmented Legal Frameworks**

The PDA must be read in conjunction with the Labour Relations Act, Witness Protection Act, and other legislation that directly or indirectly references whistleblower protection. However, without expressly stating this within the PDA, confusion and weak enforcement prevails.

- **Limited Scope of Protection**

Current protections offered in the PDA are confined mostly to formal employees and exclude citizen whistleblowers, the media, Civil Society Organisations (CSOs), and third-parties that support whistleblowers. Equally, the PDA focuses on protection against 'occupational detriment' (retaliation faced in relation to one's work), which overlooks various other forms of retaliation whistleblowers may experience, including reputational damage.

- **Lack of Oversight and Collaboration**

Within the broader multi-agency approach to fighting corruption, no single entity currently monitors or enforces whistleblower protection comprehensively. As such, there is a lack of clear coordination between agencies, both in relation to investigating disclosures and protecting whistleblowers - who are often left isolated and alone - to ensure their protection from retaliation.

- **Retaliation and Impunity**

Whistleblowers face reprisals with little recourse or support. As such, whistleblowers are suspended, fired, harassed, and threatened. Criminal sanctions for retaliation are absent, however, criminalising retaliation is a secure mechanism to thwart retaliation. Furthermore, there is no clear agency or authority to report retaliation, especially in instances where the police or other traditional agencies may not be safe to report to. This is necessary for whistleblowers to receive holistic support, including financial, psychosocial, and security/safety support.

- **Delayed or Ineffective Investigations and Report-Back**

Investigations into whistleblower disclosures are often lengthy, and lack clear progress updates for whistleblowers. This lack of report-back is problematic for a number of reasons, but, understandably, it creates anxiety for whistleblowers – all of whom want something to come of their disclosure. As such, whistleblowers may be left in the dark on the status of the investigation and approach a number of agencies to make their report – leading to a problematic duplication of efforts.

#### **- Negative Public Perception**

Unfortunately, cultural stigma persists in South Africa. Whistleblowing is still associated with betrayal, being a snitch or an '*impimpi*,' rather than fulfilling a civic duty and protecting the public interest.

All of these gaps not only leave whistleblowers vulnerable to retaliation in various forms, but may also have a chilling effect and deter potential whistleblowers from coming forward out of fear and/or a lack of understanding of the process of reporting.

### III. RECOMMENDATIONS

A number of important interventions were agreed on at the conference, including:

#### 1. ESTABLISH AN INDEPENDENT WHISTLEBLOWING AUTHORITY

Establishing an independent Whistleblowing Authority is highly recommended to ensure whistleblower protection and to coordinate amongst institutions and authorities concerned.

The Authority would act as a database for **both private and public sector whistleblowers, independent from other reporting and investigating agencies, like the Auditor General and Public Protector, which would remain responsible for receiving, investigating, and addressing disclosures.**

The Authority will:

- Provide advice to whistleblowers pre and post-disclosure;
- Direct whistleblowers to the appropriate recipient for receipt of disclosures and act as a referral and monitoring mechanism for these recipients;
- Receive, investigate, and address complaints of retaliation against whistleblowers, with orders for protection being binding;
- Receive and investigate disclosures and issue remedial action;
- Monitor and oversee whistleblower cases reported to competent authorities, as outlined in the PDA;
- Handle reports of improper or delayed investigation by competent authorities;
- Provide legal, financial, and psychological support to whistleblowers;
- Safeguard whistleblowers from physical harm by liaising with relevant institutions like the Office of Witness Protection, amongst others;
- Oversee and monitor legislative enforcement, including avenues for reform and development;
- Offer guidance and monitor the development of institutional whistleblowing mechanisms, both in the public and private sector, and sanction for non-compliance;
- Conduct education and awareness raising campaigns on whistleblowing.

It is also recommended that a **Whistleblower Support Fund** be established under the new Authority's remit, headed by a retired judge.

Other than protecting and encouraging whistleblowers, the myriad benefits of such an authority includes an increase in public trust, ensuring South Africa's framework is compliant with international standards, the prevention of and remedial response to retaliation, and halting the duplication of efforts by both independent and state agencies.

#### 2. LEGISLATIVE REFORM

To ensure a comprehensive and effective framework for whistleblower protection, the new Whistleblower Protections Bill or any amendments to the Protected Disclosures Act (PDA) must incorporate the following provisions:

**1. Remove the Good Faith Requirement**

Protection and support for whistleblowers must not be contingent on the whistleblower's good faith or personal motives. It is essential that the validity of the disclosure, rather than subjective intent, forms the basis of protection.

**2. Reverse the Burden of Proof in Retaliation Cases**

In cases of alleged retaliation, the onus should lie with the accused party to prove that the retaliatory action was unrelated to the whistleblower's disclosure. Whistleblowers should not bear the burden of establishing this connection.

**3. Extend Protections to a Broader Group of Actors**

Legal protections must be extended beyond employees to include citizen whistleblowers, journalists, civil society organisations (CSOs), and third parties who assist or are associated with whistleblowers. This must include protection from indirect retaliation targeting facilitators, colleagues, or family members of the reporting individual.

**4. Implement Clear Timelines and Communication Duties**

The Bill or amendments should mandate strict and enforceable timeframes for the processing and investigation of protected disclosures. Responsible authorities must also have a positive duty to regularly inform whistleblowers about the status and progress of their disclosures.

**5. Criminalise Retaliation Against Whistleblowers**

Acts of retaliation should be formally criminalised, with penalties including a minimum of five years' imprisonment and/or substantial financial fines. Such penalties will provide a strong deterrent against punitive measures.

**6. Provide Immunity from Liability**

Whistleblowers must be granted immunity from any civil, criminal, or administrative liability arising from reasonable actions taken to make a disclosure or protect their anonymity - provided they had a reasonable belief that their actions met the conditions of the PDA or the proposed Bill.

**7. Integrate Reforms from the Witness Protection Act (WPA)**

The WPA revisions should be integrated into whistleblower protection mechanisms to provide essential safeguards. This includes anonymity, security and safety measures, relocation assistance, and access to financial and social support where necessary.

### **3. INCENTIVES, REWARDS, AND RECOGNITION**

Rewards are an effective tool to motivate whistleblowers, with various studies proving that they enhance the quality and quantity of information. Rewards may also provide necessary support to whistleblowers facing significant personal and professional risks. Therefore, awards or rewards for whistleblowers should be introduced in South Africa.

The Whistleblower Regulatory Authority may oversee this process in collaboration with authorities. In meritorious cases, where significant asset recoveries have occurred as a



result of or with the help of the protected disclosures, awards of a percentage of assets recovered should be considered. To avoid perverse incentives, discretion should be used when determining whether to issue an award.

Beyond financial rewards, recognition also plays a vital role in encouraging whistleblowing. Acknowledging the courage and integrity of whistleblowers can foster a culture of transparency and accountability both within organisations and at a national level. This recognition can take various forms, such as public commendation or media campaigns. Recognition may also have the positive knock-on effect of challenging negative perceptions of whistleblowing.

#### **4. STRENGTHEN SUPPORT AND REPORTING SYSTEMS**

To ensure whistleblowers are holistically supported and empowered, and that their disclosures lead to substantive change, the following measures must be implemented:

- **Enhance Internal and External Reporting Mechanisms**  
Internal reporting systems must be strengthened to ensure they are safe, confidential, and responsive. External reporting channels must be clearly defined and expanded to include civil society organisations and the media.
- **Provide Access to Legal and Psychosocial Support**  
Whistleblowers must have access to free or affordable legal aid, as well as psychosocial counselling to support their mental and emotional well-being throughout the reporting process.
- **Ensure Interim Income and Safety Support**  
In high-risk cases, interim financial support, physical safety measures, and relocation assistance must be provided to protect whistleblowers and minimise the personal cost of disclosure.
- **Criminalise Breaches of Confidentiality**  
Any unauthorised disclosure of a whistleblower's identity must be penalised through criminal sanctions to ensure confidentiality is upheld and trust in the system is maintained.

#### **5. EXPAND THE DEFINITION OF RETALIATION**

The legal definition of retaliation must be broadened to encompass the full range of harmful actions whistleblowers may face. The current scope of "occupational detriment" is too narrow. The definition should be expanded to "detrimental action," which includes but is not limited to:

- Intimidation and threats, including legal, physical, and otherwise
- Online harassment and/or defamation
- Social ostracism and reputational harm
- Financial hardship and blacklisting
- Occupational detriment

Whistleblowers must also be able to pursue civil remedies for all forms of retaliation. An independent Authority should be empowered to adjudicate such cases swiftly, or to issue legally binding remedial action/thwarting of retaliation for urgent interim relief where necessary.

## **6. PUBLIC EDUCATION AND CULTURAL TRANSFORMATION**

Public awareness and cultural shifts on whistleblowing are imperative to strengthening the broader whistleblower support system, as well as in ensuring whistleblowers continue to come forward as South Africa develops a strong culture of whistleblowing, transparency, and accountability. As such, the following are recommended:

- Launch national campaigns focusing on whistleblower protection and the new Bill, including at grass-roots and municipal levels;
- Integrate whistleblower education into schools, community forums, and religious institutions *as the right thing to do*;
- Foster and sustain public-private collaboration;
- Train journalists, CSOs, and community leaders on ethical handling of disclosures and actively encourage collaborative efforts to support whistleblowers and disseminate their disclosures.

#### IV. CONCLUSION

Whistleblower protection is fundamental to a transparent, accountable democracy. Legislative change alone is not enough. It must be accompanied by institutional innovation, cultural transformation, and sustained civic engagement- embedded in *an all of society approach*

The proposed Independent Whistleblower Authority, comprehensive reforms to the PDA including the scope of whistleblowers and protection offered, financial and other support mechanisms, establishing rewards, and public recognition are essential next steps.



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