

# Giving Citizens a Voice

*Stand up, stand up – Stand up for your rights;  
Don't give up – Don't give up the fight!*

*Bob Marley*

An informed citizenry, aware of their rights and asserting them confidently, is a vital underpinning to a national integrity system. An apathetic public, ignorant of its rights and acquiescent in the face of administrative abuse, provides an ideal breeding-ground for complacency and corruption.

A primary task is an awareness campaign, both of the damage that corruption is doing to the community and to families within it, and of the need for individual citizens to take appropriate action when they encounter it. Public opinion and attitudinal surveys (discussed in the chapter on Surveys as Tools – Measuring Progress) are a primary tool in giving the public both a voice and the realisation that their opinions are valued and are taken seriously by others. So, too, is the “Report Card” approach, where users of particular services are questioned about their treatment.

Newspapers and radio stations are also particularly good vehicles: newspapers can run columns of complaints investigated, and publish the results of their inquiries together with the original complaint. In Kenya, one newspaper, the *East African*, has for some time published the names of public officials who have misbehaved – and of their superiors who have refused to take remedial action. In Tanzania, the independent Swahili newspaper *Majira* provides an informal communal channel for the public to voice complaints or to make appeals to the Government.<sup>1</sup>

Reaching an even wider audience are radio “talk-back” programmes, where representatives of civil society, or even the Ombudsman, receive individual complaints on air and give advice. In this way, the advice given to a single person reaches others likely to encounter similar situations, giving them the opportunity to prevent them.<sup>2</sup> This can have a much more empowering impact than might at first be thought. Delay devices can be used to avoid problems with defamation laws, and “bleep” out names that could give rise to court proceedings.

More distant audiences may be reached through street and market theatre groups, who can carry social messages far and wide. In Uganda, for example, experience gained through the highly-successful AIDS awareness campaign, is now being used to alert ordinary people to the

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<sup>1</sup> Citizens send letters to *Majira* which are then published unedited in the paper on a daily basis according to prescribed subjects (e.g. Thursday relates to politics, Friday to culture and education, Saturday to social services, and so on). Although the paper tries to pressure the government on the public's behalf, the letters rarely receive an official reply. The Ethics Inspectorate scans *Majira* daily for criticisms and accusations and then investigates accordingly. Its Director claims that if a complaint appears in the newspaper it will be followed up. However,

the Inspectorate does not communicate the results of these investigations to the person complaining, or to the media. *Majira* has a circulation of approximately 45,000. However, its circulation is dropping from a high of 100,000 as a result of increased prices. The price increase is due to the Government placing a tax on imported newsprint. There is speculation that this was done to drive some papers out of business.

<sup>2</sup> The development of small, “community” radio stations can be particularly significant in this regard.

damage corruption does to the quality of their daily lives, and as to ways in which they can resist it.

### Citizen's Charters

While there is much that citizens can do to give themselves “a voice”, so, too, are there initiatives which a government should take to the same end.<sup>3</sup>

A recent innovation to improve government accountability is the development of “Citizen’s Charters”. These aim to introduce measurable standards of service, arrived at through consultation with both officials and users. By publicly committing agencies to published standards of service, the Charters provide citizens both with avenues for them to raise their concerns and with a yardstick against which to measure the agencies’ performance in an individual case.

Citizen’s Charters may be used as part of an overall strategy for improving government services, or else as a means of addressing localised problems within a particular sector<sup>4</sup>. They define the services that will be provided and the minimum standards that citizens should expect.

Charters set out the procedure for making complaints. The intention is to shift the emphasis from complaints as something negative, to viewing complaints as an important form of communication and feedback. Citizen’s comments can then be analysed for targeting improvements in public services in areas seen to be failing.

Charters can be used to promote freedom of information. They can be used to disclose information about the structure, functions and operations of public sector agencies. Information should be made widely available using all available means, including the media, public libraries or information technology. For example, in India, Citizen’s Charters are being used to tackle low level corruption by providing citizens with access to information about the services where bribes are often levied. These Charters describe the services that the government will provide, the time frame for each service, the government officer who should be contacted and a remedy should the service not be provided.<sup>5</sup>

Typically, Charters set out the government’s commitments to the public it serves. These Charters summarise details of the services that are provided by each government agency. They also explain how to obtain these services, and what to do if the services do not meet expectations. It is important that these provisions are set out clearly to enable their easy application in practice. If definitions are vague and general, then the public will get confused, misunderstandings will proliferate and civil servants will be unclear as to the targets they are expected to meet. Copies of its Charter should be displayed prominently wherever a department or agency is doing business with the public.

Key elements of a Citizen’s Charter are that they:

- are non-statutory (i.e. they do not have the force of law);
- are intended to increase citizen participation;
- define standards of service; and,
- require publication of information about services.

3 The role of people’s elected representatives and the need for accessibility is discussed in the chapter on the elected legislature. Similarly, the role of the Ombudsman is discussed in the chapter devoted to that office.

4 They can be introduced at all levels of government, national or local.

5 S. D. Sharma, *Mobilising Civil Society: NGO initiatives to fight*

*corruption and promote good governance – in the Indian context*, Paper presented at the Workshop on Promoting Integrity in Governance at the World Conference on Governance, Manila, Philippines, 31 May - 4 June 1999. This initiative is the result of co-operation between Transparency International India and the central government.

## Standards

Guiding principles outlined in a Citizen's Charter can be applied to particular services and performance targets. Some easily measurable targets include:

- maximum response times (for both responding to complaints and to written enquiries i.e. replies to letters);
- maximum waiting times for appointments; and
- charges and fees.

Charters seek to change the culture of service provision by ensuring that users are consulted and that their needs and apprehensions are addressed by the system. By being open and by promising response times, and by indicating how and where to complain when standards are not met, the scope for corruption in the provision of the service is (or should be) significantly reduced. Standards should be drawn up after consultation with members of the public and government officials.

## Monitoring

Charters should provide the means for monitoring public sector performance. One key aspect is the requirement for agencies to publish information about their performance. Agencies are required to collate and publish statistics as set out in the Charter, allowing citizens and the Legislature the opportunity to assess the performance of the service. If the Charter applies across a national service, e.g. schools or hospitals, the performance of local units can be compared by using this process. As well as helping to identify problem areas, this provides an opportunity to identify areas of strength and to track improvements in services.<sup>6</sup>

## Complaints

The complaints process should include provision for an internal review and also external impartial adjudication, perhaps to an Ombudsman. However it is important to note that failure to meet the performance targets laid out in a Charter, whilst constituting grounds for complaint, does not normally carry any sanction in law.

## Citizen's Advice Centres

However, once aware that his or her rights may have been transgressed (and if the mechanisms under any relevant Citizen's Charter have failed to provide redress), a citizen may need help. Lawyers cost money, and friends and relatives do not always have either answers or the resources. How, then, can an ordinary citizen, perhaps with a minor but worrying problem, find out about his or her entitlements and claim them successfully?

In many parts of the world, civil society groups have initiated ways to ensure that citizens - and especially the poor and the marginalised - can obtain free advice on how to deal with government agencies (e.g. housing, benefits, pensions etc.), and about their legal rights in general.

### Nine principles of public service delivery

The principles for public service delivery identified in the UK Charter programme are to:

- set standards of service that are:
    - relevant
    - simple
    - measurable
    - monitored
    - published
    - reviewed
  - be open and provide full information – about costs, performance, availability, etc.;
  - consult and involve both staff and users;
  - encourage access and the promotion of choice;
  - treat all fairly;
  - put things right when they go wrong;
  - use resources effectively;
  - innovate and improve; and to
  - work with other providers
- "Service First", UK Cabinet Office, 1998*

<sup>6</sup> In the United Kingdom, Citizen's Charter Performance Indicators are published by all local authorities to provide a snapshot of how well local Councils are faring. Brent Council was the

first to publish its results on the Internet: <http://www.brent.gov.uk/ccpi.htm>.

Principal elements of Citizen's Advice Centres (often described as Citizen's Advice Bureaux or CAB) are that they:

- disseminate information on public services;
- provide free and independent advice to citizens; and,
- provide a two-way channel of communication between citizens and the government.

A key feature is that the advice they give is free of charge. Often they are staffed by trained volunteers, and in some countries, young lawyers (and even older ones) are encouraged to give their services for free at these Centres. Although in some countries the Centres are funded by governments<sup>7</sup> or donor agencies, it is important that they retain some independence to ensure that they are seen to offer a fair and impartial service.

One service states that its aims are:

- to ensure that individuals do not suffer through ignorance of their rights and responsibilities, of the services available, or through the inability to express their needs effectively, and
- to exert a responsible influence on the development of social policies and services, both locally and nationally.<sup>8</sup>

Where governments are required by freedom of information legislation, or other provisions such as Citizen's Charters, codes of practice, etc., to publish and disseminate information about government services, the Advice Centres can provide an effective means of reaching citizens through their national network, thereby helping governments to fulfil their obligations. Some distribute a range of guidance leaflets, produced by their government, and others develop their own pamphlets, which are limited by their resources. These leaflets can provide information on:

- what services are available;
- how to obtain them;
- how to make complaints; and
- how to obtain redress.

Advice is usually given through personal consultations where it is given in response to a particular enquiry. These consultations identify the citizen's legal rights, and provide advice on how their rights can be upheld, the services available to assist them and what to do if these services have not met their expectations.

Although some Advice Centres advise on "whistleblowing", and on how to make a complaint, most do not actually act for citizens when they wish to obtain redress for grievances. They provide information on the process that must be undertaken, the choices available for obtaining redress, but they do not usually handle the cases themselves. They can, however, act as a pressure group for change in government programmes.

As well as providing guidance on complaints about public services, the Advice Centres can inform the government about problem areas, enabling the government to target limited resources on the programmes that most need them. They can also provide valuable information to the government on local needs, and complaints on conditions that are not directly related to government services, but that should be addressed by the public sector.<sup>9</sup>

7 For example, in Mauritius the Citizen's Advice Bureaux are run by the Ministry of Urban and Rural Development.

8 Glen Innes Citizens Advice Bureau, Auckland, New Zealand: <http://www.geocities.com/SoHo/Veranda/2934/cabgi.html>

9 For example, in Mauritius an important function of the network of Citizens Advice Bureaux is to provide a channel of communication from citizens to government, including attitudes to

local developments and planned projects. In the UK feedback from citizens, enquiries are channelled from the local Bureaux to the national association through Bureau Evidence Forms. These are completed for enquiries that represent examples of a wider social problem. This information then forms the basis for well-distributed published reports.

## Public interest litigation

Citizen's Advice Bureaux do not normally go to court for people, but approaches can be developed to fulfil this need.

One such programme is the USAID-sponsored "Citizens Advocacy Office" (CAO) programme in Donetsk in the Ukraine. This serves as an active source of legal support for citizens and businesses with grievances concerning corrupt officials. Operating entirely independently of government, this Office provides legal advice free-of-charge to citizens about their rights, it represents them in court, and it helps them gather and submit evidence in cases of alleged corruption. Two offices have been established, and a 24-hour telephone hotline has been in operation since July 1999. The following examples illustrate some of their accomplishments:

- The captain of a cargo ship exposed the misdeeds of administration officials who were embezzling funds, but then found himself wrongly accused and sentenced to prison. The Centre's lawyers succeeded in getting the convictions set aside and the sentences quashed. They then prepared claims against the officials concerned personally.
- Two government officials succeeded in removing a founder of a company in Donetsk from the board of her company, and then re-registered her company under a new name with new directors. The CAO applied successfully to the court to have the re-registration cancelled and the original founder's rights restored. The district prosecutor then opened a case against the two officials, one of whom was a People's Deputy of the Ukrainian Parliament and who was prohibited by law from engaging in private sector activities.
- A group of flower sellers, who had paid the required fee and taxes to the district government were refused renewal of their permits in 1998, being told that permits had to be bought only from a private company. The CAO conducted a preliminary investigation of this case and found that this company was not properly registered and did not pay any formal taxes to the district government. Moreover, the company encouraged the flower sellers to conduct businesses in the shadow economy - without providing receipts or recording cash income. The case was passed to the proper authorities for formal investigation. As a result, the district government has been charged with wrongdoing, and the flower sellers have been restored their rights to conduct business.
- Officials ordered a police team from Donetsk to arrest a criminal group in Kharkiv. Soon after that was accomplished, a criminal case was brought against the officer-in-charge. The case was brought by the former deputy head of the investigation unit of the prosecutor's office of Kharkiv oblast, who was found to be a personal patron of the criminal group. The CAO appealed to the President of the Ukraine and the Prosecutor General, and the case against the Donetsk officer was dismissed.
- A village in the Donetsk oblast, Andreyivka, called upon the CAO to help investigate and support its claim of corruption against former government officials. The allegations relate to abuses of the privatisation process and nepotism. The grievances, along with documentation, were presented to appropriate oblast officials.<sup>10</sup>

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<sup>10</sup> Email from Vanessa Von Struensee, 24 May 2000.

There is, of course, no reason why these activities should be confined to NGOs. Where state-funded legal aid is not available, they can be undertaken by practising lawyers prepared to donate time to work pro bono (no fee) for public interest causes. Perhaps the most outstanding example is the work carried out in South Africa under apartheid, where some lawyers devoted themselves almost entirely, to challenging the legality of government actions through the courts (most conspicuously, perhaps, the “forced removals” programme of the Pretoria regime conducted under its Group Areas Act).

In Kenya, NGOs angered by corruption at the local government level have had recent successes in court challenges mounted against such decisions as increases in local government taxes, arguing that such was the extent of corruption that the rate increases carried with them no likelihood of improved services for the citizens. These cases, too, have been brought by lawyers on a pro bono basis.

### Telephone “Hotlines”

Increasing use is being made of telephone “hotlines” to facilitate the making of complaints by aggrieved members of the public. For example, two types of anti-corruption hotlines operate in the Ukraine. There, a government hotline allows workers to phone in complaints concerning tax offices. However, the government hotlines have not yet gained public trust, as they are run by government officials. The hotline established by the Citizens Advocacy Office (CAO), the NGO mentioned above, is the more widely used. Their hotline is open 24-hours a day and is answered either by an operator or an answering-machine. Where complaints are anonymous they are documented, and as and when patterns emerge, appropriate action is initiated.

Where NGOs are involved in this way it is important that:

- the role of the Centres and precisely whom the anti-corruption hotlines are meant to serve is carefully defined;
- the lines are introduced as part of a larger strategy;
- the phone lines do not collapse under excessive caller response;
- there is a well-focused advertising campaign, explaining the purpose of the service and who is operating it;
- the trustworthiness of the service be respected;
- there be clarity and clear guidelines on whether and when anonymous information can be accepted;
- experienced and trained operators be on duty, capable of explaining to callers all their rights and of proposing a basic strategy for resolving their problems; and
- feed-back be given to the callers (where they identify themselves) by reporting back to them what has happened.

This is not to suggest that no government department should run hot-lines. Clearly there are departments in various countries who run these perfectly satisfactorily, be it police, tax, or customs. But where public trust is lacking, a government agency can join in a strategic partnership with a respected NGO to provide a hotline service to the agency.

### Using the Internet

As access to the Internet grows, so, too, does its potential for giving citizens a voice.

In many countries government web sites are being developed to make much more information available, and available in much more user-friendly ways than has hitherto been the case. In

some, full sets of the laws of the country are being made publicly accessible for the first time, and are no longer restricted to law libraries to which only lawyers have access.

On the NGO side, an imaginative example of the use of Internet for involving the people is Quipunet<sup>11</sup>, a virtual organisation. A small number of Peruvians, spread all over the world, joined forces and created Quipunet, a “virtual village” of engineers, students, professors, diplomats and housewives, who, with a budget of only \$167, set out to pioneer the Internet.

They planned to help people in rural areas but the reality was challenging. They encountered not only an almost non-existent infrastructure, but also a complete indifference to their project and to the wonders of the Internet. But they persevered. Their thrust has been in education, information and aid to places most in need across South America. To overcome distances and national borders, the founders learned how to communicate and cooperate among themselves over the Internet and how to plan and execute ideas. They also learned how to conduct virtual seminars; create “virtual bridges of help”; and to organise and direct tasks from afar.

The success of Quipunet has led to the formation of E-Connexions<sup>12</sup>. The original founders used the experience they had gained, to form a “for-profit” company, where the objective is not primarily one of profit, but one of increasing the ways and means by which to help others.<sup>13</sup>

### “Whistleblowing” – providing safe channels for employees to complain

“Whistleblowing” is an issue in both the public and the private sectors.<sup>14</sup> In both sectors, employees can become aware of the malpractices of their superiors in situations where the public, or the public interest, is put at risk. For example, the award-winning film, *The Insider*, portrays a “whistleblower” who, at considerable personal cost, exposed corrupt practices on the part of his employers, who had perjured themselves before a Congressional Committee inquiring into the harmfulness of tobacco products. Should he have had to pay such a high personal cost when his actions were plainly in the public interest? How many other potential “whistleblowers” are there who, for understandable reasons, are fearful of following his example?

In the United Kingdom, after a series of catastrophic yet avoidable events in the 1980s, the importance of the role of employees both in preventing scandals and disasters and in keeping a check on malpractice, was recognised.<sup>15</sup>

Almost every public inquiry found that employees had known of the dangers before they materialised, but had either been too afraid to sound the alarm, or had raised the matter with the wrong people or in the wrong way. Thus, when a train crashed outside one of London’s busiest railway stations killing 35 people, the inquiry found that a supervisor had noticed the loose wiring that subsequently caused the crash, but had said nothing for fear of upsetting his superiors. After the Bank of Credit and Commerce International (BCCI) collapsed, the inquiry

#### Government minister blows whistle on ‘cover-up Britain’

“We want to see an end to the cover-up and blame cultures that exist in some organisations and to see a more mature attitude towards whistleblowing.

“Inquiries into major disasters of the past decade have found that workers had been aware of potential dangers or wrongdoings but were too scared to sound the alarm. These include:

- The Clapham rail crash - the subsequent inquiry into the disaster found that it was known that loose wiring was risky, but no one had wanted to rock the boat;
- Herald of Free Enterprise - the Sheen Inquiry found that workers in the Ferry Company were aware of the dangers of leaving port with bow doors open. They had raised their concerns on a number of occasions, but nothing had been done;
- Piper Alpha - the Cullen Inquiry concluded that workers did not want to put their continued employment in jeopardy through raising a safety issue, which might embarrass management; and
- Collapse of BCCI - the Bingham Inquiry into this banking collapse found that within BCCI there was a climate of fear, where staff felt intimidated and had been reluctant to voice their worries.

“These incidents may have been avoided had the Public Interest Disclosure Act been in place earlier...It is essential we raise awareness of this legislation. This Government is committed to creating a culture of openness in both the public and private sectors.”

*Ian McCartney, (UK) Minister of State, opening the Whistleblowing and Government Conference, London, 23 February 2000.*

11 <http://www.quipu.net>

12 <http://www.e-connexions.net>

13 Email from Martha Davies May, 2000.

14 The expression “whistleblower” (as by a referee in a football match) is of US origin. The Dutch equivalent is “bell-ringer” (a person who rings a bell to raise an alarm). Discussions of whistleblowing raise debates in the countries of Eastern and

Central Europe, where discussants can confuse the legitimacy of contemporary whistleblower actions with the despised actions of those who denounced their neighbours under former totalitarian regimes.

15 The (UK) Public Interest Disclosure Act 1998 received Royal Assent on 2 July 1998 and came into force one year later. The Act was drafted by the NGO, Public Concern at Work.

found that an autocratic environment within the Bank had prevented staff from voicing any concerns about the Bank's questionable activities.

The inquiry into the sinking of the Herald of Free Enterprise ferry at Zeebrugge discovered that staff had warned, on no less than five occasions that the ferries were sailing with their bow doors opened, but their warnings had been ignored. Similarly, the Arms to Iraq inquiry revealed that an employee had written to the Foreign Office informing officials that munitions equipment was being prepared for Iraq in contravention of UN sanctions, but his letter was not acted upon.

Frequently these types of scandals can be nipped in the bud. The first people to notice any misconduct within an organisation are likely to be those who work there. Yet, the prevailing culture within the workplace is often one which deters employees from speaking up. Employees are well placed to sound the alarm, but they often fear the loss of their jobs and the alienation of their work-place friends, if they do so. This is especially true where a junior employee becomes aware of corrupt conduct by his or her superiors.

Employees aware of misconduct within their organisations are faced with four options:

- to remain silent;
- to raise the concern through an internal procedure;
- to raise the concern with an external body, such as a regulator; or,
- to make a disclosure to the media.

Unless the culture in the workplace is one which allows employees to speak up without fear, each option might be seen to have adverse repercussions - for the employer, or the employee, or the wider public (including shareholders, taxpayers, passengers and consumers).

Faced with equally uncomfortable choices, the option most employees will take will be the one of default - "turning a blind eye" to malpractice, and keeping silent. This is the safest option, and the most practised one. Unfortunately, this leaves the door open to even more malpractice going unchecked. A responsible employer is denied the opportunity to protect its interests, and an unscrupulous competitor or manager may start to assume that "anything goes".

Of course, these outcomes only arise where the concern is well-founded. But even where a worry turns out to be mistaken or ill-considered, it is best that the matter be raised internally, so that the employer has the opportunity to investigate and thus allay any rumours or perceptions of impropriety that might otherwise be fuelled.

An employee who feels that "something must be done" is as likely to publicise the matter outside the organisation as inside it, unless he or she feels confident that the employer will address the message rather than "shoot the messenger". In some circumstances, where there are no clear signals about appropriate external disclosures, the employee who decides to go outside the organisation is as likely to go to the media as anywhere else. This option is usually taken as a last resort, and is certainly not the preferred choice of a loyal employee. Media disclosures tend to be made by past or present staff who are either disgruntled, or who genuinely feel there is no other way to ensure the matter is addressed.

Disclosures made to the media will inevitably provoke a defensive response from the organisation. If those in charge are unaware of the issue, their instinctive response will be to deny it. If told that there is evidence to back up the concern, they will be tempted to take a position which can best be characterised as "dealing with the messenger rather than addressing the

message". These scenarios reduce public confidence in the organisation. Equally, organisations that refuse to counter allegations with a wall of silence, do little to reassure the public.

Whilst the media is an essential safeguard to ensure public accountability, it should not - save in exceptional circumstances - be the first port of call for concerned employees.

If safe and acceptable ways can be provided to enable employees to raise concerns with their employer, it is likely that malpractice will be deterred. It is also more likely that where malpractice does take place, it can be detected and stopped at an early stage.

Organisations that are genuinely concerned about malpractice, tend to assume that their own internal complaints or grievance procedure provides an adequate avenue for the matter to be handled. However, it is now widely recognised that this approach is usually misguided, since such channels are designed to be used in circumstances where (a) the individual has some personal interest in the outcome of the matter; (b) the procedure is adversarial; and, (c) the individual is expected to prove his or her case.

For these measures to be effective, it is important that arrangements which allow employees to "blow the whistle" or to "ring the bell" clearly express the underlying purpose - which is to enable an individual to raise a concern so that those in authority are able to investigate it. Unless this fundamental principle of accountability underpins the design of the system, it is unreasonable to expect it to signal - let alone deliver - a change from a culture where people are discouraged from raising the alarm.

## The UK Public Interest Disclosure Act 1998

The UK Public Interest Disclosure Act aims to promote accountability and sound governance in organisations by reassuring workers that it is both safe and acceptable to raise concerns about genuine malpractice. The Act draws on best practice from around the world and provides full and immediate protection against dismissal or victimisation of workers who raise concerns.

The Act applies to genuine concerns about crimes, civil offences (including negligence, breach of contract, breach of administrative law), miscarriages of justice, dangers to health, safety or the environment and the cover-up of any malpractice in these areas. It applies across the private, public and voluntary sectors, and, it covers workers, contractors, trainees, agency staff, homeworkers and every professional in the National Health Service (NHS). It does not presently cover the genuinely self-employed (other than in the NHS), volunteers, the intelligence services, the army or police officers<sup>16</sup>.

The fullest protection under the Act is where a worker raises a concern within the organisation, or with the person legally responsible for the malpractice. In these cases, a reasonable and genuine suspicion is sufficient to give the worker protection. The rationale behind this approach is that those in charge of the organisation are best placed to investigate and put right any incidence of malpractice<sup>17</sup>.

The Act also sets out the circumstances where a disclosure outside the organisation may be

16 The Government has promised that police officers will receive protection equivalent to that available under the Act.

17 Applying this approach to the principle of parliamentary

accountability, the Act provides similar strong protection where people in public bodies raise matters directly with the government department with responsibility for its operations.

protected through certain regulatory bodies prescribed by government under the Act. A disclosure to such bodies is protected as long as the worker has some good evidence to demonstrate the grounds for his or her belief in the truth of the concern.

For wider disclosures, including disclosures to the police, the media or to a Member of Parliament, the worker must satisfy a number of tests in order to gain protection:

- the worker must have raised the concern with the employer or prescribed regulator, (unless he or she reasonably feared victimisation); and
- the matter would be likely to be covered up and there is no prescribed regulator; and
- the matter must be exceptionally serious

Set out as it is, the Act should go a long way to ensuring that workers do not simply turn a blind eye to malpractice in the workplace, but feel sufficiently reassured that they can raise the matter with their employer. Employers who persist in shooting the messenger will have a heavy price to pay.

### Devising an effective complaints handling system<sup>18</sup>

Many of the problems discussed here can be minimised, if not wholly avoided, by a well managed and responsible organisation having clear and well publicised complaints handling procedures. A good complaints handling system will ensure that most complaints are resolved swiftly; that there is a defined procedure for dealing with complaints remaining unresolved; and that lessons learned from the investigation of complaints can be used to improve an organisation's services. It also means that the customer is listened to, and his or her legitimate needs can be defined and attended to, where these may have been overlooked.

How do complainants expect to be treated? When people complain they want six essential things :

- to be heard;
- to be understood;
- to be respected;
- an explanation;
- an apology; and
- remedial action as soon as possible.

For this to be achieved, complainants should be made aware of their rights and responsibilities. Complainants' *rights* include fair and courteous treatment; timely and accurate advice; respect for their privacy; and to be informed of the reasons for decisions. On the other hand, complainants' *responsibilities* include providing timely and accurate information; treating the organisation's staff with courtesy; and adopting a reasonable and co-operative attitude.

Against this background, an effective complaints handling system should provide:

- a straightforward means for customers to make a complaint to the organisation;
- a procedure for investigating a complaint;
- a means of keeping the complainant informed about progress and outcome;
- redress where complaints are substantiated;
- a means of preventing recurrence of identified problems;
- feedback for management decisions on resource allocation, prioritisation, strategic

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<sup>18</sup> Adapted from the Hong Kong China Ombudsman's Internal Complaint Handling (INCH) Programme (1996)

planning, service delivery and quality assurance; and

- a means for staff to raise their concerns in ways which do not leave them open to retribution by superiors or colleagues.

A good complaints handling system should be:

- easily accessible and conspicuous to customers and staff alike;
- simple to invoke and operate, with clearly defined stages and responsibilities;
- efficient, offering speedy action and resolution within pre-determined time limits;
- objective and free from undue influence or interference;
- confidential so as to protect the complainant's privacy.

An effective complaints handling system should be clear on:

- the definition of a complaint;
- who can complain - generally anonymous complaints can be acted on where the matter is relatively serious and there is sufficient information in the complaint to enable an investigation to be conducted;
- the stages of the procedure - experience suggests that a staged approach is the most effective but the number of stages should be minimal;
- the form of complaints - as most organisations have telephone lines to handle enquiries, they should be prepared to receive most of their complaints over the telephone;
- time limits - limits need to be set for each stage of the procedure, including acknowledgement of receipt, investigation and final response to the complainant;
- redress - where a complaint is found to be justified, consideration needs to be given to providing a redress. In fact, a surprising number of people would be satisfied with an acknowledgement of error;
- language - simple and easily understood terms should be used and technical and professional jargons should be avoided as far as possible;
- further channels - complainants should be given information about what they can do and where they can go within the organisation, or external redress channels such as the Ombudsman, if they are dissatisfied with the outcome of their complaint;
- how to deal with difficult customers - preparations should be made to deal with more difficult customers.

Remedies may take many forms and may:

- explain why the action complained about was taken;
- apologise with sincerity whenever warranted;
- try to meet any reasonable requests that would resolve the matter, or take some particular action, such as providing a service which has not been provided;
- provide further information to customers about the services available; or
- allocate a different officer to oversee the customer's case.

At the same time, complaints should be monitored to answer two questions, in particular:

- Where did things go wrong?
  - Was this kind of problem/complaint foreseen?
  - Was there a system in place to deal with such problems?
  - Was the system operating as it should have? If not, why did the system fail?
- How can the organisation do better in the future?
  - Could this kind of problem/complaint recur?
  - What likelihood is there of recurrence?

- What would prevent recurrence?
- Would the cure be worse than the problem?
- Would the cost and complication of guarding against another mistake end up being counterproductive?

*What if an organisation is unsuccessful in resolving the complaint?*

- internal complaint handling does have its drawbacks. Complainants tend to doubt the system's independence and impartiality, and complaint handling is often restricted by the policy of the organisation. It is up to the organisations to act positively and more openly in order to eliminate these doubts;
- it will not always be possible to satisfy complainants or agree to all the terms of any settlement they want. Common sense dictates what is reasonable or achievable, taking into account the limits of an organisation's policy and resources;
- the complainant should be told in clear terms what the organisation can and cannot do; and,
- the complainant should be advised of established appeal mechanisms, both administrative or statutory, including an independent review by the Ombudsman.

### **Indicators of the effectiveness of the public "voice" as an integrity tool**

- Do government agencies mount periodic campaigns to inform citizens of their rights?
- Do citizens have ready access to sources of advice as to their rights?
- Do government agencies have complaints channels? Are they used? Do they get results?
- Are citizens informed of the results of their complaints?
- Is there protection for "whistleblowers"? Do public servants or private sector employees feel able to make complaints when their superiors have acted corruptly?
- Do government agencies make a practice of surveying the public to test the public's views on the services with which they are being provided?
- In countries where there is reasonable access to the Internet, is it the practice for government departments to have web sites carrying the information which citizens need? Does this meet the needs of citizens?
- Are "Citizen's Charters" (or similar undertakings) published to establish the obligations of service providers and the rights of users?