

Date: 14 May 2026

## **EXECUTIVE SUMMARY**

The Department of Justice on 09 April 2026, invited public comments to the new Protected Disclosures Bill, 2026.

The Courage Hub SA, and Defend our Democracy together with representation of whistleblower voices, hereby submit a joint submission, through providing our concerns, our comments and recommendations below.

**The Courage Hub SA** - registered on 30 January 2026, as a NPC. The core purpose of Courage Hub SA is:

**“Championing Ethics, Amplifying Truth and Accountability”.**

The objectives are to:

- The promotion of advocacy of human rights and democracy by promoting a culture of ethics and integrity in South Africa;
- Support and amplify stories showcasing whistle-blower stories;
- Educate youth and the public on ethical courage;
- Operate educational, media, and community programmes that advance ethical behaviour and courageous citizenship.

**Defend our Democracy NPO** - was established in 2019 as a movement to defend our Democracy in our Country and has since registered the organisation as an NPO, in May 2025.

The organisation is set up to benefit the public through the following objectives:

- Strive towards the realisation of a non-racial democratic, non sexist, equal, and prosperous South Africa and shall to this end, amongst others:
- act as a co-ordinating and convening body of South African Civil Society Groups, Organised Labour, Faith based and community organisations, sectoral networks, academia, and the media, that subscribes to democratic and organisational principals and the Constitution of the Republic of South Africa, 1996.

- To promote human rights and defend and enhanced democratic values and processes embedded in the Constitution of South Africa, 1996.
- And develop a societal from against corruption, state capture and political destabilisation of South Africa,

This document serves as a brief overview of the proposed amendments to the Protected Disclosures Act by the Department of Justice and Constitutional Development. It also sets out recommendations by all of us regarding areas where the proposed legislative reforms remain insufficient to establish a comprehensive whistleblower protection framework in South Africa.

While the proposed amendments represent meaningful progress and reflect several recommendations arising from the Judicial Commission of Inquiry into Allegations of State Capture (Zondo Commission), the proposed Bill remains insufficient in several key respects. In particular, the proposed reforms do not yet adequately address the physical protection, financial security, psycho-social support, institutional independence, and long-term well-being of whistleblowers and their families.

The Zondo Commission found that the existing Protected Disclosures Act failed to sufficiently protect whistleblowers from occupational detriment, intimidation, physical harm, financial ruin, and social isolation. Any amendment process must therefore move beyond symbolic reform and establish an operational, independent, and adequately resourced whistleblower protection regime.

## **AREAS OF PROGRESS**

### **1. Expansion of the definition of ‘discloser’**

The proposed amendments expand the definition of a protected discloser beyond employees and workers to include a broader category of whistleblowers and extend certain protections to those associated with them, including family members. This is a progressive development that broadens access to statutory protection. However, it still falls short of including any other member of society who discloses or reports unlawful conduct. It also omits the person who refuses to act on an unlawful instruction.

### **2. Removal of the ‘good faith’ requirement**

The move away from requiring disclosures to be made in ‘good faith’ toward a standard based on reasonable belief is welcome. This appropriately shifts the focus from the motives of the whistleblower to whether the disclosure was reasonably believed to be substantially true.

### **3. Proposed oversight mechanism**

The recognition that a dedicated mechanism is required to investigate disclosures and oversee proceedings relating to whistleblower protection is positive. However, the proposal remains insufficiently detailed regarding independence, institutional authority, operational capacity, funding, and enforcement powers. The proposal does not yet establish a permanent and adequately resourced independent whistleblower protection authority.

### **4. Response and investigative timelines**

The proposal requiring disclosures to be acknowledged within five days and investigations to be completed within a twelve-month period introduces welcome procedural certainty. However, the effectiveness of these timelines will depend on adequate institutional capacity and enforcement mechanisms. This could be resolved through the proposed independent authority.

### **5. Legal and financial support**

The recognition that whistleblowers require legal and financial support is a positive development. However, legal aid alone will not sufficiently address the severe financial consequences often faced by whistleblowers, including loss of employment, blacklisting, housing insecurity, and prolonged litigation.

### **6. Criminalisation of retaliation**

The proposal to criminalise retaliation against whistleblowers through penalties including imprisonment and fines is welcomed. However, the legislation should expressly provide that once prima facie evidence of occupational detriment is established, the burden should shift to the employer or institution to prove that the adverse action was unrelated to the disclosure.

### **7. Financial rewards**

The proposal allowing whistleblowers to receive a percentage of recovered funds through court order may assist in offsetting the severe financial consequences associated with making disclosures. It may also encourage reporting in cases involving significant corruption and financial misconduct.

## AREAS OF DEFICIENCY AND RECOMMENDATIONS

### 8. Naming convention of the PDB, 2026

The current naming of the Protected Disclosures Bill, 2026, is problematic. This legislation is intended for the protection of whistleblowers, therefore the name should be intentional and very clear that it is “legislation” to protect whistleblowers.

Recommendation: We recommend that the name should change to “The Whistleblower Protection Bill, 2026”.

### 9. Definition of Whistleblower not included in the definitions

Include a definition of “whistleblower” - as this is an international accepted word.

Recommendation: To include the definition of whistleblower. Here is a proposed definition: A “whistleblower” is a person - often an employee - who reports misconduct, illegal activity, fraud, or unethical behaviour within in an organisation or state entities, including public officials to authorities or the public”.

### 10. Permanent, adequately resourced independent whistleblower protection authority.

Recommendation: Establishing an independent whistleblower protection authority such as an Whistleblower Ombudsman, or whistleblower Tribunal, or similar as listed in the NACAC recommendation for an Office of the Public Integrity, or as Accountability Now has been requesting for many years being a Chapter 9 organisation with Independent Whistleblower Protection and Integrity Authority, with real investigative and protection powers.

### 11. Reparation and Retrospective recognition and support

The proposed legislation limits protection to whistleblowers making disclosures after the implementation of the proposed legislation. This fails to recognise the significant sacrifices made by whistleblowers whose experiences informed the need for reform.

Recommendation:

Retrospective recognition: Provision should be made for retrospective recognition and support, including financial, psychosocial, professional, and legal assistance for whistleblowers who have already suffered detriment. Whistleblower Debt as a result of loss of employment, has resulted in whistleblowers being unable to service debt due to not having a stable income, and therefore have a bad credit record, and the consequence of this is that they are unable to be employed. This is the knock on effect and hence

the financial impact plays a huge role as it also affects the mental stability of the whistleblower and their families.

Reparations: Provision should be made for reparations to redress a harm, provide justice and where possible, restore victims to their situation before violation.

Case in point, the recently killing of Martha Mani Rantsofu, - who takes care of the family and the children and where are the reparative justice for the family left behind.

## **12. Physical safety and emergency protection**

The proposed Bill remains insufficient in establishing operational mechanisms for the physical protection of whistleblowers. South Africa has witnessed intimidation, threats, violence, and assassinations linked to corruption disclosures.

Recommendation: The legislation should provide for emergency protection measures - e.g. armed response facilities to courts and back home, relocation support - e.g. with families and not in isolation, integration with a normal life aligning to witness protection mechanisms, protection for family members, and rapid response procedures where credible threats exist.

## **13. Holistic financial and psychosocial support - Whistleblower Support Fund**

Whistleblowers frequently experience long-term unemployment, emotional trauma, reputational harm, health complications, and financial instability.

Recommendation: A dedicated **whistleblower support fund** should be established using proceeds from the Criminal Assets Recovery Account (CARA). This fund should support legal costs, temporary income replacement, psychosocial services, healthcare support, housing assistance, and reintegration into employment.

## **14. Voiding non-disclosure and secrecy agreements**

The proposed amendments do not expressly invalidate non-disclosure agreements and secrecy clauses where disclosures concern criminal conduct, corruption, maladministration, or unlawful activity.

Recommendation: The legislation should explicitly state that no confidentiality agreement, non-disclosure clause, or secrecy undertaking may prevent a protected disclosure in the public interest.

## **15. Exclusion of public officials and law enforcement from financial rewards**

The blanket exclusion of public officials and law enforcement personnel from financial rewards does not sufficiently account for the severe detriment often suffered by individuals in these sectors.

Recommendation: This legislation should not exclude the public officials but rather should permit a case-by-case assessment where public officials or law enforcement officers have suffered substantial detriment as a result of disclosures. The public officials play a huge role in protection of the fiscus and the management of the country's infrastructure and we therefore cannot ignore their role.

## **16. Constitutional obligations**

Whistleblower protection is not merely a policy consideration but a constitutional imperative. Inadequate protection undermines the constitutional rights to dignity, equality, freedom of expression, access to information, and just administrative action. It also weakens the constitutional principles governing ethical and accountable public administration.

Recommendation: The legislation should expressly recognise the constitutional role of whistleblowers in strengthening democratic governance, accountability, transparency, and anti-corruption efforts.

## **17. Alignment with international best practice**

South Africa's whistleblower protection framework should be aligned with international standards including the United Nations Convention Against Corruption (UNCAC), OECD recommendations, the EU Whistleblower Directive, and comparative international best practice, and other South African Legislation, example The Companies Act 71 of 2008, PRECCA - Prevention and Combatting of Corrupt Activities Act 12 of 2004, PEPUDA – Promotion of Equality and Prevention of Unfair Discrimination Act 4 of 2000.

Recommendation: The final legislation should incorporate stronger institutional safeguards, independent reporting channels, anti-retaliation mechanisms, and practical support systems consistent with international norms.

## **URGENT CALL FOR INTERIM MEASURES**

The legislative amendment process may be lengthy and whistleblowers currently continue to suffer severe detriment in the absence of adequate legal protection. It is therefore essential that interim measures be implemented without delay.

These measures should include emergency financial assistance, access to psychosocial support, temporary protection arrangements, employment assistance, legal aid support, and coordination with relevant institutions responsible for safety and witness protection, such as SIU.

It is unacceptable that whistleblowers who participated in the Zondo Commission and those currently participating in other commissions of inquiry continue to face professional, financial, legal, and physical consequences while awaiting legislative reform.

The Whistleblower Fund, recommended under point 13 - “Holistic financial and psychosocial support” whereby funding is provided through the CARA can established without waiting for this legislation to be promulgated. This can be set up with immediate effect.

## **CONCLUSION**

We all view corruption across all sectors of South African society as a direct threat to constitutional democracy, public trust, and accountable governance. Whistleblowers play a critical role in exposing corruption and protecting democratic institutions.

South Africa cannot continue to rely on the personal sacrifice of whistleblowers without establishing meaningful institutional protection. Legislative reform must move beyond symbolic recognition and create a comprehensive, independent, and adequately resourced framework capable of safeguarding those who expose corruption in the public interest.

The proposed amendments represent important progress, but they remain insufficient unless accompanied by enforceable protections, independent institutional oversight, holistic support mechanisms, and urgent interim interventions for those already suffering detriment.

The above recommendations are all non-negotiables.

We also support the recommendations, which have been submitted by the following civil society organisations, and further list below the names of whistleblowers alive and deceased:

## **CIVIL SOCIETIES PDB RECOMEMNDATIONS SUPPORT**

1. Active Citizens Movement (ACM)
2. OUTA - Organisation Undoing Tax Abuse
3. Consolidated joint report by PPLAAF, LRC, Open Secrets, Civil Society Working Groups on State Capture.
4. Whistleblower 4 Change - By John Clarke

**WHISTLEBLOWER VOICES BELOW - ALIVE:**

1. Cynthia Stimpel - Whistleblower and Courage Hub
2. Martha Ngoye - Whistleblower and Defend our Democracy
3. Tseliso Thipanyane - Personal Capacity
4. John Clarke - Whistleblowers 4 Change
5. Lindho Tsibane - Whistleblowers abd Whsitleblowers 4 Change
6. Sello Qhina - Whistleblwoer and Whistleblowers 4 Change
7. Andrew Chinnah - Personal Capacity
8. Dr Christine Hobden - Personal Capacity
9. Dr Marjorie Jobson - Khumumani Support Group
10. Kabelo Kemp - Defend our Democracy
11. Karuni Naicker - Whistleblower - Whistleblowers 4 Change
12. Rosemary Hunter - Whisteblower and Whistleblowers 4 Change
13. Michael Tshishonga - Whistleblower and Whistleblowers 4 Change
14. Loshini Govender - Whistleblower
15. Ian Erasmus - Whistleblower
16. Hilmar Cramer - Whistleblower
17. Tiro Holele - Whistleblower
18. Mzukisi Makatsi - Whistleblower and Whistleblowers 4 Change
19. Patricia Mashale - Whistleblower and Whistleblower 4 Change
20. Patrick Maduna - Whistleblower and Whistleblowers 4 Change
21. Debbie Vogler - Whistleblower
22. Marko Vogler - Whistleblower
23. Athol Williams - Whistleblower
24. Bibi Madiba - Whistleblower
25. Jackson Maeta - Whistleblower
26. Ouma Diutwileng - Whistleblower
27. Mathabisi Moyo - Whistleblower
28. Garth Brook - Whistleblower
29. Denise Bjorkman - Whistleblower and Whistleblower 4 Change
30. Medupi Shibunga - Whistleblower
31. Mark Vella - Whistleblower
32. Zukiswa Potye - Whistleblower
33. Martina Della Togna - Whistleblower
34. Themba Maseko - Whistleblower
35. Erica Kleynhans - Whistleblower
36. Sikhander Coopoo - Whistleblower
37. Elvis Naidoo - Whistleblower
38. Samantha Thorne - Whistleblower
39. Rodney Genricks - Whistleblower
40. Herbert Prinsloo - Whistleblower
41. Nicole Stephens - Whistleblower
42. Vijay Moodley - Whistleblower
43. Sabata Molefi - Whistleblower
44. Craig Nicholson - Whistleblowers

45. Angela Jacobs - Whistleblower
46. Krean Naidoo - Whistleblower
47. Nosheena Mansoor - Whistleblower
48. Shabnam Vadachia - Whistleblower
49. Matuma Masipa - Whistleblower
50. Brad Mears - Whistleblower
51. Siphokazi Kwakweni - Whistleblower
52. Gavin Craythorne - Whistleblower
53. Mathepelo More - Whistleblower
54. Sarika Lakraj - Whistleblower
55. Marcus Toerien - Whistleblower
56. Felicia Buthelezi - Whistleblower
57. Mcebisi Thabiso Zulu - Whistleblower
58. Simphiwe Mayisela - Whistleblower
59. Wendy Addison - Whistleblower
60. Lionel Adendorff - Whistleblower
61. Mosilo Mothepu - Whistleblower
62. Bianca Goodson - Whistleblower
63. Dr Masimba Dhawa - Whistleblower
64. Thuli Mpshe - Whistleblower
65. Thandeka Gqubule-Mbeki

#### **NAMES OF DECEASED WHISTLEBLOWERS**

66. Babita Deokaran
67. Sammy Mpatlanyane
68. Jimmy Mohala
69. Moss Phokoe
70. Moses Tshake
71. Philimon Ngwenya
72. Pamela Mabini
73. Mpho Mafelo
74. Cloete and Thomas Murray
75. Marumo Eric Phenya
76. Lennox Garane
77. Frans Mathipa
78. Benedict Zenzele Sithole
79. Charl Kinnear
80. Sikhosiphi (Bazooka) Rhadebe
81. Vusi Mlaba
82. Thabang Masemola
83. Amand Swart
84. Bouwer Van Niekerk
85. Witness D - Marius Van Der Merwe
86. Noby Ngombane
87. Ronald Mani
88. Teboho Makhoa
89. Suna Venter



90. Martha Mani Rantsofu