

Jewish Contemporary Ethics Part 38: Business Ethics 5 – Whistleblowing

by Rabbi Dr. Moshe Freedman, New West End Synagogue



The term ‘whistle-blower’ is used to describe someone who raises concerns about malpractice or illegal activity they have witnessed, usually at their place of work. In the past, someone who spoke up against harmful or unlawful

actions of others was often treated with contempt and labelled with pejoratives such as ‘rat’, ‘snitch’ or ‘grass’. Yet following the financial crash of 2008, the corporate world has prioritised a commitment to ethical business practices, in order to win back trust. Companies are now expected to have whistleblowing policies that encourage employees to speak out if necessary.

Yet the guarantee of anonymity is vital in order to cultivate a safe environment for whistleblowing and to foster a culture of accountability. In December 2018, Barclays were fined \$15m by the New York State Department of Financial Services (DFS) after its chief executive, Jes Staley, attempted to unmask a whistle-blower.

Sharing information about individuals is tightly controlled in Jewish law. The Torah commands us “not to be a talebearer” (Vayikra 19:16), while King David declares: “Guard your tongue from evil and your lips from speaking deceitfully” (Tehillim/Psalms 34:14 – see green siddur, p. 336). In Jewish law there are generally three types of prohibition: (i) *lashon harah* (negative speech), which refers to negative reports about another person that are true, (ii) *motzi shem’ra* (giving someone a bad name), which refers to saying something untrue and defamatory about someone else, whether spoken (slanderous) or published (libellous) and (iii) *rechilut* (gossiping), which refers to spreading rumours about another person.

Rabbi Yisrael Meir Kagan (1839-1933) was famous for his writings and personal example about the three prohibitions listed above.

He was known as the Chafetz Chaim, meaning ‘the one who desires life’ (see Tehillim 34:13) after his *magnum opus*, in which Rabbi Kagen extensively details the laws of harmful speech.

In Jewish law, one is generally not permitted to speak in a derogatory way about another person, whether it relates to something they have done or to an aspect of their personality, unless there is a specific constructive purpose, known as *to’elet*. The appraisal of what constitutes appropriate *to’elet* is complex. The preconditions include that: (i) the information must be accurate; (ii) facts must be reported without exaggeration; (iii) the motive should be to prevent loss or harm, not spite; (iv) there must be no other means of dealing with the issue; (v) disclosure will not cause greater harm than necessary.

In a case where whistleblowing is for the purpose of preventing a loss or to warn others at risk of mistreatment, *lashon hara* switches from being proscribed to being mandatory. British-born Rabbi Moshe Shternbuch (head of the Badatz rabbinic court in Jerusalem) argues that although speaking unnecessary *lashon hara* is a grave sin, withholding important information when one is obliged to share it could be considered an even greater violation. Confidentiality is an important virtue unless it is used to protect the guilty and expose the innocent to harm.

