



All Party Parliamentary Group
WHISTLEBLOWING

The Whistleblowing Bill

APPG for Whistleblowing – Report
April 2022

This report was researched and produced by
WhistleblowersUK secretariat to the APPG.

WB
UK WhistleblowersUK

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Forward

Mary Robinson MP

Chair of the APPG for Whistleblowing



The impact of the global pandemic and conflict in the Ukraine have demonstrated that whistleblowing is not an 'employment matter' here or anywhere else.

In 1998 The Public Interest Disclosure Act was celebrated globally as ground-breaking. 24 years later only 4% of people who bring claims succeed. PIDA is now a discredited and distrusted law that has failed to protect whistleblowers or the public against wrongdoing and harm.

I took over the chair of the APPG as the pandemic broke and any reservations that I had about the need for a complete overhaul of whistleblowing law was quickly and irrevocably extinguished.

The APPG has conducted an extensive call to evidence and recognises the bravery and willingness of whistleblowers to speak out. We have heard countless tales of corruption, negligence, and mismanagement costing taxpayers and businesses billions of pounds. The National Crime Agency reports the cost of fraud to the UK economy as £190b per year. The association of fraud examiners report that whistleblowers are effective & responsible for the recovery over £85b.

If you name an industry, I can name a scandal brought to light by whistleblowers. For everyone listened to, there are many more who remain silent or have been silenced.

Setting aside the cost to the taxpayer and business, ignoring whistleblowers costs lives.

I have met countless courageous individuals who have dared to speak out. For the majority whistleblowing has shattered their lives. Many lose their health and livelihood and are forced onto benefits or low paying jobs.

The fate of Matt Wiessler, the graphic artist who exposed Martin Bashir the journalist who exploited the Princess Diana was blacklisted by BBC executives who years later conceded he acted with complete integrity.

This is not an isolated incident Jimmy Saville was an 'open secret' for decades. Rotherham, Rochdale, Grenfell, Panama Papers, Banking Crisis, PPE, Yorkshire Cricket, FIFA, the Catholic Church and Face Book the list goes on and on.

The Ockenden Report shone a light on the maternity scandal and lessons that have not been learnt. Last year the NHS spent a report £430m on litigation which includes that against whistleblowers.

The Public Interest Disclosure Act must be repealed and replaced with the Whistleblowing Bill and an independent office of the whistleblower established to make whistleblowing work properly and safely for everyone:

- One central place where any would-be whistleblower could come for advice.
- One central place to support regulators and organisations.
- One central place setting standards; monitoring, evaluating and reporting on them.
- One central place to ensure that those who inflict or suffer detriment will be properly compensated or properly held to account.

The Whistleblowing Bill will transform our culture, normalise speaking up and putting an end to discrimination against whistleblowers. The Office of the Whistleblower will drive up standards across the public and private sector, increase transparency and public confidence. Whistleblower discrimination is a global problem and this Bill sets the standard for a global solution.

www.appgwhistleblowing.co.uk

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Executive Summary

Whistleblowing is synonymous with the exposure of wrongdoing by informed insiders recognised by organisations and governments globally as an important and positive act in the fight against crime, corruption and cover up.

The UK has been at the forefront of whistleblowing legislation since the earliest times introducing Qui Tam Laws in the 13th century. This enabled citizens to act in the name of the king when reporting wrongdoing and be protected against retaliation and in some cases rewarded for speaking up, a concept adopted by the US in the 1863 to prevent fraud during the civil war and reintroduced in 1987 as the False Claims Act.

In 1998 the UK became the first EU country to introduce new whistleblowing legislation; The Public Interest Disclosure Act (PIDA). This law was heralded as a watershed moment and expectations were high whistleblowing was now legitimate.

PIDA has since become a blueprint for the development of whistleblowing legislation around the world including in 2019 the EU Whistleblowing Directive ¹.

The purpose of any whistleblowing law should be to protect the whistleblower and the public interest by ensuring freedom from retaliation and that allegations are properly addressed and where appropriate acted upon. This is what the public and those who people speak up expect.



“Whistleblowing is universally recognised as being good for business and good for society.”

The introduction of PIDA triggered the introduction of comprehensive policies and procedures by organisations designed to promote and encourage speaking up. In 2021 the British Standards Institute introduced ISO37002² setting out guidelines for establishing, implementing and maintaining an effective whistleblowing management system based on the principles of trust, impartiality and protection. Last year the International Bar Association conducted the first of its kind review assessing countries with whistleblower legislation against compliance with international best practice. The UK ranked 12th out of 16 countries.

Further evidence of the failure of PIDA is hiding, not always in plain sight, but in government commissioned reports like the those examining UK maternity services³ and the use of NDA's⁴ to suppress often criminal but always unethical and immoral behaviour.

1 <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32019L1937>

2 <https://www.iso.org/standard/65035.html>

3 <https://www.ockendenmaternityreview.org.uk>

4 <https://www.hampshirelive.news/news/hampshire-news/basingstoke-mp-maria-miller-calls-5918669>

Independent data⁵ shows an overall decline in whistleblower reports across both the public and private sectors but that reports of harassment are increasing. This can in part be explained by the change in working practices during the pandemic but research suggests that a fear of retaliation is playing its part. Retaliation and fear of retaliation have been key issues that surfaced time and time again during the call to evidence conducted by the APPG over the last three years.

In 2016 the government introduced amendments to PIDA requiring prescribed persons (regulators) to report back to government on the number of cases that they received and the outcomes. These reports demonstrate not only a fundamental failure of the law but a failure by the prescribed persons to understand their role and responsibility undermining the very purpose of the legislation. Annual reports reviewed by the APPG demonstrate a tick box approach at best with the overall outcome being the production of meaningless reports that do nothing to improve the outcomes for whistleblowers or the public.

As a result of these collective failures whistleblowers are routinely subjected to 'detriment' in the form of both overt and covert retaliation. Whistleblowers in general remain the subject of suspicion and scepticism and while organisations and official bodies sing the merits of whistleblowing and parade policies and procedures the lived experience of whistleblowers remains poor. For those who embark upon a legal remedy the chance of success is less than 10%, the personal cost in financial terms beyond the means of most people and the physical and mental cost untold.

The concept of 'bias to negative', explained by Professor Kyle Walsh set out the way in which the stories that tend to be reported are those which focus on poor outcomes making it easy to believe that every whistleblower suffers poor outcomes. In truth, most people can recall a time when they have raised concerns that amount to whistleblowing disclosures, and apart from feeling a degree of personal discomfort have been satisfied or pleased with the way that they and their concerns have been treated. It would therefore be easy to dismiss calls for root and branch reform. However, the APPG have witnessed first-hand the impact of failing to listen up and act on whistleblower concerns. They have seen the impact of often many years of abuse upon the whistleblowers and the cost to society of ignoring them.

Whistleblowers described in detail their protected disclosures which included child sexual exploitation and rape in Manchester and Rotherham, failures of due diligence resulting in a multimillion pound waste on flawed computer systems and medical equipment, of the use of the threat of 'cost orders' and confidentiality agreements to silence and suppress serious concerns, of examination fixing and harassment and discrimination in all its forms. Each of these examples exposes significant and long-term damage to whistleblowers, the public and the taxpayer.

The almost daily exposure by the press of whistleblowing cases, the shocking headlines and conclusions contained in Government Reports expose the extent of and impact of retaliation. These shocking reports also expose the ineffectiveness and failure of PIDA **reinforcing the need to urgently completely rethink UK whistleblowing law and make it fit for the 21st century.**

The APPG set out to look at the case for an Independent Office of the Whistleblower and has how this can address the failure of the UK to make whistleblowing work for society. Working with groups of experts and specialists including those from academia and law from around the world the APPG has drawn up the **"Whistleblowing Bill"**.

5 <https://www.navexglobal.com/en-us/company/press-room/harassment-reports-highest-case-closures-slowest-in-europe>

The Whistleblowing Bill encompasses the proposals set out in the APPG 2019 report, “The Personal Cost of Doing the Right Thing and the Personal Cost to Society of Ignoring it”.

“**The Whistleblowing Bill** will establish an independent Office of the Whistleblower to protect whistleblowers and whistleblowing and uphold the Public Interest; to create offences relating to the treatment of whistleblowers and the handling of whistleblowing cases; to make provision for that body to set, monitor and enforce standards for the management of

whistleblowing cases, to provide disclosure and advice services, to direct whistleblowing investigations, to order redress of detriment suffered by whistleblowers; to repeal the Public Interest Disclosure Act 1998; and for connected purposes.”

Work on this bill has enabled the APPG to support other legislation including the Economic Crime Bill, The Health and Care Bill and The Non-disclosure Agreements Bill. The APPG has also provided evidence to the Foreign Affairs Select Committee and Standards Committee and review of whistleblowing and the FCA.

Conclusion

The Whistleblowing Bill will define whistleblowers and whistleblowing in law. It will properly and clearly set out the duties of relevant persons and establish an Office of the Whistleblower with the responsibility to uphold the rights of whistleblowers but also set, monitor, and enforce the new standards. The Bill proposes a multi-level, multi-stakeholder approach to emphasize the value of whistleblowers and the crucial role they play in a healthy society.

The bill will address ethical and criminal wrongdoing across every sector delivering significant cost savings to the taxpayer and safety to the public.

The Whistleblowing Bill will put the UK back at the top of the international table for whistleblowing legislation.⁶ World class standards will ensure that the UK is continued to be regarded as the global centre for ethical business.

The ‘Office of the Whistleblower’ will be the champion for whistleblowers. It will provide the much-requested support for regulators and organisations who want to be better supported in their role. It will also demonstrate the determination of the UK government to properly protect citizens who blow the whistle. This determination will include the introduction of meaningful fines and penalties, not just to organisations but to individuals who break, or are responsible for those who break the law. The Office of the Whistleblower will set, monitor and evaluate compliance and effectiveness of the law and provide support to organisations and the public to ensure clarity of message and purpose. The Office will also provide a vital early warning to the government of trends and patterns including those related to crimes.

The Whistleblowing Bill will normalise speaking up, protect whistleblowers, drive up standards and deliver positive cultural change across every sector.

1. Introduction

Whistleblowers are universally acknowledged as the cornerstone of fair and transparent societies.

In the UK Whistleblowing does not have a formal legal definition but is generally understood to be the exposure of criminal or ethical wrongdoing and is universally recognised as the single most cost efficient and effective form of prevention and interception of crimes and cover ups introducing the Public Interest Disclosure Act nearly 25 years ago. However as recently noted by Transparency International Europe continues to use the crisis as an excuse for stagnating anti-corruption efforts and are neglecting accountability and transparency measures.⁷

We cannot escape the press headlines around the world that remind us daily of the impact of these failures to listen and act when whistleblowers speak up; death, cruelty, neglect, waste, environmental destruction, discrimination, harassment, international money laundering and people trafficking and coverups.... We live in a global society and what we now need is a global approach to ensure that whistleblowing works.

Government reports into scandal after scandal expose the failure of organisations and regulators to heed the early alerts provided by whistleblowers, both internal and external, from workers and non-workers. Furthermore, we must put an end to the stigmatisation and harassment of those who are courageous enough to speak up. It is time to eliminate the barriers to speaking up and ensure that everyone is knows and understands their rights and that intimidation will not be tolerated.

Many of the people that have spoken to the APPG sharing their experience of whistleblowing and retaliation while labelled as whistleblowers are not protected by PIDA or didn't know it existed. In their most recent report, Protect found that 43% of UK employees

were aware their employer had a whistleblowing policy, a percentage which is weighted higher due to increased awareness in sectors such as finance and healthcare.⁸ Whistleblowing and whistleblower retaliation is not confined to 'workers' as defined in existing legislation and can include the relatives of whistleblowers, casual witnesses or victims of medical malpractice, many of whom find themselves the subject of scrutiny and retaliation after raising the alarm about dangers to the rest of the public or supporting someone who has. We have witnessed increasing numbers of cases where 'whistleblowers' or those perceived to be whistleblowers are reported to the police, their professional regulator or suffer the withdrawal of public services.

PIDA has failed to achieve its objectives, the figures speak for themselves. Claims brought by workers in the UK Employment Tribunals are notoriously unsuccessful. Protect the Whistleblowing Charity report only 4% of cases succeed. For those who do succeed it is often a pyrric victory. Few whistleblowers report being able to return to their profession and many report lifelong consequences. Whistleblowing cases drag on for years and these extended periods of stress brought on by protracted forensic examination of whistleblowers [and often their families] compounded by the effects of trying to have their whistleblowing concerns examined can be devastating. The evidence from whistleblowers who returned to their previous employer is of unease, feeling unwelcome and in constant fear of reprisals and of excessive scrutiny. The cost of whistleblowing for whistleblowers includes irreparable effects on mental and physical health, blacklisting, breakdown in relationships and homelessness.

7 <https://www.transparency.org/en/news/cpi-2021-western-europe-european-union-trouble-ahead-for-stagnating-region>

8 Protect publish report 'Why we need a legal duty on employers' - Protect - Speak up stop harm (protect-advice.org.uk)

Regulators told the APPG that they are often trapped by the constraints of their own regulations and have too many competing priorities to invest in whistleblowing. Some explained that it is impossible to meet the needs of or manage whistleblowers when this is not their key role. Some regulators had made real attempts to embrace whistleblowers as a source of information while others were less accommodating seeing whistleblowers as a problem. One regulator described whistleblowers as the people who, “drank too much red wine on a Friday night”. Most regulators knew of and are able to read their policy but many were unclear of the meaning or their role as a prescribed person. There are many unanswered questions about the data provided in the annual returns. One prescribed person claimed to receive “lots and lots” of reports and was surprised to learn that their organisation had reported low single digits in the returns. All the regulators embraced the idea of an independent office of the whistleblower. Some regulators raised the prospect of the introduction of a US style rewards scheme to improve the quality and quantity of the whistleblower information and to increase their budgets to be able to regulate more effectively.

Professional bodies and trade unions shared their frustration about the conflicts of being judge and jury for their members. They also cited problems associated with understanding and applying what is universally considered complex whistleblowing law and the impact on ability to be able to make accurate judgements on the likely success of cases. This can mean that support is withdrawn.

The Whistleblowing Bill addresses both the micro and macro issues and will revolutionise the treatment of whistleblowers and whistleblowing disclosures. This bill will bring about greater transparency, accountability, and cost savings to the public purse. The overwhelming outcome for the public will be the prevention of crime and waste, and demonstrable savings and recoveries to the taxpayer.

The Whistleblowing Bill will drive cultural change bringing about root and branch reform to the delivery of public sector services and the support the private sector.

1.1. The Whistleblowing Bill

The APPG was established in July 2018 to, **‘Put whistleblowing at the top of the Agenda’** and develop **‘World class, gold standard legislation that properly protects whistleblowers’**. To do this it embarked on a comprehensive call to evidence to assess the effectiveness of the Public Interest Disclosure Act 1998.

This APPG made up of a group of cross-party Parliamentarians convened in July 2021 where it made the formal and unanimous decision that PIDA should be repealed and replaced with a new **Whistleblowing Bill** supported by an **independent office of the whistleblower**.

This decision was reached after a thorough review of the evidence and the assistance of a group of experts comprising a wide range of academics and lawyers and other stake holders including journalists and policy specialists.

This decision reflected the evidence that it had received during a comprehensive call to evidence over more than 2 years, hearing from whistleblowers, regulators, employers, academics, and support organisations. In addition, the members heard from experienced legal professionals, those who regularly represent whistleblowers and respondents (organisations) in the employment tribunal. In addition, the APPG heard from those who administer whistleblower programmes here in the UK and around the world.

Mary Robinson MP, the chair of the APPG summed up the issue as one of ‘culture’ and directed the development of a new bill that would drive cultural change recognising that whistleblowers benefit us all. She set out examples of the cost of crime, corruption and cover up across the sectors.

Putting this into perspective The National Crime Agency Annual Fraud Indicator estimates fraud losses to the UK at around £190 billion every year, with the private sector hit hardest losing around £140 billion. The public sector may be losing more than £40 billion and individuals around £7 billion⁹. The impact of what should be a citizens army of whistleblowers who disrupt crime and protect the public purse can be demonstrated by the whistleblower who tipped off a local authority about organised crime that cost taxpayers over £2m¹⁰.

The evidence presented to the APPG demonstrated a consistent picture of the routine abuse of whistleblower rights. This evidence included the ongoing use of 'NDAs' to suppress or prevent the investigation of allegations and recalled to the APPG the many examples of the apparent inconsistent application of the law by Employment Tribunals. The weaponization of litigation - the objective of which is the withdrawal of whistleblowing claims. Of particular concern were multiple examples of the prioritisation of individual and organisational reputations over harm to the public

and the huge **unreported** and **unrecorded** sums of taxpayer money being spent to defend the indefensible particularly by the NHS¹¹ and across the public sector.

The APPG directed the secretariat to bring together a team to design a new whistleblowing bill taking account of the 10 point plan set out in the 2019 APPG report, "The Personal Cost of Doing the Right Thing and the Cost to Society of Ignoring It".¹²

The Bill drafting process started by considering what problems needed to be resolved by the Office of the Whistleblower and looked for examples of best practice in other countries. The APPG requested fresh thinking, "not just a fix" and needed to establish the meaning of whistleblower and whistleblowing.

It is generally accepted that between 43% and 47% of serious economic crimes are exposed by whistleblowers (NAO statistics) making whistleblowing the most effective and economically successful means of intercepting crime. This fact would therefore suggest that whistleblowers bringing detriment cases in the



<https://www.nationalcrimeagency.gov.uk/what-we-do/crime-threats/fraud-and-economic-crime>

9 <https://www.nationalcrimeagency.gov.uk/what-we-do/crime-threats/fraud-and-economic-crime>
 *In 2020, the SEC awarded \$175 million in whistleblower awards to 39 persons 8 of whom were UK citizens. These awards represent circa \$583m returned to the US treasury.

10 <https://www.thesun.co.uk/news/18278500/scam-pavements-fixed-one-side/>

11 <https://www.dailymail.co.uk/news/article-2607269/10-million-cost-gagging-NHS-whistleblower-Tribunal-backs-cardiologist-hounded-job-exposing-deadly-hospital-failings.html>

12 https://www.appgwhistleblowing.co.uk/_files/ugd/88d04c_9754e54bc641443db902cd963687cb55.pdf

employment tribunal would be at least moderately successful. However, whistleblowing cases are disproportionately unsuccessful, and the concerns raised are not mandatorily investigated under PIDA. In their recent white paper, industry leaders Navex global reported firms who employ reporting mechanisms received a median \$8 million less in fines from regulatory bodies¹³. This aligns with the Association of Certified Fraud Examiners (ACFE) Report to the Nations which found firms with positive reporting culture stopped fraud on average 6 months earlier, losing \$100,000 less than firms lacking positive reporting¹⁴.

Tuning to the regulators the major problems identified across the board was the disconnect when it comes to exposing and/or investigating allegations and wrongdoing. The Prescribed Persons system has been an unmitigated failure from the outset because not only do the parties not understand each other but no one is monitoring the annual reports or asking questions. Confirming the evidence and concerns provided to the APPG by whistleblowers and prescribed persons.

Australia and France made retaliation against a whistleblower a criminal offense imposing a maximum of 2 years imprisonment. In Kosovo and Serbia the introduction of substantial fines has been judged to be successful. The US not only impose fines and imprisonment against those who retaliate but also incentivise whistleblowers using a rewards scheme¹⁵ which has recovered billions of dollars to the US treasury* and assisted the UK Financial Conduct Authority and Serious Fraud Office in successful prosecutions.

The Whistleblowing bill:

1. Defines whistleblowing
2. Removes ambiguity about who is a whistleblower
3. Strikes a balance between incentivising positive practice and creating meaningful deterrents against retaliation and the suppression of wrongdoing
4. Normalises speaking up and increases accountability
5. Creates powers that are understandable and enforceable
6. Streamlines the legal process removing whistleblowing from the ET

The Whistleblowing Bill sets new standards that will allow organisations enough freedom to develop their own policies and practice but sets clear minimum standards that will protect the public.

13 <https://www.bing.com/search?q=Headlines+and+Hotlines+Navex+white+paper&cvid=f1ca801420864b76822a547ddf6a626a&aqs=edge..69i57.10383j0j1&pglt=515&FORM=ANNAB1&PC=U531>

14 https://legacy.acfe.com/report-to-the-nations/2022/?_ga=2.249730118.1959572568.16504690641866593875.1649861903

15 https://ccannon-my.sharepoint.com/:p:/g/personal/minman_constantinecannon_co_uk/Ef2ZrzYclCJkMvBNHG0DLSEBa02_396vAAvDvE-hbrFGa0w?rttime=APmVzw4i2kg

2. The Call to Evidence

The APPG has received evidence from over 2000 members of the public through surveys, written submissions and face to face meetings and received evidence from over 30 regulators and professional bodies. In addition to speaking to these groups we have taken evidence from MP's and journalists on their experience of whistleblowing and understanding of PIDA.

Methodology and Background

We used a survey and standard questioning sets for the purposes of continuity and encouraged supplementary written submissions from all participants. In addition, we participated in a series of round table discussions facilitated by WhistleblowersUK (secretariat to the APPG)¹⁶ to hear the opinion of experts and the public on a range of issues including the Official Secrets Act, Whistleblowing in the NHS and Whistleblower Rewards.

Whistleblowers self-selected for the survey and small groups were invited to represent the different sectors in a series of ongoing confidential panel style discussions. Regulators and other professional bodies and organisations were invited to contribute to the call to evidence and a series of 1:1 meetings and small groups were convened between 2019 and December 2021. All evidence was provided in confidence and under Chatham House Rules. We will be releasing a full-length report detailing these findings later this year. This report provides a summary of the key findings and recommendations and suggestions from arising from those meetings. The APPG has continued to meet with whistleblowers on a case by case basis to examine particular technical issues as they arise.

Our 2019 report¹⁷ set out the experience of whistleblowers. A key theme being the absence of any meaningful support provided by either internal or

external bodies. Most whistleblowers had experience of contacting prescribed persons, MPs, MOJ, HR, solicitors and overall reported disappointing results and being "passed from pillar to post". Mystery shopping conducted on behalf of the APPG found that few prescribed persons were aware of, or fully aware of their obligations and responsibilities and the secretariat have provided and continue to provide training to MP's and their staff.

A particular concern raised by whistleblowers and MP's, including the recent legal challenge led by the of chair of the APPG for fair business banking, has been about the role and accountability of regulators. Whistleblowers from within regulators came forward. One describing their prescribed person as "aloof when it comes to issues of whistleblowing". Another said they were "deeply mistrustful" of the prescribed person, and others talked about "feeling pressurised to withdraw concerns" by the prescribed person. A number of these whistleblowers have told the APPG that they were looking for a new job away from the Public Sector.

The general feeling was that regulators are on the side of those whom they regulate and fall foul of the revolving door that creates conflicts of interest and erodes trust. The APPG observed a pattern whereby relevant and credible evidence would be absorbed into the system but with no, or relatively no helpful

¹⁶ <https://www.wbuk.org/parliamentary-work>

¹⁷ <https://static1.squarespace.com/static/617d2382e081bb2aead159f0/t/619a3a201060bd48babbf50a/1637497398917/APPG+WB+Cost+of+doing+the+right+thing.pdf>

feedback. Whistleblowers reported that they felt that often serious concerns had been “sweep under the carpet” and ignored. Whistleblowers and other users reported routine push-back and frustrations over failures of accountability and a complete refusal to commit to providing feedback that could be used in an employment tribunal. An exception being the ICO.

These frustrations can be seen following the recent apology provided to victims of CSE by the Chief Constable of Greater Manchester Police following years of campaigning by whistleblowing former police officers including The Maggie Oliver Foundation on behalf of the victims.¹⁸

Internal grievance procedures within companies were described by many of those who engaged in the call to evidence as “tick box exercises”. Many regulators were unable to evidence what action they had taken, if any, to investigate whistleblowing concerns although it is fair to say that some regulators are actively making improvements by reviewing inspection regimes and their responses to whistleblowers.

Reports from some of the organisations who participated in the call to evidence demonstrated proactive and positive engagement with their staff and a comprehensive understanding of issues within the organisation particularly organisations that had adopted independent whistleblower helplines and speak up platforms. These organisations reported higher levels of employee satisfaction, lower churn and greater loyalty. The Trust Gap Report (2021) produced by Vault Platform found that those who witness workplace misconduct as part of a wider toxic workplace end up leaving their role in 45% of cases, take annual leave in 49% of cases, and on average cost UK companies £2,218 per employee lost¹⁹.

Issues relating to who decides that someone qualifies as a whistleblower featured high in the list of concerns raised by whistleblowers and lawyers. This issue is resolved by the Whistleblowing Bill which sets out that a person is a whistleblower if they have made, makes or is intending to make a protected disclosure or is

perceived by a relevant person to have made, be making or intending to make a protected disclosure.

Evidence received universally questioned the effectiveness of internal procedures. One whistleblower noted that none of the complaints raised were followed up or properly documented, despite being told by shared services, “even if you put them on the wrong form or in the wrong format it must be registered.” This was not an isolated issue and has been observed as a key parts of evidence presented to Employment Tribunals.

The APPG received a significant amount of report alleging endemic internal corruption that was perceived to have permeated “right to the top of all organisations, both public and private.” Recent and ongoing reports into corruption appear to at least in part corroborate this allegation.

All of those interviewed or participating in the call to evidence were asked what changes they would like to see introduced. We received 100% agreement of the importance of creating a truly independent office of the whistleblower. An office with real teeth that will encourage organisations to take action as soon as a concern is raised, before it can be turned into a systemic crisis. It was considered essential that a Office of the Whistleblower drive a proactive culture where organisations take action rather than deny the concern and shy away from it. No one who participated in this call to evidence underestimated the potential issues, but they all agreed that this office was long overdue and that PIDA was beyond repair. PIDA was referred to as “untrustworthy” and its reputation “tarnished” by years of failed employment tribunals and failure to tackle the whistleblowing itself.

18 <https://www.manchestereveningnews.co.uk/news/greater-manchester-news/andy-burnham-issues-statement-after-23673965>
19 Trust Gap | Vault Platform

Regulators and those who have been involved in attempts to improve speak up provision and improve the effectiveness of PIDA conceded that a mixture of regulatory capture and ingrained discrimination toward those who broke ranks needed to be tackled. Reference to the Freedom to Speak Up Guardian and the local guardians produced astonishing revelations that 50% of CQC inspections are triggered by whistleblowers. Most of whom have repeatedly reported internally at local level only to be ignored. We were told that whistleblowing should be seen as a “normal part of the business” but despite the findings in the Sir Robert Frances and subsequent reviews the culture in the NHS is “Toxic” and whistleblowing is “considered negatively”. When asked what the solution would be the APPG was told that new law was essential and that it must be less technical and remove the “ET hoops” which make it “impossible for whistleblowers to win”. In addition, the new law must offer practical and not theoretical protection.

The most popular request was the request for an organisation with the power to intervene early and ensure a focus on the allegations. The APPG was told that a new law must end the culture of “shooting the messenger” and ensure that whistleblowers were properly and quickly compensated for their full losses.

The scale of whistleblowing reports across the regulators was a cause for concern. In some cases there are no returns and in others thousands. These figures opened up another must bigger question, where do all these complaints and concerns go?

No one could answer this question but the outcome of the Ockenden Report²⁰ into the failing of maternity services in the UK offers some uncomfortable insight. We know that the FCA is among several regulators with a mountain of outstanding concerns, and questions need to be addressed about the invisibility of reports elsewhere.

After careful discussion the overwhelming majority of those who engaged in the call to evidence called for starting again from scratch, “If whistleblowing law was to have any chance of success and will be trusted”. (quote UK regulator)

2.1 Why the Public Interest Disclosure Act 1998 (PIDA) has failed

“Whistleblowers blow the whistle in the expectation that someone in authority will intervene and stop wrongdoing.” (Senior NHS Nurse whistleblower)

“PIDA fails because it takes what should be a matter of concern for the entire public and relegates it to a question of private law between employers and employees.” (Iain Mitchell QC chair of the WhistleblowersUK legal panel)

Background

Conservative Sir Richard Shepherd former MP for Aldridge Brownhills who sadly passed away earlier this year, brought forward the Public Interest Disclosure Act 1998 (PIDA)²¹. It was in response to high profile disasters including Piper Alfa²² with the intention of encouraging and enabling whistleblowers to speak up safely. The law was triumphed by commentators at the time as a breakthrough that would protect workers who whistleblow against detrimental treatment and protect the public from harm.

PIDA was expected to drive transparency, accountability, fairness and justice. It would protect both the public and the whistleblower. From the outset

20 <https://www.ockendenmaternityreview.org.uk/>

21 <https://www.thetimes.co.uk/article/sir-richard-shepherd-k9dpth7xn>

22 <https://www.theguardian.com/business/2013/jul/04/piper-alpha-disaster-167-oil-rig>

PIDA attracted criticisms relating to the absence of actual protection²³. All attempts to improve the legislation have failed to resolve this issue. As a result, far from driving up standards PIDA has created an industry that suppresses allegations and subjects those who speak up to life-long detriment. The APPG has heard from solicitors and barristers of their complete exasperation with PIDA and how even a “slam dunk” case often fails on the weakest of legal arguments.

These facts notwithstanding this was the first law of its kind in Europe and was rightly heralded a great leap forward.

What has been established through the call to evidence is that PIDA has failed to live up to expectations because it is designed solely as a means for workers to be compensated for detriments that they suffer after whistleblowing. People who blow the whistle do so in the expectation that action will be taken to rectify wrongdoing.

PIDA is a whistleblowing law with no power to investigate or act on wrongdoing.

The law set up to protect workers who in the public interest whistleblow on crimes, failures to observe statutory obligations, damage to the environment, miscarriages of justice, health and safety breaches and attempts to cover up or destroy evidence but without the mechanism or expectation for anyone to take the action about the concern that caused them to speak up.

Whistleblowers, and would be whistleblowers are left completely frustrated and crimes continue unabated often for many years.

PIDA was designed to provide compensation to workers who suffered ‘detriment’ as a result of whistleblowing. What was not anticipated was the complexity (and cost) of this legal remedy. Francesca West a partner at James and West Law and former CEO of Protect the Whistleblowing Charity said, **“It is now so complicated to draft an ET1 that a litigant in person has little chance of success”** and **“That the patchwork of caselaw makes litigation very high risk for whistleblowers who easily and frequently fall between the cracks”**.

It is not enough for the ET to uphold the whistleblowers ‘protected disclosures’, examples of which include: money laundering, rape and sexual assaults on children, neglect of the elderly, medical negligence, sexual harassment and bullying, and the orchestrated cover up of these crimes. To be able to award compensation or ‘remedy’ the judge must also accept that the detriment (usually dismissal) is related to the whistleblowing. Judgements demonstrate that most judges do not accept that the evidence presented by the whistleblower successfully traverses the complex legal mine field. Instead finding that ‘some other substantial reason’ for dismissal is the case.

What is especially troubling is that in 24 years since the introduction of PIDA no evidence could be found of a single case having been passed by a tribunal to the CPS or police for investigation.

As a result, whistleblowers are abandoned to pursue concerns about serious wrongdoing to regulators and complaints commissioners with little support and at huge personal toll. This experience has been described by whistleblowers as doing the work of the government at their own expense.

In a nutshell PIDA allows only an examination of the breakdown in contractual relationships between employers and employees:

- Provides no immediate protection against retaliation.
- The inequality of arms puts the cost of holding employers to account beyond the means of most people.
- There is no deterrent for those who retaliate against whistleblowers.
- Only ‘workers’ are protected, excluding huge swathes of the population from protection.
- Only the ET can determine if someone is a whistleblower.
- Very few people know of or understand PIDA, a recent survey found that less than 48% of the public were aware of the law.

23 <https://www.theguardian.com/politics/2013/feb/15/whistleblowing-laws-overhauled-nhs-trust>

- PIDA places disproportionate financial burdens and risks on whistleblowers.
- Employment Tribunal results suggest inbuilt bias toward whistleblowers and that they favour well-funded respondents.
- Employment Tribunals do not record proceedings beyond the decision making scrutiny impossible.
- Compensation awarded by ET's does not recognise actual whistleblower losses.
- The ET disincentivises whistleblowers because it is overly complex, legal representation is unreliable and the ET is described by those who practice in the tribunals as "a lottery" and,
- **many 'whistleblowers' are not 'workers'**

2.2 Prescribed Person Reports

Prescribed persons are government bodies and those appointed for the purpose²⁴.

Under PIDA, organisations who are listed as prescribed bodies are required to report and publish the number of qualifying disclosures they receive, the number they decided to act upon, and a summary of actions taken by the body. This data must be reported in such a way that it is available for the public to access and is collated and published by the Department for Business, Energy, and Industrial Strategy.

Examination of these reports exposes failures to adhere to required standards.

Last year WhistleblowersUK collated reports from the list of prescribed bodies. Reviewing the data they found that all or the majority of 'complaints' received were

determined by the body to not meet the criteria to be a 'qualifying disclosure'. Most bodies fail to explain their decisions but for those who did the primary reason for rejecting a complaint was that the person was not a 'worker'. There were however many unexplained gaps in the data. (Appendix A)

The guidance says, "When a whistleblower makes a disclosure to a prescribed person they escalate the issue beyond their employer, as those with investigatory and regulatory functions can consider acting upon the information that has been disclosed to them. In particular, whistleblowers can provide an important source of information to prescribed persons, which will enable prescribed persons to gain a greater understanding of the sectors they regulate/oversee."

The data does not provide the full picture of the whistleblowing disclosures received. Many of the bodies comply with the letter of the regulation, while their actual reporting reveals substantial failings in the overall compliance.

The guidance goes on to say, "The prescribed person is not responsible for deciding whether the individual who has made the disclosure qualifies for protection. Ultimately this will be decided by the Employment Tribunal where a claim of detriment or dismissal because of whistleblowing is contested."

This amounts to running the gauntlet and severely disadvantages whistleblowers who currently face over 3 years of delays before receiving an outcome from an ET. Further corroborating calls for root and branch reform and the introduction of the Whistleblowing Bill.

24 <https://www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies-2/whistleblowing-list-of-prescribed-people-and-bodies>

3. Whistleblowing The Vital Element of a Transparent Society

The impact of the global pandemic and conflict in the Ukraine have again demonstrated that whistleblowing cannot be pigeonholed as an ‘employment matter’.

Wei Wenlieng was a Chinese ophthalmologist who warned his colleagues about early COVID-19 infections in Wuhan. He was labelled a whistleblower after sharing concerns with colleagues on social media and summoned to local police and admonished for “making false comments on the Internet”. Wei Wenlieng who exposed the scale of the problems of the pandemic to the world was completely unprotected from retaliation by the state. Following his death, of the disease, his family received apologies for the attempts to silence him and he has been recognised globally for alerting the world to the dangers of what became known as Covid 19.

In recent years there have been multiple attempts to silence those who expose corruption and other wrongdoing by whistleblowers who are not recognised by PIDA. A recent example of this are the volunteers working with NGOs on the Polish boarder who reported the battalion of international people traffickers who have descended on the refugees fleeing the conflict in the Ukraine. These people, many of whom are British citizens are not protected against backlash from the international NGOs they work for or the traffickers.

Doctors reporting shortages of PPE and whistleblowers reporting furlough fraud have been amongst the targets of organisations who continue to put self-interest above the public interest. The cost of fraud during Covid is estimated to equal the amount being raised by recent tax increases.

Recently Parliament heard evidence of how technology companies respond to whistleblowers when they met Francis Haugen the Face Book whistleblower amid concerns about the way that profits were put above the safety of users.²⁵

The APPG heard from British citizen Jonathan Taylor who had been detained for almost a year in Dubrovnik following the issue of an international arrest warrant claiming he had attempted to bribe his former employer. This allegation was found to be fictitious and an attempt to penalise Jonathan for his whistleblowing which resulted in successful convictions by the Serious Fraud Office and law enforcement around the world. The total amount of worldwide fines issued to his former employer exceed £800m. Jonathan has paid a heavy price having lost his career and his marriage.²⁶

These stories are not isolated incidents of retaliation and reinforce that whistleblowing is a global issue and needs a global solution.

The OECD in August 2021 released the following statement, **“A strong culture of whistleblowing helps to identify all manner of potential threats – including some threats, such as cybersecurity risks, that might not involve employee misconduct at all. It minimizes risks and costs. Misconduct that continues for a long time will ultimately be more expensive to resolve.”**

25 <https://hansard.parliament.uk/commons/2022-04-19/debates/F88B42D3-BFC4-4612-B166-8D2C15FA3E4E/OnlineSafetyBill>
26 <https://www.bbc.com/news/uk-england-hampshire-60749723>

3.1 Whistleblowing in Practice

“Whistleblowing is now globally accepted as an effective instrument for battling corruption (European Commission 2014, OECD 2012). Not only do whistleblowers speak up for the public interest, but their disclosures can prevent massive reputational and financial damage to their organisations if the wrongdoing is dealt with internally (Morrison and Milliken 2003). Corporate scandals involving Enron and Worldcom, and the BP Gulf disaster, demonstrate clearly the detrimental effect of silencing wrongdoing (see also Mansbach 2011).” Kenny et al 2019.

Whistleblowers bring huge benefit to the UK economy and society. Each year fraud and corruption cost the UK around £137bn to £193bn.

Professional auditors uncover only 19% of fraud. Whistleblowers expose more than twice that, at 43%. To put that into perspective whistleblowers alone uncover fraud to the value of around half of the NHS budget (£136bn) every year.

The true cost of fraud and corruption is likely to be many times higher than the available figures because most people believe they would NOT report wrongdoing for fear of the personal cost to their reputation and lives.

In addition to reputational and physical and mental health detriments whistleblowers continued to cite the inequality of arms as a major injustice. Organisations have a bottomless pit of financial resources to help them target employees who raise concerns. Public organisations in particular, can turn to the “public purse” to support their claims creating David v Goliath situations. There is evidence of a well-worn ‘playbook’, relied upon by those organisations who could be called repeat offenders and their legal representatives used to impede whistleblower cases.

One witness highlighted that the NHS had wasted £20 million targeting someone who simply wanted to report wrongdoings including overcrowding and poor care within the hospital.

Another witness reported spending £1.48 million in legal fees over the past 15 years and another having spent £50,000. They were only able to afford these huge costs

with the support of family and friends or being fortunate in having legal assistance on their home insurance.

A straightforward whistleblowing case can require a minimum budget (war chest) of £50,000 to reach an employment tribunal. We received details of multiple quotes for legal representation of between £75,000 and £200,000. Whistleblowers pointed out that this is an unreasonable amount of money that most people simply don’t have, therefore creating a chilling effect, deterring others from raising concerns. Organisations use this tactic to encourage silence amongst employees and regulators seem to be unaware or indifferent. It makes the law out of reach for ordinary people.

Discrimination was also highlighted as a major issue. With many who raise concerns about wrongdoings being branded as neurotic or discreditable, simply because they suffer from depression, stress or anxiety – as a result of the treatment they receive after whistleblowing. This action undoubtedly has a chilling effects on other would be whistleblowers.

When asked if [they] realised they were a whistleblowing or if they considered themselves a whistleblower, the majority said they didn’t realise until they were branded as such. An example of this is former Yorkshire Cricketer Azeem Rafiq who said that the first time that he had even considered this was after the interview with the select committee who referred to him as a whistleblower.

The majority of whistleblowers believed they were simply doing their job by reporting wrongdoings, believing this to be in the best interest of the organisation, enabling the organisation to solve the issue quickly.

Instead, they reported how quickly the organisation became hostile toward them and their complaints.

3.2. The Psychological Cost of Whistleblowing

The financial cost of whistleblowing can be exhausting but combined with the psychological impact it is life changing.

Despite bringing so much value to society, the cost to whistleblowers is devastating. Almost all have their careers ended, their lives ruined, or even ended, for doing their civic duty; for acting with integrity.

The psychological abuse of whistleblowers usually begins when they are subjected to 'gaslighting,' the process used by wrongdoers to convince the victim, witness or person raising legitimate concerns, that they are:

- "misguided,"
- "lacking in understanding of the complexity of what is going on,"
- "deluded or mentally unstable,"
- "unaware that the future of the organisation is at stake,"

or any other psychological manipulation to silence dissent to the wrongdoing.

Those who are not deterred by gaslighting are accused of wrongdoing, in predictable ways: DARVO. DARVO is the process where, when asked to address their wrongdoing, those engaged in illegality:

- Deny everything, then
- Attack the person who has dared to challenge the wrongdoing, then
- Reverse the
- Victim and
- Offender.

The person of integrity is then subjected to life-changing harm from the offender's menu of punishment: abuses of the complaints system, subjected to false allegations, isolated, bullied, harassed, intimidated, slandered, libelled, defamed, dismissed, or combinations of the above and more.

Those with the courage and integrity to stop fraud and corruption suffer huge psychological harm.

Around 85% of whistleblowers subsequently suffer from severe anxiety, depression, destruction of their ability to trust others, agoraphobic symptoms, complex Post Traumatic Stress Disorder... The mental health damage done to whistleblowers is devastating in most cases. The full enormity of the costs are not known, but they are widely thought to be huge. Mental health costs in England alone are £77bn per year. The cost of unemployment, lost productivity, housing costs etc., are also huge. Over two thirds of whistleblowers endure serious unemployment, and many are rendered unemployable for life, by way of reputational and mental health damage.

The damage caused to whistleblowers is increasingly being diagnosed as PTSD, a condition associated with armed forces veterans. The impact of PTSD is now understood as a lifelong condition. Jackie Garrick founder of Whistleblowers of America and expert on combat PTSD states "that much like a military veteran, whistleblowers with PTSD are engaged in a war that never ends. It takes hold of your soul, and whistleblowers need to focus on the people who feed you and stay away from the people who starve you."²⁷ Most of the whistleblowers who participated in the call to evidence reported long term mental health problems. Jackie Garrick told the APPG that her research has shown retaliation can lead to PTSD, depression and suicidal ideation.

What is less well reported is the lifelong impact on the relatives and partners of those who speak up. We will be looking at this and the cost to society as part of our ongoing research.

27 <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6370439/>

3.3 Whistleblowing Round Up

Whistleblowing remains one of the most emotive subjects and is rarely out of the news. Reports demonstrate that the fault lines are growing ever wider in our society are an indication that of the urgent need for reform of whistleblowing legislation a theme echoed across Parliament.

Recent government reports are further evidence of the urgent need to overhaul whistleblowing laws. The Kark Report recommended that Directors who are responsible for whistleblower suppression should forfeit their jobs²⁸. Instead, they are found to prosper, moving on to other posts. The whistleblowers on the other hand are ruined.

The Okenden Report (March 2022) into the avoidable deaths of babies and mothers across maternity services in the UK. Two thirds of staff reported that they had witnessed bullying at SATH but only 38% felt comfortable reporting what they had seen. One member of staff was quoted as saying they "...[had] actually told us off for putting in Datix [An incident reporting form], or raising critical incidents about concerns we have, because this is, [they] would describe it as whistleblowing and it's wrong".²⁹

The Grey Report in her report into the breaking of lockdown rules stated, "Some staff wanted to raise concerns about behaviours they witnessed at work but at times felt unable to do so. No member of staff should feel unable to report or challenge poor conduct where they witness it".³⁰

The National Guardian reported in its 2022 report a **"decline in reports because of a fear of reprisals"** despite the known positive impact of whistleblowing, whistleblowers continue to be regarded with suspicion and subjected to reprisals that serve only to deter others. reversing the previous improvement reported in 2019/20 when reports were up by 26%. It therefore falls to government to take urgent, immediate and positive

action to address the abuse and stigmatisation of whistleblowers and normalise speaking up.

Governments around the world are developing and introducing or updating legislation to the needs and expectation of whistleblowers, organisations and the public interest in the 21st Century. Last December saw the deadline for the transposition of the EU Whistleblowing Directive broadly based on PIDA. To date 8 countries have transposed the directive.³¹

Rt.Hon. The Baroness Susan Kramer's Private Members Bill calling for an Office of the Whistleblower received universal support in the House of Lords and a commitment from Lord Callanan for a review of whistleblowing legislation³². The APPG is grateful for the support of the Baroness. In a previous Parliament Dr Philippa Whitford brought forward a private members bill which received favourable support across all parties and by the APPG.³³ In Scotland there has been the introduction of a health whistleblowing commissioner and in the US the actions of Pinterest whistleblower Ifoema Ozoma resulted in the introduction of the Silenced No More Act preventing the use of NDA's.³⁴

The US have issued record numbers of rewards to whistleblowers in recognition of the tax fraud that their information has resulted in the recovery of.

The Economic Crime Bill will require whistleblowers if it is to fully meet its objectives. The Whistleblowing Bill will ensure that government policy is immediately more effective.

Whether the subject is harassment, NDA's, the NHS, Oligarchs and money laundering, fraud, people trafficking, policing failures or environmental damage we all need whistleblowers and if they are to be persuaded to come forward they need the reassurance of the protections that are contained in the Whistleblowing Bill.

28 A review of the fit and proper person test (publishing.service.gov.uk)

29 Findings, conclusions and essential actions from the independent review of maternity services at the Shrewsbury and Telford Hospital NHS Trust - final Okenden report (publishing.service.gov.uk)

30 Investigation into alleged gatherings on government premises during Covid restrictions: Update (publishing.service.gov.uk)

31 <https://www.whistleblowingmonitor.eu/>

32 <https://lordslibrary.parliament.uk/office-of-the-whistleblower-bill-hl/>

33 [https://hansard.parliament.uk/commons/2020-09-25/debates/20092514000001/PublicInterestDisclosure\(Protection\)Bill](https://hansard.parliament.uk/commons/2020-09-25/debates/20092514000001/PublicInterestDisclosure(Protection)Bill)

34 <https://www.natlawreview.com/article/washington-passes-silenced-no-more-act-limiting-nondisclosure-and-nondisparagement>

4. Next Steps

Following the reading of the Whistleblower Bill by Chair of the APPG Mary Robinson MP on 26th April 2022 the APPG will be seeking the support of parliamentarians across both Houses for the second reading scheduled for the 6th May.

If you would like to support the Whistleblowing Bill or get involved in the APPG or the campaign, please contact Mary Robinson MP or Georgina Halford-Hall (APPG secretariat) email: secretary@wbuk.org.

The APPG is continuing its call to evidence. It is now inviting The Government and Parliamentarians to feedback on, and contribute to the development of

the Whistleblowing Bill. The APPG will continue to canvas the opinions of business and public sector organisations and the public through a series of debates and discussions conducted via virtual platforms and in person.

The APPG will provide regular updates via the website www.appgwhistleblowing.co.uk.

5. Conclusion

Hostilities in the Ukraine, the exposure of the industrial scale use of NDA's and fraud across the public sector has reinforced the need to bring forward legislation that protects those who shine a light on wrongdoing. Industrial scale of money laundering and furlough fraud have brought into the light the vital importance of whistleblowers.

The response to the call to evidence has been overwhelming support for new and far-reaching legislation to replace existing laws with the Whistleblowing Bill to: proper protection for every citizen who blows, wants to blow or is associated with someone who blows the whistle, compulsory investigation of concerns, sanctions and penalties for those who retaliate against whistleblowers or cover up wrong doing (and penalties for malicious or vexatious claims) and a full scale educational programme to inform the public of their rights and how to access them.

The issue of financial incentivisation has been a discussed with experts in the UK and abroad who concluded that it was time for the UK to introduce some form of reward scheme. We found evidence of this dating back to 2013. However, after careful consideration by the APPG it concluded that this should be a matter for the Office of the Whistleblower to decide upon after further and more comprehensive research. The APPG has committed to continuing its research and will be taking a closer look at the effectiveness of similar programmes already in use in the UK including HMRC, and CMA programmes and those used in other countries and how it might be adjusted to suit the UK.

The Whistleblowing Bill adopts the recommendations of the majority those who have taken part in the call to evidence. To use the words of one of the leading legal experts working with the NHS, **"The culture that deals with complaints is the culture that we should be trying to eradicate"**. This Bill addresses these issues putting in place a system that makes the act of whistleblowing clear and introduces protection for every citizen

eradicating the legal lottery currently used to unnerve and prevent whistleblowing. In addition, the bill provides the government with a cost-effective means of bringing whistleblowing into line with equality laws and the opportunity to always have its finger on the pulse of society. This Bill will facilitate the return of billions of pounds of taxpayer's money for the delivery of public services.

Now is the time for the Government to accept that PIDA has failed and is responsible for thousands of ruined lives and much of the avoidable waste we read about daily, which is just the tip of the iceberg. Society is calling out for changes that drive ethical and sustainable futures for us all. 'The Whistleblowing Bill' will be the most important piece of social policy this century.

The Whistleblowing Bill will provide security for the public interest and whistleblowers setting standards and promoting transparency and accountability in both the public and private sector.

Whatever the challenges there can be no doubt that across the political spectrum there is now enthusiasm and commitment for making whistleblowing work for every citizen. The new Whistleblowing Bill will return the UK to the top of the global league table for whistleblowing making the UK better for citizens and better for business.

6. Whistleblowers in Their Own Words

Dr David Drew – whistleblower Walsall Manor Hospital

“Anonymous whistleblowing is generally not suited to NHS culture”

There are recurrent discussions in whistleblower circles and beyond of the pros and cons of making protected disclosures anonymously. I am only interested here in whistleblowing in healthcare and more specifically the NHS, of which I have extensive experience. I was dismissed from my own NHS post as a senior paediatric consultant after I raised concerns about child protection, patient safety, staff cuts and managerial bullying. My ET claim was mishandled by my union, the BMA, a fact which they have now admitted in writing. My claims were rejected at ET and my appeal failed. Since my dismissal in 2010 I have got to know many (I would say the majority of) high profile NHS whistleblowers. This is the background from which I express my opinion on anonymous whistleblowing.

In hospitals, at least, most healthcare professionals do not work as individuals. They work in teams, departments, directorates, etc. Mutual respect, trust, honest communication is essential to every-day working life. There is a common goal (in theory at least if not always in practice) which includes high quality, safe, patient care. This means that much of the team's business is common knowledge within the team.

It is rare for concerns to register with one HCP that are not also known to others. When there are concerns, individuals usually discuss them with other team members who they trust and from whom they can expect a sympathetic hearing. Normal practice is to do what you can as an individual or a team to address the concerns, something which is a part of everyday working life. The difficulty arises when the concerns are sufficiently serious and the team or individual is unable to remedy them without help. Normal practice and a specific instruction in Trust whistleblowing policies is that these concerns are then escalated up the line (directly

or through a so-called Freedom to Speak Up Guardian (FTSUG)) to the person with the managerial authority to address them. In good organisations this usually secures a hearing and a resolution if that is practicable.

The NHS staff survey shows however that many staff balk at the point of escalation. Some have such a low expectation of being listened to or of any action being taken that they forget the whole thing and keep their heads down. Hopefully, the more serious the concern the less likely the HCP is to stay silent but there is little evidence for this. Perhaps more sinister is the other reason HCPs give in the NHS staff survey for not reporting concerns. Fear of retaliation. The recent Ockenden report on the decades-long maternity scandal at Shrewsbury and Telford suggests that even where the concerns are extremely serious staff do not speak up for these very reasons.

Once a HCP has raised concerns with colleagues or a line manager their anonymity is effectively forfeited. Even if it is not, most sensible people will live with the anxiety of being identified if they were to make a subsequent anonymous protected disclosure. As Francis concluded in his Mid Staffs PI report 9 years ago:

“A greater priority is instinctively given by managers to issues surrounding the behaviour of the whistleblower, rather than the implications for patient safety raised by them.”

The lengths to which management will go to identify individual whistleblowers with the aim of sanctioning them (gross misconduct usually) is nowhere shown better than in the recent “Whistleblower Witch-hunt” at West Suffolk NHS. Consultants were asked to provide fingerprints and handwriting specimens in an attempt to identify the writer of a letter to the spouse of a patient (Susan Warby) who had not been informed of the true circumstances of his wife's death.

HCPs who have given any indication of their concerns are therefore half way to being identified before they make an anonymous disclosure. This leaves staff who

have given no indication that they have concerns. This group is likely by its very nature to be less driven by conscience or moral compass, or perhaps they are simply less assertive, and therefore less likely to embark on a personally dangerous, clandestine path to raise concerns about wrongdoing. And even if they do there is currently no secure route in the NHS to do so with any assurance that confidentiality will be maintained, and concerns acted on.

But, to cut to the chase, all this is self-evident in the stories of high-profile NHS whistleblowers from Dr Steve Bolsin to, in more recent times, Dr Chris Day, Mr Peter Duffy, Sue Allison, Karen Rai, Professor Andrew Wardley and a host of others. These professionals have stated their concerns courageously and openly, eschewing the protection that anonymity might confer. I know this is a profoundly ethical matter for them. It is about the struggle for safe patient care, candour, and accountability in which they have been willing at great cost to stand up and be counted. (I cherish a dream that someday we will look back with horror at the way these and many other decent professionals have been abused by NHS boards who supposedly carry the responsibility for safe patient care, staff welfare, and a culture of learning and improvement. And the chilling effect this has had on other professionals.)

So, is anonymous reporting ever permissible or useful? I'm sure it is. I am comfortable with the decision of the consultant at West Suffolk to write anonymously to the husband of Susan Warby informing him of the circumstances of her death which had been kept from him. Subsequent events demonstrate that it would have been folly to go through normal reporting channels at that Trust. I am also comfortable with direct disclosure to competent and ethical journalists. Sir Robert Francis, in his FTSU report, discouraged this. Regrettably so, given the evidence he held of how unsafe NHS reporting channels are. Many excellent exposés have been published in the Health Service Journal and local and national media as a result of direct disclosure. The identity of the source is safer with a good journalist than anywhere I know of in the NHS.

Still, it seems to me that in most serious whistleblowing cases professional staff have chosen and will continue to choose to speak up directly to the top of the hierarchy. This is seen as a personal and a professional responsibility. Introducing a mechanism for secure, anonymous whistleblowing is fraught with difficulties and is in any case, an admission of defeat. An admission that it is not safe to speak up for patients, that managers are willing to mistreat employees, that the bullies have won, that a service conceived to care for the sick and vulnerable is to be run like a police state. There is now widespread recognition that only legally guaranteed whistleblower protection from the point of disclosure, with concerns investigated and adjudicated independently, will affect the necessary culture change and protect patients and staff. We need to stop talking about anonymity and secrecy and get these issues out in the open.

Sir Robert Francis, in his 2013 Mid Staffs Public Inquiry report acknowledged the inadequacy of PIDA but has never recommended or supported reform. At various times he has recommended criminalising whistleblower suppression or making it a disciplinary offence with dismissal as a sanction. Ultimately, with former Health Secretary Jeremy Hunt, he has settled for the National Guardians Office as a solution. An office which, under the aegis of CQC, has no powers to investigate or enforce, and consequently no power to protect whistleblowers. Mr Hunt estimated when the FTSU report was published in 2015 that the change needed to create a safe reporting culture would take 10 to 20 years. Most NHS whistleblowers I know thought this a wildly optimistic view. Time has shown them to be right.

The evidence is that good law can and does change behaviour and culture rapidly. Patient advocacy by HCPs has been delayed decades despite stated political aspiration and repeated public inquiries, reviews and investigations. It is time for something more radical that will actually change things.

Jayne Senior, whistleblower – Rotherham Child Sexual Exploitation Scandal

“My background is in youth work, in 1999 I successfully applied for a role managing a project named the Risky Business Project, the project was located with Rotherham Borough Council’s Youth Services Department. The project had been set up to work with children involved in child sexual exploitation. Over the next 12 years both myself and my team supported just under 2000 children who reported to us the most heinous crimes including, gang rape, trafficking, torture and other vile and violent acts toward them and their friends.

Throughout the 12 years I collated a significant amount of intelligence in relation to the identities of those who were harming Rotherham’s children. Those reports were prepared and shared via face to face meetings, emails and telephone calls. I ensured that this information went to the most senior officials including members of the senior command teams at both South Yorkshire Police and Rotherham Metropolitan Borough Council (RMBC), Elected Members of the Council and MP’s, Magistrates and Home Office Representatives. Everyone with a responsibility to protect these children was made aware of the allegations.

In 2011 I challenged a number of senior managers having discovered that officials at RMBC had omitted to submit substantial amounts of information to a serious case review into the rape and exploitation of children. The response was swift and brutal. I was barred from reporting and engaging directly with the police or allowed to submit intelligence relating to adults who posed a concern to our children. I was informed that doing so was a breach of the alleged abusers human rights. No one was concerned about the children’s rights. I was also prevented from attending any meetings, my position as a manager at RMBC quickly became untenable and I took up a new role as the CEO of a local charity.

Although at the time I didn’t really understand the word and certainly was unaware of any law or protections I should have had I knew that I was blowing the whistle. My decision to share information with Times journalist Andrew Norfolk was because I simply did not trust

anyone to take any action, and I was right. It was not until the front page headlines between 2012 and 2014 that anyone took any notice.

In response to the Times headline in 2013 Rotherham Metropolitan Borough Council commissioned Professor Alexis Jay to undertake an independent review into these stories. The objective was to prove they were a fabrication. In August 2014 the publication of Professor Jays’ report outraged the public. She identified that at least 1400 children had undoubtedly been abused in Rotherham. More damning was her conclusion that those who could have acted to prevent this had not done so because of their fear of inciting racial tensions.

At this time my identity was still unknown, but officials were becoming suspicious and the threats were beginning to surface when after our local newspaper printed a story in which South Yorkshire Police had stated that ‘the whistleblower has caused significant damage to the town’. No one seemed to consider the damage that had been caused to the children and their families or why it had taken a whistleblower for anything to be done.

In October 2014 I was invited to give evidence at the Home Affairs Select Committee. I told no one but a few days later the director of children’s services in Rotherham Metropolitan Borough Council made a point of saying to me, ‘it would be a shame if [you] had been called to give evidence and that this led to [your] funding being pulled’. The director was referring to council funding for the charity that I was then and still manage. It was a warning. Our funding was pulled.

Despite this I attended and gave my evidence to the Home Affairs Select Committee. To my astonishment I listened to others who rattled out a repetitive line of what appeared to be well rehearsed statements to excuse or mitigate their involvement. They “Could not recollect” or it was “Someone else’s role” to deal with this, or they simply claimed to “know nothing” at all about the concerns or victims.

I remember sitting on the train back to Rotherham that evening wondering how some of these people could possibly live with themselves. At least three of my fellow witnesses had sat in a room with the child victims and listened first hand to what was happening to them but had given evidence that they could not remember these events. How could anyone forget? I vividly recall every single account from every single child that came to me. These children and their experiences are etched into my memory for the rest of my life. I was repulsed by the mealy-mouthed excuses from others who claimed not to have received my reports, or that it was simply not their job to act on the information being reported.

In 2014 Dame Louise Casey was commissioned by the Local Authorities Minister Sir Eric Pickles to complete a full review of RMBC. During my first meeting with Dame Casey I confessed to her that I was the whistleblower. As a result of her findings in February 2015 the Government took the unprecedented decision to relieve the RMBC officers of their duty and appoint commissioners to take over the running of the council and all its functions.

Shortly after this event it was announced that the National Crime Agency would be taking over the investigation into historical perpetrators in Rotherham. This operation was named Stovewood. To this date I have worked closely with officers from Stovewood to assist their enquiries.

In 2016 I was approached and asked to stand as a councillor in the upcoming local elections. I have never been political nor interested in becoming a politician but naively believed that in accepting this opportunity I could be part of the solution to the problems in my hometown.

Only 7 weeks into my term as a Labour councillor at a council run by the Labour Party, RMBC commissioned an investigation into me personally and my role into the exposure of the sexual exploitation of over 1400 children in the Local Authorities care. The investigation lasted over 5 years. To date I am the only professional to have been investigated despite the findings and recommendations contained in the Casey Report. To put things into context this investigation, conducted at tax payers expense, has lasted longer than some of the sentences awarded to the rapists who assaulted children.

RMBC subjected me, an elected representative of the people of Rotherham to 5 years of bullying, harassment, victimisation. They terrorised not only me but my family, friends, and my employer. During this time, I was even arrested on spurious charges, all dropped.

My employer became the target of many allegations and attempts were made to undermine the organisation and deprive the 150 vulnerable child and adult service users of assistance and support. But they stood by me along with WhistleblowersUK and a joint complaint to the Local Government Ombudsmen was fully upheld. Their findings were damning and concluded that an immediate apology was required. RMBC apologised only to immediately resume their 'investigation' which was finally wound up in 2021 with no findings published.

I conclude that those responsible were determined to protect themselves at any cost. Had it not been for the support I received things may have been different. But I ask myself how could a taxpayer funded local authority have managed to manipulate so many other bodies, spend so much money, witness so many victims of abuse and no one else speak up? Where were all of the whistleblowers?

For me I am astonished that no one batted an eye lid when this investigation was recommissioned on the grounds that I had shared 'confidential' information referring to organised and violent criminal activity with the police officers investigating these allegations!

In 2014 the IOPC began an investigation to determine which if any police officers had failed in their duty to protect children or were involved in abuse or covering up abuse. This became known as Operation Linden, nearly 8 years later Linden is due to be published imminently, 47 officers have been investigated but to date none found guilty.

In 2019 I turned my attention to the root of the problem, the most senior officer of the senior command teams responsible for investigating these crimes to the Police Standards Department. My complaint stated that between 1999 and 2011 these officers had systematically failed in their statutory duty to protect children from the worse crimes imaginable.

My complaint was repeatedly rejected, and I repeatedly appealed.

The police responded with more threats and this time I was warned that I would be labelled a vexatious complainant and that I would be subjected to the full force of the law. The police were threatening me with 2 years' imprisonment.

However, I turned to an alternative police force and Operation Amazon commenced under the compelling Terms of Reference (Appendix 2)

The decision maker responsible for oversight of this investigation is [] the Director of the Directorate of Major Investigations (DMI). The decision maker has approved these terms of reference. At the end of the investigation they will decide whether or not the report should be submitted to the DPP, and whether they agree with the Appropriate Authority's proposals in response to the report. These terms of reference were approved on 26 May 2019 and Operation Amazon findings will be published in April 2022."

When I made the decision to speak to Andrew Norfolk at the Times, it was because those with responsibility to safeguard children had not only failed but had refused to do their job. I did not know that I was a whistleblower, I was simply doing the right thing, doing my job because I had an ethical and professional duty to protect those children. As a result of my actions and those of everyone who has supported me to date prison sentences totalling over 400 years have been handed down to the child rapists. The National Crime Agency have identified more than 400 persons of interest, all of whom were known to Risky Business and reported in the 1990's. The real injustice is the fact that many children would have been saved from a lifetime of misery if the police and Rotherham Metropolitan Borough Council had acted promptly at the time.

Society is regularly told that 'lessons have been learnt' but what does that mean and where does the whistleblower sit in these lessons?

It is no surprise to me that so few people come forward when they can expect to be treated as I and many others have been.

When courage is rewarded with a well-orchestrated and publicly funded witch-hunts in which no good turn goes unpunished, and the whistleblower is left to do the job of the government."

"Too much time has been wasted and excuses put in the way of introducing proper whistleblower protection. It is time to put politics to one side and for everyone to get behind the Whistleblowing Bill being brought forward by Mary Robinson MP and join her and her colleagues from the APPG in calling for the introduction of and Independent Office of the Whistleblower. "

Dr Peter Duffy – whistleblower Morecambe Bay Hospitals

"I support the Whistleblowing Bill and ask you to do so too because we urgently need whistleblowing reform.

I'm an ex-NHS consultant surgeon. I was unfairly dismissed from Morecambe Bay Hospitals in 2016 after whistleblowing to the CQC about avoidable deaths, cover-ups and ongoing risk-taking. In my last 9 months of employment, I was subject to all the established corporate whistleblower punishments, culminating in £35,000 of salary going missing, and a threat to go through my previous earnings, recouping further monies.

I had no choice but to resign.

In the run-in to my subsequent Employment Tribunal hearing, my NHS IT account and all contained evidence was destroyed, and all my Morecambe Bay witnesses dropped out after being told that the department might be dissolved if the case went badly. Other evidence was with-held and six-figure costs threatened if I didn't drop the case and agree to a gag.

Despite this, I won unfair dismissal. My vocation and family life were left destroyed and I was reduced to working overseas for the rest of my professional life, with lifetime costs that the tribunal themselves estimated at £¼ million. My compensation was £88,000.

And we call that justice.

The prejudice didn't end there. I was so disgusted that I published a book about my experiences, selling well over 10,000 copies.

In response, and in 2020, the NHS commissioned an investigation.

Just as the investigation started, I was warned by an anonymous well-wisher about further evidential tampering, a vendetta and a desire to see me in prison. Two shocking new emails then suddenly emerged from nowhere, dated 2014, purporting to be from me and implying entirely new, very damaging evidence about me in relation to one of the original avoidable deaths. I was repeatedly assured by the NHS of their authenticity and provenance and, within days, the emails were also in the hands of the General Medical Council.

I was left questioning my own sanity and, in utter despair and desperation, resolved, at this point to give up, resign my medical registration, withdraw the book and take my own life in disgrace after these damning new findings.

Somehow, I made it through into 2021, only to stumble across legal NHS statements to the E T which made it clear that it was utterly impossible for these emails to be authentic, with the NHS, in 2018, four years after these emails claimed to have been sent, certifying that all the relevant accounts had been repeatedly searched with no trace of these emails anywhere. The judicial chair had then ordered another search of the relevant accounts for all emails from that era referencing the avoidable death case. Once again, these emails were nowhere to be found, and they were completely absent yet again at the end of 2018 when a further detailed search of the accounts was carried out on behalf of the bereaved family.

Yet I'd been groomed and gaslighted to the point of suicide by the NHS over the repeated assurances about the authenticity of these emails.

I believe that, of all vulnerable individuals in society, whistleblowers attract the greatest hate, prejudice and retaliation, yet are by far the least protected.

Our current laws are wholly inadequate and, by failing to robustly tackle anti-whistleblower hate and prejudice, we condemn future whistleblowers to more grotesque punishments and detriments like these, for simply doing their job and safeguarding, thereby damning our society to yet more episodes of silence and cover-up, in turn guaranteeing more disasters like Shrewsbury and Telford, Mid-Staffs, Gosport, Morecambe Bay, Bristol and so on."

Graham House wing commander rtd., Founder Independent Defence Authority

"Preventing the cover up of war crimes, cover up of rape in the military, cover up of fraud and corruption in the military is essential.

To do this I and the IDA support the Whistleblowing Bill and those bringing it forward. For too long there has been a veil of silence because of the fear of repercussions in the military. It is essential that government creates a safe space for unsafe conversations to ensure the operational performance of the Armed Services.

Protection for those who put their lives on the line to protect the safety of the United Kingdom must be improved. The Whistleblowing Bill and the Independent Office of the Whistleblower is the right way forward."

Maggie Oliver – whistleblower Greater Manchester Police, Founder The Maggie Oliver Foundation

"I am 100% behind this new initiative being brought forward by Mary Robinson MP her APPG and secretariat with whom I've collaborated on this.

From my own perspective, my own life would have been completely different had this existed in 2012. I found myself totally alone with nowhere to turn for help, advice, or support when I took on GMP and their massive failures surrounding child abuse.

10 years on and the Chief Constable finally admits I was right, and they were guilty of "Borderline Incompetence" and failing the victims which is a moral victory for which I've waited a long time, but too late to undo all the harm done to me.

I had approached the Police Federation for help, but when they realised I was serious about speaking out and wouldn't be a good girl they totally turned their back on me.

I became very sick, I had to sell my family home, I lost my career, my income and I truly feared I'd go to prison for speaking publicly but I truly believed the principles I'd joined the police to uphold were worth fighting for.

I still believe that today, and because I've become well known as a "whistleblower", and The Maggie Oliver Foundation, I know this fear and the threats and "punishment" is still happening to police officers today, when they challenge any decisions, even if they are so clearly correct in doing so. I'm regularly contacted by officers in that position.

The Office of the Whistleblower will ensure there's somewhere for them to go, and I believe that the Whistleblowing Bill will change the landscape for whistleblowers, ensuring the journey isn't as lonely or as life destroying as it was for me...."

7. Acknowledgements and Thanks

As Chair I would like to acknowledge and thank everyone, named and anonymous for their tremendous generosity and support throughout the call to evidence and the work that has gone into the development and drafting of the Whistleblowing Bill.

To each and every one a big 'THANK YOU'!

Please note that the report does not attribute quotes except when specific consent has been provided. However, please accept this as recognition to all the whistleblowers, regulators, professional bodies, and organisations for giving their time, sharing their expertise and experiences and for their candour. The process was conducted confidentially or under Chatham House Rules.

Jayne Senior MBE – Safeguarding Director
WhistleblowersUK & CEO Swinton Lock Activity Centre

Maggie Oliver – The Maggie Oliver Foundation

Professor Nigel MacLennan – Psychologist

Jackie Garrick – Founder Whistleblowers of America

Professor Wim Vandekerckhove – University of Greenwich

Professor David Lewis – Head of the Whistleblower Unit,
Middlesex University

Dr Lauren Kierans – Lecturer in Law at Maynooth
University

Dr Vigjilence Abazi – University of Maastricht

Dr Mark C Noort – Assistant Professor, Leiden University

Iain Mitchell QC – Barrister, Chair of the
WhistleblowersUK legal Panel

Simon Natas – Senior Partner ITN solicitors

Mary Inman – US Attorney, Senior Partner Constantine
Cannon, London

Lloydette Mai-Marrow – Lawyer, Investigator, Founder
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Rory Field – Barrister, 15NBS

Howard Brown – Solicitor

Rosalee Dorfman Mohajer – Barrister at 4-5 Gray's Inn
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Simon Reeve – Inhouse Counsel WhistleblowersUK,
Barrister at Thomas More Chambers

Elliot Hammer – Partner Branch Austin LLP

Steve Kohn – US Attorney, Chairman of the National
Whistleblower Centre, Washington DC

Paul Daniels – Keystone Law

David Wright – Director WhistleblowersUK Legal Panel,
Founder Barrister Consultancy Services

Dr Raj Mattu – Chair of WhistleblowersUK advisory panel

Steve Turner – Founder Care Right Now, Health
spokesperson WhistleblowersUK

Dr David Nicholls – Health spokesperson
WhistleblowersUK

Dr Jenny Vaughan – Chair the Doctors Association UK

Dr Peter Duffy

Dr David Drew

Dr Arun Baksi – Our NHS Our Concern

Dr Parag Singhal – BAPIO

Jonathan Taylor

John Bowers QC – Littleton Chambers

Professor Barry Rider – Chairman International Symposium Economic Crime, Jesus College Cambs

Randy Harwell – Chief, Civil Division at United States Attorney's Office

Melanie Devoe – Attorney, Whistleblower Office, CFTC, US

Giles Newman – CEO Navex Global

Jordan Richards – Founder iblowthewhistle

Jane and Victoria Turner – National Whistleblower News, US

Francesca West – James & West Law LLP

Heather Buccannon – Athena Foundation, APPG Fair Business Banking

Andy Verity – BBC Economics Correspondent

Martin Bright – The Creative Society

Graham House – The Independent Defence Authority

Joseph Styles – Executive Assistant WhistleblowersUK

Stephen Kerr – MSP, Vice Chair WhistleblowersUK

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Appendix 1

PRESCRIBED BODY	QUALI. DISCLOSURES	ONGOING	RESOLVED	WITHDRAWN/ NA
Audit Scotland	11	10	0	1
Audit Wales	9	2	7	0
Bank of England	196	73	123	0
Care Inspectorate (Social Care & Social Work Improvement Scotland)	1377	242	805	330
Care Quality Commission (CQC)	8449	-	-	1956
Chief Executive of the Criminal Cases Review Commission	0	0	0	0
Children and Young People's Commissioner Scotland	1	0	0	1
Children's Commissioner for England	11	0	8	3
Children's Commissioner for Wales	0	-	-	-
Civil Aviation Authority	62	-	-	-
Commissioner for Ethical Standards in Public Life in Scotland	1	0	0	1
Competitions & Markets Authority (CMA)	16	10	6	0
Department for Education	14	3	11	0
Equality and Human Rights Commission	46	6	4	36
Financial Conduct Authority (FCA)	1153	691	355	107
Financial Reporting Council	10	3	5	2
Food Standards Agency	31	-	-	-
Food Standards Scotland	5	0	5	0
General Chiropractic Council	0	0	0	0
General Dental Council	116	0	95	21
General Medical Council	36	0	28	8
General Optical Council	15	2	5	8
General Osteopathic Council	3	0	0	3
General Pharmaceutical Council	22	4	13	5
Health & Care Professions Council	8	0	8	0
Health & Safety Executive	1	0	1	0
Healthcare Improvement Scotland	9	0	9	0
Her Majesty's Revenue & Customs (HMRC)	8892	2121	6771	0
Independent Office for Police Conduct (IOPC)	3	0	3	0
Monitor (NHS Improvement)	103	13	90	0
National Health Service Commissioning Board (NHS England)	74	6	29	36
Natural Resources Wales	2	2	0	0
NHS Counter Fraud Authority	366	12	283	62
NSPCC	390	-	-	58

PRESCRIBED BODY	QUALI. DISCLOSURES	ONGOING	RESOLVED	WITHDRAWN/ NA
Nursing & Midwifery Council	107	0	107	24
OFCOM	0	0	0	0
Office for Nuclear Regulation	12	6	6	0
Office of Qualifications and Examinations Regulation (Ofqual)	35	13	15	7
Office of Rail & Road	33	-	-	-
Office of the Scottish Charity Regulator	7	6	0	1
OFSTED	316+	30	282	4
Older People's Commission	0	0	0	0
Payment Systems Regulator	1	1	0	0
Public Services Ombudsman for Wales	5	2	3	0
Qualifications Wales	1	0	1	0
Registers of Scotland	0	0	0	0
Regulator of Social Housing	36	0	18	14
Revenue Scotland	0	-	-	-
Scottish Criminal Cases Review Commission	0	0	0	0
Scottish Housing Regulator	2	2	0	0
Scottish Information Commission	0	0	0	0
Scottish Social Services Council	12	4	6	2
Serious Fraud Office	128	121	7	0
Single Source Regulations Office (SSRO)	0	0	0	0
Social Care Wales	0	0	0	0
The Certification Officer	0	0	0	0
The Charity Commission for England and Wales	431	119	312	0
The Comptroller and Auditor General (NAO)	41	20	21	0
The Environment Agency	8	0	8	0
The Gas and Electricity Markets Authority (Ofgem)	67	25	41	1
The Information Commission (ICO)	427	68	359	0
The Pensions Regulator	2	0	1	1
The Scottish Environment Protection Agency (SEPA)	4	2	2	0
The Sec. of State for BEIS	0	-	-	-
The Water Industry Commission for Scotland	0	0	0	0
The Welsh Revenue Authority	0	0	0	0
Water Services Regulation Authority (Ofwat)	4	4	0	0
Welsh Ministers	0	0	0	0

Appendix 2

Operation Amazon Terms of Reference

1. "To investigate the action taken by senior officers from SYP in relation to the protection of children and vulnerable young adults between 1999 and 2011 in the Rotherham district, in particular:
 - a). To establish the statutory duties upon senior officers in respect of the protection of children and vulnerable young adults between 1999 and 2011.
 - b). To identify which officers assumed the responsibilities of ensuring that SYP complied with their statutory duties as established in point a);
 - c). To establish, in relation to the content of three reports authored by Dr Angie Heal in 2002, 2003 and 2006:
 - i. what action senior officers could have taken.
 - ii. what action was taken by senior officers;
 - iii. where action was taken, to ascertain whether it was appropriate in the circumstances.
 - d). To ascertain what was known to SYP prior to 2012 about the offenders convicted between 2016 and 2018 of non-recent CSA related offences in the Rotherham district;
 - e). To identify what action was taken in response to information about these offenders and to ascertain whether appropriate strategies were put in place to prevent further offending and/or to bring the offenders to justice;
 - f). To ascertain whether the actions of senior SYP officers were in line with national policies and guidance in relation to:
 - i. child protection.
 - ii. acting on intelligence and;
 - iii. the investigation and prevention of serious crime.
 - g). To examine if the priorities within SYP at that time and/or key performance indicators (KPIs) affected decision making.
2. To assist in fulfilling the state's investigative obligation arising under the European Convention on Human Rights (ECHR) by ensuring as far as possible that the investigation is independent, effective, open and prompt, and that the full facts are brought to light and any lessons are learned.
3. To identify whether any subject of the investigation may have committed a criminal offence and, if appropriate, make early contact with the Director of Public Prosecutions (DPP). On receipt of the final report, the decision maker shall determine whether the report should be sent to the DPP.
4. To identify whether any person serving with the police may have behaved in a manner which would justify disciplinary proceedings and to enable an assessment as to whether such persons have a case to answer for misconduct or gross misconduct or no case to answer.
5. To consider and report on whether there may be organisational learning, including:
 - a) whether any change in policy or practice would help to prevent a recurrence of the event, incident or conduct investigated.
 - b) whether the incident highlights any good practice that should be shared

Appendix 3 – Hansards Links and Other Reference Material

- 1. Backbench Whistleblowing Debate - Sir Norman Lamb and Stephen Kerr MSP 3rd July 2019**
<https://hansard.parliament.uk/commons/2019-07-03/debates/AA9B34FC-1CA3-4A24-9EEB-E37F6DE8EBF2/Whistleblowing>
- 2. PMB Public Interest Disclosure (Protection Bill) – Dr Philippa Whitford 25th September 2020**
[https://hansard.parliament.uk/commons/2020-09-25/debates/20092514000001/PublicInterestDisclosure\(Protection\)Bill](https://hansard.parliament.uk/commons/2020-09-25/debates/20092514000001/PublicInterestDisclosure(Protection)Bill)
- 3. PMB Office of the Whistleblower Debate 1st reading – Rt Hon The Baroness Kramer 28th January 2021**
[https://hansard.parliament.uk/lords/2020-01-28/debates/B110C7C9-A6A5-4525-9BD6-F1AB23B9F044/OfficeOfTheWhistleblowerBill\(HL\)](https://hansard.parliament.uk/lords/2020-01-28/debates/B110C7C9-A6A5-4525-9BD6-F1AB23B9F044/OfficeOfTheWhistleblowerBill(HL))
- 4. PMB Office of the Whistleblower Debate 2nd reading – Rt Hon The Baroness Kramer 21st June 2021**
[https://hansard.parliament.uk/lords/2021-06-25/debates/88CC7438-53A4-42A3-8F6A-E7AC1946B566/OfficeOfTheWhistleblowerBill\(HL\)](https://hansard.parliament.uk/lords/2021-06-25/debates/88CC7438-53A4-42A3-8F6A-E7AC1946B566/OfficeOfTheWhistleblowerBill(HL))

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