

Protect Briefing on New Clause 7 to the Economic Crime and Corporate Transparency Bill – to be debated on Wednesday 25 January 2023

Mary Robinson
Dame Margaret Hodge
Simon Fell
Alison Thewliss
Sir Robert Buckland
Maria Eagle
Sir Peter Bottomley
Mr Ben Bradshaw
Dame Diana Johnson
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Ms Marie Rimmer

Mr Barry Sheerman
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NC7

To move the following Clause—

"Whistleblowing: economic crime

- (1) Whistleblowing is defined for the purposes of this section as any disclosure of information suggesting that, in the reasonable opinion of the whistleblower, an economic crime—
 - (a) has occurred,
 - (b) is occurring, or
 - (c) is likely to occur.
- (2) The Secretary of State must, within twelve months of the date of Royal Assent to this Act, set up an office to receive reports of whistleblowing as defined in subsection (1) to be known as the Office for Whistleblowers.
- (3) The Office for Whistleblowers must—
 - (a) protect whistleblowers from detriment resulting from their whistleblowing,
 - (b) ensure that disclosures by whistleblowers are investigated, and
 - (c) escalate information and evidence of wrongdoing outside of its remit to another appropriate authority.
- (4) The objectives of the Office for Whistleblowers are—
 - (a) to encourage and support whistleblowers to make whistleblowing reports,
 - (b) to provide an independent, confidential and safe environment for making and receiving whistleblowing information,
 - (c) to provide information and advice on whistleblowing, and
 - (d) to act on evidence of detriment to the whistleblower in line with guidance set out by the Secretary of State in regulations.
- (5) The Office for Whistleblowers must report annually to Parliament on the exercise of its duties, objectives and functions."

Introduction

Protect is the UK's whistleblowing charity. We advise around 2,500 whistleblowers a year on our free, confidential legal advice line. We support employers to develop effective whistleblowing arrangements, and we campaign for improvements in whistleblowing law and policies.

Protect welcomes New Clause 7 which aims to establish an Office for Whistleblowers to improve the position of those reporting on economic crime. Studies have shown the value of whistleblowers in detecting economic wrongdoing. For example, the Association of Certified Fraud Examiners Report to the Nation 2022 found that 42% of frauds were detected by tips, and more than half of all tips came from employees.

Recent examples of the role of whistleblowers in exposing international corruption include: Jonathan Taylor, a lawyer for SBM who blew the whistle on a multi-million bribery scandal in the oil industry and Amjad Rihan, an EY auditor who exposed an organised crime group who were using sales of

gold in Dubai to launder British drug cash.

Improving internal whistleblowing

It is important to note that most whistleblowing happens inside organisations. Employers with a strong whistleblowing culture can detect wrongdoing early, and effective whistleblowing arrangements can deter others from wrongdoing. However, we are aware of the risks and challenges that face those who have the courage to speak up about wrongdoing. In the past five years, **65% of the whistleblowers who have contacted Protect's free legal advice line report that they have experienced some detriment from speaking up.** Protect advises callers on their employment rights – not to suffer any detriment or to be dismissed for their whistleblowing - and potential remedies in the employment tribunal. It is vital that employers are held to account and should be required to address whistleblowing concerns raised with them.

An Office for Whistleblowers could have a role in setting standards for all employers to put in place effective arrangements, ensure that concerns are properly investigated, that whistleblowers' confidentiality is protected, and that appropriate feedback is given at the end of the investigation. At present most employers – outside of financial services – are not legally required to have any whistleblowing arrangements in place.

Protect advises whistleblowers on how to safely blow the whistle internally to their employer, or if this is not effective or if the whistleblower is fearful of detriment if they go to their employer, we advise on how they may raise concerns externally to a prescribed person (regulator or professional body etc) or to an MP or the media.

The importance of effective regulators

It is vital that we have strong independent regulators to receive and investigate concerns raised externally by whistleblowers. Our research on regulators shows that there is great inconsistency in how different regulators respond to whistleblowing concerns, and in the amount of feedback they provide. **An Office for Whistleblowers could also set standards to improve how regulators respond to whistleblowers.**

However, in our view, an Office for Whistleblowers should not seek to be the primary recipient of *all* concerns (save in cases where there is no appropriate regulator). In the course of 2021 the total number of whistleblowing concerns from all the prescribed persons who have to produce an annual report amounted to over 52,000, across a range of issues from health and safety to data protection, from fraud to discrimination, so a single body to deal with all whistleblowing concerns would not be appropriate.

There are already many bodies who are prescribed to deal with economic crime concerns including the Serious Fraud Office, the Financial Conduct Authority, the Financial Reporting Council and HMRC. There has been some criticism of the lack of resources devoted to the existing regulators (for example: [Spotlight on Corruption's](#) report on closing the economic crime enforcement gap). There is a risk that introducing a new body to deal directly with whistleblowers will detract from proper resourcing of the existing bodies. **An Office for Whistleblowers should direct concerns to the appropriate regulator and ensure that the regulator implements channels to receive and investigate concerns, and provide appropriate feedback to the whistleblower.**

A wider review of whistleblowing is needed.

In the 2017 [Anti Corruption Strategy](#) the Government promised a review of the whistleblowing framework to ensure robust protections for whistleblowers. However, in their [three year review](#) of the strategy, the whistleblowing commitments were noted to be “off track with deadline(s) expected to be missed and/or serious risk to delivery”. Protect believes that the current whistleblowing law urgently needs a wider review to improve the scope of who is protected, to improve access to justice and to ensure all employers meet minimum standards for whistleblowing.

When will the Minister review the whistleblowing framework and what scope will that have?

Can he provide a time frame for when the review will be completed?