



Blowing the whistle in schools

2023



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Foreword

"WHISTLEBLOWING IS A TOUCHSTONE FOR ORGANISATIONAL CULTURE, PROVIDING SCHOOL LEADERS WITH THE OPPORTUNITY TO SPEAK OUT AGAINST BAD PRACTICE AND UNETHICAL BEHAVIOUR"

Our schools should be safe places for children to learn, play and thrive, and inspiring places for all school staff to work. All workplaces come across risks, malpractice or wrongdoing and will need effective arrangements in place to ensure that genuine concerns can be raised and issues addressed appropriately.

However, Protect's report reveals that whistleblowing in educational settings has not been given the priority it deserves. Rather than being thanked for pointing out potential harms, many school staff experience detriment or even dismissal when they try to blow the whistle.

Protect is concerned about both the levels of victimisation of school staff who whistleblow and by the numbers reporting that their concerns are ignored by their employers.

Our research shows that while school staff are among the most willing to raise concerns, they are also unlikely to persist if they receive a negative response. Whistleblowers contacting Protect have identified serious concerns ranging from a lack of safeguarding arrangements to child abuse, and from financial misconduct to bullying by colleagues. These matters should be addressed by schools themselves, but when they are not, whistleblowers need clear routes to escalate their concerns.

Protect highlights the lived experience of those working in education who speak up to stop harm. In the education sector, the external whistleblowing landscape is complex and confusing to navigate, and we make a number of recommendations for reform. Five years ago, in our 25th anniversary report, Emma Knights wrote "*whistleblowing is a touchstone for organisational culture, providing school leaders with the opportunity to speak out against bad practice and unethical behaviour.*"

She argued that whistleblowers should "*be seen as part of an effective learning environment*". Our report clearly shows that there is still a long way to go to see education whistleblowers in such a positive light.



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01 Introduction

At the heart of Protect’s work is our unique, free, confidential legal advice line.

We receive around 2,500 whistleblowing-related calls every year. While Education has consistently been one of the top sources for cases, this is the first time we have reported on the sector in detail.

This report looks at what is happening in our schools (both Primary and Secondary settings), what sort of concerns whistleblowers are raising, and some of the challenges that they face following their decision to seek Protect’s advice.

Government guidance states that both maintained schools and academies should have whistleblowing arrangements in place (see the box below). However, Protect believes more must be done to ensure that these arrangements are working effectively.

From our YouGov research, commissioned in 2021, we found only 56% of those working in the education sector knew if their employer had a whistleblowing policy, while only 41% knew how to raise a whistleblowing concern at work.

Interestingly, 54% of education sector workers said that they would raise a whistleblowing concern, regardless of the risk to themselves – notably this was the highest score that we found across all sectors.

All maintained schools in England should follow the Department for Education Guidance: Whistleblowing procedure for maintained schools- GOV.UK (www.gov.uk) which includes having a procedure, identifying a member of staff and a governor whom staff can report concerns to, and training for all staff – including temporary staff and contractors – about what is covered by whistleblowing protections and who to contact in the school or in the local authority.

Government guidance:

Guide for newly opened academies, academy trusts and free schools – Complaints and whistleblowing- Guidance – GOV.UK (www.gov.uk) also states that all academy schools should have an appropriate whistleblowing procedure in place, at both the trust and academy operational levels, “that protects staff members who report colleagues they believe are doing something wrong or illegal, or who are neglecting their duties”.

Special Thanks to the following people for providing the research, writing and proofreading this report

Andrew Pepper-Parsons
Michelle Munro
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Gabriel Radonich

02 Research methodology

The research for this report comes from Protect's Advice Line, published data from regulators and Freedom of Information (FOI) requests to relevant public bodies such as Ofsted and local authorities.

Analysis of the data from 457 Advice Line cases from 01/09/2020-31/08/2022 enabled us to identify key themes from the experiences and consequences faced by whistleblowers when raising concerns.

Typically our Advice Line provides advice and support to whistleblowers either just before they raise concerns or in the aftermath of making a disclosure. As our focus is on whistleblowing at work, we do not always have the data to track the experiences of those raising concerns with bodies outside of the employer scenario e.g. regulators, local authorities, the police etc.

With this in mind we wrote to local authorities and Ofsted to identify what happened when whistleblowers took their concerns outside their organisations. We submitted FOI requests to 205 Local Authorities across England, Wales and Scotland, as well as Northern Ireland's Education Authority, to request information on whistleblowing in Education. These requests were made in 2022.

The purpose of this research was to assess the role of Local Authorities as an external place for whistleblowers in education to raise their concerns. Out of 205 Local Authorities, 145 councils submitted responses. We asked the following questions in the FOI requests:

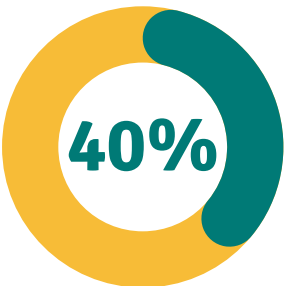
1. The number of whistleblowing concerns received over the last two years,
2. A breakdown of the whistleblowing concerns received over the last two years,
3. The current number of staff in each Local Authority's whistleblowing team.
4. The amount of expenditure allocated to the whistleblowing team, department or function that deals with disclosures made,
5. Any relevant documents or processes in place for dealing with whistleblowing concerns over the last two years.

03

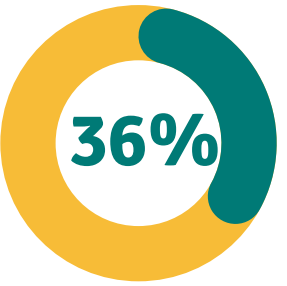
Key findings from the Advice Line



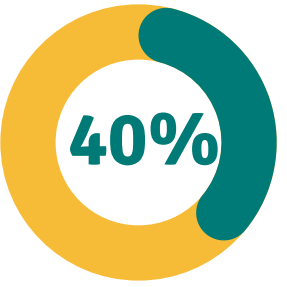
reported that whistleblowing led to some form of detriment or harm after raising concerns



of those raising concerns said that they were ignored



said that whistleblowing led them to leave their jobs



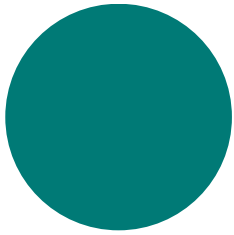
Only 40% of whistleblowers contacting Protect for advice raised their concerns more than once



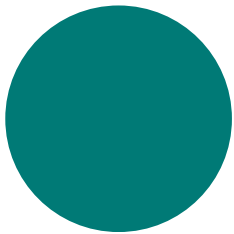
tried to raise their concern internally first

04

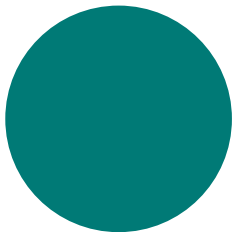
Key conclusions



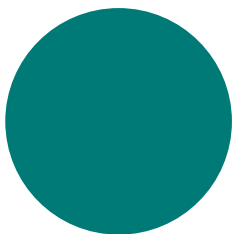
Ofsted's role is too limited for school whistleblowers while most local authorities have no central reporting place. A complex and confusing regulatory landscape undermines the effectiveness of education sector whistleblowing.



There should be a requirement on schools to acknowledge, investigate and provide feedback to whistleblowers. This process should be overseen at board or governor level by a governor appointed whistleblowing champion.



Ofsted should inspect schools on the effectiveness of their whistleblowing arrangements.




School governors and volunteers should be protected from detriment, but whistleblowing law does not currently apply to them.




05 Our Recommendations

Changes to legal protection




All those in the workplace should have whistleblowing rights. The protection of the Public Interest Disclosure Act – which makes it unlawful to treat a whistleblower badly or dismiss an employee for raising concerns – should be extended to school governors and others who volunteer in schools.


Changes to the regulatory framework




Ofsted should be a prescribed person for staff raising whistleblowing concerns within schools. The current set up – where Ofsted is not prescribed for teachers or support staff to raise concerns other than for very specific educational settings – makes little sense to whistleblowers.



All schools should identify a whistleblowing champion and train managers to handle concerns. It is clear from our data that school staff will go first to their line managers with concerns – which is a positive finding. However, that means that line managers need to be able to recognise whistleblowing and respond appropriately. The research suggests that 60% of whistleblowers speaking to Protect may go silent if they do not have the right response first time. School governors were also often recipients of whistleblowing concerns but had not always had appropriate training.



Education and Skills Funding Agency should be prescribed in their own right, making it easier for whistleblowers to approach them with concerns and providing annual data on the number and types of concerns raised with them.




Schools and regulators investigating whistleblowing concerns should be required to acknowledge receipt of concerns if not made anonymously and provide timely feedback. Too many of our education sector whistleblowers (40%) said that their concerns were ignored. This is likely to have a chilling effect on that whistleblower coming forward again and may deter any colleagues that they speak with.

06


Our Recommendations

Feedback to whistleblowers from both employers and regulators


Failure to provide feedback risks undermining trust and confidence in whistleblowing arrangements.




Ofsted should inspect schools' whistleblowing arrangements and ensure that schools are preventing whistleblower victimisation. There is currently no mechanism to quality-assure schools' whistleblowing arrangements or to check if they are effective. With over 72% of education sector whistleblowers reporting detriment, more is needed to ensure that victimisation is prevented and addressed. A positive duty on all employers would be one way to achieve this and a regulator can play an important role in ensuring such a duty was implemented.



Local authorities should have a dedicated whistleblowing channel. Given the range of concerns that school staff may raise with local authorities, a central point of contact would offer clarity and accountability. Most councils reported that they did not have a dedicated whistleblowing team while many explained that whistleblowing duties are split between the Information Governance Team, Internal Audit, Monitoring officer and HR.



All schools and academy trusts should advertise their whistleblowing arrangements on their websites and identify clear routes for escalating concerns. Policies need to identify clearly who a whistleblower can go to with what type of concern (eg safeguarding, financial matters, health and safety, toxic workplaces).



07 About Whistleblowing

"Not listening to whistleblowers can cause damage to individuals, schools, and reputations"

The most common job role in the data was someone in a teaching role at 45% (either a teacher, teaching assistant, Deputy or Head Teacher). We also heard from support staff, therapists and other professional visitors providing services to schools and school governors. Seven per cent of our callers identified as managers – either senior managers or heads of departments.

Around 40% of those raising concerns said that they were ignored, while over 72% reported that whistleblowing led to some form of detriment, and 36% said that whistleblowing led them to leave their jobs – either through resignation or dismissal.

This is a salutary lesson for schools – talented staff will look for another role outside the school if they do not feel they have been heard and their concerns followed up.

Not listening to whistleblowers can cause damage to individuals, schools, and reputations.

Our research shows that the majority of education sector whistleblowers are not persistent. Most had already raised concerns internally when they approached Protect for advice, but only 40% of whistleblowers contacting Protect for advice raised their concerns more than once. This highlights the importance of acting on concerns quickly and consistently.

In addition to teaching and other school staff, Protect's Advice Line has also been contacted by several school governors. Advising this group is less straightforward – they have no legal protection if they speak up because whistleblowing law does not extend to governors.

Yet some governors raised serious concerns – for example, about safety in their schools, and were treated badly or ignored when they did so.



08 About the concerns

Safeguarding



Safeguarding was one of the top issues we heard about. Ensuring that appropriate – and effective – protections are in place for the children in our schools is vital. Most schools take this issue seriously, meeting their obligation to identify dedicated staff as safeguarding “leads.” With this in mind, it is worrying that some callers were not confident with the responses they received when raising safeguarding matters. Some whistleblowers raising serious concerns about abuse said that their schools did not investigate thoroughly or did not pass reports on to the local authority designated safeguarding officer, as they are required to do.

Some of the safeguarding concerns were about lack of proper criminal record checks, or failures to comply with staff-pupil ratios. We did find examples of whistleblowers successfully raising safeguarding concerns internally and externally (eg reports to NSPCC or Ofsted) leading to remedial action.

Bullying



Bullying of staff was the second most prominent concern raised in schools, and second in local authorities. It is a difficult issue to tackle, as there is no law to prevent bullying. However, the impact of bullying can result in health and safety risks to individuals – and in this way may become the subject of whistleblowing concerns. Toxic workplaces are ones in which few staff will want to stay. While education is far from being the only sector tackling bullying and harassment at work, it is one which we would hope to see strong leadership and role-modelling: there is a strong emphasis on behaviour policies for pupils, but more help is needed to ensure staff are also protected from bullying.

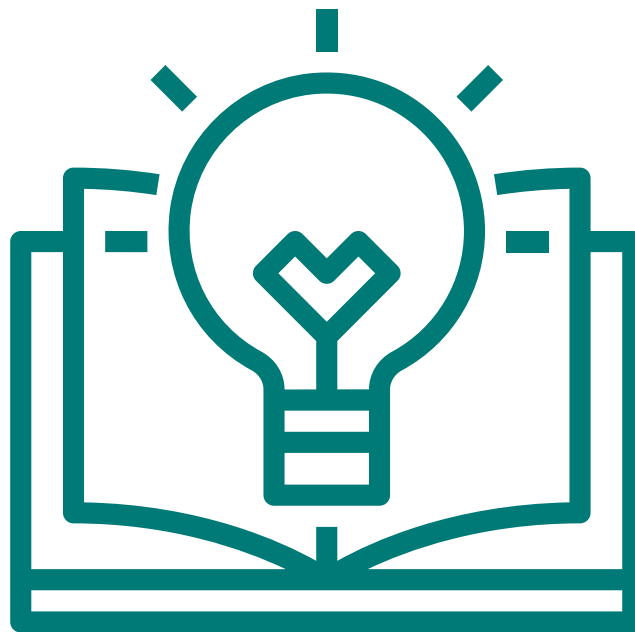
09 Whistleblowing to external bodies

Whistleblowing in the education sector is far from easy. Some whistleblowers have reported to Protect that they are passed from pillar to post when trying to raise whistleblowing concerns outside of schools – there is no clarity about the lines of accountability or who they should go to first.

To understand the issue of whistleblowing regulators, it is important to understand the system of 'prescribed persons'. Under whistleblowing law, certain bodies are designated as prescribed persons, meaning an outside body that whistleblowers can raise concerns to.

The Public Interest Disclosure Act 1998 (PIDA) provides an easier path to protection for disclosure to regulators by giving the power to the Government to maintain a list of "Prescribed Persons". In order for a whistleblower to get protection if they raise a concern with a prescribed person, they need to pass an additional test – a requirement that they have a reasonable belief in the truth of what they are raising. A whistleblower raising concerns with an external body or organisation (not included in the list of prescribed persons) or the media, may still be protected under PIDA but such protection comes with very stringent legal tests.

Workers raising concerns with prescribed persons are more likely to be legally protected than if they raised to other bodies such as the press. Prescribed persons have specific remits for specific issues or industries.



10 Whistleblowing to external bodies

Academies

Raising a concern outside of the school is complex. In academy chains there may be a parent organisation to report to but there is no particular process that academies must follow – they must simply have “arrangements” in place (see above). Some large academy trusts do publicise their whistleblowing arrangements on their websites, but this is not the case for all multi-academy trusts. Good practice would be for all multi-academy chains to ensure whistleblowing policies are available on a central public-facing website (rather than an intranet) to make it as easy as possible for whistleblowers to raise concerns.

Local Authorities

For local authority-controlled schools, some whistleblowers will take their concerns to their local council. However, local authorities are not prescribed persons for whistleblowing in schools – they have responsibilities for child protection (for all schools in their area, regardless of control) and for auditing public finances.

Those approaching local authorities may be confused by the range of potential places a concern may be reported. Dedicated whistleblowing teams are lacking: most councils do not see themselves as having a role here. We also heard reports of local authorities passing concerns raised in confidence with them back to the school’s governing body thus breaching confidentiality in the process – and potentially exposing whistleblowers to harm.

Ofsted

Surprisingly, the most likely regulator in the education field – Ofsted – is not a prescribed person for staff whistleblowing except for concerns about the “welfare of children provided with accommodation by boarding schools, colleges and residential special schools”.

They are not prescribed to receive other concerns about schools, despite being the inspectorate for primary and secondary education. **This means that disclosures to Ofsted about schools are made have to be made under its procedure for complaints about schools. This would be considered a “wider disclosure” for the purposes of PIDA which is less likely to be legally protected.**

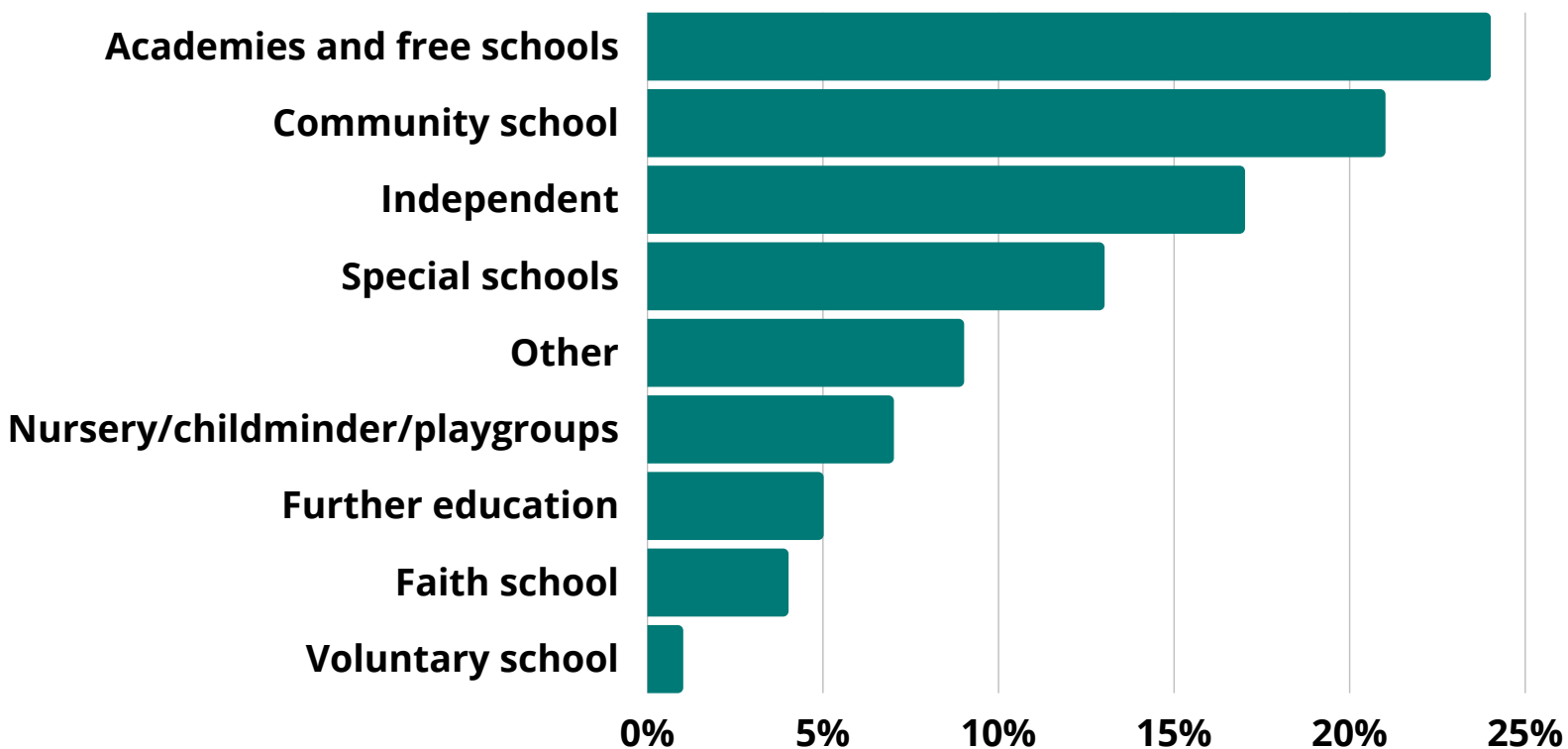
Staff may well continue to approach Ofsted with concerns, but they may find it hard to demonstrate that they meet the legal criteria for protection against whistleblower victimisation.

Department for Education

Even though they may not be aware of the requirement, school staff are expected to make their disclosures to the Department for Education.

11 Section 1: Who are the Whistleblowers?

Schools feature very heavily in this data which does not make a distinction between Primary and Secondary schools. Academy or Free Schools - at 24% - are the largest group in the data. They are the most represented types of schools in the cases. This was closely followed by Community Schools at 21%, and Independent Schools at 17%.



Job Role

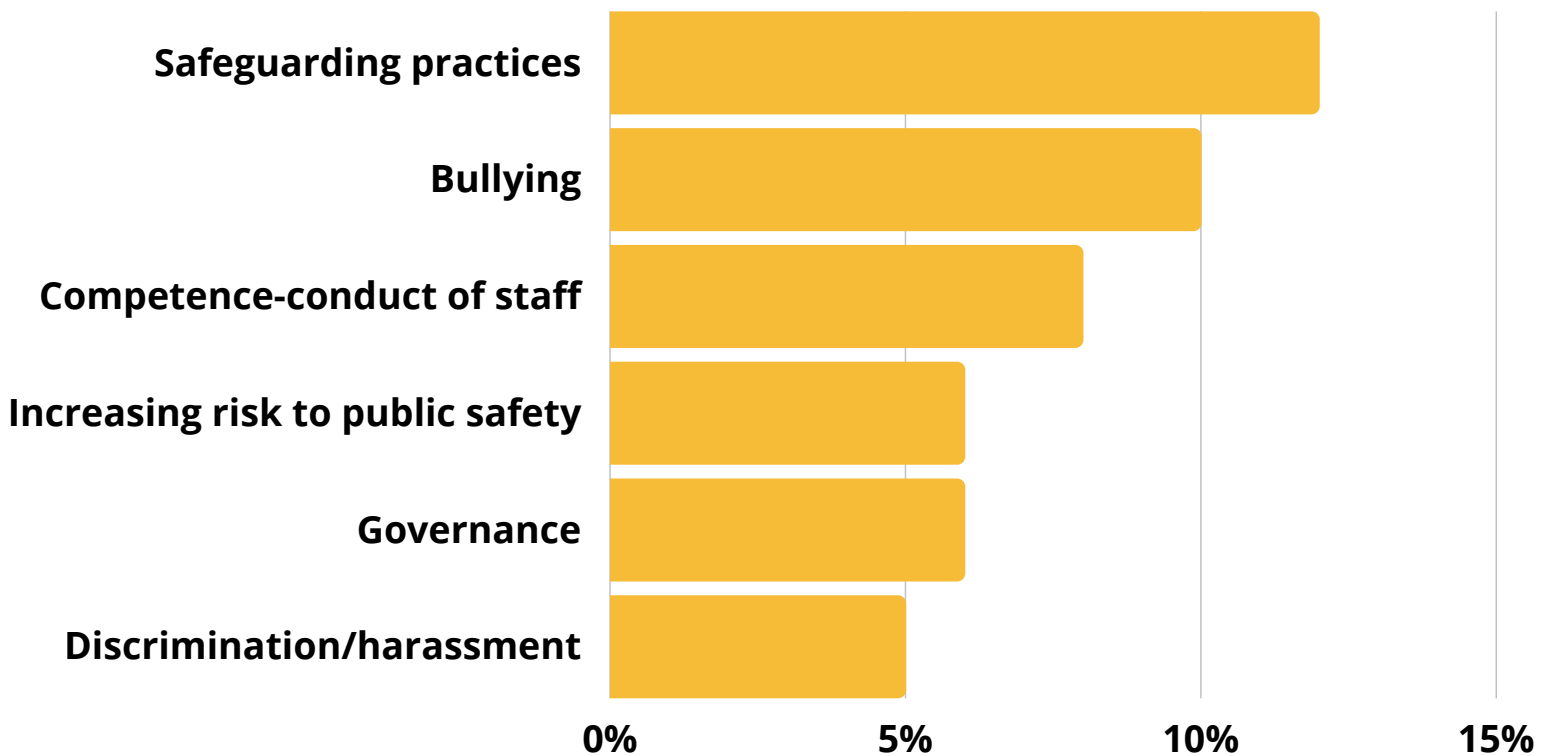
Our data shows that 45% were in a teaching role (either a teacher, Deputy Head or Head Teacher, teaching assistant etc.). 26% described themselves as a teacher, the most common role among our sample group. ¹

Our research suggests that the whistleblowers contacting Protect's Advice Line, are likely – but not exclusively - to be more junior members of staff. Junior staff are less likely to easily resolve the concerns they have if the severity of the issue touches on safeguarding. Junior team members can also, though not always, be vulnerable in terms of potential victimisation.

¹ Full break down of roles includes: Administration assistant (4%), teacher (26%), teaching assistant (11%), Department Head (4%), Head Teacher (5%), Deputy Head Teacher (1%), Manager/senior manager (7%), Governor/trustee (6%) Support staff (e.g. caretakers, cooks etc.) (4%), Health practitioners (e.g. nurses, health etc.) (3%) Others (29%)

12 What are their concerns?

We identified numerous, multi-faceted concerns which span a range of areas. There were too many to display in this report in a viewable way, but the top 5 as shown in the table below make up 46% of the concerns raised by those calling Protect for advice.



This highlights how broad the concerns are that whistleblowers from the education sector come to us with, and how widely whistleblowing is understood more generally.

What is reflective in this data is a trend that has been noted in whistleblowing more generally, that in the light of the #Metoo and Black Live Matters movements, bullying and harassment are seen not just as personal employment issues but as concerns raised via whistleblowing.

13

Section 2: Where were the concerns raised and were they addressed?

Where were the concerns raised?

Who did the whistleblowers approach with their concerns, and did they feel that their concerns were addressed at any point?

In answering these questions, it should be noted that in the data as there is a variety of types of schools represented in the data, there will be a variety of regulatory bodies represented as options for where the whistleblowers can take their concerns.

Before delving into where concerns are raised, it's worth highlighting that 81% of callers seeking advice from Protect have already attempted to raise their concerns. This immediately punctures the myth that whistleblowers don't raise their concerns with their employers. This statistic shows that staff do want to raise concerns where they see something that worries them in their place of work. However, as explored later in this section, there is often a small window of opportunity for these concerns to be acted upon.

Of those callers who have raised their concerns before approaching Protect for advice, 76% raised their concerns internally, and 24% raised issues with regulators, the police, or Prescribed Persons.

Breaking this down further, the largest avenue for concern raising internally was with the whistleblower's senior manager (at 16%). This job role will of course look different in each school setting, but this may include figures like a Head of Department, Director, or Deputy Head.

Chief Executive	4%
Department of Education	5%
Education Funding Agency	1%
Governor/trustee	14%
Head Teacher/Principal	23%
Line manager/supervisor	15%
Local Authority	9%

Grievance	2%
NSPCC	2%
Ofsted	5%
Senior manager	16%
Whistleblowing function	2%
Police	2%

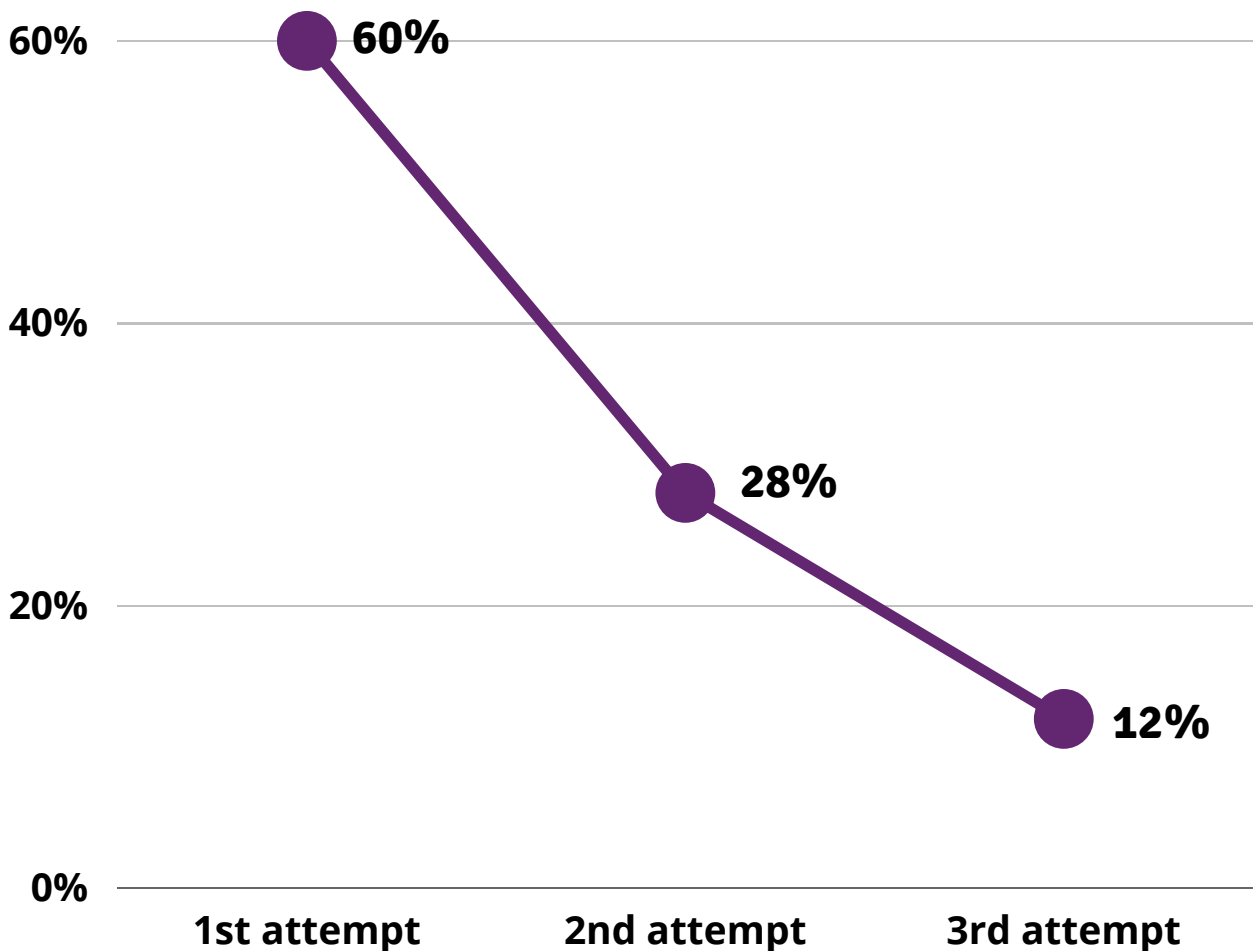
14 Where were the concerns raised?

This is in line with other data we have collected on whistleblowers using our Advice Line more broadly, that in the first instance whistleblowers are likely to raise their concerns internally first.

What's noticeable here is that for external disclosures, some regulators are approached in larger numbers than others e.g., Department for Education (which 5% of whistleblowers raised to) as compared to the Independent Schools Regulator (which none of the whistleblowers in our data raised concerns to). This was an interesting theme drawn up further in the case studies we spoke to, where whistleblowers had varying thoughts on the effectiveness of regulators most relevant for their school type.

15 How many times were concerns raised?

Looking at how many times whistleblowers raised their concerns is important as it will often indicate how persistent they are, and their reaction if they aren't listened to. For this variable, we tracked the first three attempts the whistleblower made in trying to raise their concerns, as this indicates the proportion of whistleblowers who felt their concerns were ignored or not followed up after making the original disclosure.

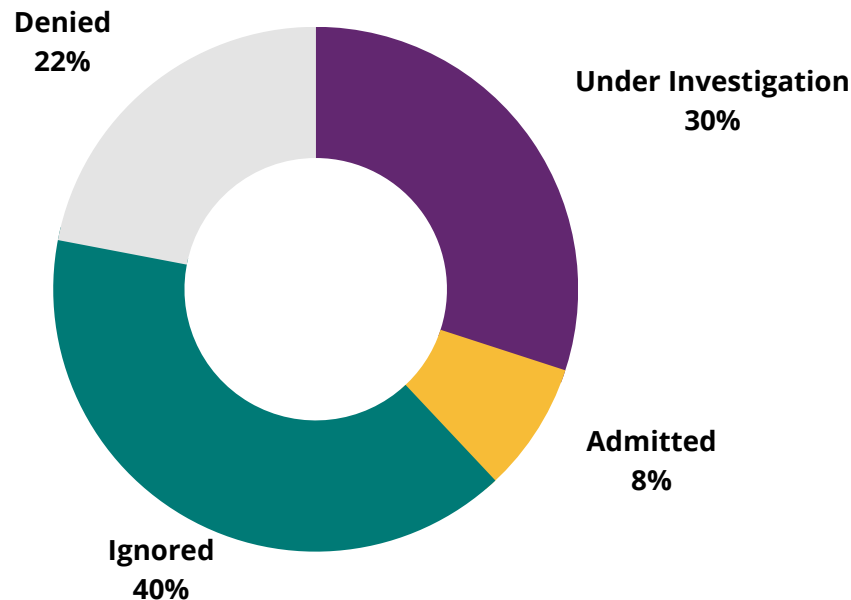


Overall, the data shows whistleblowers aren't persistent, contrary to common misconceptions, and that after the whistleblower raises concerns, there is often a very small window of opportunity for those concerns to be handled (and investigated, if appropriate) before they stop trying.

16

Were the concerns addressed?

This data below reflects the whistleblower's experience of raising concerns before speaking to Protect for advice. As a snapshot, we can see that 40% of education sector whistleblowers told us they believe their concerns were ignored after disclosing them to someone in authority (or the relevant body the whistleblower believes can take action).



This is a particularly disappointing figure as no whistleblower should believe their concerns are ignored after raising them. Failure from employer or regulators to explain their responses to whistleblowers risk undermining the effectiveness of their whistleblowing arrangements, and trust from the sector more widely. In comparison to other sectors, our research into whistleblowing in the financial services sector showed 33% of whistleblowers believed their concerns were ignored.

In many instances, ignoring a whistleblower and their concerns can exacerbate a dangerous situation, especially where concerns relate to child welfare. There can be no guarantee of an investigation, but there should be a presumption that a whistleblowing concern will be examined or triaged, and that feedback should be provided of this outcome.

Given that safeguarding practices were the top concern (with 12% of our callers from the sector asking for advice on this), the need for feedback is also pressing. There will be limitations, the system would be unworkable if every whistleblowing concern had to turn into an investigation, yet there should be a minimum expectation that the concerns will be considered by the organisation. Failure to do this should be an issue for regulators to take action on.

There will be limitations on feedback, due to the confidentiality of those who are disciplined or during a safeguarding investigation. We suggest that employers take a view of providing as much detail as possible to the whistleblower. We further recommend that this is overseen and enforced by the regulatory bodies in the sector.

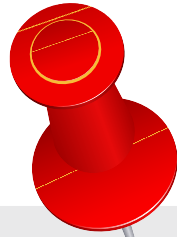
Current whistleblowing legislation says nothing about employers' obligations in responding to and handling whistleblowing concerns. Nor does the Government guidance for schools specify how concerns should be dealt with.

Protect calls for legal standards for all employers in terms of whistleblowing arrangements. This minimum obligation would include timeframes for responses, safe routes for raising concerns if speaking to line management is inappropriate, training for managers on how to respond to concerns, effective investigation procedures, feedback and review. This would drive up standards across all sectors.

Requiring all employers to do this would need Parliament to change the law. In the meantime however, regulators such as Ofsted, the Department of Education and Local Authorities could improve guidance and request much more from organisations in the education sector.

17

Case study- Harry



Harry (not the whistleblower's name) was a junior health practitioner at an independent school. He worked at the school for a couple of years, but after the arrival of a new Head Teacher he became quite concerned about bullying and discrimination towards staff members. Harry wasn't sure how to raise these concerns, given that the wrongdoer was someone named in the whistleblowing policy itself.

After considering his options, Harry decided to email the chair of governors confidentially hoping for some kind of action. In his email, he asked whether they could investigate the matter urgently, as colleagues were leaving in large numbers because of the Head Teacher's treatment towards them. The chair wrote back to him, assuring that the situation would be handled "delicately" but to Harry's dismay, nothing came out of this. He wasn't even given feedback as to whether an investigation into the Head Teacher would be conducted.

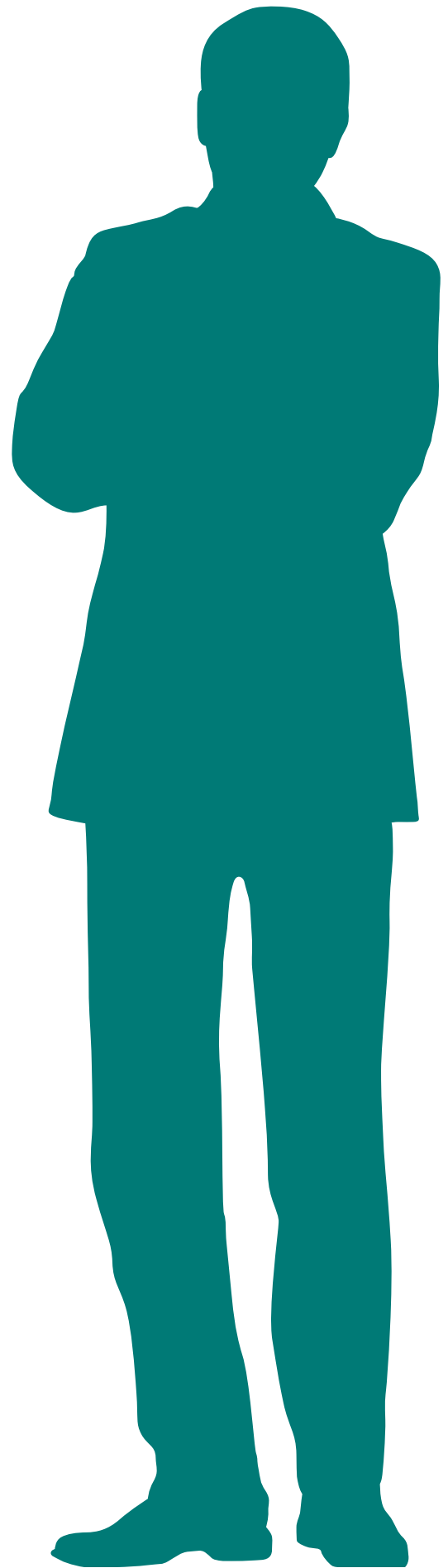
After months of waiting around, Harry escalated the matter to the regulator. He approached the Department for Education, which is the prescribed person for a range of schools in England including independent schools. They ignored his emails and only responded after he made a complaint about them. When they did respond, he found them unhelpful as they gave him no feedback (just like the governors at his school), and suggested he contact the Independent Schools Inspectorate (ISI) about this instead. By the time Harry felt comfortable enough to approach the ISI the Head Teacher had resigned after finding a new job abroad. The Head Teacher left the school triumphant, and with his reputation intact.

Harry's concerns were left ignored by his school and the regulator. He lost motivation to ever raise concerns again, and became disillusioned with the school he'd built his career in.

18 Section 3: Escalating concerns to the regulator

Where a whistleblower feels their employer has either ignored or failed to deal with the concern they have raised, then there will usually be the option to approach a regulator. For whistleblowing to work effectively there needs to be both effective internal arrangements, set by the employer and independent external authorities where concerns can be raised.

This is a big step for a whistleblower to take. We submitted FOI requests to various education regulatory bodies asking the number of concerns they have received in the last two years, and the type of concerns raised.



19 The legal framework for regulatory disclosures

The easiest way for whistleblowers to raise concerns with a regulator is to identify who the relevant prescribed person is under the whistleblowing protection law PIDA.

A prescribed person is an individual or organisation which usually has oversight over organisations, industries or individual workers. Prescribed persons are usually regulators and professional bodies, that Parliament has legislated for whistleblowers to be able to approach with their whistleblowing disclosures.

Being prescribed makes it easier for the whistleblower to get protection should they be fired, forced to resign or face some other form of victimisation for raising whistleblowing concerns. Being prescribed also carries a duty to report annually, with a report on the prescribed person's website in an annual report or a standalone report on:

- The number of disclosures of information (a legal term in PIDA to describe an act of whistleblowing) made by workers, that the prescribed person reasonably believes is a qualifying disclosure, in a 12-month period.
- Out of the total of qualifying disclosures, how many led to the prescribed person acting.
- A summary of how the information disclosed has impacted on the prescribed person's ability to perform its functions and meet its objectives i.e. the impact of the whistleblowers' disclosures.

20 Ofsted

Over this period Ofsted was contacted by 1,543 individuals who were classed as staff working in schools.

Ofsted, the highest profile regulatory body in the education sector, is not prescribed under PIDA for education but instead for 'matters relating to regulation and inspection of children's social care'.

This does not prevent whistleblowers from raising concerns with Ofsted, but it means they are less likely to be legally protected. Ofsted only needs to publish data on the matters for which it is prescribed.

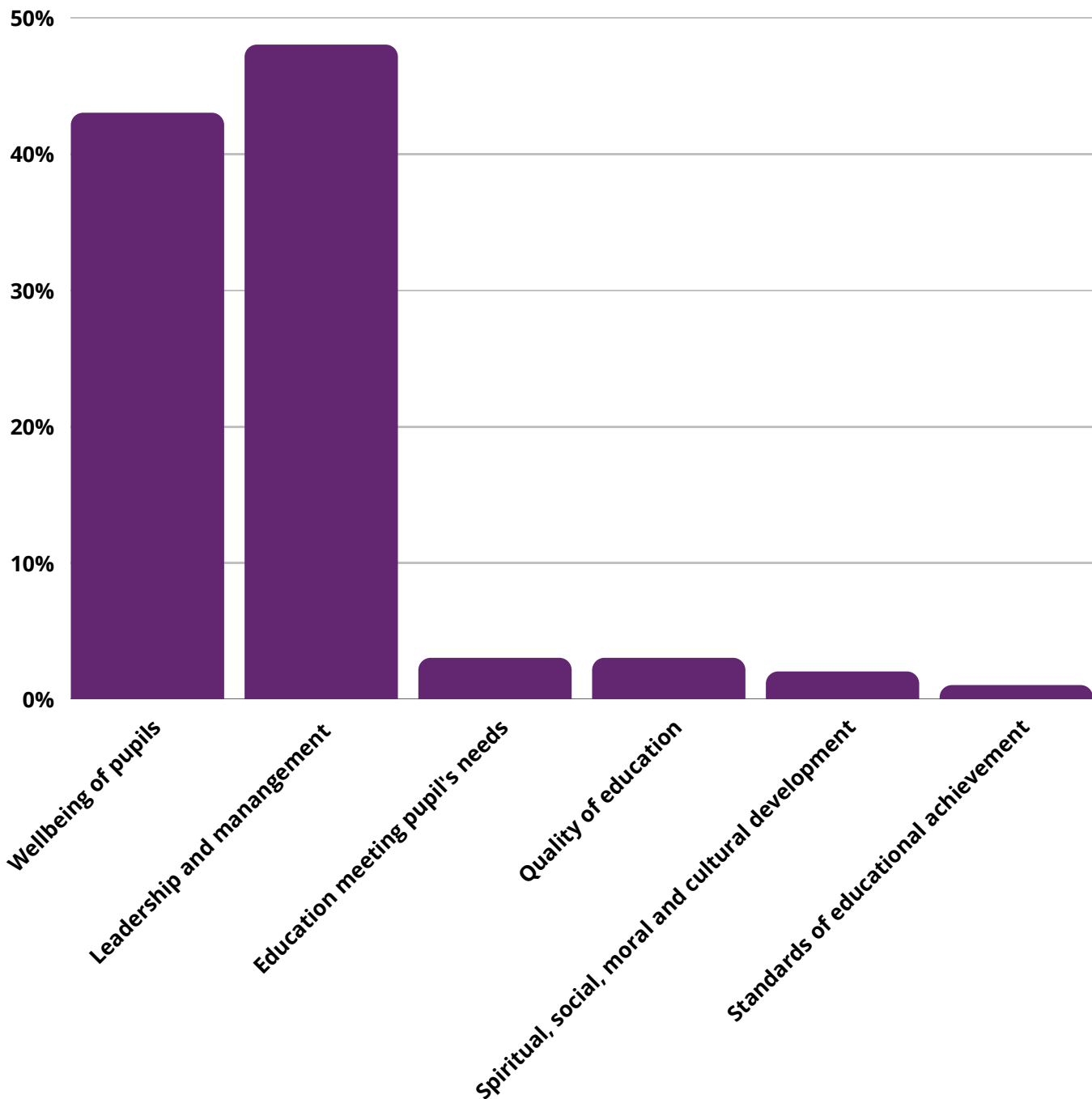
As part of this research, an FOI request was made to Ofsted, asking for the number and types of whistleblowing concerns raised by education whistleblowers between 2020-2022.

In their response Ofsted highlighted that the organisation is not the key regulator for whistleblowing disclosures from workers in schools in England, this role was fulfilled by the Department of Education. We also sent FOI requests to the Department for Education but our request for information was turned down as the information was not centrally recorded and obtaining that data would exceed the statutory cost limit.

Nonetheless over this period Ofsted was contacted by 1,543 individuals who were classed as staff working in schools. Of those, 338 were on evaluation, considered as bringing a 'qualifying complaint' which Ofsted considered was an issue they could investigate under their remit.

21 Ofsted

Ofsted provided a breakdown of the types of concerns they received in this two-year period. The graph below shows a breakdown of types of concerns raised. Well-being of pupils and leadership and management were the top two concerns making up 89% of the concerns raised.



It would be beneficial for Ofsted to be prescribed under PIDA for education, there are concerns that when raised are protected by PIDA (i.e. health and safety issues to breaches of legal obligations) that could be reported by staff to Ofsted. Given the level of concerns that are raised, this would bring an easier path for whistleblowers to gain protection and a reliable stream of annual data that would increase transparency of their performance as a regulator.

22 Local authorities

Local authorities are also not prescribed persons for receiving whistleblowing reports about schools generally. However, local authorities fund and/or oversee some schools, and have general duties to promote child safeguarding under Section 11 of the Children's Act 2004. Accordingly, the local authority is likely to be a relevant place for school staff to raise these concerns which relate to child protection and safeguarding.

Local authorities' auditors and the National Audit Office are prescribed for matters relating to the "proper conduct of public business, value for money, fraud and corruption in relation to the provision of public services", but not for educational or safeguarding concerns.

FOI requests were sent to 205 Local Authorities across England, Wales and Scotland, as well as Northern Ireland's Education Authority, to request information on whistleblowing in education. These requests were made in 2022 and asked for the number and types of concerns received from whistleblowers working in schools.

The purpose of this research was to assess the role of Local Authorities in the whistleblowing scene within education. Of the 205 Local Authorities to which we sent requests, 145 councils responded.

Key findings from the FOI requests to Local Authorities:

Many councils do not see themselves as having a role in dealing with whistleblowing concerns from schools: 66 councils reported zero concerns over the two-year period we requested data for. A common response was for the council to say schools rather than the council were responsible for responding to whistleblowing concerns.

Whistleblowing disclosures to local government are low: where we have data (51 councils) the most common response was for the council to say they received 1-5 concerns over two years. One council reported over 18 concerns over this period.

Financial issues were the concerns most often raised to councils: From the data we've collected financial misconduct/fraud was the most common concern across the councils, this ranged from corruption to abuse of council funds.

23 Other Regulators

Other regulators Ofqual counts as a prescribed person for whistleblowing about exam malpractice or maladministration. It received 134 concerns in the last two years. Qualifications Wales provides a similar role for exam-related concerns in Wales and received two concerns over this period.

Other concerns about fraud or financial irregularities in schools and academies may be raised with the Education and Skills Funding Agency but it is important to note they are not on the list of prescribed persons but rather as an executive agency of the Department for Education. This means whistleblowers have an easier path to protection when raising concerns with them, but as the Department for Education is registered through the Secretary of State for Education Ministers of the Crown are excluded from the duty to report annually on disclosures received.

Independent schools may encourage whistleblowers to raise matters with the Independent Schools Regulator, but none of the whistleblowers in our data set did so, so we cannot draw any conclusions about whether they are effective as a regulator.

Ofsted should be a prescribed person for staff raising whistleblowing concerns within schools.

The current set up – where Ofsted is not prescribed for teachers or support staff to raise concerns other than for very specific educational settings – makes little sense to whistleblowers. Local authorities and academy trusts may be a more appropriate for some concerns, but the current set up is confusing and unnecessarily complex. This is likely to deter rather than encourage education whistleblowers to raise concerns externally if their concerns are not addressed by their schools. It would be simpler if Ofsted could consider all wrongdoing relating to schools. In any event greater clarity about what should be raised with local authorities is needed. Protect would also like to see the Education and Skills Funding Agency prescribed in their own right, making it easier for whistleblowers to approach them with concerns and ensuring that annual data is provided on the number and types of concerns raised with them.

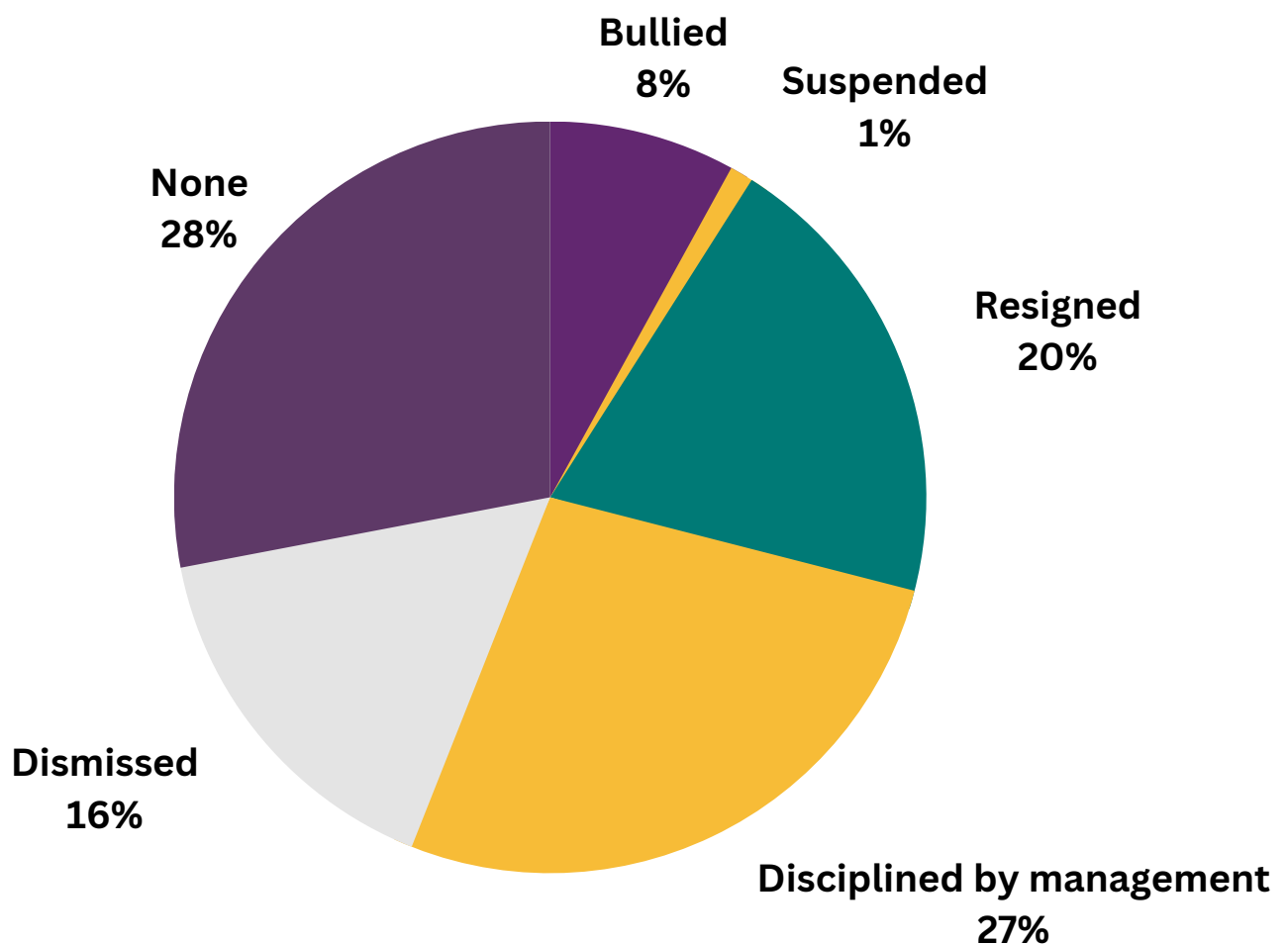
Schools and regulators investigating whistleblowing concerns should be required to acknowledge receipt of concerns if not made anonymously and provide timely feedback.

Too many of our education sector whistleblowers (40%) said that their concerns were ignored. This is likely to have a chilling effect on that whistleblower coming forward again and may deter any colleagues that they speak with.

24 Section 4: Victimisation rates

Victimisation is broad-term which generally, refers to treating whistleblowers badly because they have raised concerns. Whilst there is no formal or exhaustive list of what is covered by victimisation, some examples include:

bullying by colleagues, disciplinary action, imposed changes to their employment contract, and even post-employment detriment e.g. a bad reference.



The data shows us that 72% of education sector whistleblowers report suffering victimisation after raising their concerns. This is taken from data on those who reported being dismissed, bullied by colleagues, disciplined by management in retaliation for raising concerns and those who felt they were made to resign because they felt unable to continue working given the difficulties encountered following blowing the whistle.

25 Challenging victimisation under law

Generally speaking, those whistleblowers like Jodie in the case study below can try to challenge their victimisation under whistleblowing law: they can bring a whistleblowing detriment claim in the Employment Tribunal. If Jodie in this scenario had stayed in the school, and was later dismissed, she could have also sought advice on bringing a whistleblowing unfair dismissal claim.

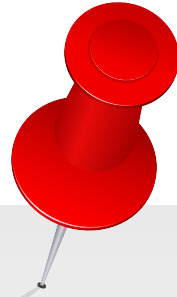
However, crucially there is a large group of people excluded from the legal protection offered under whistleblowing law. In the education sector, this group includes governors, trustees, and any volunteers in the school setting with no workplace rights. To put this in context, this would mean 6% of our education sector callers have no protection under whistleblowing law to challenge their victimisation before a tribunal, despite also speaking up about the same kinds of concerns that those with protection have come across.

A further group is trade union representatives, who can play a key role both in being a source where concerns can be raised, and an effective mechanism for staff to raise group actions. Though trade union representatives have legal protection for union activities, they are not considered a worker while raising or assisting with the raising of whistleblowing concerns in PIDA. The law should be changed to allow this protection.

- **All schools should identify a whistleblowing champion and train managers to handle concerns.** It is clear from our data that school staff will go first to their line managers with concerns – which is a positive finding. However, that means that line managers need to be able to recognize whistleblowing and respond appropriately. The research suggests that 60% of whistleblowers speaking to Protect may go silent if they do not have the right response first time. School governors were also often recipients of whistleblowing concerns but had not always had appropriate training.



26 Case study- Jodie



Jodie (not the whistleblowers real name) became concerned about two issues in her school as a Deputy Head Teacher: misappropriation of local authority funding, and safeguarding practices not being followed. She raised her concerns internally to the governing board, following the school's whistleblowing policy. After no action was taken, she approached the local authority and eventually a regulator in the education sector.

However, by this point she had already been subjected to the start of a long-standing victimisation campaign. Jodie was called disloyal in a staff meeting in front of everyone by the staff member involved in the wrongdoing. Jodie felt singled out and embarrassed about this comment, which also signalled to the other teachers that it was acceptable to victimise her without consequence. The wrongdoer then made a fabricated counter-allegation against Jodie for bullying and Jodie felt harassed and intimidated by the prospect of this ruining her reputation as a Deputy Head Teacher. The allegation was so serious she was suspended pending an investigation.

Jodie eventually felt safest leaving the school and its negative working environment and so she waited for the outcome of the investigation and resigned after allegations against her were found to be untrue.

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Section 5: Summary of Our Recommendations

This report outlines the lived experience of whistleblowers who have approached Protect for advice from the education sector, the challenges that too many whistleblowers face when raising their concerns internally, and the confusing fractured picture when whistleblowers attempt to approach our regulatory bodies that oversee our schools. Staff are the eyes and ears of any organisation, and whistleblowing is a key part of ensuring schools are a safe environment for children to learn and develop. To identify and deter wrongdoing, a better whistleblowing system is needed, and this requires reform.

A summary of our recommendations include:

Regulatory changes

- Ofsted should be a prescribed person for staff raising whistleblowing concerns within schools.
- The Education and Skills Funding Agency should be a prescribed person, making it easier for whistleblowers to approach them with concerns and ensuring that data on the number and types of concerns raised with them is provided annually.
- Local authorities should have a dedicated whistleblowing channel.
- Ofsted should inspect schools' whistleblowing arrangements and ensure that schools are preventing whistleblower victimisation.
- There should be a regulatory requirement on schools to consider or triage whistleblowing concerns, too many are ignored, and this should be a matter for the regulator where this has not happened.

Changes for schools

- All schools should identify a whistleblowing champion and train managers to be good recipients of concerns.
- Schools and regulators investigating whistleblowing concerns should be required to acknowledge receipt of concerns if not made anonymously and provide timely feedback.
- All schools and academy trusts should advertise their whistleblowing arrangements on their websites and identify clear routes for escalating concerns.

Legal changes

- The legal protection for whistleblowers (PIDA) – which makes it unlawful to treat a whistleblower badly or dismiss an employee for raising concerns – should be extended to all who work in schools this should include governors and others who volunteer in schools.