

Whistleblowing Awareness Week 2023: The Data

20 – 24th March 2023

WB

UK WhistleblowersUK



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Key Points

1

The UK whistleblowing framework is fundamentally unfit for purpose

The Public Interest Disclosure Act failed from the outset because it condemns whistleblowing to a simple employment dispute resolved in the Employment Tribunal. The law was conceived solely as a vehicle to address and compensate whistleblowers for detriment attributable to making their protected disclosures. The framework omitted a means by which disclosures can be investigated and acted upon. The absence of proof of wrongdoing frequently becomes a courtroom battle. In theory whistleblowers in court should be able to rely on their reasonable belief but this is usually swept aside.

2

Whistleblowing in the UK is "traumatic" for whistleblowers

Across all sectors and industries, what has been clear in the responses provided by whistleblowers is that organisations continue to demonstrate animosity towards them despite an increase in the number of companies with whistleblowing policies. As well as disincentivising others from speaking out, whistleblowers continue to report high levels of ongoing trauma preventing them from moving on and they become trapped in a cycle of abuse manifesting in numerous ways. The Office for the Whistleblower will protect against retaliation and the causes of retaliation providing a safety net for all citizens.

3

Sunlight is the best disinfectant

The Office of the Whistleblower would give the UK a body with the statutory powers to investigate concerns properly, either by the Office itself or through existing regulators; shifting the focus away from the whistleblower and out of the Employment Tribunal. It would level the playing field and create a buffer between a whistleblower and an organisation with any disputes being fought between equals. The UK would regain its reputation as a standard setter for the protection of both whistleblowers and the public.

4

Whistleblowers remain an under utilised asset for organisations

Whistleblowers have the potential to be a great asset to an organisation if there is an internal willingness to use them. Resolving problems is at the core of whistleblowing and if issues can be resolved internally the benefits are positive for all concerned including stakeholders and shareholders. The Office of the Whistleblower will help organisations to adopt and build positive attitudes changing the culture across the UK in all sectors and industries.

Executive Summary

Whistleblowing Awareness Week 2023 was the UK's first annual event recognising and celebrating whistleblowers in Westminster. The purpose of the event was to transform the way that we all think about whistleblowing and whistleblowers, to address misconceptions and stigma and highlight the benefits of whistleblowing to society.

Over 600 people expressed an interest in the events that spanned the week. Over 250 attended in person in Westminster and over 100 more attended the Future of Whistleblowing Conference hosted by Grant Thornton at their London Offices. The speakers represented both the public and private sectors and engaged in lively and informative discussions about the impact of existing policy and legislation and why they support, and in some cases demand change. On Tuesday 21st March the Government was presented with a petition signed by whistleblowers, NGO's, business leaders, academics, lawyers and Parliamentarians reinforcing the mood of the public.

To capture more in depth information about the whistleblowers who attended the events in Westminster we ran an online survey and asked for feedback about their experience as whistleblowers. We also asked for feedback on the changes proposed as set out by Iain Mitchell KC, chair of the WhistleblowersUK Legal Panel on behalf of the APPG for Whistleblowing.

We received 103 fully completed surveys, all of which supported the repeal of PIDA and introduction of an Office of the Whistleblower. This result is hardly surprising when we see the poor outcomes for whistleblowers under the Public Interest Disclosure Act described as barbaric by at least one of the respondents.

The results mirrored previous surveys and while the sample is small the data is significant when considered in the round and follows ongoing patterns. It is no surprise that on average less than 50% of respondents were able to return to their chosen professions and that reports of bullying and harassment are increasing.

This event and the Government review of the UK's whistleblowing framework is a demonstration of the cultural change that is happening around the world. I would like to take the opportunity to thank the Parliamentarians who made WBAW possible and the speakers, sponsors and audience

We will be running a sequel event over two days later this year to coincide with the Government Whistleblowing Framework review in November 2023. If you would like to be involved we are encouraging expressions of interest now.

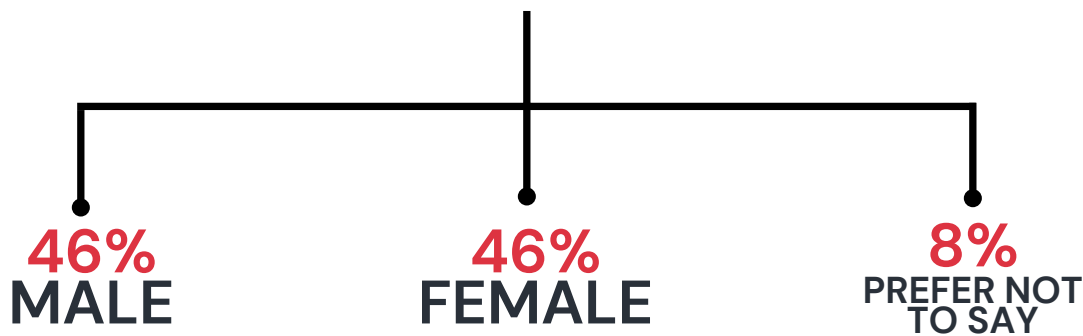


Georgina Halford-Hall
CEO of WhistleblowersUK

Survey Participants Profile

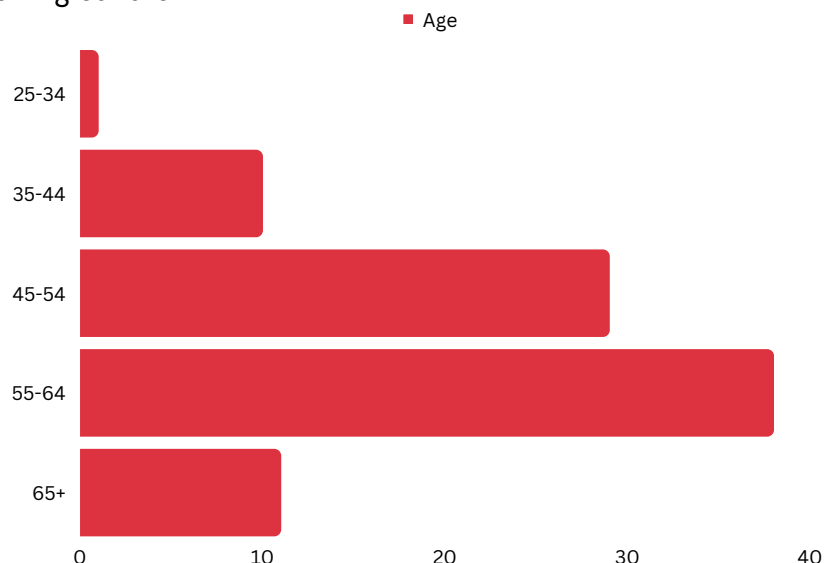


 **103**
INDIVIDUALS

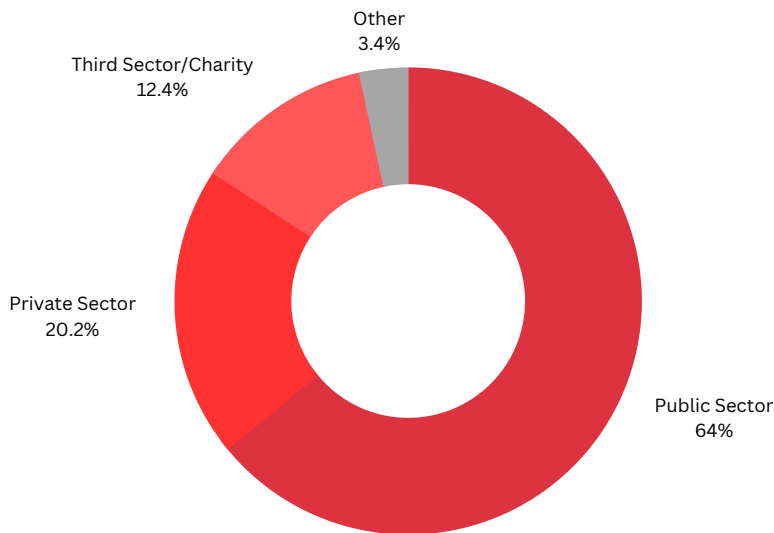


Over a hundred people completed our survey leading up to and during Whistleblowing Awareness Week 2023. Despite a self-selecting sample, our sample was representative of men (N=41) and women (N=41) within the wider population. Predictably the majority of respondents were from the UK (N=67). By age, our sample over-represented the older working population due to bias in the group within which the survey was conducted, which primarily consisted of senior organisational leadership which in turn meant older participants. Additionally, WhistleblowersUK casework data indicates reports primarily come from managerial positions and above, following a trend of middle management typically being the point of first contact.

What this initial sample data tends to indicate is that there is no single archetypal whistleblower because anyone is just one conversation away from becoming a whistleblower. For organisations, this indicates how critical it is to ensure your whole workforce is trained on reporting platforms and embraces a pro-reporting culture.



Sector Reports



Breaking our sample down by sector, the majority of participants came from the public sector, and specifically healthcare. Given the NHS is the largest employer in the UK, and that research indicates heightened awareness of whistleblowing within the UK healthcare sector, it is unsurprising we received a large number of reports from medical professionals.

More broadly, the significant number of public sector whistleblowers and the patterns indicated in WhistleblowersUK casework show there is a need for better whistleblowing systems and culture within the UK public sector. Such systems allow concerns raised to be dealt with internally, before they become catastrophic.

Within the private sector, again, we see the largest reporting volume stemming from fields where employees are more aware of reporting mechanisms. This awareness stems from the increased compliance pressures within these sectors, and the awareness of business leaders of the cost of non-compliance. While this does lead to better training amongst workforce participants it does not lead to better outcomes, as this report will cover later.

Similar to the data on participant's characteristics, sector reporting shows that while there is weighted reporting to sectors with increased reporting awareness, whistleblowing is present in every sector. Data from other researchers, including Navex, make it clear that reporting is also present in companies of all sizes. The failure to listen to reports within smaller organisations can often be more significant due to the reduced resilience to financial shocks and reputational damage. What this should indicate to organisations is that regardless of size or sector it is critical to listen when people raise concerns, otherwise the organisation faces the cost of non-compliance.

TOP SIX SECTORS



HEALTH
N=41



FINANCE
N=10



UNIFORM
N=8



GOVERNMENT
N=7



TECHNOLOGY
N=7



EDUCATION
N=6

Sector Outcomes

DO WHISTLE BLOWERS RETURN TO WORK?



Charity Sector
Yes - 61%



Private Sector
No - 55%



Public Sector
No - 60%

As an organisation with a track record of supporting whistleblowers, we know that the best outcome for a whistleblower is for them to return to work. Ideally they would not feel forced to leave their role but this is often not the case. Nevertheless, returning to work within the same sector can significantly aid recovering post-disclosure.

Charity sector whistleblowers are the only group that reported in excess of 50% return to the sector, broadly in line with our wider experience.

Within both the private and public sector the likelihood of returning to your original job or profession is less than 50%. Additional detail provided by some respondents indicated that for both sectors that even those returning to work returned at lower levels than prior to whistleblowing. Anecdotally, a common concern received from whistleblowers is that job offers that they receive in their chosen sector, post whistleblowing, are frequently withdrawn with little or inadequate explanation.

What the evidence demonstrates is an underlying anti-whistleblower sentiment within organisations, which thrives because PIDA is not a deterrent for non compliance. This is evident in now notorious cases including misconduct in police forces, NDA's to suppress sexual harassment, fraud of every type, avoidable deaths in the NHS and misconduct at all levels of government including 'partygate'.

Low reporting levels are an indication of low confidence in whistleblowing frameworks and poor culture, rather than from a lack of concerns amongst the workforce.

DO WHISTLE BLOWERS RETURN TO WORK?



EDUCATION
Yes - 66%



FINANCE
Yes - 55%



HEALTH
Yes - 51%



TECHNOLOGY
No - 50%



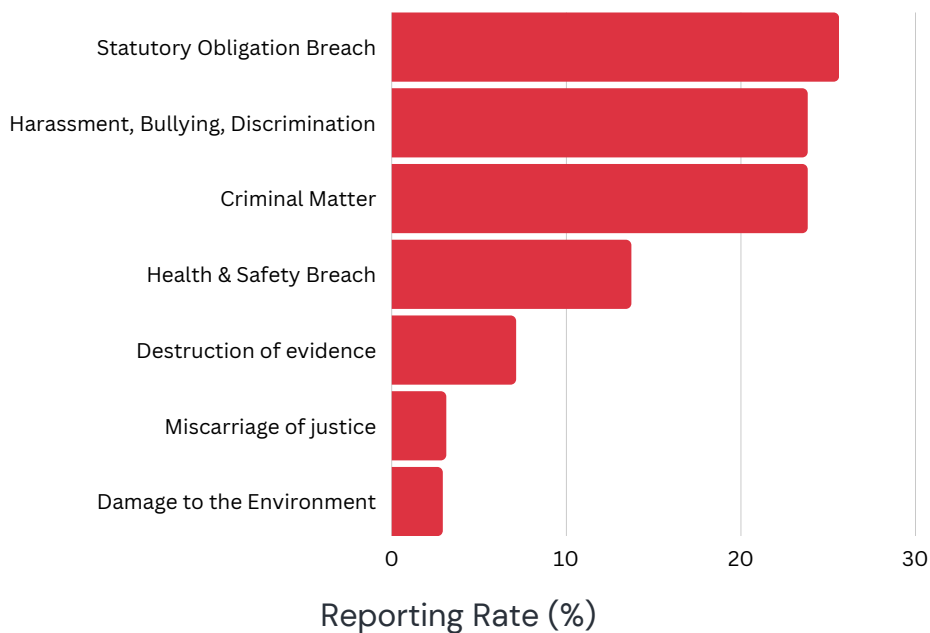
GOVERNMENT
No - 63%



UNIFORM
No - 71%

Reported Issues

Issues Reported by Whistleblowers



Whistleblowing is one of the widest cross cutting issues which organisations of every sector face. This fact is mirrored by the survey and the contents of the reports made to WhistleblowersUK and the APPG. The reporting categories are based on the reporting lines covered in the Public Interest Disclosure Act (PIDA).

The survey results show that the breach of a statutory obligation led as the highest reported issue within the workplace. Given the spread of the data received we conclude that this is linked to the higher levels of whistleblowing

awareness in sectors such as finance and healthcare where statutory obligations are commonplace and made explicitly clear to staff at all levels. This in turn means more people that can be aware of a breach and know how and where to report it.

Allegations of Harassment, Bullying, and Discrimination played a significant role in the reports received. A trend mirrored in Navex's Hotline Benchmark 2023, and other commercial providers of whistleblowing products. These results suggest that a return to physical workspaces has created an upturn in concerns about workplace behaviour and the poor management of interpersonal relationships which continue to present a range of issues for organisations.

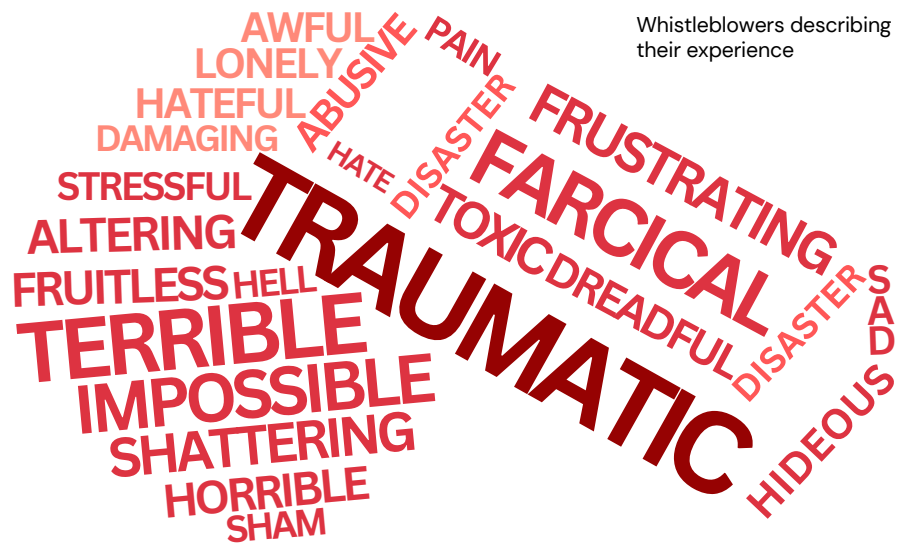
The reporting of concerns that are perceived to be Criminal matters remains consistently high. This might be explained by clarity about the issues or the ease of identification of the evidence supported by a clear route for enforcement and punishment. In the majority of cases it is not unreasonable to expect an individual to be able to identify evidence of criminal activity, even complex financial crime or the exploitation of children or the vulnerable. Whether a single or multiple crimes are being committed, most people are able to identify a clear route for the Police to investigate, escalate and for appropriate sanctions and punishments to be administered thereby making whistleblowing more common in these clear cut situations. Despite the obvious delineation in the powers to investigate and enforce the law under PIDA whistleblowers continue to report resistance from law enforcement to engage because they too believe that the Employment Tribunals have some form of jurisdiction.

The most common areas of concern within an organisation largely depend on the function of the organisation. Organisations need to be cognizant of areas of vulnerability and the importance of empowering whistleblowers to speak out.

Whistleblower Outcomes



While it can be difficult to build reliable conclusions from the qualitative data received in this short survey it is still possible to see a clear trend in how whistleblowers feel about their experiences. What is evident is that at a core level the experience of whistleblowers is one of abuse or fear of abuse. Based on this data and the patterns arising from our casework we can demonstrate a typical pattern of how a whistleblower's experience unfolds and how a sense of animosity and mistrust towards PIDA and the wider process has developed.



One of the most common phrases we hear as an organisation is "I thought I was just doing my job, or I was just doing the right thing". It is eminently clear that the vast majority of people seek to obey the rules in life and in their jobs. Calling out or speaking up against wrongdoing when they see it is a normal and rational activity, many stating that they believe it is their duty to do so, even if they are not directly involved in a management, governance or compliance role. Therefore, when a whistleblower is confronted with retaliation and abuse for what they perceive to be doing the right thing, the cognitive dissonance that is generated can be extremely challenging for the individual and other witnesses to their experience.

Evidence demonstrates that organisations persist in their unhealthy and unjust focus on the whistleblower and their motive, and not the underlying issues exposed or raised by the whistleblowing. Whistleblowers frustratedly continue to share examples of cases where whistleblowing reports are not investigated, instead organisations choose to investigate the whistleblower in order to delegitimise their judgement and therefore their disclosure. Of more concern is that this is reflected in the legal framework in the UK, where the court is forced to determine causation – why the whistleblower was fired, rather than their actual concern. The experience of being a whistleblower in a courtroom and not being allowed to properly discuss the disclosure which has brought them there can often be very damaging for the whistleblower.

The primary goal of the APPG proposals for a new Whistleblowing Bill is to prevent crime, fraud and harm to the public and whistleblowers and in doing so realign the UK's framework to focus on the topic of the disclosure. By creating legislation that concentrates energy on investigations into concern was raised. This way statutory bodies can address and (hopefully) resolve the concerns brought to light by the whistleblower, while also using these experiences to enforce organisational governance and the implementation of more effective internal controls that facilitate and encourage effective and confidential disclosures internally.

Thank you to everyone who supported Whistleblowing Awareness Week 2023

Acknowledgements

Joseph Styles – Primary Report Author and
Researcher at WhistleblowersUK

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The members of the APPG for Whistleblowing

Our supporters

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WhistleblowersUK is a not for profit organisation we do not receive any funding from the public purse. We rely on the generosity of our supporters to provide help and support to whistleblowers and in our role as secretariat to the APPG for Whistleblowing. To donate please go to www.wbuk.org