



# IS THE UK READY TO ACCEPT THAT WHISTLEBLOWING REWARD PROGRAMMES WORK?

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# Is the UK ready to accept that whistleblowing reward programmes work?

Georgina Halford-Hall - 16 Aug 2024

*British reticence is stopping us from fully embracing proper restitution for whistleblowers*

As yet another whistleblower reward programme pops up in the US from the Justice Department, the UK looks ever more out-of-touch on how it tackles financial crime.

Our stateside friends have a well-established whistleblowing rewards culture, but it is a little-known fact that significant incentives for whistleblowing also exist in Britain.

For almost two decades, HM Revenue & Customs has offered discretionary incentives of up to £100,000 to encourage people to blow the whistle on tax fraud. Since last year, the Competition and Markets Authority has dangled the carrot of £250,000 to those who flag up uncompetitive activities.

But there is a fundamental problem with these schemes.

They are nigh on impossible to find! It is difficult to access them and, even if you do, all of the risk is carried on the shoulders of the whistleblower.

UK schemes are subjective and, unlike similar programmes in the US, offer no meaningful protection

against retaliation. Instead, they rely on flimsy protections only applicable to 'workers' set out in the Public Interest Disclosure Act 1998.

## My Whistleblowing Mission

I have spent the past ten years fighting for protections – and restitution – for whistleblowers in the UK, as well as helping successfully defend countless cases at tribunal.

Working with members of parliament, I am seeking to establish an Office of the Whistleblower in the UK to investigate such claims, sanction those who abuse whistleblowers, and educate every citizen on their rights and responsibilities.

Despite my criticism of existing programmes, I would argue that the UK is ready to accept that they can work – but crucially not in the current format.

Why should those who put their head above the parapet bear all the risks: litigation, costs, redundancy, health, the impact on personal relationships and personal security?

No incentive measures will ever be risk-free of course, but our US neighbours and others succeed

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because the ‘rewards’ – some 10-30 per cent of the money recovered by the regulators and courts – recognise and cushion the potentially far-reaching consequences.

### Show us the money

These widely reported eye-watering sums, including an award of over \$200mn to a Deutsche Bank whistleblower, provide a safety net against backlash and blacklisting. While far from perfect, these programmes simply take some of the risk out of whistleblowing.

The US Internal Revenue Service has recovered almost \$7bn from tax evasion. This comes as a direct result of whistleblowers who have received almost \$1bn in rewards since the programme started in 2006.

In 2023 the IRS recovered \$338mn, some 26 per cent of its total recovery arising from whistleblower tips.

In the same year, the US government recovered \$2.68bn under the False Claims Act. Notably, \$2.2bn came from tips resulting in rewards to whistleblowers in excess of \$349mn, using the whistleblower laws.

This and other reward schemes have improved the recovery of tax fraud and other fraud year-on-year, and have driven the development of new schemes like the US Justice Department’s cash-for-tips programme.

### Ministers also have an incentive to pull their finger out

The UK government says it is staring down the barrel of a £22bn fiscal black hole.

Establishing an incentive programme to claw back the proceeds of financial crime from guilty companies is surely a better solution than mooted tax hikes and cuts in public services. For the politically minded, it’s a vote winner.

To those who cling to the rhetoric that it’s “not British” to incentivise whistleblowers, the evidence from WBUK’s report on international reward programmes including those in Canada is overwhelming: it’s time for Britain to ‘get with the programme.

US government agencies are already mining British whistleblowers for valuable information; they send lawyers and regulators on Europe-wide roadshows to promote and recruit whistleblowers to their programmes.

UK citizens consistently make up the largest number of whistleblowers in Europe bringing claims in the US. The British authorities are missing out on money.

An Office of the Whistleblower would reverse this trend and allow the proceeds to flow back into the

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Treasury and demonstrate a vote of confidence in whistleblowing as a regulatory control. For those who say we can't afford another regulator, I say we cannot afford not to.

And it's a low – even no-cost – option. The US Commodities and Futures Trading Commission's [whistleblower reward programme](#), conceived in 2010, is financed entirely through penalties paid to the CFTC by the very companies it investigates – thanks to tips from whistleblowers.

Whistleblower [reporting platforms](#) are frequently touted as a solution but they are merely a tool. They encourage reporting but what happens to the information? Platforms and helplines are only as effective as the person who is on the other end. The appalling outcomes for whistleblowers recorded in the Employment Tribunals pay testament to this.

### **The UK needs to get off its high horse**

The US Justice Department's [cash-for-tips programme](#) is a huge wakeup call to the UK.

It is an opportunity to address the misconceptions about incentivising whistleblowers and tackle the UK's reluctance to adopt similar proposals.

To understand why, we have to unpick our culture and the elitism

that underpin our weak laws, namely the Employment Rights Act and PIDA.

None of this is helped by the attitude of regulators including the FCA who are slow to respond, tight lipped and leave whistleblowers high and dry in the employment tribunal.

Whistleblowing is not defined in law. The act puts whistleblowers on a pedestal – as a hero who selflessly does something to protect others but expects nothing in return.

In my experience it may start this way, but this quickly changes when the grim reality of legal bills and fighting for compensation after losing your job dawns.

These out-dated cultural and political head in the sand attitudes need a reboot. Let's band together and affect change with well-crafted reward programmes and an Office of the Whistleblower.

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