Department for Business Innovation & Skills

THE WHISTLEBLOWING FRAMEWORK

CALL FOR EVIDENCE

JULY 2013

Contents

Foreword by the Minister for Employment Relations and Consumer Affairs

In the 1990s there were a number of fatal disasters such as the Piper Alpha explosion and unprecedented financial scandals such as Barings Bank, which shaped the future of regulation and whistleblowing.

Moved by these events, politicians from across the political spectrum looked for ways to help prevent such disasters from happening again.

Consequently, in 1998 the then Government introduced legal protection for workers who wanted to raise concerns about wrongdoing in the workplace. It was hoped that this protection would remove the fear of reprisal if individuals raised the alarm about serious matters which were in the public interest, and in turn more people would come forward with their concerns.

Since the Public Interest Disclosure Act was inserted into the Employment Rights Act 15 years ago, whistleblowing has played an important role in raising issues and holding organisations to account.

However, the recent report into the Mid Staffordshire NHS Foundation Trust exposed unacceptable levels of patient care and a staff culture that deterred whistleblowers from raising concerns. This is just one case where the law has not played the role we hoped it would; there are other examples.

Recently, the Government has taken action through the Enterprise and Regulatory Reform Act 2013 to strengthen the whistleblowing protections by ensuring that people only blow the whistle on matters of public interest, ensuring claims are not too easily dismissed as not having been made in good faith, and enabling a route for redress should a person suffer detriment at the hands of a co-worker.

We now want to explore further whether there are any other aspects of the law governing whistleblowing which may not be protecting whistleblowers or encouraging them to come forward about wrongdoing.

So we are calling for evidence to help us look more closely at the existing protections and consider if further changes are required in light of that evidence.

Whistleblowing is an issue about which many people have views and concerns, but Government is clear that legislative change is only one way of encouraging culture change within the workplace so that people can feel confident enough to air concerns without fear of reprisal.

We invite submissions from across the sectors, from employers, workers, representative bodies, regulators and other interested parties and we encourage feedback on both the legislative framework and suggestions on non-statutory measures which may be effective.

I look forward to hearing your views and experience.

Jo Swinson MP

Purpose of the call for evidence

This document sets out in brief the current legal framework for the protection of whistleblowers and asks you to consider a number of questions about how this currently operates, providing evidence to support your response. For some of the questions it will be relevant to provide evidence based on your personal experience of the whistleblowing framework. However, where possible, we are seeking submissions of evidence backed by relevant data and analysis. Questions where we are seeking analytical input and data are likely to be of most relevance to business and employee representative groups and the academic community.

Through this call for evidence the Government is seeking to establish a strong evidence base to help us better understand the operation of the whistleblowing framework in today's employment environment, which will allow us to consider if further changes are needed.

Recent changes have been made to this framework through the Enterprise and Regulatory Reform Act 2013 (ERRA) and these are explained in more detail in Annex A. This call for evidence does not request evidence on these changes since it is too early to evaluate their impact.

Disclosure of information you provide

Information provided in response to this call for evidence, including personal information, may be subject to publication or release to other parties or to disclosure in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004). If you want information, including personal data that you provide, to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence.

In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

Background

The UK has had a comprehensive whistleblowing protection framework in place since 1998 and is one of the only countries in Europe to do so[1]. As a result the UK is viewed by a number of experts as having advanced legislation in this field, as far as Europe is concerned'.[2]

The whistleblowing protections were introduced in response to a number of major disasters and scandals in the 1980s and 1990s, where many lives were lost or significant financial harm was caused. These incidents include the Piper Alpha explosion and financial scandals such as Barings Bank and the Robert Maxwell fraud. After investigation into these events, it became clear that staff had been aware of the physical or financial risks but had been afraid to raise concerns, had raised concerns and been ignored or raised them in the wrong way.

The Public Interest Disclosure Act 1998 (PIDA) inserted Part IVA into the Employment Rights Act 1996 (ERA) to provide protection for workers who 'blow the whistle' by reporting wrongdoing. The whistleblowing protections provide workers with a remedy should they suffer any detriment or be dismissed as a result of blowing the whistle.

When introduced, the protections not only received cross-party support across the Houses of Parliament, but also received support from the Institute of Directors, the Confederation for British Industry, the Committee on Standards in Public Life as well as the Trades Union Congress.

[1] Other countries to operate comprehensive legislative frameworks include Hungary and Slovenia, while a number of others have implemented legislation which addresses whistleblowing in certain sectors and industries only.

[2] Council of Europe, Parliamentary Assembly, 'The protection of 'whistleblowers', Report, Committee on Legal Affairs and Human Rights, Rapporteur: Pieter Omtzigt, The Netherlands (July 2009), available at http://fairwhistleblower.ca/files/fair/docs/ti/Council_of_Europe_Draft_WB_Resolution.pdf (Pg 11)

Current position

The Government believes that the overall framework works well. However, the majority of this legislation has not been reviewed since its introduction in 1998, and this has led us to question the effectiveness of the framework against the backdrop of a change in ways of working and a shifting dynamic in the labour market.

Before the ERRA was introduced as a Bill and while it was making progress though Parliament, debate continued both within Government and with interested parties, around the effectiveness of whistleblowing protections. Certain areas of the legislation were highlighted as needing improvement or reform. As a result, four changes were introduced:

1. A **public interest test** was introduced, requiring individuals bringing a claim at the Employment Tribunal to show a reasonable belief that their disclosure was made in the public interest.

2. An amendment was made to the **good faith test**, so that if a worker lacks good faith when making the disclosure it will affect remedy rather than liability. If a disclosure is established to have not been made in good faith the claim will not fail as it would have done previously, but the Employment Tribunal will be able to reduce any compensatory award in respect of that claim by 25%.

3. An amendment was made so that an individual who has suffered a detriment from a co-worker as a result of blowing the whistle may bring a claim against that individual and the employer may be **vicariously liable** for the actions of the co-worker.

4. The **definition of "worker"** in section 43K of the ERA was amended to include certain new contractual arrangements within the NHS so that individuals working under such contracts are covered by the whistleblowing protections. Alongside this, a power was introduced to enable the Secretary of State to make any further changes to the definition of "worker" by secondary legislation.

These changes are explained in more detail at Annex A.

A call for evidence

In addition to these changes, already implemented through the ERRA, the Government has committed to looking into the whistleblowing legislation in more detail to understand if there is a case for making further changes to the framework. The intention of this work is to look for specific areas within the existing framework, which may need amending, following changes that have occurred in the labour market since the introduction of the protections.

We do not intend to look at the changes which were recently introduced through the ERRA, as we recognise it is too soon after implementation, to effectively evaluate the impact.

The introduction of the public interest test through the ERRA was to address a situation which had developed, where the scope of the protections had widened as a result of a legal ruling[3] (discussed further at Annex A) and Public Interest Disclosure (PID) claims at Employment Tribunals were being included in claims to access unlimited compensation awards. This is one example where the protections were not working as intended and it is therefore not unreasonable to conclude that there may be others.

Any areas identified for change should not be viewed as the only way to improve the framework. Legislative change is part of a bigger picture which ultimately requires culture change across industry so that people can feel supported and confident enough to air concerns without fear of reprisal.

[3] *Parkins v Sodexho Ltd* [2002] IRLR 109 EAT –

1. Categories of disclosure which qualify for protection

The legislation was introduced to encourage individuals to make disclosures where they have seen wrongdoing taking place, giving them confidence by knowing that they would be protected from suffering a detriment if they did so. At this time, a number of categories were included which were considered to capture all of the potential wrongdoing for disclosure purposes. It is important that these are still operating in the intended way and that no gaps have evolved. As such the Government would like to understand if these categories are still effective in capturing all instances of wrongdoing which may be in the public interest.

Current categories:

The worker making the protected disclosure reasonably believed that the disclosure is made in the public interest and tends to show one or more of the following:

- That a criminal offence had been, is being or is likely to be committed,
- That a person has failed, is failing or is likely to fail to comply with any legal obligation to which he is subject,
- That a miscarriage of justice has occurred, is occurring or is likely to occur,
- That the health and safety of any individual has been, is being or is likely to be endangered,
- The environment has been, is being or is likely to be damaged, or
- That information tending to show any matter falling within any of the preceding categories has been, or is likely to be deliberately concealed.[4]

Question 1	**Are these categories sufficient to capture all potential instances of wrongdoing that may require public disclosure? Yes or No**
Question 2	**If no, what additional categories should there be? Please provide any relevant evidence to support this.**

[4] See section 43B(1) of the ERA.

2. Methods of disclosure

Depending on whom disclosures are made to, certain conditions must be met in order for a whistleblower to qualify for protection under the legislation.

Internal disclosures

A qualifying disclosure made internally to an employer or other reasonable person is protected. This low threshold is intended to encourage disclosures to be made internally, with the view that employers will address the issue to which the disclosure relates.

External disclosures

With the exception of disclosures made to legal advisers, when a disclosure is made externally there are additional conditions which need to be satisfied before a disclosure can be protected.

- If the disclosure is made to a Minister of the Crown, the worker's employer must be appointed under an enactment (or similar).
- If the disclosure is made to a prescribed person (such as a regulator), the worker must reasonably believe that the failure is one which is relevant to that prescribed person and that the disclosure is substantially true.
- Other disclosures can be protected if the worker reasonably believes that the disclosure is substantially true, the disclosure is not made for personal gain, it is reasonable to make the disclosure, and one of the additional conditions set out in section 43G(2) of the ERA is met.
- Other disclosures can be protected if the worker reasonably believes that the disclosure is substantially true, the disclosure is of an exceptionally serious nature, and it is reasonable to make the disclosure.

The Government believes that the conditions attached to the various types of disclosure, outlined above, work well, encouraging disclosures internally in the first instance with increasing conditions to be met where disclosures are made externally. However, this call for evidence is investigating if this is indeed the case.

Question 3	**Do these methods of disclosure affect whether a whistleblower might expose wrongdoing? Yes or No**
Question 4	**If yes, how (or why)?**
Question 5	**Do these conditions deter whistleblowers from exposing wrongdoing? Yes or No**

Question 6	**If yes, how (or why)?**
Question 7	**Do these conditions encourage whistleblowers to expose wrongdoing? Yes or No**
Question 8	**If yes, how (or why)?**
Question 9	**How clear and understandable are the conditions that need to be met to ensure that the disclosure is protected?**
Question 10	**If you have answered yes to questions 3, 5 and 7 please provide any evidence you have to support your response.**
Question 11	**What changes, if any, do you think are needed to the qualification conditions?**

3. Prescribed persons (I)

Disclosures to a prescribed person are protected only if the prescribed person/body is legally recognised for the subject matter of the disclosure made. For example, a disclosure about an environmental issue would not be protected if it was made to a prescribed body which dealt solely with the conduct of financial institutions regardless of the body being recognised on the prescribed person/body list.

The prescribed body list is currently set out in an Order and only amendable via statutory instrument. The Government considers that the system is too rigid to effectively keep this information up to date as relevant prescribed persons/bodies can frequently change.[5]

Question 12	**Should this system be amended, to one where the prescribed person/body list can be updated by the Secretary of State without the need for a statutory instrument? Yes or No**
Question 13	**Do you foresee any problems with a system where the prescribed/person body list can be updated by the Secretary of State? Yes or No**
Question 14	**If yes, please explain why.**
Question 15	**Are there any other ways to accurately reflect prescribed persons/bodies? (For example, a general description with general characteristics which a prescribed person/body can be recognised by)**

As already discussed, the current system requires prescribed persons/bodies to be legally recognised. Given the requirement to keep this list up to date while this call for evidence is taking place, changes will still be made to the list as needed to ensure disclosures can be made to the relevant prescribed person/body. Changes are expected to be made by the Department for Transport, in relation to the Civil Aviation Authority and by the Department of Health in respect of the professional regulatory bodies for health and social care workers.

[5] Where the responsibilities of a body named on the order are taken over by another organisation, that organisation will become the responsible body.

4. Prescribed persons (II)

Government has received feedback that there should be a greater role for prescribed persons in protecting whistleblowers and investigating whistleblowing cases. The Government strongly respects the independence of the prescribed persons/bodies and how they oversee whistleblowing, however we would like to investigate if there are further measures which could be taken, to help them with the information they receive in relation to disclosures and also if any obligations need to be out in place in respect of that information. Currently a referral to prescribed persons/bodies as part of the ET claims process only takes place in limited circumstances. This can only happen where the relevant permission has been given by the claimant to pass the information on, and where it is clear which prescribed persons/bodies is the correct one for this information to be passed to.

Government consider that a mandatory referral system operating at ET, could go some way to providing prescribed persons/bodies with key information in their oversight of various industries and any underlying issues of wrongdoing.

Question 16	**Should the referral of whistleblowing claims to prescribed persons/bodies be made mandatory?** **Yes or No**
Question 17	**If yes, please provide any evidence you have to demonstrate that this could support the regulators' role.**
Question 18	**What should the prescribed person/body do with the information once received?**
Question 19	**Should prescribed persons/bodies be under a reasonable obligation to investigate all disclosures they receive? Yes or No**

5. Definition of worker

During the passage of the ERRA, Government allowed for certain NHS contractual arrangements to fall within the scope of the whistleblowing protections.

This was achieved by amending the definition of worker at Section 43K of the ERA. Further to this a power was inserted into section 43K of the ERA to enable the Secretary of State easily to address any similar required changes in the future.

However, there are still some groups, for example, student nurses, who are currently not afforded the protections of PIDA. This call for evidence is investigating any groups that are excluded from the whistleblowing protections.

Question 20	**Does the current definition of worker exclude any group that may have need of the protections afforded to whistleblowers? Yes or No**
Question 21	**If yes, what groups are these?**
Question 22	**Please provide any evidence to demonstrate these groups require protection.**

6. Job applicants

Anecdotally, we have been told that individuals who have blown the whistle while with one employer and have subsequently left, have had difficulty securing further employment with a new employer as a result of being a known whistleblower. This has been referred to as a form of 'blacklisting' of whistleblowers.

Question 23	**What impact does whistleblowing have on the individual's future employment, e.g. if there are issues around 'blacklisting' or other treatment?**
Question 24	**Please provide any relevant evidence to confirm whether these practices are taking place.**

7. Financial incentives

Investigations into the financial collapse in 2008 and previous financial scandals already mentioned (Barings and Maxwell scandals) have examined the role whistleblowing could play in preventing these happening in the future.

Historically, the United States of America has offered incentives to encourage whistleblowing in the financial sector. The False Claims Act (FCA) 1863, which prohibits fraud on the Government, allows individuals to bring claims on behalf of the Government. Successful claimants are eligible for a percentage of the amount recovered. More recently, the Dodd-Frank Act 2010 offers similar rewards for reporting securities violations.

The success of these incentives programmes is unclear. The number of successful claims made under the FCA has not been measured over the life of the Act. The thousands of actions brought under the FCA have netted billions in the last few decades, but evidence is mixed on whether the financial incentive motivated the claim. The significance of the upward trend in tip-offs for violations of the Dodd-Frank Act is unclear given it was only implemented in August 2011.

We also know that in Europe, a few countries offer incentives for whistleblowing in certain sectors. In Hungary, for example, anti-trust law qualifies whistleblowers for up to 1% of the fine collected from the employer capped at around 160,000 Euros. In other countries, such as Romania, proposals to implement incentives programmes have failed. Research thus far has not found any data on the success of financial incentives programmes in European countries.[6]

The recent 'Changing banking for good[7]' report by the Parliamentary Commission on Banking Standards contained a number of recommendations for the Banking sector in relation to whistleblowing. While it has not recommended the introduction of financial incentives, it has called on the Financial Conduct Authority to undertake research into the impact of financial incentives in the US in encouraging whistleblowing, exposing wrongdoing and promoting integrity and transparency in financial markets.

The Government would welcome further research from the FCA into this area as the current evidence base is not robust enough for consideration to be given to the introduction of financial incentives.

---

[6] See, e.g., Transparency International, 'Alternative to Silence: Whistleblowing Protection in 10 European Countries' (November 2009) (P 20 "In general, there is little data available about whistleblowing, even in countries with related legislation and mechanisms in place") and Fleischer, Holger and Schmolke, Klaus Ulrich, Financial Incentives for Whistleblowers in European Capital Markets Law? Legal Policy Considerations on the Reform of the Market Abuse Regime (August 5, 2012). ECGI - Law Working Paper No. 189/2012, *available* at http://ssrn.com/abstract=2124678 or http://dx.doi.org/10.2139/ssrn.2124678 (P 14, "[W]e have yet to see empirical results that provide a reliable conclusion on the success or undesired side-effects of whistleblower programs in capital markets law, with the research that has been done thus far being limited to the United States.").

[7] http://www.parliament.uk/business/committees/committees-a-z/joint-select/professional-standards-in-the-banking-industry/news/changing-banking-for-good-report/

Question 25	**Would a system of financial incentives be appropriate in the UK whistleblowing framework? Yes or No**
Question 26	**If yes, what evidence (if any) can you provide to suggest that financial incentives would have a positive or negative impact on exposing wrong doing?**
Question 27	**If no, what evidence (if any) can you provide to suggest that financial incentives would have a positive or negative impact on exposing wrong doing?**
Question 28	**Where are financial incentives used as an effective measure to prevent wrongdoing / illegal activity? For example, in certain industries.**

8. Non-statutory measures

The Government is also considering what non-statutory steps it could take in order to encourage culture change within business, to remove the stigma of whistleblowing and also help individuals understand the protection and how they may apply.

One option we are considering is the introduction of a code of practice for employers to guide them on best practice principles for whistleblowing policies within their organisations.

Question 29	**How would the introduction of non-statutory measures make a difference?**
Question 30	**What types of non-statutory measures could Government consider to support the statutory framework?**

9. Further evidence

Question 31	**Please provide any further evidence in support of any issues you feel should be reflected through this call for evidence but have not been captured in the main document.**
Question 32	**Please provide any case studies of situations where a whistleblower has had a positive outcome with their employer after blowing the whistle.**

Annex A: Changes made during the passing of the ERRA

The Public Interest Test

The Public Interest Disclosure Act 1998 amended the ERA and was introduced to protect individuals who spoke out about potential disasters/problems in the workplace, which would be of public interest, following a number of major incidents where lives were lost.

The case of *Parkins v Sodexho*[8], which ruled that breaches of legal obligations included employment contracts, widened the scope of the legislation and created a loophole, enabling workers to blow the whistle in respect of breaches to their own personal work contracts irrespective of whether the breach related to or concerned a matter of public interest. This is not the way the legislation was intended to operate and has put into question the effectiveness and credibility of the legislation.

Government was led to understand anecdotally that this legal decision had affected the use of Public Interest Disclosure (PID) claims at Employment Tribunals. Individuals were including PID in their claims to access unlimited compensation awards as these awards are uncapped unlike unfair dismissal, with employers choosing to settle these claims rather than risk being liable for an unlimited damages award in the event the Employment Tribunal found in favour of the claimant for breach of a private contract matter.

So as not to have the protections undermined as a whole, Government addressed this issue by amending the definition of all qualifying disclosures, inserting a public interest test, to be satisfied at Employment Tribunal, requiring individuals to show a reasonable belief that their disclosure was made in the public interest.

This change will return the legislation back to its original operating scope, with the protection only applying to matters of genuine public interest

[8] *Parkins v Sodexho Ltd* [2002] IRLR 109 EAT

Good Faith

When introducing the public interest test, Government was asked to consider the impact of this test alongside the existing good faith test. Concerns were raised that the introduction of the public interest test would create a dual test for individuals to satisfy, as disclosures already have to be made in good faith.

Calls were made for the removal of the requirement for disclosures to be made in good faith. In considering the situation, Government listened to the concerns raised and also to the judiciary and opted to address the balance of the two tests rather than remove the requirement for good faith completely.

The good faith test was amended so that it is relevant to remedy rather than liability, removing the possibility that an individual's claim could fail in the event the Employment Tribunal found the disclosure was not made predominantly in good faith. Instead, the Employment Tribunal now has the power to reduce a compensation award by up to 25% if it considers the disclosure was made predominantly in bad faith. This was seen to be a suitable compromise, which retained good faith, but didn't mean that there were two tests which need to be satisfied (which could have acted as a deterrent).

Vicarious Liability

Employers have always been under a duty of care to afford their workers a level of protection in terms of their health, safety and general working environment.

The ERRA has introduced specific protection from suffering a detriment by a co-worker for making a protected disclosure. This was done in light of both case law[9], which indicated the existing protections may not be sufficient, and evidence which came through the Public Inquiry into the Mid Staffordshire NHS Foundation Trust, leading Government to conclude that the law in this area should be strengthened.

As a result of this change, workers who suffer a detriment by a co-worker for making a protected disclosure can bring claims at the Employment Tribunal against both their co-worker and employer, in respect of that detriment.

Government understands that choosing to blow the whistle can be a difficult decision to make and takes the protection of whistleblowers seriously. This change should encourage individuals to take responsibility for their actions in respect of another's decision to blow the whistle.

[9] *NHS Manchester v Fecitt & Ors* [2011] EWCA Civ 1190.

The report of the inquiry into the Mid Staffordshire NHS Foundation Trust highlighted a number of failings, however, in respect of whistleblowing, of major concern was the reluctance of potential whistleblowers to make disclosures, for fear of being bullied or harassed by co-workers in respect of that disclosure.

Those who choose to bully and harass individuals in respect of their whistleblowing, should be held accountable for their actions and the addition of this protection will allow an effected individual to seek redress. Employers have been given a defence to this liability. If an employer can show that all reasonable steps have been taken to protect a worker from the actions of the co-worker, the employer will not be liable for the actions of the co-worker and liability will be against the co-worker alone.

Government expects the existence of this protection to have a threefold effect.

1) Reassure those who may have been dissuaded from making a disclosure in the past for fear of no protection from potential reprisals of co-workers, that, in the event they do suffer a detriment, they have an effective route of redress.

2) Provide an incentive to employers to introduce/strengthen existing internal processes to protect whistleblowers, to encourage more whistleblowing internally.

3) Encourage all workers to behave appropriately towards each other, by supporting those make disclosures rather than vilifying them.

Definition of Worker

During the passage of the ERR Bill, Government included certain NHS contractual arrangements, to fall within the scope of the whistleblowing protections.

Provisions inserted on 1 April 2004 into the NHS Act 1977 redefined the contractual arrangements for certain NHS workers, including GPs, in such a way that individuals working under the new contractual arrangements are unable to fulfil the definition of “worker” provided in section 43K of the Employment Rights Act.

Two changes were made to this area. The first was to amend the definition of worker at section 43k, to include various contractual arrangements used in the provision of medical and dental services in the NHS. The second change was to insert a power to enable the Secretary of State to make any further changes to section 43K, by secondary legislation. This was considered a sensible approach to ensure that any future changes in this area, can be achieved without the need for primary legislation. This will ensure coverage is kept up-to-date and reflects current working arrangements.

Annex B: Full List of Questions

Section 1	Categories of disclosure which qualify for protection
Question 1	Are these categories sufficient to capture all potential instances of wrongdoing that may require public disclosure? Yes or No
Question 2	If no, what additional categories should there be? Please provide any relevant evidence to support this.
Section 2	**Methods of disclosure**
Question 3	Do these methods of disclosure affect whether a whistleblower might expose wrongdoing? Yes or No
Question 4	If yes, how (or why)?
Question 5	Do these conditions deter whistleblowers from exposing wrongdoing? Yes or No
Question 6	If yes, how (or why)?
Question 7	Do these conditions encourage whistleblowers to expose wrongdoing? Yes or No
Question 8	If yes, how (or why)?
Question 9	How clear and understandable are the conditions that need to be met to ensure that the disclosure is protected?
Question 10	If you have answered yes to questions 3, 5 and 7 please provide any evidence you have to support your response.
Question 11	What changes, if any, do you think are needed to the qualification conditions?

Section 3	Prescribed persons (I)
Question 12	Should this system be amended, to one where the prescribed person/body list can be updated by the Secretary of State without the need for a statutory instrument? Yes or No
Question 13	Do you foresee any problems with a system where the prescribed/person body list can be updated by the Secretary of State? Yes or No
Question 14	If yes, please explain why.
Question 15	Are there any other ways to accurately reflect prescribed persons/bodies? (For example, a general description with general characteristics which a prescribed person/body can be recognised by)
Section 4	**Prescribed persons (II)**
Question 16	Should the referral of whistleblowing claims to prescribed persons/bodies be made mandatory? Yes or No
Question 17	If yes, please provide any evidence you have to demonstrate that this could support the regulators' role.
Question 18	What should the prescribed person/body do with the information once received?
Question 19	Should prescribed persons/bodies be under a reasonable obligation to investigate all disclosures they receive? Yes or No
Section 5	**Definition of worker**
Question 20	Does the current definition of worker exclude any group that may have need of the protections afforded to whistleblowers? Yes or No
Question 21	If yes, what groups are these?
Question 22	Please provide any evidence to demonstrate these groups require protection.

Section 6	Job applicants
Question 23	What impact does whistleblowing have on the individual's future employment, e.g. if there are issues around 'blacklisting' or other treatment?
Question 24	Please provide any relevant evidence to confirm whether these practices are taking place.
Section 7	**Financial incentives**
Question 25	Would a system of financial incentives be appropriate in the UK whistleblowing framework? Yes or No
Question 26	If yes, what evidence (if any) can you provide to suggest that financial incentives would have a positive or negative impact on exposing wrong doing?
Question 27	If no, what evidence (if any) can you provide to suggest that financial incentives would have a positive or negative impact on exposing wrong doing?
Question 28	Where are financial incentives used as an effective measure to prevent wrongdoing / illegal activity? For example, in certain industries.
Section 8	**Non-statutory measures**
Question 29	How would the introduction of non-statutory measures make a difference?
Question 30	What types of non-statutory measures could Government consider to support the statutory framework?
Section 9	**Further evidence**
Question 31	Please provide any further evidence in support of any issues you feel should be reflected through this call for evidence but have not been captured in the main document.
Question 32	Please provide any case studies of situations where a whistleblower has had a positive outcome with their employer after blowing the whistle.

How to respond

Call for Evidence: The whistleblowing framework.

You can respond by email or post, by completing the response form to the Department for Business Innovation and Skill (BIS).

Email: whistleblowingcallforevidence@bis.gsi.gov.uk

You can also complete your response online through Survey Monkey:

https://www.surveymonkey.com/s/BP8DCBM

Postal Address:

Shelley Torey

3rd Floor Abbey 2

Department for Business Innovation and Skills

1 Victoria Street

London SW1H 0ET

This call for evidence will close on 1 November 2013.

The Department may, in accordance with the Code of Practice on Access to Government Information, make available, on public request, individual responses.

This publication available from www.gov.uk/bis

Any enquiries regarding this publication should be sent to:

Department for Business, Innovation and Skills
1 Victoria Street
London SW1H 0ET
Tel: 020 7215 5000

If you require this publication in an alternative format, email enquiries@bis.gsi.gov.uk, or call 020 7215 5000.

BIS/13/953