

## **Whistleblowing – systematic literature review**

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There is substantial evidence that making an internal disclosure about an area of concern or wrongdoing leads to retaliation against the individual making the disclosure and that physical violence against whistleblowers is on the rise; now 22% of whistleblowers report physical and violent retaliation up from 12% four years ago (Verschoor 2012) and this is also evidence expanding area of litigation from experiences of retaliation. (Greenwald 2012). Earlier research indicated that the likelihood of retaliation is higher for favoured employees as there appears to be a psychological sense of treachery about exposing a group they belong to in this way. (Parmelee et al 1982).

This would tend to suggest that those who are more likely to know what is going on so are well positioned to report are actually at greater risk if they take this action, than are those who are less well placed (Bernstein et al 2010). Consistent with this, whistle-blowers are more likely to be highly educated, show good job performance and hold higher-level positions. (Miceli & Near 1988; Abhijeet et al 2010)

There is substantial research evidence of workplace bullying after whistleblowing, with whistleblowing directly leading to bullying, with all the consequent mental health issues that result from this treatment (Bjerkelo 2013).

Psychologically, because whistleblowing by definition requires a level of 'betrayal' of group membership, which is a breach of the trust of activating the inherent 'in group – out group response in humans, it is in effect psychological suicide and so unsurprising that the backlash associated with it

The 'health and safety of any individual' must explicitly refer to psychological health and safety as outlined by the HSE and their work on managerial standards including both "wellbeing and protection from abuse" so that it is perceived as a proactive requirement on workers and organisations. Some of this requirement is being operationalized in the current development of NICE standards on 'Workplace Policies and Management Practice to Improve the Health of Staff.'

Grynderup et al (2013) present robust research results, from a 2 year longitudinal study across a sample of 378 work groups covering over 4000 people, that indicate a work environment characterised by low levels of justice is a serious risk factor for depression. This indicates the critical need to make this issue of psychological health explicit, as fair treatment (or the lack of it) at work is a key predictor of future mental health issues. The current estimate is that Mental Health issues are costing the UK economy £105 billion pa. (Faculty of Public Health 2010 & HM Government 2011).

There is also evidence in Business Ethics Quarterly (2004) that the type of wrongdoing has implications for the likelihood it will be reported. This is linked specifically to whether or the observer considers that anything can be done about the problem. Complex processes around reporting and qualifying for protection are likely to reinforce a view that it is too difficult to get things changed so speaking up is pointless. More recent research (Robinson 2012) extends this work to indicate that how widely known the problem is and how negative the wrongdoing is, also impact intent to report.

A case study of likelihood to report problems, from research on a major IT programme indicated that the 'cost-to-benefit' assessments individuals made was a substantial moderator of intent to speak up about serious concerns (Keil et al 2010; Waples and Culbertson (2011).

As an interesting adjunct to this, research on individual difference and likelihood to whistleblow suggests that whistleblowing is more likely from those who show high dominance and low agreeableness – indicating that this cost-to-benefit trade off varies, based on individual differences. (Bjerkelo et al 2010).

Research exploring whether an internal process or an external hotline in a large employer encourages better disclosure, indicated that an external hotline was much more effective in encouraging people to speak (Jian et al 2013) and much of the rationale, given for this evidence in the contexts it was tested, is about the avoidance of negative impact on the reporter based on experience that organisations punish the messenger. Further, there is evidence of increased whistleblowing behaviour when a potential reporter has been given reason to trust the anonymity of the reporting mechanism (Lowry et al 2013)

In contrast for a professional group, an internal mechanism is preferred but that whistle-blowing is more likely to take place against those who score low on likeability and on performance, so is impacted by internal in-group processes. (Robertson 2011)

the obligations on those choosing to report wrongdoing to follow a particular protocol, particularly about needing to make disclosures internally first to build the case for the disclosure being made in good faith and to gain the protection from PIDA means that, inadvertently, the conditions placed on people to gain protection mean that they will be putting themselves in the way of psychological harm and retaliation, evidenced in research on choices about who to inform (Hopman & van Leeuwen 2009).

Of note is the research on bystander impact shows that the **actual presence** of a bystander is needed to encourage pro-social acts in a situation where a negative impact on the person undertaking pro-social behaviour is likely. (Fischer & Grietmeyer 2013). This suggests that conditions would need to provide this more active engagement to impact likelihood to expose wrongdoing. However, if there are a lot of bystanders ignoring the situation then there is likelihood of 'pluralistic ignorance' (Gardiner and Chater 2013)

where each individual assumes that the others know better, so lack of action must be appropriate.

These conditions only provide protection through the tribunal system. This places considerable risk on the shoulders of any individual considering raising a concern in a particular way, with the only protection being that they can take legal action if they are retaliated against (and indeed can prove that the intent is retaliatory). Given the evidence in Q4 and the further evidence of unfairness causing depression, these conditions themselves are contributing to a compromise on individual psychological health and safety, either because people take the risk, or because people choose not to take the risk and position themselves as bystanders, which can be equally as damaging to mental health as taking action

There is a growing interest in the use of restorative justice and evidence of its effectiveness Goodstein J & Butterfield KD (2010). This encourages inquiry to operate explicitly from a position of 'benefit of the doubt' (Hicks 2011) both for the person bringing the claim and any one covered by the claim using the principles of restorative justice and inquiry based approach to such problems. This would support an individual using an external hotline is automatically protected and suggest the need for an audience for these reports that has inquiry powers but not legal sanction powers.

Research evidence suggests that organisations with a whistle-blowing allegation against them have a negative market/operating impact with follow issues with legal claims and reduced profitability/effectiveness. However, there is also a positive impact on corporate governance (Bowen et al 2010; Dasgupta & Kesharwani 2010). If we are concerned with the viability and health of our employing organisations we need to work very carefully with this full range of consequences from allegations and reconsider the mechanisms that we have to enable the benefits, while mitigating some of the potential damage from the allegations. Again, a restorative justice approach holds potential benefits as a codified approach for intervention.

Research into outcomes on individuals from whistle-blowing indicates that in 75% of cases investigated the employer moved to dismiss the whistle-blowing employee. Katz et al (2012) . This clearly points to an immediate negative impact on an individual's future employment situation.

RoSPA (2013) reports on the use of blacklisting against Trade Union members that have made H&S claims in the construction industry, drawing on evidence that blacklisting happens for speaking up and makes proposals for intervention.

Dunkley (2010) reports on evidence that 'serial litigants' who have made more than one claim about discrimination are being blacklisted, when their claims are completely legitimate and they are being punished for their preparedness to speak up rather than for the fact that the claims are spurious.

The purpose of these regulations we understand is to create a context where people can report concerns without the fear of retaliation inhibiting giving these important disclosures. The majority of situations where the protection of whistle-blowers is a concern are hierarchical environments that inherently have power differentials in place that have a profound impact on the choices individuals make.

Research indicates that whistle-blowing is more likely by people in organisations perceived by others to be responsive to complaints (Miceli & Near 1988) suggesting that organisation culture is a significant factor in encouraging the positive use of employee voice, and that the literature about organisational culture would be a useful addition to this general debate, and there have been attempts to indicate the possibility of using different types of whistleblowing policies based on different types of organisational culture to enable positive outcomes. (Loyens 2013). Much relevant evidence about this factor, from a psychological perspective, has been included in the BPS response to the NICE consultation mentioned in the response to Q1.

Any non-statutory approach will need to focus on identifying possible interventions for systems of this nature to encourage individuals to move away from a 'bystander position' to one where a person will speak up safely.

Abbate et al (2013) The Effect of Prosocial Priming in the Presence of Bystanders. *Journal Of Social Psychology* Vol. 153 Issue 5, p619-622

Abhijeet et al (2010) Making Sense of Whistleblowing: Learning from research on Identity and Ethics Programmes Uni Illinois

Bernstein et al (2010) Being 'in' with the In crowd. *Social Psychology Bulletin* 36:399

Bjerkelo B (2013) Workplace bullying after whistleblowing: future research and implications. *Journal of Managerial Psychology* Vol 28 Issue 3 306-323

Bjerkelo et al (2010) Predicting proactive behaviour at work: Exploring the role of personality as an antecedent of whistleblowing behaviour. *Journal of Occupational and Organisational Psychology* Vol. 83 Issue 2, p371-394

Brink et al (2013) The Effect of Evidence Strength and Internal Rewards on Intentions to Report Fraud in the Dodd-Frank Regulatory Environment. Vol. 23 Issue 3, p87-104

Bowen et al (2010) Whistle-Blowing: Target Firm Characteristics and Economic Consequences. *Accounting review* Vol. 85 Issue 4, p1239-1271

Dasgupta & Kesharwani (2010) Whistleblowing: A Survey of Literature. *IUP Journal of Corporate Governance* Vol. 9 Issue 4, p57-70

Dunkley (2010) UK: Blacklisting and Dealing With Serial Litigants. *Venulex*

Legal Summaries Special section p16-16

Fehr, R. & Gelfand M (2012) The forgiving organization: A multilevel model of forgiveness at work. *Academy of Management Review*; Oct2012, **37(4)**, 664-688

Fischer & Grietmeyer (2013) The Positive Bystander Effect: Passive Bystanders Increase Helping in Situations With High Expected Negative Consequences for the Helper. *Journal of Social Psychology* Vol. 153 Issue 1, p1-5

Garcia et al (2009) Dual effects of implicit bystanders: Inhibiting vs. facilitating helping behavior. *Journal of Consumer Psychology* Vol. 19 Issue 2, p215-224

Gerstein & Shaw (2008) Organizational Bystanders. *People and Strategy* Vol. 31 Issue 1, p47-54

Greenwald J (2012) Retaliation a growing liability. *Business Insurance* Vol. 46 Issue 31, p03-03

Goodstein J & Butterfield KD (2010) Extending the Horizon of Business Ethics: Restorative Justice and the Aftermath of Unethical Behavior. *Business Ethics Quarterly*; Jul2010, **20(3)**, 453-480

Grynderup et al (2013) Work-unit measures of organisational justice and risk of depression--a 2-year cohort study. *Occupational And Environmental Medicine [Occup Environ Med]* 2013 Jun; Vol. 70 (6), pp. 380-5.

Hicks D (2011) *Dignity; the essential role it plays in resolving conflict*. Yale Uni Press: London

HM Government (2011) *No health without mental health* cited in Centre for Public Health website

Hopman & van Leeuwen (2009) Who do we inform? The role of Status and Target in Intergroup Whistleblowing Group Processes. *Intergroup Relations* 12:605

Jian Z et al (2013) Under Which Conditions are Whistleblowing "Best Practices" Best? *Auditing* Vol. 23 Issue 3, p171-181.

Katz et al (2012) Whistleblowing in Organizations: Implications From Litigation. *SAM Advanced Management Journal* Vol 77 Issue 3 4-17

Keil et al (2010) Toward a Theory of Whistleblowing Intentions: A Benefit-to-Cost Differential Perspective. *Decision Sciences* Vol 41, Issue 4, 787-812

Lowry et al (2013) The Drivers in the Use of Online Whistle-Blowing Reporting Systems. *Journal of Management Information systems* Vol. 30

Issue 1, p153-190

Loyens (2013) Towards a Custom-Made Whistleblowing Policy. Using Grid-Group Cultural Theory to Match Policy Measures to Different Styles of Peer Reporting. *Journal of Business Ethics* Vol. 114 Issue 2, p239-249. 11p

Mesmer-Magnus & Viswesvaran (2005) Whistleblowing in Organizations: An Examination of Correlates of Whistleblowing Intentions, Actions, and Retaliation. *Journal of Business Ethics*

Miceli & Near (1988) INDIVIDUAL AND SITUATIONAL CORRELATES OF WHISTLE-BLOWING. *Personnel Psychology* Vol. 41 Issue 2, p267-281

Parmerlee et al (1982) Correlates of Whistleblowers' Perceptions of Organizational Retaliation *Administrative Science Quarterly* Vol. 27 Issue 1, p17-34

Robertson et al (2011) Does Wrongdoer Reputation Matter? Impact of Auditor-Wrongdoer Performance and Likeability Reputations on Fellow Auditors' Intention to Take Action and Choice of Reporting Outlet. *Behavioural Research in Accounting* Vol. 23 Issue 2, p207-234

Robinson et al (2012) The Effects of Contextual and Wrongdoing Attributes on Organizational Employees' Whistleblowing Intentions Following Fraud. *Journal of Business ethics* Vol. 106 Issue 2, p213-227

RoSPA *Occupational Safety and Health Journal* (2013) Blacklisting slammed by Select Committee. Vol. 43 Issue 6, Special section p1-8

Taylor and Thomas (2012) Blowing the whistle without fear. *Accounting today* Vol. 26 Issue 5, p8-9

Thornberg and Jungert (2013) Bystander behavior in bullying situations: Basic moral sensitivity, moral disengagement and defender self-efficacy. *Journal of Adolescence* Vol. 36 Issue 3, p475-483

Verschoor C (2013) Whistleblowing Reaches Center Stage. *Strategic Finance* Vol 95 Issue 5 14-16

Verschoor (2012) Retaliation for Whistleblowing Is on the Rise. *Strategic Finance* Vol. 94 Issue 5, p13-69

Waples and Culbertson (2011) Best-Laid Plans: Can Whistleblowing on Project Problems Be Encouraged? *Academy of Management Perspectives* Vol. 25 Issue 2, p80-82

Wenzel M et al (2013) Retributive and Restorative Justice. *Law and Human Behavior*; 20130101, Issue: Number Preprints p1-15,

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DOES TYPE OF WRONGDOING AFFECT THE WHISTLE-BLOWING  
PROCESS? (2004) *Business Ethics Quarterly* Vol. 14 Issue 2, p219-242

Resolving Whistleblowing Disputes in the Public Interest: Is Tribunal  
Adjudication the Best that Can be Offered? (2013) *Industrial Law Journal* Vol.  
42 Issue 1, p35-53

Crowded minds: The implicit bystander effect. (2013) *Journal of Personality  
and Social Psychology*, 83, 843–853.).