

House of Commons Committee of Public Accounts

Making a whistleblowing policy work: progress update

Twenty-ninth Report of Session 2015–16



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Report, together with formal minutes relating to the report

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The Committee of Public Accounts

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Committee staff

The current staff of the Committee are Stephen McGinness (Clerk), Dr Mark Ewbank (Second Clerk), George James (Senior Committee Assistant), Sue Alexander and Ruby Radley (Committee Assistants) and Tim Bowden (Media Officer).

Contacts

All correspondence should be addressed to the Clerk of the Committee of Public Accounts, House of Commons, London SW1A 0AA. The telephone number for general enquiries is 020 7219 4099; the Committee's email address is pubaccom@parliament.uk.

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Summary

We are concerned that the Government's response to the previous committee's report on whistleblowing has been too focused on policy and process, rather than on taking the lead to drive the much needed cultural change required to encourage and support whistleblowers to come forward. We are disappointed by the lack of urgency shown in dealing with this important topic, which is illustrated by the fact that the 'Task and Finish' group, set up to look at whistleblowing across Whitehall, which was a key component of the Government's response, has only met once. We are also concerned that government's focus is limited to departments rather than ensuring whistleblowing is also dealt with effectively in the wider public sector and in private and third sector providers delivering public services.

Introduction

Whistleblowing is when an employee raises a concern about wrongdoing, malpractice or poor practice in the workplace that has a public interest aspect to it. In August 2014 the previous committee reported on whistleblowing, noting that a positive approach to whistleblowing should exist wherever the taxpayer's pound is spent. However, the committee found that too often whistleblowers had been shockingly treated, and that departments' attempts at changing whistleblowing policy and processes for the better had not been successful in modifying a bullying culture, or in combating unacceptable behaviour. The Cabinet Office has issued whistleblowing guidance which includes detailed procedures about how to raise concerns and has responsibility for overseeing whistleblowing arrangements.

Conclusions and recommendations

1. We are disappointed at the slow progress made by the Cabinet Office and departments in improving whistleblowing arrangements. Nearly a year and a half has elapsed since the previous committee reported on whistleblowing, but we heard little to convince us that any real change has occurred on the ground. Witnesses were unable to tell us how many reports on the effectiveness of whistleblowing arrangements go to departmental boards, or which departments are lagging behind in implementing effective arrangements. Opportunities to secure improvements through shared learning are hampered by the absence of a formal platform for HR directors (or other nominated officers) or board members to share and apply good practice and learn lessons following reviews in this area, such as the Francis review of whistleblowing in the NHS.

Recommendation: We expect Cabinet Office to report to us by June 2016 on progress in addressing our recommendations.

2. We are concerned that the 'Task and Finish' group, established to look at whistleblowing across Whitehall, has met only once. The 'Task and Finish' group, described in the Government's response to the previous committee's report as being a key player in 'reviewing Departments' practices and providing a challenge to existing processes' has only met once without any tangible result. The Committee heard that the Group had no plans to meet again, but the Cabinet Office agreed to consider whether further meetings would be useful.

Recommendation: The Government should set out what the 'Task and Finish' group's role is and how it intends to review whistleblowing arrangements across government.

3. Policy and process implementation are steps in the right direction, but by themselves will not create the right environment for whistleblowers to come forward. We recognise the progress that has been made in producing policy guidance on whistleblowing. But we are concerned that efforts to date have been too focused on implementing policies and procedures, rather than instilling the positive cultures and behaviours required to support those raising a concern, which should result in better treatment for whistleblowers and more effective handling of their concerns. The Cabinet Office was unable to provide any evidence about which departments were performing well, and which were lagging behind.

Recommendation: Cabinet Office should work with departments to create the right environment for whistleblowers to come forward, including support for staff at induction, working with departments to identify the 'best in class' in what works in supporting whistleblowers, and holding departments to account where progress is below the standards expected.

4. The Cabinet Office does not have the data it needs on whistleblowing to identify where improvements are needed. The Cabinet Office could not provide information on departments' performance on whistleblowing as it lacked data in many areas including: the number and type of cases; the outcome of cases; whether whistleblowers

have complained of victimisation or discrimination as a result of their actions; and how many still worked in the department after raising their concerns. The Cabinet Office was waiting for data to be collected and analysed in early 2016.

Recommendation: We expect the Cabinet Office to share with us, by the end of June 2016, an analysis of the data it has collected, and an action plan detailing how this data will be used to secure improvements where needed in departments. In the future, the Cabinet Office should collect data on an annual basis to support its role of holding departments to account on whistleblowing arrangements.

5. The Cabinet Office's focus is limited to whistleblowing in departments rather than seeking to ensure it is also dealt with effectively in the wider public sector and in private and third sector providers delivering public services. The College of Policing review of the police service and the Francis review of the health sector both highlighted the need for effective whistleblowing policies in the wider public sector. But the present approach is limited to collecting data on core departments, which risks missing valuable intelligence on whistleblowing across the wider public, private and third sectors. The Cabinet Office maintained that government does not have the capacity to act in this space, but we consider that departments charged with delivering public services should be able to provide assurances that those delivering services on their behalf are treating whistleblowers appropriately, and feel confident that they have sufficient intelligence to act on systemic issues.

Recommendation: The Cabinet Office should require the wider public sector and private and third sector providers delivering public services to both have effective whistleblowing arrangements in place and report on concerns raised by whistleblowers to identify any systemic issues.

1 Progress

- 1. In August 2014 the previous committee reported on whistleblowing, noting that a positive approach to whistleblowing should exist wherever the taxpayer's pound is spent, in private and non-statutory bodies as well as public authorities. However, the committee found: that far too often whistleblowers had been shockingly treated; that departments' own attempts at changing whistleblowing policy and processes for the better had not been successful in modifying a bullying culture, or in combating unacceptable behaviour, such as harassment of whistleblowers, within their organisations; and that the lack of crossgovernment leadership on whistleblowing had resulted in an inconsistent approach across departments.¹
- 2. We held a follow-up session to examine progress in this area. We took evidence from John Manzoni, Chief Executive of the Civil Service and Permanent Secretary (Cabinet Office) and Alison Stanley, Head of Civil Service Employment at the Cabinet Office.
- 3. Whistleblowing is when an employee raises a concern about wrongdoing, malpractice or poor practice in the workplace that has a public interest aspect to it. Whistleblowers mostly act because they have ethical or professional concerns about what is happening in their workplace. Careful and appropriate treatment of whistleblowers is important to protect and reassure the workforce, and to encourage openness that is vital to supporting better public services. Whistleblowing is recognised as an important source of intelligence to help identify wrongdoing and risks to public service delivery.²
- 4. The Government agreed with the previous committee's recommendation that the Cabinet Office should set out how it will ensure whistleblowing policy and practices receive the strong leadership they need, so that there are consistent expectations across government and departments can be held to account. The Cabinet Office guidance on whistleblowing which includes detailed procedures about how to raise concerns would be updated to address the previous committee's concerns.³
- 5. The Government's response to the previous committee's report noted that the Civil Service Board had recently set up a senior 'Task and Finish' group to look at whistleblowing across Whitehall, including departmental leadership, in the context that there are variations in processes between departments.⁴ However, we were told that this group had met just once in March 2014, shortly after the previous committee's hearing. ⁵ The Cabinet Office told us that this meeting had been used to approve a new model policy for whistleblowing and concluded that a board member should be responsible for whistleblowing in each department. It also "promulgated a note from the Cabinet Secretary in December 2014 to ensure that departments understood the significance and importance" of these issues.⁶ The Cabinet Office told us that there were no plans for the 'Task and Finish' group to meet again, but agreed to consider whether further meetings would be useful.⁷

¹ HC Committee of Public Accounts, Whistleblowing, Ninth Report of Session 2014–15, HC 593, August 2014

² C&AG's Report, Making a whistleblowing policy work, Session 2013–14, HC 1152, March 2014, paras 1.1–1.6

Treasury Minute, Government response to the Ninth Report from the Committee of Public Accounts: Session 2014–15, Cm 8988, December 2014, paras 3.2, 7.1

Treasury Minute, Government response to the Ninth Report from the Committee of Public Accounts: Session 2014–15, Cm 8988, December 2014, paras 7.2, 7.3

⁵ Q19

⁶ Qq18,19

⁷ Qq75-79

- 6. We questioned the Cabinet Office on progress made in the year and a half that has elapsed since the previous committee took evidence on whistleblowing. The Cabinet Office told us that in each government department the HR Director was now accountable for whistleblowing policy, collecting relevant data and ensuring that the internal risk and audit committees review the effectiveness of the policies, cases and data on a regular basis. To give extra force to these policies, in each department a senior executive management board member was now accountable for whistleblowing in that department. However, the Cabinet Office did not know whether HR directors were reporting at least once a year to the departmental board on whistleblowing issues in all departments.⁸
- 7. The Cabinet Office could not provide information on departments' performance on whistleblowing as it lacked data in many areas including: the number and type of cases; the outcome of cases; whether whistleblowers have complained of victimisation or discrimination as a result of their actions; and how many still worked in the department after raising their concerns.⁹
- 8. The Cabinet Office told us it was collecting extensive data on whistleblowing from departments, which would be available to analyse in early January. The data will include how many whistleblowers have suffered detriment, how many whistleblowing cases have occurred across departments, and action taken to investigate. It told us that there had been 66 cases between April and September, from five departments, but was unable to tell us how this compared to previous years given this has been the first year it had been collected. Once the data has been received and analysed it will be used in discussions with departments. In 2016, departments will also be required to report on the effectiveness of whistleblowing arrangements in annual reports to draw a better picture of how arrangements look across government.
- 9. The Cabinet Office did not know whether whistleblowers were now receiving better treatment, or whether their concerns were being taken seriously. We were told it was in the process of collecting data to measure this, such as the number of cases in which whistleblowers have been affected detrimentally by the fact that they have blown the whistle. The Cabinet Office was also unable to assure us that the information provided by whistleblowers was being investigated properly and that information was being treated with as much respect as the whistleblowers should be, nor those departments which were still to put their house in order or faced particular challenges. To
- 10. As whistleblowers may put their careers on the line to raise important concerns it is vital that whistleblowing arrangements are fair, transparent and effective. The Cabinet Office told us that the model policy "pushed significant sanctions for anybody who was seen to be taking adverse action against a whistleblower." However, the Cabinet Office

⁸ Qq2, 5

⁹ Qq 36, 40, 64

¹⁰ Q36

¹¹ Q10

¹² Q41

¹³ Q10

¹⁴ Qq40, 66

¹⁵ Qq50, 35, 36, 37

¹⁶ Q82

could not assure us that these sanctions were in place on the ground.¹⁷ It hoped that the data collection exercise would help to start discussions around fair treatment, to support the improvement of the whistleblower's experience.¹⁸

- 11. In March this year, the College of Policing warned of a "macho, arrogant, bullying culture" in which whistleblowing is not embedded in the police service. This followed Sir Robert Francis's report "Freedom to Speak up—an independent review into creating an open and honest reporting culture in the NHS" which reported that a significant proportion of health workers were afraid to speak out. Given the significant proportion of public services now being delivered through the private and third sectors we asked what the Cabinet Office and departments were doing to make sure that arm's length bodies, as well as private and third sector organisations, have effective whistleblowing policies which adequately protect those who wish to make protected disclosures which are in the public interest. The Cabinet Office told us that it was not staffed or equipped to look at all public servants and that issues associated with the Department of Health or the police, for example, needed to be addressed to the relevant department, because they were accountable for their bodies.
- 12. The Cabinet Office agreed that whistleblowers can help to identify systemic problems in organisations and across government. But it was unclear how the Cabinet Office will identify systemic issues arising across public sector delivery with the existing centric approach.²²

¹⁷ Ibid

^{18 040}

¹⁹ Chief Officer Misconduct in Policy: an exploratory study, Jyoti Belur, UCL Jill Dando Institute of Security and Crime Science, University of London, Gavin Hales, Mike Hough and Tiggey May, Institute of Criminal Policy Research, Birkbeck, University of London, College of Policing 2015.

Freedom to Speak up: an independent review into creating an open and honest reporting culture in the NHS, Sir Robert Francis, 2015.

²¹ Qq12, 15

²² Qq 85, 86

Formal Minutes

Monday 29 February 2016

Members present:

Meg Hillier, in the Chair

Mr Richard Bacon David Mowat

Deidre Brock Stephen Phillips

Chris Evans John Pugh Kevin Foster Karin Smyth

Nigel Mills

Draft Report (*Making a whistleblowing policy work: progress review*), proposed by the Chair, brought up and read.

Ordered, That the draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 12 read and agreed to.

Introduction agreed to.

Conclusions and recommendations agreed to.

Summary agreed to.

Resolved, That the Report be the Twenty-ninth of the Committee to the House.

Ordered, That the Chair make the Report to the House.

Ordered, That embargoed copies of the Report be made available, in accordance with the provisions of Standing Order No. 134.

[Adjourned till Wednesday 2 March 2016 at 2.30pm

Witnesses

The following witnesses gave evidence. Transcripts can be viewed on the Committee's inquiry page.

Monday 7 December 2015

Question number

John Manzoni, Chief Executive of the Civil Service and Permanent Secretary, Cabinet Office, and **Alison Stanley**, Head of Civil Service Employee Policy, Cabinet Office

Q1-89

Published written evidence

The following written evidence was received and can be viewed on the Committee's <u>inquiry page</u>. WBR numbers are generated by the evidence processing system and so may not be complete.

1 Cabinet Office (WBR0001)

List of Reports from the Committee during the current Parliament

All publications from the Committee are available on the Committee's website at www.parliament.uk/pac.

The reference number of the Government's response to each Report is printed in brackets after the HC printing number.

Session 2015-16

First Report	Financial sustainability of police forces in England and Wales	HC 288 (Cm 9170)
Second Report	Disposal of public land for new homes	HC 289 (Cm 9170)
Third Report	Funding for disadvantaged pupils	HC 327 (Cm 9170)
Fourth Report	Fraud and Error Stocktake	HC 394 (Cm 9190)
Fifth Report	Care leavers' transition to adulthood	HC 411 (Cm 9190)
Sixth Report	HM Revenue & Customs performance 2014–15	HC 393 (Cm 9190)
Seventh Report	Devolving responsibilities to cities in England: Wave 1 City Deals	HC 395 (Cm 9190)
Eighth Report	The Government's funding of Kids Company	HC 504 (Cm 9190)
Ninth Report	Network Rail's: 2014–2019 investment programme	HC 473
Tenth Report	Care Act first-phase reforms and local government new burdens	HC 412
Eleventh Report	Strategic financial management of the Ministry of Defence and Military flying training	HC 391
Twelfth Report	Care Quality Commission	HC 501
Thirteenth Report	Overseeing financial sustainability in the further education sector	HC 414
Fourteenth Report	General Practice Extraction Service	HC 503
Fifteenth Report	Economic regulation in the water sector	HC 505
Sixteenth Report	Sale of Eurostar	HC 564
Seventeenth Report	Management of adult diabetes services in the NHS: progress review	HC 563

Eighteenth Report	Automatic enrolment to workplace pensions	HC 581
Nineteenth Report	Universal Credit: progress update	HC 601
Twentieth Report	Cancer Drugs Fund	HC 583
Twenty-first Report	Reform of the rail franchising programme	HC 600
Twenty-second Report	Excess Votes 2014–15	HC 787
Twenty-third Report	Financial sustainability of fire and rescue services	HC 582
Twenty-fourth Report	Services to people with neurological conditions: progress review	HC 502
Twenty-fifth Report	Corporate tax settlements	HC 788
Twenty-sixth Report	The Common Agricultural Policy Delivery Programme	HC 642
Twenty-seventh	e-Borders and successor programmes	HC 643
Twenty-eighth	Access to General Practice in England	HC 673
First Special Report	Unauthorised disclosure of draft Report in the previous Parliament	HC 539