

<https://hansard.parliament.uk/commons/2022-04-26/debates/9CD2DC9F-2DB8-4781-AAF0-A3B7DCF4A710/Whistleblowing>

Motion for leave to bring in a Bill (Standing Order No. 23)

1.25pm

Mary Robinson
(Cheadle) (Con)

I beg to move,

That leave be given to bring in a Bill to establish an independent Office of the Whistleblower to protect whistleblowers and whistleblowing in accordance with the public interest; to make provision for the Office of the Whistleblower to set, monitor and enforce standards for the management of whistleblowing cases, to provide disclosure and advice services, to direct whistleblowing investigations and to order redress of detriment suffered by whistleblowers; to create offences relating to the treatment of whistleblowers and the handling of whistleblowing cases; to repeal the Public Interest Disclosure Act 1998; and for connected purposes.

Mr Speaker, if you name an industry, I can name you a scandal brought to light by whistleblowers—whistleblowers who were stifled, ignored or gaslit before they were listened to. For every one listened to, there are more would-be whistleblowers who remain silent or who were silenced.

As the chair of the all-party parliamentary group for whistleblowing, I have met countless brave individuals who have dared to speak out. Many have suffered emotional damage from the treatment they have experienced. Many have faced threats to their livelihoods and suffered consequences at work—retaliation, harassment, unfair dismissal and blacklisting. Many are forced to drop their claims due to the cost of litigation, the inequality of arms and the toll taken on their families and mental health. Meanwhile, the wrongdoing they highlighted is swept under the carpet, and they become the victim.

Through whistleblowers' bravery and willingness to speak out, we have been made aware of countless scandals of corruption, negligence and mismanagement that have cost the Government or businesses billions of pounds, and that, tragically, have often directly or indirectly cost lives. Whistleblowers are universally acknowledged as the cornerstone of fair and transparent societies; the purpose of any whistleblowing law should be to protect the whistleblower and the public interest by ensuring freedom from retaliation, and ensuring that allegations are properly addressed and fully

acted on. That is what the public and those who speak up expect, but it is not the reality.

Surprisingly, whistleblowing does not have a formal legal definition in the UK, although it is generally understood to be the exposure of criminal or ethical wrongdoing. However, it is universally recognised as the single most cost-efficient and effective means of intercepting crimes and exposing cover-ups.

Why are we arguing for change? By way of background, the UK became the first EU country to introduce whistleblowing legislation with the Public Interest Disclosure Act 1998. The law was heralded as a watershed moment and expectations were high. Whistleblowing was now legitimate; there were protections for workers in employment tribunals and an expectation that wrongdoing would be addressed. However, according to the whistleblowing charity Protect, just 4% of employment cases are successful, and PIDA, our world-leading legislation, is now seen as a discredited and distrusted law that has failed to protect whistleblowers or the public against wrongdoing and harm.

Where we once led the way, we now lag behind.

In fact, last year, the International Bar Association examined countries with whistleblowing legislation against a list of 20 best practices. The UK met just five of the 20. Meanwhile, the EU whistleblowing directive was passed, which sets minimum standards of protection. Although only eight of the 27 members have currently adopted it, it meets 16 of the best practice criteria. Europe has overtaken the UK. A 75% failure rate against international best standards underlines the need for change.

The reality is that our current legislation is not working. If it were, we would not have repeated scandals such as Rotherham and Rochdale where vulnerable children were abused and groomed over many years. Reports to police were made and concerns were raised by those working closely with the young victims, but instead of investigating those concerns, the police investigated the whistleblowers, so it is no surprise that whistleblowing is seen as a risky option.

The risk of failing to blow the whistle, however, can be devastating. Nowhere is that more evident than in healthcare settings where it is especially vital that there is a culture where it is safe to speak up. Worryingly, a National Guardian's Office survey reported a decline in speaking up culture in the NHS. That was echoed by the NHS staff survey, which also showed a drop in the number of staff who feel safe to speak up about concerns within the organisation.

We know that a positive culture of speaking up is good for patient safety and staff wellbeing. The maternity scandals at Morecambe Bay and Shrewsbury and Telford demonstrate the tragic consequences when staff are scared to speak up or are ignored. It is simply unacceptable that any whistleblower should describe a climate of fear where staff felt unable to report what they saw and experienced.

Whistleblowers are as relevant to the business world as to healthcare. Economic crime and fraud are significant drains on the private and public sector. The National Crime Agency reports that the cost of fraud to the UK economy is £190 billion per year. To put that in perspective, in the year to 2022, planned spending for the Department of Health and Social Care in England was £190 billion. I know where I would rather that money go. It is in the Government's and society's interest to prevent the haemorrhaging of money to criminals and to bring it back to communities.

Developing an open culture that encourages speaking up in every aspect of life will benefit us all. Changes to how we handle whistleblowing will save money. Whistleblowers are the informed insiders who see and report negligence and in doing so prevent the harm that often leads to litigation. The office of the whistleblower will be the champion of whistleblowers. It would be responsible for setting, monitoring and enforcing standards for the management of whistleblowing cases. It would also provide advice services and a clear avenue for disclosures. In addition, it would direct investigations and handle redress for whistleblowers.

Despite the strong direction from Ministers, WhistleblowersUK reports that it has seen evidence of the continued use of confidentiality clauses to shut down whistleblowing. It is unacceptable that whistleblowers are silenced and coerced into signing non-disclosure agreements. The office of the whistleblower will put an end to that practice and be the one place for all whistleblowers. It will be one central place where any would-be whistleblower could come for advice and one central place to support regulators and organisations and to ensure that standards are made and maintained.

That is why the Bill is needed: we need a cultural shift where whistleblowers are welcomed and encouraged, not dismissed and penalised. People should be able to speak up and know what options are available to them. They should be compensated for detriment and recognised for their bravery. Whistleblowing benefits everyone.

The Whistleblowing Bill will set up an independent office of the whistleblower to make whistleblowing work properly and safely for everyone. It will champion whistleblowers and whistleblowing. It will be a

central point where the would-be whistleblower could come for information and support. It will have support and advice services for regulators, organisations and the public. **It will set standards and report back to the Government.** It will ensure that those who inflict or suffer detriment will be properly compensated or properly held to account. It will have real teeth with the ability to issue redress orders, fines and penalties. For the worst offenders, there will be prison sentences.

The Bill will make whistleblowing work by ensuring that concerns are investigated and acted on. It will transform our culture, normalise speaking up and put an end to the discrimination against whistleblowers.

Question put and agreed to.

Ordered,

That Mary Robinson, Lucy Allan, Dr Lisa Cameron, Chris Clarkson, Philip Davies, Chris Green, James Grundy, Dame Margaret Hodge, Kevin Hollinrake, Dame Andrea Leadsom, Mrs Maria Miller and John Penrose present the Bill.

Mary Robinson accordingly presented the Bill.

Bill read the First time; to be read a Second time on Friday 6 May, and to be printed (Bill 307).

Judicial Review and Courts Bill (Programme) (No. 3)

Motion made, and Question put forthwith (Standing Order No. 83A(7)),

That the following provisions shall apply to the Judicial Review and Courts Bill for the purpose of supplementing the Order of 26 October 2021 (Judicial Review and Courts Bill (Programme)), as varied by the Order of 25 January 2022 (Judicial Review and Courts Bill (Programme) (No. 2)):

Consideration of Lords Amendments

(1) Proceedings on consideration of Lords Amendments shall (so far as not previously concluded) be brought to a conclusion one hour after their commencement.

(2) The proceedings shall be taken in the following order: Lords Amendments 1 to 3, 5, 11, 4, 6 to 10, and 12 to 22.

Subsequent stages

(3) Any further Message from the Lords may be considered forthwith without any Question being put.

(4) The proceedings on any further Message from the Lords shall (so far as not previously concluded) be brought to a conclusion one hour after their commencement.—(David T. C. Davies.)

Question agreed to.