

BY EMAIL

Lord Callanan

Minister for Business, Energy and Corporate Responsibility

30 May 2022

Dear Lord Callanan,

**Concerns about lobbying by various parties to add flawed whistleblowing provisions to the Economic Crime Bill**

I write to raise a concern about the proposals by a number of parties to insert whistleblowing clauses into the Economic Crime Bill (ECB), which will not serve the public interest.

- 1) The organisation Protect has petitioned to piggyback the creation of its version of a Whistleblowing Commission onto the ECB.

Protect's Whistleblowing Commission ultimately does not compel investigation of and follow up on whistleblowers' concerns, thereby replicating the core weakness of existing UK whistleblowing legislation which has been failing whistleblowers for over twenty years.

Whistleblower colleagues and I have provided a [critique of Protect's whistleblowing Bill and its flawed model of a Whistleblowing Commission](#). Protect's offering is not much of an advance on the Public Interest Disclosure Act, which has failed whistleblowers and the public for so long.

- 2) The controversial Whistleblowing APPG, established with funding from US bounty hunting lawyers, has lobbied to piggyback the creation of an even worse US style "Office of the Whistleblower" onto the ECB.

The Whistleblowing APPG has an extremely troubling secretariat, the organisation private WhistleblowersUK. This organisation has [openly supported financial rewards and financial “recognition” for whistleblowers.](#)

Shockingly, WhistleblowersUK has approached [bereaved people on social media to proffer legal services.](#) I see this as part of a campaign to broaden the UK definition of whistleblower, to create the conditions for US style bounty hunting, where any informant can claim a bounty, even criminals.

Some members of the Whistleblowing APPG have also called for whistleblowers to be [“rewarded” and “incentivised”.](#)

The majority of genuine whistleblowers do not support such a US bounty model. Apart from conflicting with public sector Nolan principles, conflating genuine whistleblowing with the use of paid informants brings the good name of whistleblowers and whistleblowing into jeopardy. Whistleblowers already struggle to be heard and believed. They do not need to be further stigmatised.

Any Office set up primarily to retrieve money will also neglect whistleblowers from non-financial sectors and those whose disclosures are concerned with protecting people and not property.

If those lobbying in the interests of the bounty hunting industry succeed in massively widening the UK definition of a whistleblower, in order to recoup maximum profit for the industry, this dilutes the availability of finite protection resources for workers who are the real whistleblowers, and who need protection from severe detriment such as job loss.

The recent ten minute Bill put forward by the Whistleblowing APPG on 26 April 2022 has many worrying features. It can be understood as a bounty hunters' Bill. The Bill proposes a scheme for whistleblower “recognition” which appears to mean financial recognition. The Bill also proposes massive fine of up to £18 million or more, which would cause great harm if levied against a public service. Whistleblower colleagues and I have prepared a formal critique to point out numerous areas of concern in the Whistleblowing APPG's Bill, and the ways in which it gives comfort to bounty hunters:

## [A Bounty Hunters' Bill? A critique of the Whistleblowing APPG's April 2022 Bill](#)

I ask that if the government makes any whistleblowing provision within the Economic Crime Bill,

- 1) That it does not create any Whistleblowing Office or Commission under government control. Independence is key and the majority of whistleblowers see full independence of a whistleblowing agency as a key issue.
- 2) That the list of those protected is restricted to workers, close relatives who may be equally affected by detriment and a number of relevant non-workers such as listed by the EU Whistleblowing Directive (contractors etc...)
- 3) That it ensures that any whistleblowing body created has a remit and powers to investigate whistleblowers' concerns if employers and regulators fail to investigate or fail to investigate appropriately
- 4) That financial rewards for whistleblowing are explicitly prohibited, and that fair compensation for loss and non-financial redress are the remedies
- 5) That any whistleblowing body created has powers to litigate to protect the interests of whistleblowers, for example by making relevant third party interventions
- 6) That any whistleblowing body created does NOT have the power to impose fines on public bodies, only against individuals, in recognition that public services should not suffer because of wrongdoing by senior managers.
- 7) That any whistleblowing body created is tasked with ensuring maximal early protection, conflict resolution and minimisation of wasteful litigation. The Whistleblowing APPG's Bill fails to provide these elements, and perhaps unsurprisingly so, as it is not in the bounty hunting industry's interest for conflict and litigation to be reduced.
- 8) That criminal offences are created in line with the full range of dissuasive penalties specified in the EU Whistleblowing Directive, and that any new whistleblowing body has powers of prosecution and to refer for prosecution.
- 9) That there are no legal barriers inserted which could be abused in order to persecute whistleblowers. For example, the Whistleblowing APPG Bill proposes, without definitions, that its Office of the Whistleblower may reject "frivolous, malicious or vexatious" whistleblower complaints. Given that the 'good faith' test of the Public Interest Disclosure Act was much abused before it was abolished, it would be seriously retrograde to re-introduce a means by

which whistleblowers could be smeared as a legal technique for undermining their cases.

Lastly, please find below a link to an FOI disclosure by the Home Office which reveals email correspondence between the Whistleblowing APPG Chair and the Prime Minister's Anti Corruption Champion. This confirms that the intention was to use a ten minute rule Bill by the APPG to target the Economic Crime Bill:

["I have just agreed to be a co-signatory to this 10-minute rule Bill next week, as a way of getting it onto the Government agenda in advance of ECB2."](#)

Yours sincerely,

Dr Minh Alexander

Retired consultant psychiatrist and NHS whistleblower

Cc Matthew Rycroft Permanent Secretary Home Office

Sarah Munby Permanent Secretary BEIS