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HR ‘colluding’ with employers over whistleblowing procedures, report warns

16 Jul 2019 By Annie Makoff-Clark

Cross-party group finds current laws are failing to protect employees who make public interest disclosures



HR is failing to provide adequate protection for whistleblowers, the co-author of a cross-party parliamentary report into whistleblowing laws has warned.

Georgina Halford-Hall, CEO of WhistleblowersUK and co-author the report, told *People Management* the group had found evidence that HR professionals had often been “colluding” with employers, had “very poor practice” and tended to side with employers rather than whistleblowers.

“Whistleblowing is the first line of defence against crime, corruption and cover up,” Halford-Hall said. “This report is a call to arms for HR practitioners, since they are the ones who should be driving these changes and taking note.

“HR practitioners needs to clear their own houses out and re-establish their role as part of good governance. Good governance is good business.”

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The report, published yesterday by the all-party parliamentary group (APPG) on whistleblowing, gathered evidence from over 400 people who identify as whistleblowers.

It said current laws were failing to protect employees from the repercussions of whistleblowing and called for a major overhaul into whistleblowing laws.

It put forward the case for a legal definition of whistleblowing, which is not yet defined in current legislation, and recommended the introduction of mandatory “internal reporting mechanisms” to prevent organisations from cherry-picking policies. It said formal consequences should be introduced for employers failing to abide by new regulations, along with “immediate penalties” for any employer who retaliates against a whistleblower.

MPs also called for whistleblowing laws to be extended to protect all citizens, not just employees, and proposed the introduction of an independent office for whistleblowing with regional centres across the country.

The report also urged the government to ban the use of NDAs, reverse the burden of proof obligation in new specialist tribunal courts, and to introduce state-funded accredited lawyers to represent whistleblowers.

Although the UK was the first European country to introduce a whistleblowing law with its Public Interest Disclosure Act 1998 (PIDA), the report said the law had become “fragmented and incomplete” and had failed to provide “adequate and comprehensive protection to whistleblowers or the public.”

However, Kevin Charles, consulting barrister at Crossland Employment Solicitors, said the current whistleblowing laws already provided a “fairly comprehensive mechanism” of protection for those who make a protected disclosure.

“These individuals are currently protected against victimisation and protection extends to situations where workers have been bullied or harassed by co-

workers as a result of whistleblowing. However, the problem is often that whistleblowers cannot afford to access legal advice in order to enforce or protect their rights,” he said.

Matthew Cole, partner at Prettys Solicitors, said that many employers continue to take allegations “very seriously” while those seeking to bully, undermine or shun an employee who has made a disclosure did not actually happen as often as employees believed.

“One of the issues we see a lot is that the employee will perceive every action or decision taken by their employer to be a response to them having blown the whistle. This then fundamentally undermines the relationship between them,” he said. “Suspicion and mistrust gets in the way and that leads to allegations of victimisation.”

In the report, whistleblowers spoke of mental trauma, loss and damage to careers, litigation costs, blacklisting and the use of NDAs to silence them and cover up wrongdoings.

It said over 20 per cent of disclosures related to criminal activity including fraud and sexual abuse, while a further 30 per cent related to workplace bullying, the report revealed.



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Ahead of the decision this week as to whether the UK has jurisdiction to hear a landmark case, Brian Gegg and Asten Hawkes consider the connection between whistleblowing allegations and unfair dismissal claims