

Whistleblowing: Good for business?

Ethics and Compliance Switzerland

29 January 2015

Presented by Anna Myers





CONGRATULATIONS
FRANK
WHISTLEBLOWER
OF THE
MONTH

BILL PROUD

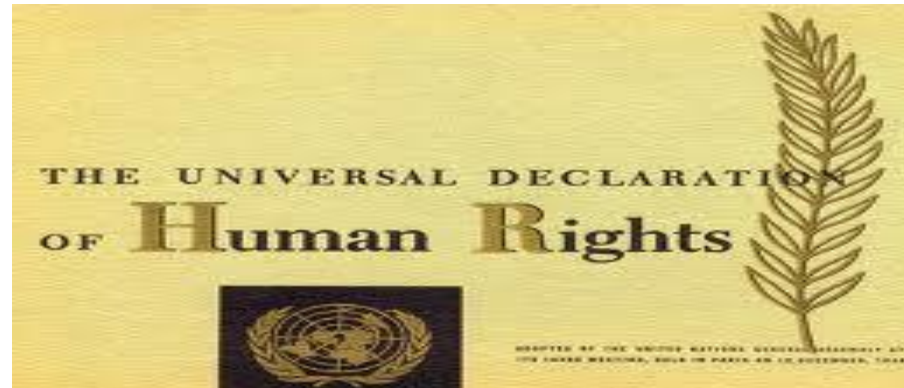
The **confused** message



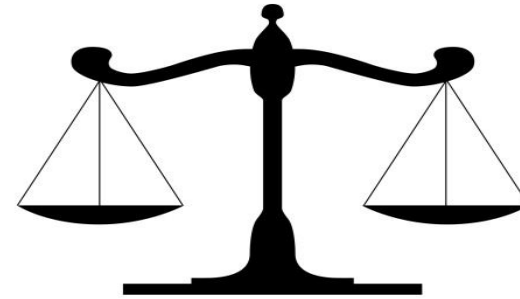
Wikileaks

Witness protection

Hotlines



Anonymity



Source

Informant

Public Concern **at Work**

PCaW is an independent charitable body, founded in 1993.

- free **confidential advice** to people concerned about wrongdoing in the workplace who are unsure whether or how to **raise their concern**
- support** to organisations on their internal arrangements, policy and law of whistleblowing;
- campaign on **public policy**; and
- promote whistleblowing as a matter **public interest and good governance**



Mission:

Share civil society expertise and solidarity across national, legal, social and cultural boundaries to promote public interest whistleblowing as a democratic accountability mechanism.

- platform to share technical expertise on the law and practice of whistleblowing as a public interest accountability mechanism
- protect whistleblowers by working together to transmit first-hand knowledge across borders
- create new links with civil society around the world
- develop international policy and legislative solutions

www.whistleblowingnetwork.org

Whistleblowing **then**

The whistle was blown, but Enron never heard it

EC clears whistleblower who exposed Brussels fraud

Canoe death firm 'had been warned over safety'

Maxwell may have transferred £400 million without authority

Fraud office inquiry into pension fund

Ferry firm admits doors were open

Why I had to blow the whistle on heart unit

...the tragedy of Zeebrugge

Daily Mail Reporter
A HOSPITAL heart unit
...died put lives

Whistleblowing now

We have advised over **17,000** whistleblowers to date.

Top sectors: health, care, education, charities, financial services.

Top concerns: financial malpractice, public safety and patient safety.



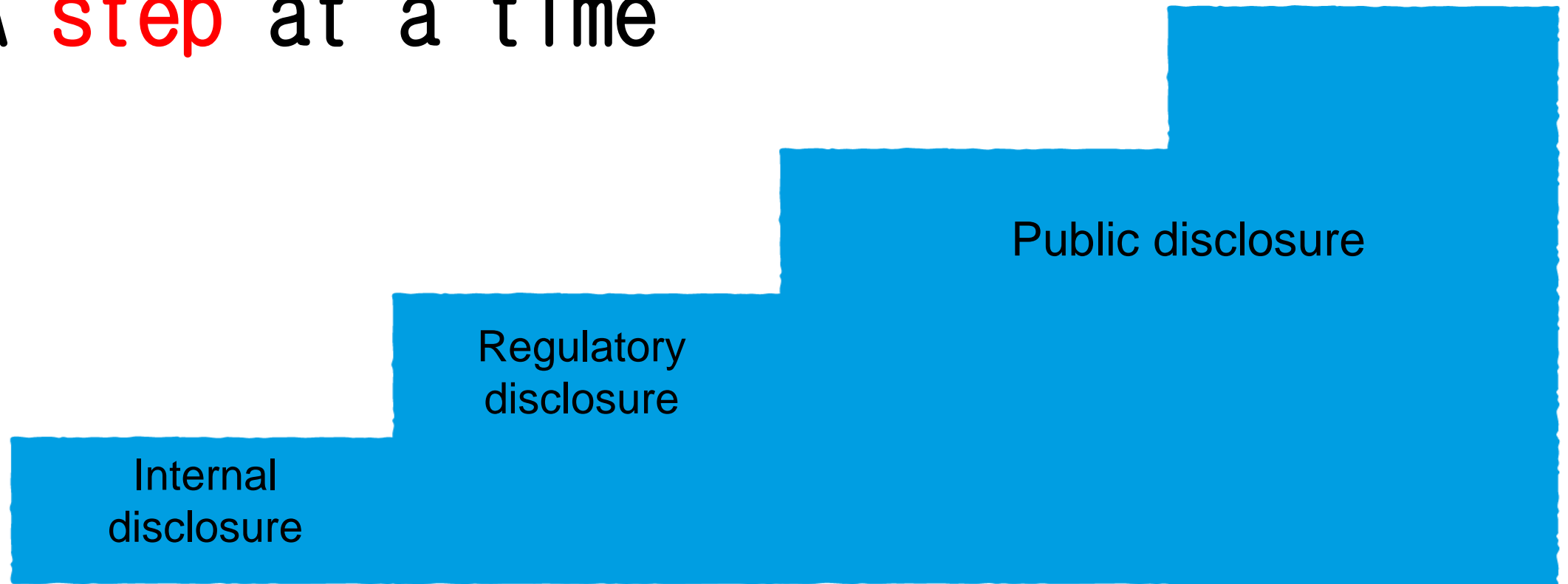
What is **whistleblowing**?

A worker raising a concern about wrongdoing, risk or malpractice with someone in authority either internally and/or externally (i.e. regulators, media, MPs)

Source: PCaW



A **step** at a time



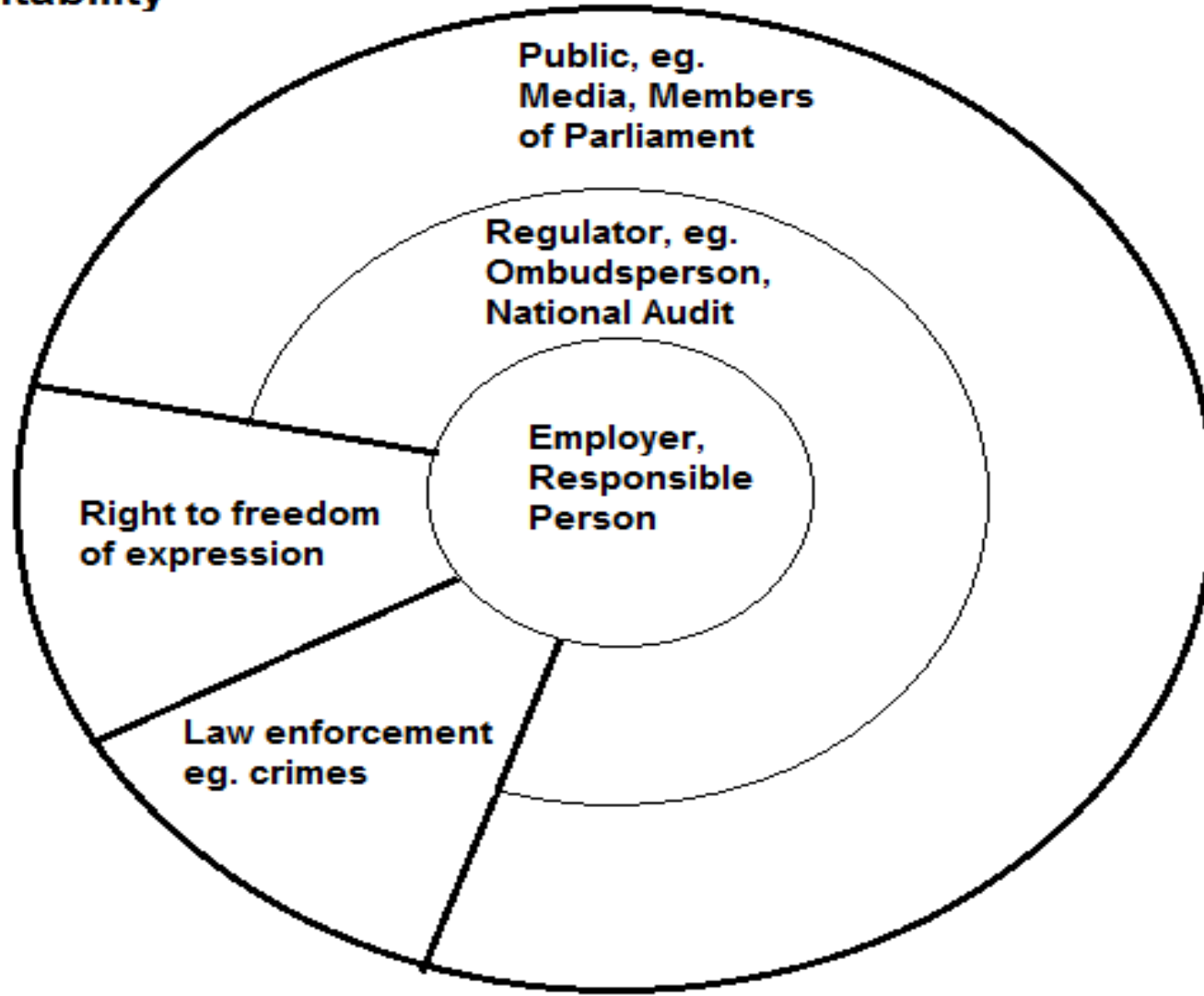
Striking the balance between protecting the public interest and the interests of employers

“no confidence in inequity”

Council of Europe Recommendation

- Democratic and human rights framework
- Good governance and public interest
- Burden of risk:
 - legal & institutional responsibility
 - duty of care
- Public interest: broad
- De facto work-based relationship
- Channels protected
- Confidentiality
- Acting on information

Accountability



Source: Council of Europe, Explanatory Memorandum to the Recommendation on the Protection of Whistleblowers, 2014

Switzerland Draft Law

- Duty of loyalty to employer paramount?
- Officially defined internal routes by employer
- 60 days to address ⇒ competent authority
- Always a breach of duty to go public
- Can go direct if a) not resolved & b) involves criminal offence or breach of rules OR very serious, ie. death
- Employee focus - free speech & duty of loyalty
 - Risk of creating private detectives
- Public accountability?



UNIVERSITY
of
GREENWICH

**public
concern**
at work

the whistleblowing charity

**public
concern**
at work

WHISTLEBLOWING: THE INSIDE STORY

A study of the experiences of 1,000 whistleblowers

Myth 1: Whistleblowers are persistent

- ❑ The majority of whistleblowers (**44%**) raise a concern only **once** and a further **39%** go on to raise their concern a **second time**. Majority (83%) will only try internal options once or twice and then give up
 - Small window of opportunity to address wrongdoing
 - Importance of front line and middle management training

- ❑ Very few persist - **only 22** individuals from our research went on to raise their concern **4 or more times**.

- ❑ Worryingly, **74%** say their **concern was ignored**

Myth 2: Whistleblowing is always going outside

- ❑ **83%** of whistleblowers blow the whistle **internally**
- ❑ **0.5%** go directly to the **media**
- ❑ Our **YouGov 2013** survey : The **majority of working adults** in Great Britain (83%) said if they had a concern about possible corruption, danger or serious malpractice at work **they would raise it with their employers**

Myth 3: Whistleblowers are always trashed

- ❑ **60%** of those who called our advice line **did not report any response** from management (either negative or positive)
- ❑ Of the **40%** who told us of a response, the most common action is **formal action short of discipline** and **15% were dismissed**
- ❑ Our **YouGov 2013** survey: overwhelming **majority** of British workers (72%) view the term **whistleblower as positive or neutral**

Myth 4: Whistleblowers are junior employees

- ❑ **53%** are **skilled or professional** workers
- ❑ **39%** had been working for their employer for **less than two years**
- ❑ **Junior** employees who raise concerns are more likely to be **ignored**
- ❑ **Senior** employees are more likely to be **dismissed**

Myth 5: Whistleblowing is unusual

- ❑ **1 in 10** workers said they had a concern
- ❑ **Two thirds** of workers raised their concern
- ❑ Of those that **felt unable** to raise their concern, most common barriers are fear:
 - **nothing will be done**
 - **reprisal**

How to **reward** whistleblowers?

- Recoup **losses**
- Bounty
- **Thank you**
- Honour
- **Protection**
- Investigation
- **Promotion**
- Quiet life

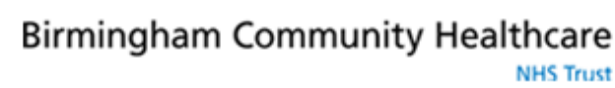
Policy framework : Is it **British**?

- **UK Corporate Governance Code**
 - Comply or explain
 - C.3.5. The audit committee should review arrangements by which staff of the company may, in confidence, raise concerns about possible improprieties in matters of financial reporting or other matters. The audit committee's objective should be to ensure that arrangements are in place for the proportionate and independent investigation of such matters and for appropriate follow-up action.
- **UK Bribery Act**
 - **Section 7 – failure to prevent bribery**
 - Defence – despite a particular case of bribery it had adequate procedures in place to prevent persons associated with it from bribing.
 - secure, confidential and accessible means to raise concerns...
 - and for requesting advice.

Whistleblowing Culture



Others that have recently become the First 100 Campaign Signatories



THE FIRST 100 CAMPAIGN

FIRST SIGNATORIES PUBLISHED

In 2013 the **Whistleblowing Commission** recommended the introduction of a statutory **Code of Practice** for whistleblowing arrangements to assist employers, workers and their representatives in addressing whistleblowing concerns. This Code could be taken into account by courts when considering whistleblowing issues, and by regulators when assessing the effectiveness of the whistleblowing