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Report
by the Comptroller
and Auditor General

Making a whistleblowing policy work

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This investigation examines the systems, structures and behaviours in place to enable effective whistleblowing arrangements.

Investigations

We investigate specific allegations of wrongdoing in the public sector; or in response to intelligence or assertions suggesting that wrongdoing is likely.

Contents

Summary

1   Whistleblowing is when an employee raises a concern about wrongdoing or malpractice in the workplace that has a public interest aspect to it. Officially this is called 'making a disclosure in the public interest'. GOV.UK defines whistleblowing as "when a worker reports suspected wrongdoing at work".[1] These wrongdoings can be related to a range of issues, such as social care and clinical failings, financial mismanagement and environmental damage. Whistleblowing is important to protect and reassure the workforce, and to maintain a healthy working culture and an efficient organisation.

2   Whistleblowing has become much more high profile in recent years: as well-publicised cases such as Hillsborough and the Mid Staffordshire NHS Foundation Trust inquiry have shown. A greater public need for transparency, coupled with wider access to knowledge and information, and its dissemination through social and other media, mean that there is an increasing scope to uncover and report on wrongdoing.

Our scope

3   In the first phase of our work on whistleblowing we evaluated the whistleblowing policies of 39 government bodies and highlighted good practice. However, having a policy in place is only the first step. For whistleblowing to work, the culture of an organisation needs to support and enable the systems, structures and behaviours through which it can work effectively. In this report we have examined:

- **systems** to support whistleblowing arrangements, including the clarity of governance arrangements and the availability of intelligence (Part Two);

- **structures** that are in place to enable whistleblowing, particularly through complex delivery chains (Part Three); and

- **behaviours** to support and enable a positive environment in which whistleblowing is accepted (Part Four).

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1   Information published online by GOV.UK, available at: www.gov.uk/whistleblowing/overview

4   To examine these areas in more detail we worked with stakeholders, including Public Concern at Work to identify good practice, and drew on the experience of a number of whistleblowers. We also drew on the experience of five departments. For each department we focused on a specific area to help us illustrate our findings:

- complex delivery landscapes – Department for Education and Department of Health;

- large-scale operations – HM Revenue & Customs and Department for Work & Pensions; and

- an improving picture – Ministry of Defence.

Key findings

Systems: accountability and governance

5   **There is no strategic cross-government lead for whistleblowing.** This means that some departments may not attach the same importance to maintaining and embedding their whistleblowing arrangements. They may also not know current thinking as to what good policy and practice looks like.

6   **Internal 'checks and balances' are a powerful tool in providing oversight and these could be better exploited.** We found strong evidence that audit committees and internal audit play important roles in whistleblowing processes, but there is scope to improve the role they play in their independent scrutiny of whistleblowing arrangements and provide assurance to senior management, stakeholders and employees.

7   **Some systems are more mature than others when collecting, coordinating and disseminating intelligence.** The most powerful systems were those that could analyse numbers and types of cases, both to understand whether handling arrangements were effective, and to identify more systemic 'threats and opportunities' to improve processes and procedures.

Structures: complex delivery model landscapes

8   The departments we examined are effective at promoting internal routes to blow the whistle, but external routes for employees are less clear. We found departments offer a range of appropriate contacts internal to an organisation, but were less consistent in explaining how an individual could raise their concerns externally, and still be protected under the Public Interest Disclosure Act 1998. Departments, and their arm's-length bodies, do not consistently promote the role of prescribed persons.

9   Government delivery is becoming more devolved, introducing complexity into the process for raising concerns and monitoring cases. Departments overseeing complex structures must be aware of these risks, and ensure that this does not reduce effective oversight of whistleblowing. There is the risk that employees at 'arm's-length' to departments are not aware of their rights and do not know how to blow the whistle, and that any concerns, and thus intelligence, is dispersed across the delivery chain.

Behaviours: tone from the top of the organisation, staff awareness and confidence

10   We found a good level of commitment and awareness across departments that whistleblowing is important. Departments had generally put their own improvement plans in place, independently revisiting and revising their arrangements.

11   Departments used a variety of techniques for promoting whistleblowing arrangements and while awareness levels among staff generally compared favourably to the civil service benchmark, overall they should be higher. Just two-thirds of staff are aware of how to raise a concern, which means there is a risk that staff are not reporting concerns. Departments can do more to ensure that staff feel more confident in coming forward, and more to inform staff of how effective their investigation of cases has been.

Recommendations

Recommendations for central government

a   Central government should appoint a strategic lead to:

- bring together existing intelligence to act as the central point for high-level statistics;

- work with existing bodies to oversee and support the dissemination of good practice guidance on whistleblowing arrangements; and

- take responsibility for working with existing bodies to oversee and support the delivery of training programmes and actively promoting good professional conduct.

This role could sit within a department that has a 'gold standard' approach to whistleblowing.

Recommendations for public sector organisations overseeing devolved delivery partners in receipt of public funds

b   **Organisations should ensure whistleblowing arrangements are clear and are communicated, by:**

- sharing their own policies and procedures with their delivery partners so that these organisations know of, and are attuned to, the standards of conduct of public business that taxpayers expect;

- including details of any central hotlines or reporting sources, so all employees are aware of them; and

- reviewing their delivery partners' arrangements so they are coherent.

c   **Sponsor organisations should encourage intelligence held by delivery partners to be shared with them, so they are able to exercise efficient oversight to:**

- identify trends, possible system failures or specific issues;

- collect, analyse, and disseminate lessons learned and common risks; and

- target areas of risk for which there are weaknesses in controls or where staff need training.

Recommendations for all public sector organisations

d   **Organisations should make sure that existing governance mechanisms are being exploited to optimal effect in relation to whistleblowing, by defining and clarifying the relative responsibilities of:**

- internal audit;

- audit committees; and

- human resources.

e **Organisations should promote policies and procedures to raise the awareness of staff, and keep them up to date with current thinking and best practice. Organisations should:**

- create an open and accountable culture with those at the top taking a lead on the whistleblowing policy to show that concerns will be taken seriously – nominating a senior officer to promote the arrangements will contribute to this aim;

- ensure their policies cover the key factors that should be included in a whistleblowing policy;

- review their arrangements periodically; and

- introduce appropriate training at all levels on the whistleblowing arrangements and legislation.

f **To reassure the workforce, organisations should publish, internally and at a high level, the number and type of cases they have received, and also the results to:**

- enable employees to see the results of cases investigated; and

- promote a positive message about whistleblowing.

When publishing information, protocols should be in place to ensure there is no risk that a whistleblower's identity will be revealed.

Part One

Context

"As we know from news headlines we all read every day, in our care homes and hospitals, public transport systems and factories, schools, banks and even in Parliament, too often the questions are asked after the damage has been done… we still face the risk of a culture of silence in UK workplaces… Whistleblowers are a vital safety net in our society and can prevent and detect damage and disaster. We all need to listen to them."

Source: Public Concern at Work and the University of Greenwich, *Whistleblowing: the inside story – a study of the experiences of 1,000 whistleblowers*, May 2013

Why whistleblowing is important

1.1 Whistleblowing is when an employee raises a concern about wrongdoing or malpractice in the workplace that has a public interest aspect to it.[2] Whistleblowers often act out of a feeling of fairness or ethics. Blowing the whistle is distinct from a grievance or personal complaint, which is a dispute about an employee's own position. Our previous report on whistleblowing policies highlighted a number of key reasons why whistleblowing is important, which are summarised here.[3]

To protect and reassure the workforce

1.2 The British Standards Institution's *Whistleblowing Arrangements Code of Practice* highlights that:

"… the first people to know of any risk will usually be those who work in or for the organisation. Yet while these are the people best placed to raise the concern before damage is done, they often fear they have the most to lose if they do speak up. Research for the Institute of Business Ethics has shown that while one in four workers are aware of misconduct at work, more than half (52 per cent) of those stay silent."[4]

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2   In this report we use the term 'employee' to refer to those individuals who are protected by the Public Interest Disclosure Act 1998 (as amended). This includes contractors, trainees, and agency staff in addition to individuals under a contract of employment.

3   National Audit Office, *Government whistleblowing policies*, January 2014.

4   British Standards Institution, *Whistleblowing Arrangements Code of Practice*, PAS 1998: 2008, July 2008.

1.3 Many people who have blown the whistle have done so because they have a strong sense that something they have seen or heard in their workplace is not right, ethical or compliant with workplace regulations. But while they feel compelled to raise the alarm, they may also be concerned for several reasons. They are concerned that:

● they will not be protected against retaliation;

● the issue will not be investigated appropriately; or

● 'wrongs' will not be righted.

1.4 To blow the whistle can make people vulnerable, so there must be clear, comprehensive and accessible policies to support and reassure staff at what is likely to be an extremely stressful time. These policies must be backed up by a culture of transparency and openness, so that employees feel enabled to raise concerns.

To foster a healthy culture and improve efficiency

1.5 Organisations should view whistleblowers as an early warning system to let them address problems before they escalate. As the British Standards Institution's *Whistleblowing Arrangements Code of Practice* notes:

"… the main reason enlightened organisations implement whistleblowing arrangements is that they recognise that it makes good business sense. An organisation where the value of open whistleblowing is recognised will be better able to:

● deter wrongdoing;

● pick up potential problems early;

● enable critical information to get to the people who need to know and can address the issue;

● demonstrate to stakeholders, regulators and the courts that they are accountable and well managed;

● reduce the risk of anonymous and malicious leaks;

● minimise costs and compensation from accidents, investigations, litigation and regulatory inspections; and

● maintain and enhance its reputation."[5]

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5   British Standards Institution, *Whistleblowing Arrangements Code of Practice*, PAS 1998: 2008, July 2008.

1.6   Organisations that have strong clear arrangements to encourage whistleblowers and the ability to support them can often show that they are improving by learning lessons from what they find. The willingness to examine areas of potential weakness and listen to all staff, including on the front line, means these organisations can address issues and concerns early on. These organisations are more likely to be the ones that avoid the disasters and negative publicity that come from these arrangements failing.

The need for transparency

1.7   There have been several well-publicised scandals involving the cover-up of wrongdoing despite concerns being raised (such as Hillsborough, and more recently the Mid Staffordshire NHS Foundation Trust). These have led to a push for more transparency in our public institutions. A robust whistleblowing process is vital for employees to raise concerns and allows organisations to tackle problems and to right wrongs (**Figure 1**). In the right context, whistleblowing should be seen as a sign of a healthy and mature organisation. As Public Concern at Work (PCaW) states:

> "Whistleblowing is one of the most effective ways to uncover fraud against organisations, shareholders and other stakeholders." [6]

Complex delivery chains

1.8   The way government implements policies has become more complex as delivery chains have become devolved. In more complex delivery chains there is a greater distance between those that are accountable and those that are delivering. These factors increase the risk of ineffective oversight arrangements, highlighting the need for greater clarity in the process for reporting concerns across long delivery chains.

Figure 1
Whistleblower case study: when whistleblowing works

The scenario: An employee sees a colleague committing an offence and reports it to their line manager who fails to act on the information appropriately. The employee escalates the concern to more senior managers and the manager is reprimanded and processes improved.

The facts: A senior care coordinator in a care home for the elderly saw carers had forgotten to give vital medication to a patient. The concerns were reported to a manager who then flushed unused medication down the toilet. When the whistleblower reported this to head office, they commissioned an investigation which resulted in the manager being taken through a disciplinary process and a change in the medicine protocols and in the culture at the home.

Source: Public Concern at Work, *Where's whistleblowing now? 10 years of legal protection for whistleblowers*, March 2010

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6   The Whistleblowing Commission, *Report on the effectiveness of existing arrangements for workplace whistleblowing in the UK*, November 2013.

The risk of ineffective whistleblowing arrangements

1.9 The costs of ineffective arrangements can be significant both to an individual and to an organisation (**Figure 2**). An individual can lose their job, damage their reputation or suffer from severe stress. An organisation can suffer loss of reputation, loss of funding, or a regulatory investigation. Without effective whistleblowing arrangements it is difficult to properly manage these risks. Where arrangements are poor, the first an organisation may learn of a potentially serious problem is when an employee has raised the matter with a regulator, a lawyer or the media. It is also possible that the issue may never be identified. As the British Standards Institution's *Whistleblowing Arrangements Code of Practice* describes:

> "Where there is a serious accident or disaster and it turns out that the organisation had discouraged, ignored or suppressed whistleblowing concerns, the organisation's reputation and very existence can be in danger." [7]

Figure 2

Whistleblower case study: when whistleblowing arrangements fail

When whistleblowing goes wrong for an employee

A surgeon saw repeated instances of poor hospital care and bullying, where patient outcomes and safety concerns were ignored. The surgeon reported these concerns both verbally and in writing but encountered the following:

- Management did not investigate these concerns for two years after their formal disclosure.

- The surgeon's concerns and identity were disclosed to colleagues by managers without permission.

- The surgeon's employability and academic reputation were damaged by colleagues and managers.

- The employer and union attempted to broker a deal to avoid public scrutiny of the concerns at trial.

Source: National Audit Office interview with whistleblower

Review of whistleblowing policies

1.10 This is our second report on whistleblowing. Our first report reviewed whistleblowing policies from 39 bodies, including our own, against good practice.[8] **Figure 3** presents the details of our evaluation for the five case study departments relevant to our report.

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7   British Standards Institution, *Whistleblowing Arrangements Code of Practice*, PAS 1998: 2008, July 2008.
8   National Audit Office, *Government whistleblowing policies*, January 2014.

Figure 3

Evaluation of whistleblowing policies

Criteria	DfE	DWP	DoH	HMRC	MoD (civilian)
Setting a positive environment for a whistleblowing policy					
Commitment, clarity and tone from the top	●	●	●	●	●
Structure	●	●	●	●	●
Offering an alternative to line management	●	●	●	●	●
Reassuring potential whistleblowers	●	●	●	●	●
Addressing concerns	●	●	●	●	●
Supporting whistleblowers					
Openness and confidentiality	●	●	●	●	●
Access to independent advice	●	●	●	●	●
Options for whistleblowing to external bodies (prescribed persons)	●	●	●	●	●

We assessed these policies on a relative scale

● Poor
● ↓
● Satisfactory
● ↓
● Excellent

Notes

1   Since our report, HMRC has updated its whistleblowing policy in line with the Civil Service Employee Policy's guidance.

2   The departments included in this figure are: Department for Education (DfE); Department for Work & Pensions (DWP); Department of Health (DoH); HM Revenue & Customs (HMRC); Ministry of Defence (MoD).

Source: National Audit Office, *Government whistleblowing policies*, January 2014

Our scope

1.11 Having a policy is only the first step. In this report, we have focused on how organisations provide the optimal conditions to encourage people to come forward. We have examined:

- **systems** to support whistleblowing arrangements, including the clarity of accountability and governance arrangements both across government and within departments, and the availability of intelligence (Part Two);

- the clarity of **structures** in place to enable whistleblowing, particularly through devolved delivery chains (Part Three); and

- **behaviours** to support and enable a positive environment in which whistleblowing is accepted (Part Four).

1.12 We looked at five departments to support this work, each of which gave us a particular perspective on how whistleblowing works in practice (**Figure 4**). We also worked with PCaW, consulted whistleblowers, and drew on the experiences of whistleblowers through our role as a prescribed person. We carried out site visits to three departments to understand how they handle cases referred to them. Appendix One sets out our methodology in more detail. Appendix Two highlights some of the more detailed information on case handling, including how the investigative process works, and the types of investigative skills needed. Appendix Three describes whistleblowers' experiences in more detail. As part of this work, we also reviewed our own processes, and identified strengths and areas that could be improved, which will be considered in due course by our board.

Figure 4

Focus of departmental case studies

Complex delivery models

Department for Education and Department of Health

Operating environment	Complex delivery model involves a range of organisations, including regulators, delivery bodies and funding arms
Associated risk	Delivery model increases the risk that there is no central oversight of arrangements, procedures and intelligence

Large scale operations

Department for Work & Pensions and HM Revenue & Customs

Operating environment	Day-to-day involvement in the delivery of high-volume transactional services to large numbers of customers
Associated risk	Scale of operation increases the likelihood of whistleblowing concerns being raised

Reviewing and improving

Ministry of Defence	As of February 2014, the Ministry of Defence was updating its whistleblowing arrangements and intends to publish its revised policy on 31 March 2014. This case study provides insights into how departments approach the process of strengthening their arrangements

Source: National Audit Office analysis

Part Two

Systems to support whistleblowing arrangements

Good practice systems: how they could operate in practice

- Audit committee (or equivalent) does an **annual review** of the effectiveness of whistleblowing arrangements. The review includes: the number and type of concerns raised; outcomes of investigations; feedback from individuals who have used arrangements; complaints of victimisation or failure to maintain confidentiality; other existing reporting mechanisms; adverse incidents that could have been identified by staff; relevant litigation; and awareness, trust and confidence in the arrangements. The review is reported to the board or senior executive team.

- Organisation collects and **publishes data** internally on whistleblowing cases. This includes: type and number of concerns; relevant litigation; and staff awareness and confidence (survey results).

Source: Expert advice from Public Concern at Work

2.1 In this part we focus on the Department for Work & Pensions (DWP) and HM Revenue & Customs (HMRC) to understand:

- accountability and governance for whistleblowing across government, and within departments;

- intelligence collected by departments to allow them to understand whistleblowing trends; and

- how this intelligence is used to build a picture, and to ensure cases are investigated appropriately.

Cross-government systems: single strategic lead for whistleblowing

2.2 The Civil Service Employee Policy Service (CSEP) has a role in sharing good practice across employee policies, including whistleblowing. It designs and develops consistent, simplified employee policies and provides advice and services around the employee framework. But this is a developing function, having been set up in 2011, and is discretionary and confined to policy matters. As of January 2014, some 11 departments had implemented its good practice policy. CSEP has recently updated its good practice policy as a result of our first report on whistleblowing, and relaunched its guidance in February 2014.

2.3 The Department for Business, Innovation & Skills has overall responsibility for the Public Interest Disclosure Act (commonly known as PIDA) which provides protection for whistleblowers, but this does not extend to whistleblowing arrangements itself.[9]

2.4 In addition to the requirements of PIDA, the Constitutional Reform and Governance Act 2010 confirmed in legislation that there should be a civil service code. The civil service code outlines the core values of the civil service: integrity, honesty, objectivity and impartiality. It sets out the standards of behaviour expected of civil servants and the duties of civil service employers. Civil servants who consider that they are being required to act in a way which conflicts with the code, or where they are aware of actions by others that are in conflict with the code, are expected to report this immediately within their organisation. If a civil servant raises a concern within their organisation and is not satisfied with the response, the civil service management code encourages employees to contact the independent Civil Service Commission. The Commission is also a source of independent advice for civil servants.

2.5 Whilst the bodies described above have different roles in relation to whistleblowing, there is a lack of a single strategic lead. This means that policies will not necessarily reflect the latest thinking or guidance; that standards may not be maintained and that good practice may not be disseminated and acted on. A strong strategic lead would act as the point for all intelligence to flow from and to organisations, and enable a degree of standardisation that currently does not exist (**Figure 5**).

Figure 5
What the role of a strategic lead could look like

Works in partnership and integrates with existing bodies for those professions that already have professional standards and codes of conduct.

Takes responsibility for working with existing bodies for communicating, training and promoting good professional standards and codes of conduct and for the promotion of the whistleblowing reporting facilities in the public sector.

Provides an independent investigation facility for those organisations that require it.

Works to improve public confidence in the professional integrity of public servants and the system for overseeing their conduct.

Source: National Audit Office summary of expert advice from Ian Younger, Certified Fraud Examiner

9 Public Interest Disclosure Act 1998, available at: www.legislation.gov.uk/ukpga/1998/23/contents

Departmental systems to support whistleblowing policies

2.6 Each department we examined had an accountability and governance system that supports whistleblowing. **Figure 6** shows the arrangements at the DWP. A senior manager had signed off the whistleblowing policy and the departments had identified a single owner of the whistleblowing arrangements, who is responsible for dealing with concerns. HMRC's executive committee receives information on the number of cases of wrongdoing and their outcomes.[10] There is ongoing activity to collect benchmarking data to enable comparisons of cases identified with other departments.

Figure 6
Example of governance arrangements for whistleblowing within DWP

Policy responsibility	HR responsible for whistleblowing policy.
	Policy is signed off by senior management.
	HR nominated officers provide annual headline figures on the number of enquiries to the Permanent Secretary.

Day-to-day oversight	All internal investigations are overseen by an investigations manager.
	A policy and professional standards manager (within the investigations team) is responsible for monitoring quality of investigations through a quality assurance framework.
	The head of internal investigations is sighted on all complaints concerning the handling of investigations.

Reporting lines for serious whistleblowing cases[1]

Permanent Secretary
↑
Finance group director general
↑
Head of internal audit and investigations → Departmental audit committee (independent scrutiny)
↑
Head of internal investigations
↑
Investigations manager

Note

1   Internal investigations only investigate the most serious complaints; the majority will be investigated by line managers. Complaints of a less serious nature that are made to, and then resolved by, a line manager are not referred to internal investigations.

Source: National Audit Office analysis of Department for Work & Pensions information

10   For these purposes, wrongdoing is defined more broadly than a qualifying disclosure i.e. as any behaviour by staff that breaches the civil service code, the HMRC code of conduct and related policies and the security and acceptable use policies.

The role of audit committees

2.7 Audit committees should be established and function in accordance with HM Treasury's *Audit Committee Handbook*, which specifies that the audit committee must advise the board and accounting officer on its whistleblowing processes.[11] They have a vital role in overseeing whistleblowing arrangements, as defined by the UK Corporate Governance Code:

> "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." [12]

2.8 The audit committee should advise the board and accounting officer on its whistleblowing processes, and should regularly review whistleblowing arrangements to ensure they are fit for purpose and that staff have confidence in them. Whistleblowing has been identified as a medium-risk area within the DWP's 2014-15 audit plan, which will be sent for approval to the audit committee in April. Audit committees in the DWP, HMRC and the Ministry of Defence (MoD) receive some information that will allow them to assess the adequacy of the arrangements, but there is scope for improvement (**Figure 7**).

11   HM Treasury, *Audit Committee Handbook*, March 2007.
12   Financial Reporting Council, *The UK Corporate Governance Code*, September 2012.

Figure 7

Information available to audit committees when assessing the adequacy of whistleblowing arrangements

Do audit committees have sight of …	DWP	HMRC	MoD
… issues that should have been raised earlier under the whistleblowing procedures?	No Not routinely assessed by committee	Yes Whistleblowing arrangements reviewed independently and findings reported to the committee	In some cases Yes if whistle blown externally but otherwise not routinely assessed by committee
… internal audit assurance on the effectiveness of the whistleblowing procedure?	No Internal audit liaises with investigations team in terms of intelligence sharing but does not provide assurances over arrangements	Yes Internal audit reviewed whistleblowing arrangements	n/a Whistleblowing procedure currently under fundamental review
… procedures that track actions taken in response to a concern?	No Management information (MI) collected but not routinely shared with audit committee	Yes Case tracking and management information system used to track cases as they progress, recording closure and final outcome. Shared with committee	No For fraud cases, end of case report produced which identifies actions taken but not shared widely
… procedures for retaining evidence relating to a concern?	Yes Procedures exist – evidence centrally held	Yes Procedures exist – evidence centrally held	Yes Individual business areas responsible for storing and retaining information. Data inconsistent but there is scope to collate data
… how confidentiality issues have been handled?	No No MI collected other than indirectly through feedback satisfaction scores	No No MI collected other than indirectly through feedback where case does not fall under whistleblowing policy	No No MI to answer this: as part of its review, MoD is considering the data it will capture on whistleblowing
… evidence of timely and constructive feedback?	No No MI collected other than indirectly through feedback satisfaction scores	No No MI collected other than indirectly through feedback where case does not fall under whistleblowing policy	No No MI to answer this: as part of its review, MoD is considering the data it will capture on whistleblowing
… any indications that an employee was not treated fairly because of raising a concern?	No No MI collected other than indirectly through feedback satisfaction scores	No No MI collected other than indirectly through feedback where case does not fall under whistleblowing policy	No No MI to answer this: as part of its review, MoD is considering the data it will capture on whistleblowing

Note

1   The criteria are from British Standards Institution, *Whistleblowing Arrangements Code of Practice*, PAS 1998:2008, July 2008.

Source: National Audit Office examination of department processes

The role of internal audit

2.9 Internal audit is in a prime position to offer audit committees independent assurance on whistleblowing arrangements and issues raised. Furthermore, whistleblowing data can provide a valuable source of intelligence for internal audit about the effectiveness of internal controls. Research by the Chartered Institute of Internal Auditors and Public Concern at Work found that 41 per cent of organisations who responded to its survey (including public and private bodies), placed day-to-day responsibility for whistleblowing arrangements with internal audit. But, as the Chartered Institute goes on to say:

> "Boards need to ensure that internal audit's involvement in whistleblowing does not undermine its ability to carry out its prime assurance functions and that it has the necessary skills and resources."[13]

Measuring systems

2.10 Both the DWP and HMRC collect a wide range of information to understand the whistleblowing position. This includes the number of cases, outcomes and type held on a centralised system (**Figure 8**). The DWP received 101 whistleblower referrals via its hotline or email in 2012-13. Seventy-eight per cent were rejected as not meeting their criteria for further assessment by the investigations team (Appendix Two). Those rejected are referred to respective line managers to action, with the outcome fed back to the investigations team. HMRC received 68 cases, all of which were investigated. Of these, 45 had no further action taken.[14]

2.11 The MoD does not centrally collate or store management information relating to all whistleblowing cases. The MoD has identified this area as a significant weakness and one that it aims to address in its re-launched arrangements. It intends to ensure that a central team receives at least summary information from its widely dispersed operations, so that the extent of whistleblowing can be monitored and the outcomes of cases reviewed for common themes or emerging risks.

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13 Chartered Institute of Internal Auditors, *Whistleblowing and corporate governance, the role of internal audit in whistleblowing*, January 2014.
14 DWP and HMRC employees can raise their concerns anonymously or in confidence with central teams. HMRC employees can use the In Confidence web based reporting system or by using a hotline. The DWP's employees can use a hotline or report in writing/by email. The cases referred do not include allegations of significant corruption; rather they concern issues such as misuse of flexitime, procedural irregularities, etc. HMRC's Internal Governance and DWP's Internal Investigations investigate more complex cases of gross misconduct, including those involving criminal offences. HMRC carry out 300 to 400 and DWP over 400 investigations each year into potentially serious disciplinary and criminal allegations involving staff.

Figure 8
Intelligence collected by departments on whistleblowing cases

DWP

The DWP holds the following information on cases:

- nature of the alleged offence
- details of the referral source
- geographical location
- evidence acquired
- outcome

The DWP also collects performance information on its whistleblowing caseload, including:

- number of cases received, rejected and passed to triage
- percentage of cases disposed of within triage without the requirement for a full investigation
- triage cases cleared within 21 days
- cases accepted for investigation cleared within 13 and 20 weeks
- quality of investigation according to the customer service questionnaire

HMRC

HMRC holds the following information on its caseload:

- nature of the alleged offence
- number of cases received
- origin of case
- details of those raising the concern
- geographical location
- outcome

HMRC also collects performance information on:

- the number of cases rejected/investigated
- the timescales involved

Notes

1   During the triage stage, more intelligence is gathered on a case to determine whether a full investigation is needed or whether there is evidence to support there being no case to answer.

2   HMRC produce bespoke reports to assess performance, risk and for benchmarking purposes.

Source: National Audit Office analysis of departmental information

2.12 As well as gathering data on individual cases, the DWP and HMRC collect management information centrally, which enables them to assess performance against targets. For the DWP, performance targets relate to the timeliness of response, and customer feedback. In this case, the customer is the decision-maker (normally a line manager) who receives the investigator's report rather than the whistleblower themselves.

2.13 On completion of a case, the DWP carries out a post-investigation threat assessment. This details what the allegation is, what the outcome was and lessons learned. This enables it to track similar types of concerns and identify systemic issues: for instance, allegations involving the same individual can be brought together further down the line. Analysts review this information to look for trends or systemic issues that may need to be addressed (for example emerging cases of fraud). The DWP used feedback from an investigation where incorrect user access levels were instrumental in fraud, to instigate a full security review and introduce security awareness sessions for all staff.

Quality assurance

2.14 Within the DWP, the policy and professional team carries out various quality assurance checks on how investigations are conducted (**Figure 9**). HMRC's conduct and quality of investigations are monitored by senior officers rather than a dedicated individual. In terms of independent scrutiny, HMRC's internal audit recently audited its whistleblowing arrangements. In terms of capturing lessons learned, on completing an investigation, the investigator's report will highlight any potential weaknesses found and preventative action. No such quality assurance activity is currently undertaken by the MoD, but it intends to collect the information necessary to enable it to quality assure its handling of cases.

Figure 9
An example of quality assurance activity within the DWP

Quality assurance process:

- Nine cases are selected each month from different business sectors. The sample selected aims to cover all investigators at least once over the course of the year.

- Checks are conducted against: information gathering/recording, active case management, investigatory interviews, and reports/outputs.

- Checks cover all documentary records, including checks/enquiries conducted, evidence obtained, interview transcripts and final report. Checks are undertaken by just one individual for consistency.

- Checks are scored good, satisfactory or poor.

- Results from checks are fed back directly to the investigator's line manager for discussion.

Training to maintain quality of handling cases and their investigation:

- Internal investigations staff and nominated officers are trained to deal with whistleblower referrals.

- As a minimum all investigators are accredited counter fraud specialists with the University of Portsmouth and have accreditation to at least Professionalism in Security (PINS) Level 7, receiving a combination of internal and external training. Examples of areas covered in the past three years include refresher training on: recording of evidence, prosecution procedures and conducting contract investigations.

Source: National Audit Office analysis of departmental information

Part Three

Structures to enable whistleblowing

Good practice structures: how they can work in practice

Reporting lines are sufficiently broad to permit the employee, according to the circumstances, to raise concerns across the management chain, including: line manager; more senior managers; an identified senior executive and/or board members; the responsible department; and relevant external organisations (such as regulators).

There is no requirement that a report must be in writing at any stage.

Where a department oversees other organisations, organisations are **required to report** on their whistleblowing arrangements and provide evidence. The report should be in proportion to the size of the organisation and the information should be published.

Source: Expert advice from Public Concern at Work

3.1 In this part, we focus on the Department of Health (DoH) and the Department for Education (DfE), who both oversee a complex delivery model, involving many organisations. We report on:

● the lines of reporting promoted to employees who wish to blow the whistle, both internally and outside their organisation; and

● how intelligence collected on whistleblowing cases flows between the various 'levels' of delivery.

3.2 In the first phase of our work we found that policies could be improved by providing more information on when it may be appropriate to make disclosures outside of the organisation. In order to 'test' this finding we mapped the internal and external reporting routes available to employees in the departmental families for the DfE and the DoH (Figures 11, 12, 14 and 15). We reviewed the whistleblowing policies of the arm's-length bodies and a sample of the providers overseen by each department to examine the internal and external reporting routes listed.

Reporting lines for employees

3.3 Research by Public Concern at Work (PCaW) shows that 56 per cent of whistleblowers raise a concern more than once. This indicates that organisations often have more than one opportunity to listen to individuals. **Figure 10** indicates how providing different reporting routes are essential in making sure whistleblowing arrangements work, given 60 per cent of whistleblowers receive no response from management either negative or positive.[15]

Figure 10
Whistleblower case study: why different reporting routes are important

The scenario: An employee sees an offence by a senior manager. They are hesitant about reporting it internally because they are aware that senior management may back each other up or they suffer a reprisal.

The facts: A whistleblower reported sight of envelopes containing money being left on a manager's desk. The chief executive had a lot of influence in the organisation and the whistleblower was unsure who they could trust internally.

Source: Public Concern at Work

All organisations offered a range of internal whistleblowing routes

3.4 All policies we reviewed promoted several routes that a whistleblower could take to report a concern (**Figure 11** overleaf and **Figure 12** on pages 28 and 29). Reporting arrangements described in policies were primarily internal, moving through the management chain of line manager, senior manager and director to head of organisation, although some organisations also make use of a whistleblowing hotline or nominated officers. In HM Revenue & Customs (HMRC), the hotline is open 24 hours a day, and the Department for Work & Pensions operates a hotline in office hours and an answerphone service outside of this. Both also provide a confidential email address, as well as access to nominated officers. The internal prominence is consistent with the civil service code (see paragraph 2.4), which advises on internal referral, either to a line manager or nominated officer, although it does encourage employees to contact the independent Civil Service Commission if they are not satisfied with the internal response.

3.5 Some policies encourage employees to approach their trade union representative with a concern. By naming a trade union representative in the policy, this ensures a disclosure to this union official would be protected under the Public Interest Disclosure Act (PIDA) in the same way that a disclosure to a line manager would be protected. Trade union representatives can provide a valuable source of advice and support for a worker going through the process of raising a concern, but, unless the policies name these individuals or they work within the organisation, a disclosure must satisfy a number of additional tests for the disclosure to be protected.[16]

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15 Public Concern at Work and the University of Greenwich, *Whistleblowing: the inside story – a study of the experiences of 1,000 whistleblowers*, May 2013. This report was based on experiences from both the public and private sector. These percentages refer to the experiences of 1,000 whistleblowers who contacted the PCaW advice line between 20 August 2009 and 30 December 2010.
16 Section 43C Employment Rights Act 1996.

Figure 11

Internal reporting routes available to employees in the Department for Education family

Department and arm's-length bodies

Department
for Education

Standards and
Testing Agency

National College
for Teaching
and Leadership

Education Funding
Agency

Providers

Maintained schools

(10 out of 20,072)

Early years providers

(10 out of 107,900)

Local
authorities

(10 out of 152)

Body		Providers		The number of blocks represent the proportion of whistleblowing policies we reviewed which include the respective reporting lines (see key) available to employees.
▬	Line manager	■■■■	All	
▬	Senior manager or director	■■■	Most	
▬	Whistleblowing hotline/officer	■■	Some	
▬	Head of organisation or organisational committee	■	Few	
▬	Department for Education body			

Notes

1   Internal reporting routes include options to report outside of the organisation but within the Department for Education family.

2   We examined a sample of policies for the providers: the diagram indicates the number of policies reviewed.

3   From 1 April 2014, Cafcass is moving to the Ministry of Justice.

4   Local authority children's services are not included in this figure as they do not receive funding from the Department for Education.

Source: National Audit Office analysis

Children and Family Court Advisory and Support Service (Cafcass)
Cafcass offers a wide range of suitable internal reporting routes

Office of the Children's Commissioner

Free schools and academies

(14 out of 3,831)

The policies for free schools and academies offer a range of internal reporting routes but since the Education Funding Agency does not prescribe the contents of the policy, there is little consistency across the policies.

Figure 12

Internal reporting routes available to employees in the Department of Health family

Department of Health

Departmental arm's-length bodies, agencies and independent regulators

Health and Social Care Information Centre

NHS Trust Development Authority

Human Tissue Authority

National Institute for Health and Care Excellence

NHS Property

NHS Litigation Authority

Health Education England

NHS Blood & Transplant

Human Fertilisation and Embryology Authority

Some organisations such as Public Health England, Monitor and the Care Quality Commission offer a range of suitable reporting routes. For others, such as the Medicines and Healthcare Products Regulatory Agency, there are more limited internal reporting routes.

NHS England

Public Health England

Providers and commissioners[1]

The provider policies we reviewed offer a range of internal reporting routes but there is little consistency.

NHS trusts

(99 trusts; 10 policies reviewed)

NHS foundation trusts

(146 trusts; 8 policies reviewed)

Notes

1   We examined a sample of policies for the providers and commissioners.

2   Professional regulatory bodies (e.g. General Medical Council) are not shown.

Source: National Audit Office analysis

Health Research Authority

Healthwatch England

Medicines and Healthcare Products Regulatory Agency

Professional Standards Authority

Care Quality Commission

Monitor

NHS Business Services Authority

The bars represent the internal reporting lines available to employees outlined in each body's whistleblowing policy.

Body

Line manager
Senior manager/director
Head of organisation (e.g. chairperson, chief executive)
Audit and Risk Committee/designated non-executive director
Internal specialist (e.g. HR internal audit, counter fraud specialist)
Internal whistleblowing hotline/officer
Trade union representative

Clinical commissioning groups (CCGs)

(211 CCGs; 10 policies reviewed)

Local authorities

(152 authorities; 7 policies reviewed)

Providers

All
Most
Some
Few

The number of blocks represent the proportion of whistleblowing policies we reviewed which include the respective reporting lines (see key) available to employees.

Effective external reporting routes

3.6   Disclosures can also be protected if made to a 'prescribed person'.[17] A prescribed person is someone who is independent of the worker's organisation, but has an authoritative relationship with them, such as a regulatory or legislative body. The prescribed person is particularly important where there is internal resistance to addressing the concerns raised, either deliberate or through inertia, or where the concerns are embedded within an organisation, systematically supported within its operations or occur at the highest levels.

3.7   The majority of the organisations' policies we reviewed refer to whistleblowing to a prescribed person, the majority of whom are regulators (**Figure 14** on pages 32 and 33 and **Figure 15** on pages 34 and 35). This route is important – as highlighted by PCaW's research which found that raising a concern with a regulator decreases the chance of dismissal.[18] Many of the policies for the DoH's organisations do not cover the risks and protection afforded when whistleblowing to external parties such as the media.

3.8   For the DfE, some academies and local authority maintained schools mention the option of reporting to the Education Funding Agency or the DfE itself. These routes can be appropriate in some circumstances, and routes through which the whistleblower could be protected for under PIDA.[19] Within NHS trusts, not all policies provide details of the NHS Fraud and Corruption Reporting Line (FCRL), the central hotline for fraud reporting.

Finding the most appropriate external reporting route

3.9   The DfE, and more so the DoH, operate in systems with many regulators with distinct areas of responsibility. For example, an employee of a hospital trust can report concerns to ten different regulators on health areas, as well as other bodies such as NHS Protect who operate the NHS Fraud and Corruption Reporting Line.

3.10   In our report on provision of out-of-hours GP services in Cornwall, we recommended that "The DoH should take the lead in making sure that whistleblowers are, and feel, protected throughout the NHS, and should instruct NHS bodies to publish their whistleblowing policies. This would help ensure that local policies are transparent, consistent and fully compliant with national policy."[20] Of the sample of 18 policies for trusts that we reviewed, three trusts listed nine organisations to whom an employee could refer a concern, whereas three listed just one.

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17   Some departmental employees who operate in a data rich environment, such as HMRC, need to be well-signposted as to what they can and cannot disclose to external bodies. HMRC has updated its policy to explain the protection offered by the Public Interest Disclosure Act and rules contained in the Commissioners of Revenue and Customs Act. Its policy advises jobholders to seek legal advice before making any external disclosure.

18   Public Concern at Work and the University of Greenwich, *Whistleblowing: the inside story – a study of the experiences of 1,000 whistleblowers*, May 2013.

19   Section 43E Employment Rights Act 1996.

20   Comptroller and Auditor General, *Memorandum on the provision of the out-of-hours GP services in Cornwall*, Session 2012-13, HC 1016, National Audit Office, March 2013.

3.11 As of 1 October 2013, a number of the professional health regulators were classified as prescribed persons. We examined the websites and policies for the prescribed persons in the DoH family. We found that each promoted their role as a regulator on their website to employees outside their organisation and most explained how they will treat referrals. We found more could be done to explain PIDA and the regulator's role as a prescribed person. This is important as a lack of clarity over potential protection that can be afforded under PIDA may discourage some potential whistleblowers. More widely, DoH funds a freephone helpline providing free, independent and confidential advice to staff including the provision of advice on best practice in implementing PIDA-compliant whistleblowing policies.

3.12 To receive protection under PIDA, whistleblowers must approach the prescribed person that they reasonably believe deals with the issue. There can be many prescribed people that are relevant to an organisation, for example two policies we examined for schools listed seven possible prescribed people to whom it may be appropriate to make a disclosure.

3.13 The Department for Business, Innovation & Skills keeps a list of all prescribed persons and the sectors that they cover.[21] These include regulators, government agencies and executive bodies covering sectors such as utilities, children's interests, healthcare, charities and food standards. Disclosures must be made to the appropriate prescribed person whose remit includes responsibility for that sector. **Figure 13** outlines examples of these in each sector.

Figure 13
Examples of sectors and prescribed persons in England

Sector	Example of a prescribed person
Business, finance or fraud	Comptroller and Auditor General of the National Audit Office
Children's interest	Children's Commissioner
Health and safety	Health and Safety Executive
Healthcare	Care Quality Commission
Qualification and examination	Office of Qualifications and Examinations Regulation (Ofqual)
Social care	Health and Care Professions Council

Source: Department for Business, Innovation & Skills, *Blowing the whistle to a prescribed person*, February 2013

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21   Department for Business, Innovation & Skills, *Blowing the whistle to a prescribed person*, February 2013.

Figure 14

External reporting routes available to employees in the Department of Health family

Department of Health

Departmental arm's-length bodies, agencies and independent regulators

Health and Social Care Information Centre

NHS Trust Development Authority

Human Tissue Authority

National Institute for Health and Care Excellence

NHS Property

NHS Litigation Authority

Health Education England

NHS Blood & Transplant

Human Fertilisation and Embryology Authority

Most departmental arm's-length bodies and agencies offer a prescribed person as a reporting route. Only six mention the NHS Fraud and Corruption Reporting Line.

NHS England

Public Health England

Providers and commissioners

Most provider policies offer a prescribed person as a reporting route, but there is little consistency. None of the policies we examined contained a comprehensive list of all external routes.

NHS trusts

(99 trusts; 10 policies reviewed)

NHS foundation trusts

(146 trusts; 8 policies reviewed)

Notes

1   External reporting is defined as routes outside an employee's organisation.

2   We examined a sample of policies for the providers and commissioners.

3   Care Quality Commission and Monitor are health regulators and also prescribed persons.

4   Professional regulatory bodies (e.g. General Medical Council) are not shown.
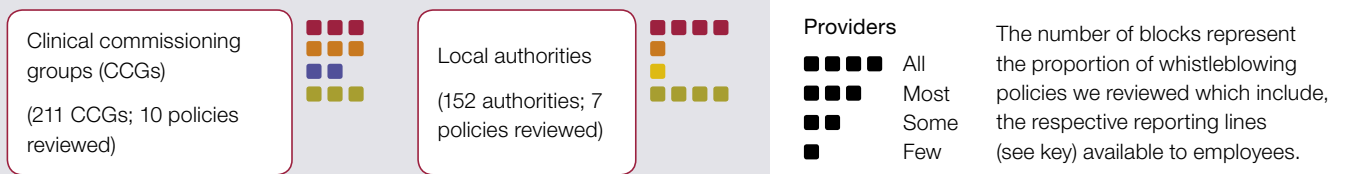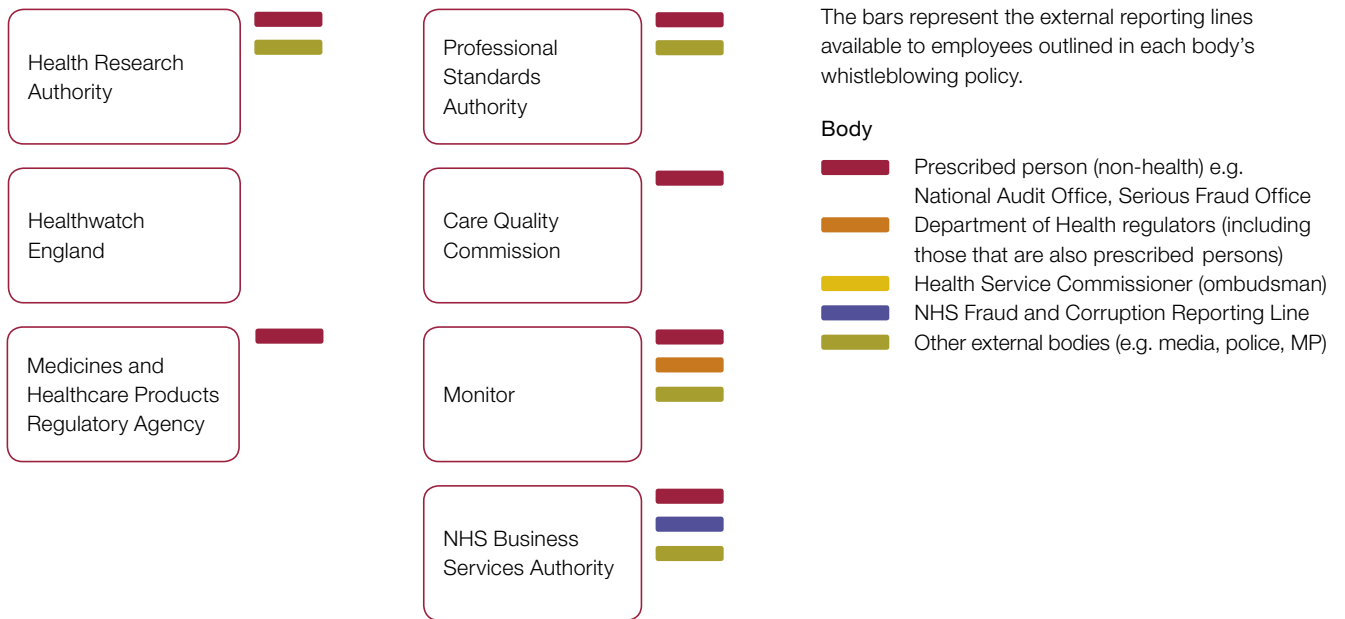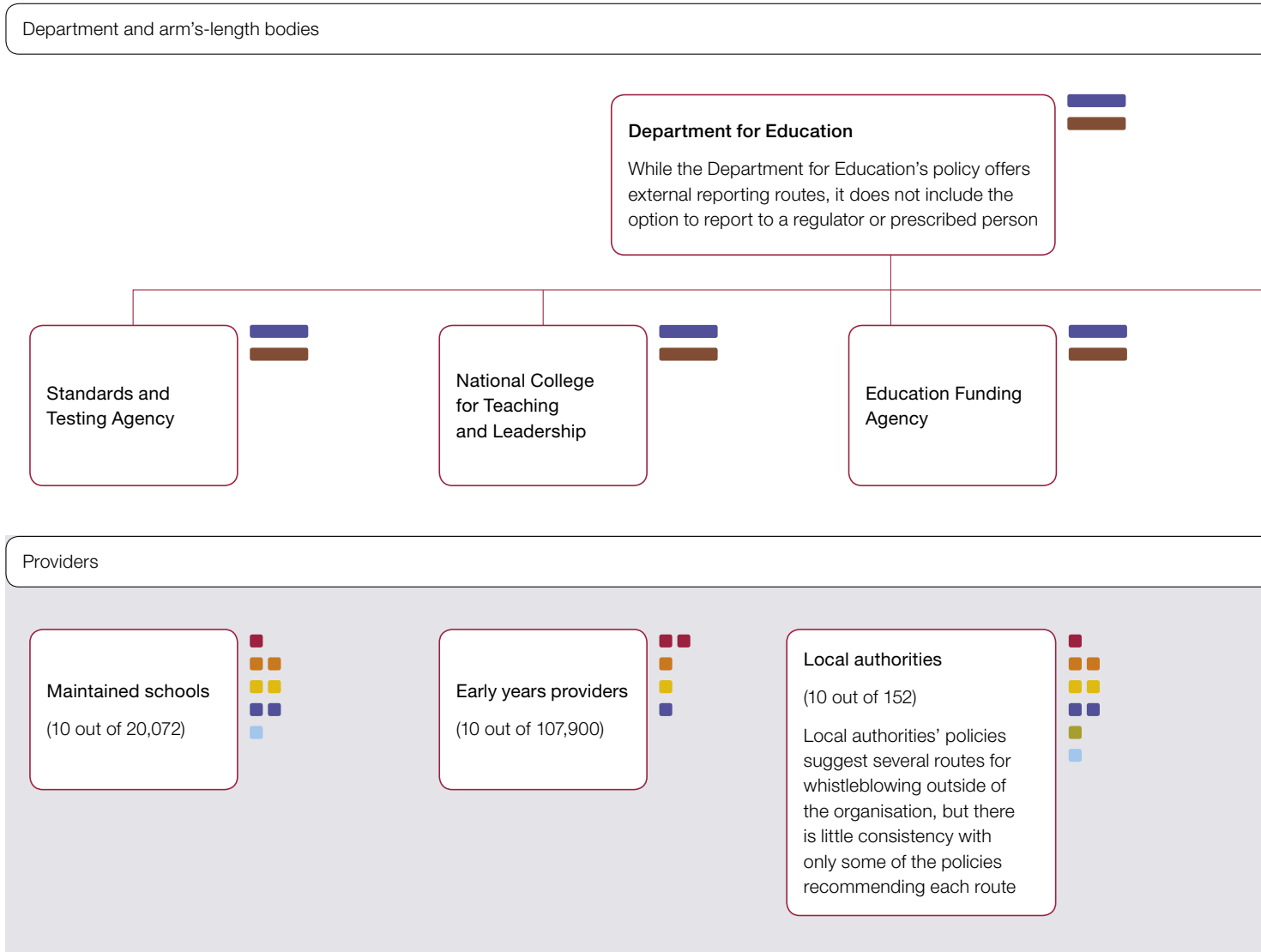
Source: National Audit Office analysis

Health Research Authority

Professional Standards Authority

Healthwatch England

Care Quality Commission

Medicines and Healthcare Products Regulatory Agency

Monitor

NHS Business Services Authority

The bars represent the external reporting lines available to employees outlined in each body's whistleblowing policy.

Body

Prescribed person (non-health) e.g. National Audit Office, Serious Fraud Office

Department of Health regulators (including those that are also prescribed persons)

Health Service Commissioner (ombudsman)

NHS Fraud and Corruption Reporting Line

Other external bodies (e.g. media, police, MP)

Clinical commissioning groups (CCGs)

(211 CCGs; 10 policies reviewed)

Local authorities

(152 authorities; 7 policies reviewed)

Providers

All
Most
Some
Few

The number of blocks represent the proportion of whistleblowing policies we reviewed which include, the respective reporting lines (see key) available to employees.

Figure 15

External reporting routes available to employees in the Department for Education family

Department and arm's-length bodies

Department for Education

While the Department for Education's policy offers external reporting routes, it does not include the option to report to a regulator or prescribed person

Standards and Testing Agency

National College for Teaching and Leadership

Education Funding Agency

Providers

Maintained schools

(10 out of 20,072)

Early years providers

(10 out of 107,900)

Local authorities

(10 out of 152)

Local authorities' policies suggest several routes for whistleblowing outside of the organisation, but there is little consistency with only some of the policies recommending each route

Body

- Regulator (Ofsted/Ofqual)
- Local Government Ombudsman or District Auditor
- Prescribed person
- Police
- Media
- Civil Service Commission
- Council member or MP

Providers

- ■■■■ All
- ■■■ Most
- ■■ Some
- ■ Few

The number of blocks represent the proportion of whistleblowing policies we reviewed which include the respective reporting lines (see key) available to employees.

Notes

1   External reporting routes are those that are outside of the Department, its arm's-length bodies and the providers.

2   We examined a sample of policies for the providers: the diagram indicates the number of policies reviewed.

3   From 1 April 2014, Cafcass is moving to the Ministry of Justice.

4   Local authority children's services are not included in this figure as they do not receive funding from the Department for Education.

Source: National Audit Office analysis

Children and Family
Court Advisory and
Support Service
(Cafcass)

Office of the
Children's
Commissioner

Free schools
and academies

(14 out of 3,831)

Devolved delivery and variable reporting routes

3.14 Departments such as the DfE and the DoH operate with many arm's-length bodies and delivery partners. Whistleblowers are a vital source of information for regulators as they can provide a perspective that is not readily available in other ways. Collating management information on whistleblowing cases can provide valuable intelligence on areas that need further examination or controls. Within both the DfE and DoH families, concerns raised by employees can be made to many different bodies which, if not shared, can result in fragmented intelligence. This creates the risk that a pattern of incidents arising within a specific organisation can be missed and thus systemic issues within it go undetected. Without adequate promotion of each regulator's role, there is also risk of confusion among employees as to who is best placed to receive a concern.

3.15 The Francis Inquiry into the Mid Staffordshire NHS Foundation Trust concluded that "communication of intelligence between regulators needs to go further than sharing existing concerns identified as risks, and it should extend to all intelligence which when pieced together with that possessed by partner organisations may raise the level of concern."[22] As of February 2014, the Care Quality Commission (CQC) has commissioned two external reviews of their procedures for raising concerns – one focusing on internal procedures for its own staff, and the other for people who refer externally to the CQC. Monitor and the CQC have committed to share information between them.[23] However, the matter of intelligence goes well beyond two organisations. The need for better intelligence sharing is recognised by the DoH who accepted the Inquiry's recommendations. Wider information sharing is part of the work programme of the DoH complaints programme board, of which CQC is a member.
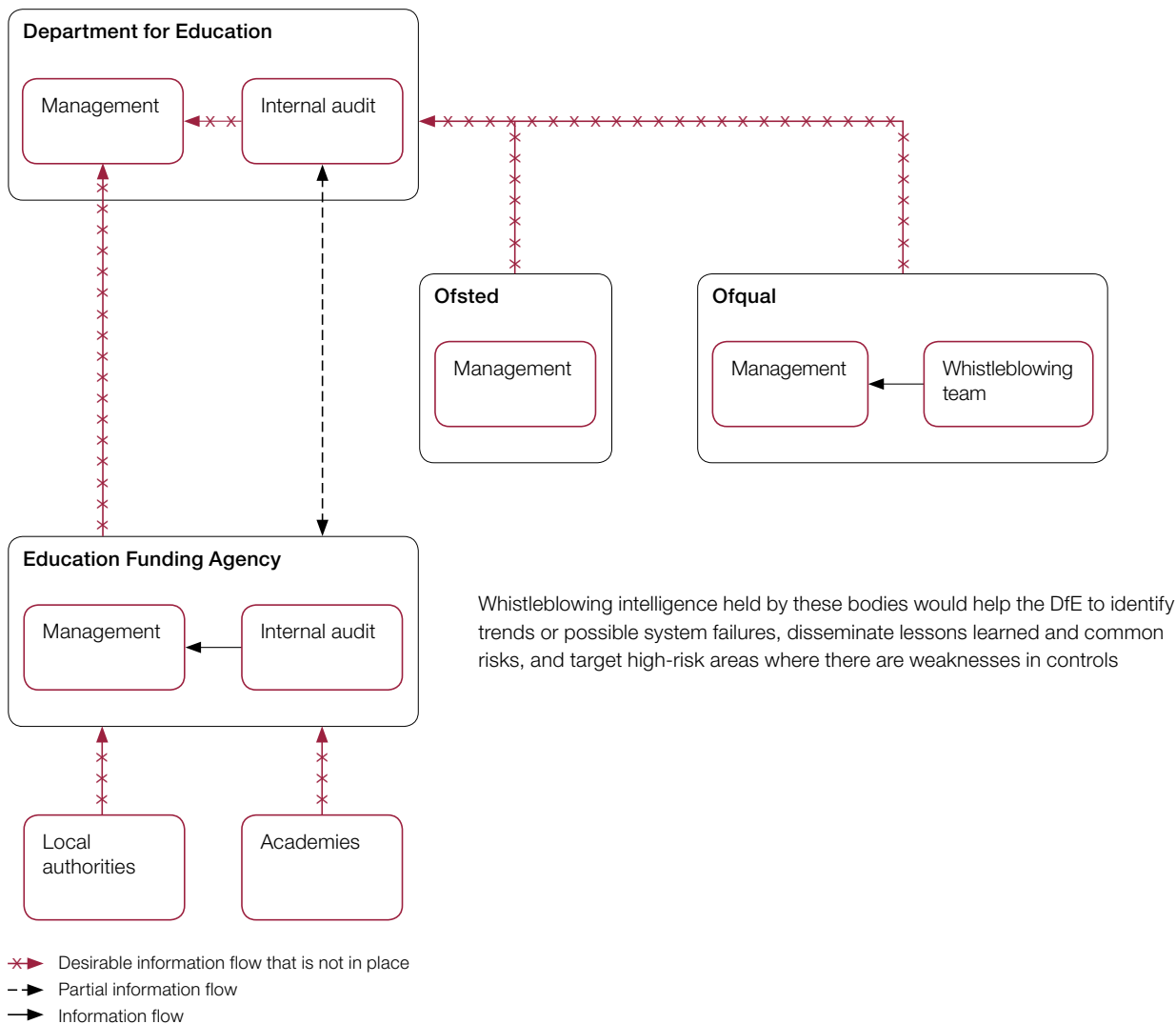
3.16 We examined the process for distributing whistleblowing intelligence around the DfE. Whistleblowing disclosures may be made in each of its arm's-length bodies but we did not find evidence that intelligence is routinely reported to the central department. **Figure 16** shows how intelligence flows between bodies in the DfE family and highlights where bodies are missing opportunities for collecting intelligence on whistleblowing cases. By collating and analysing such intelligence, systemic weaknesses in controls or emerging patterns of fraud/malpractice can be identified and targeted.

22 Report of the Mid Staffordshire NHS Foundation Trust Public Inquiry, HC 947, Public Inquiry, Chaired by Robert Francis QC, February 2013
23 Comptroller and Auditor General, *Monitor, Regulating NHS foundation trusts*, Session 2013-14, HC 1071, National Audit Office, February 2014.

Figure 16

Flow of whistleblowing intelligence in the Department for Education

Whistleblowing intelligence held by these bodies would help the DfE to identify trends or possible system failures, disseminate lessons learned and common risks, and target high-risk areas where there are weaknesses in controls

✕▶ Desirable information flow that is not in place

– ▶ Partial information flow

▶ Information flow

Notes

1   Ofqual shares information on individual cases with DfE if it is examining an issue which has a direct link to an activity taking place in DfE or could impact on an area within their remit, however this is not part of a formal process.

2   Ofsted and Ofqual are non-ministerial departments. The DfE does not have responsibility for these departments and cannot require them to share information with the DfE.

3   As of March 2014, Ofsted is developing a process that will allow it to share with DfE information on concerns that are directly related to DfE's work.

Source: National Audit Office analysis

Part Four

Behaviours to enable whistleblowing

Good practice behaviours: how they can operate in practice

- Staff-wide **promotion** of the arrangements by a senior executive at least annually. This can be via the intranet, direct email, on payslips or some form of hard copy circulation.

- **Feedback** to staff on issues raised, both to the individual who has raised the concern, wherever possible, and to the wider staff group if the matter is widely known.

- Staff survey questions to **check awareness**. Survey questions cover experience of raising concerns, awareness of what to do if they have a concern, whether staff are confident that the concern will be handled well AND they will not suffer for raising a concern.

- **Brief managers** on their role in promoting the arrangements and receiving concerns. Managers should be regularly informing staff that the organisation would like staff to raise issues at the earliest opportunity, and if they are unable to speak to their line manager, the whistleblowing policy will guide them on who else they can contact.

Source: Expert advice from Public Concern at Work

4.1 In this part we focus on our case study departments to examine:

- ongoing work to improve whistleblowing arrangements;

- how they promote and raise awareness of whistleblowing arrangements; and

- awareness and confidence in the arrangements among staff.

4.2 Positive behaviour and an open and supportive culture are integral to setting up effective whistleblowing arrangements, yet these can be difficult to achieve. They require ownership of a policy at a senior level, up to and including board members, effective action to deal with concerns raised, and a confidence among staff to report any malfeasance or malpractice they witness. As the Chartered Institute of Internal Auditors states:

> "There is a symbiotic relationship between whistleblowing and an organisation's culture. Effective internal whistleblowing arrangements are an important part of a healthy corporate culture. But it is also crucial to have the right organisational culture which encourages people to speak out without fear." [24]

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24 Chartered Institute of Internal Auditors, *Whistleblowing and corporate governance, the role of internal audit in whistleblowing*, January 2014.

The importance of whistleblowing arrangements

4.3   We found all departments we spoke to had generally put their own improvement plans in place, independently revisiting and revising their arrangements. The Civil Service Employee Policy (CSEP) supports those arrangements by reviewing and updating its policies on a regular basis. The Care Quality Commission has recently commissioned two evaluations to review the arrangements for internal staff to raise concerns; the second is examining how the Commission is discharging its role as a 'prescribed person' under the Public Interest Disclosure Act 1998 (PIDA). Within its 2014-15 audit plan, the Department for Work & Pensions (DWP) has outlined a review to examine how its policies are implemented and publicised, and the skills, culture and role of the prescribed person. The review will also examine the action taken to evaluate, compare and contrast with best practice models. The Ministry of Defence (MoD) is currently undertaking a fundamental review of its policy, and the arrangements in place for staff to report a concern (**Figure 17** overleaf). The review has focused on the need to update the existing policy from 2008.

Promoting whistleblowing arrangements to staff

4.4   Departments have a number of ways to promote their whistleblowing arrangements (**Figure 18** on page 41). Each uses the intranet to raise awareness of their arrangements, and supplements this with relevant staff meetings and presentations, either on request or in response to enquiries. They actively promote presentations to solicit requests, for example, the DWP targeted staff in a team that recently became part of the Department. The DWP also includes examples of live cases on its intranet to help raise awareness and understanding, while HM Revenue & Customs (HMRC) publishes outcomes of criminal cases. Both the DWP and HMRC monitor the number of visits to respective intranet pages, HMRC receiving 102,206 visits between April and November 2013 and the DWP receiving 139,457 in the same period.

Awareness of how to raise a concern

4.5   The annual civil service survey collects information on the awareness among staff as to how to report a concern.[25] In 2013, although 89 per cent of civil servants who responded were aware of the civil service code, only 64 per cent of these staff were aware of how to raise a concern under the code (**Figure 19** on page 41). While awareness levels in the departments we reviewed are around the civil service benchmark, they are not sufficiently high enough. We would expect departments to aim for all staff to be aware of how to raise a concern.

4.6   The three departments we reviewed have further surveyed their staff on different aspects of their whistleblowing procedures (**Figure 20** on page 42). In 2013, as part of work commissioned by the National Fraud Authority, Public Concern at Work (PCaW) undertook a survey on the MoD's behalf on current whistleblowing arrangements. The findings of this and that of the DWP's survey highlight opportunities to raise awareness further.

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25   Data for the Ministry of Defence was not available for 2013 at time of writing.

4.7 Departments can use the findings to identify where promotion of their whistleblowing arrangements needs to be targeted. For example, the DWP found that awareness levels were lower among some business areas/grades and is developing plans to address this.

Figure 17
Updating the MoD arrangements

Previous arrangements	Work in progress	Revised arrangements
Only aimed at civilian staff or military line managers of civilian staff	Combining policy to ensure that it is appropriate for both military and civilian staff, in common principles of fairness	Will have the same processes for all staff. The review of the whistleblowing arrangements is part of a wider MoD review to improve harmonisation and simplification of arrangements across the whole department. MoD is looking to maximise cross-departmental thinking to reduce effort but increase benefit
Owned by human resources department	Joint work with counter fraud and loss team to ensure more effective working and reporting Working group being formed with input from across the MoD, including press team and knowledge team to improve ownership and clarity of messages	Jointly owned and complementary to other related policies Whistleblowing being championed by Permanent Under Secretary in the MoD
No management information (MI) collected centrally to allow understanding of number of cases and time frame for action	Using Public Concern at Work's survey from 2013, a number of benchmarks will be identified to create new MI baseline	Better understanding of the number of cases and time frames involved. Greater comparability across other government departments. Better use of reporting internally. MI will sit alongside fraud data and defence business services data
Developed in-house	Civil Service Employee Policy model now being used as good practice	Allows greater comparability with other government departments
Allowed more junior line managers to investigate issues	Approach being developed which will involve minimum of grade seven staff handling investigations	Greater consistency in approach and target training better
No formal mechanisms for training staff – just use of guidance available on intranet	Examining options for delivering training to all staff of all grades on whistleblowing	Raise awareness of new arrangements
Did not allow easy identification of new areas of potential fraud/loss	Pilot currently being undertaken to look at scale of problem and identify loss so it can align to arrangements	Every budget area will have a risk register of potential loss in its areas as a result of process review. The fraud and loss team have earlier access to new process development to help identify and assess fraud threats and take early action to prevent fraud from occurring
On intranet but not easily visible and not considered to be prioritised	Looking at a range of different media and knowledge channels to publicise new arrangements. This will include: banner on payslips, new intranet pages, different magazines, 60-second digest	Raising awareness week following launch of updated policy and will survey staff again after six months to see if awareness has improved

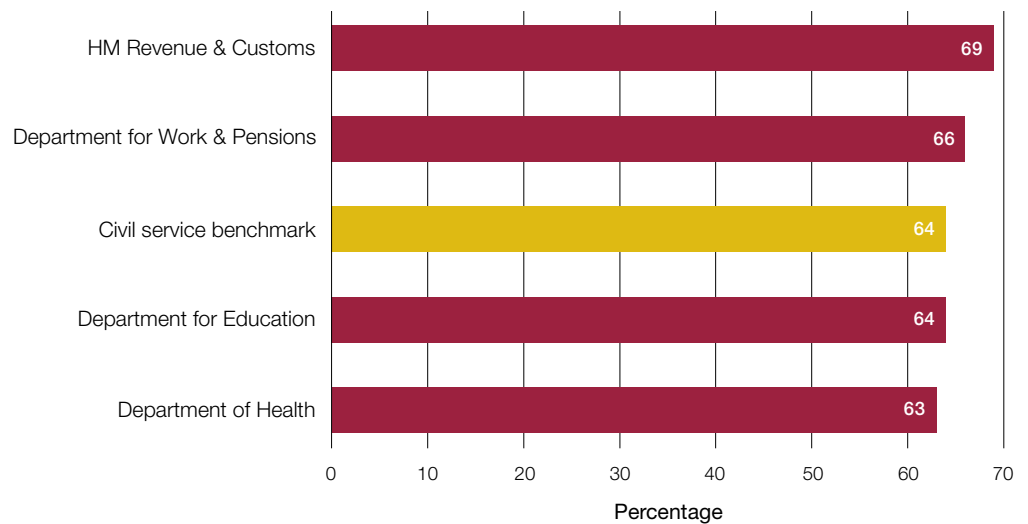Source: National Audit Office analysis of departmental information

Figure 18

Approaches to promoting whistleblowing arrangements

Approach	DWP	HMRC	MoD
Dedicated intranet section	✔	✔	✔
Staff presentations/meetings	✔	✔	✔
Periodic bulletins to staff	✔	✔	✔
Staff surveys to gauge awareness	✔	✔	✔

Source: National Audit Office analysis of departmental information

Figure 19

Awareness levels of how to raise a concern under the civil service code

Notes

1   Data for the Ministry of Defence was not available for 2013 at time of writing.

2   The civil service code goes wider than whistleblowing: there are many issues that could be raised under the code that would not be protected by PIDA.

Source: Civil service survey 2013

Figure 20

Some departments could do more to raise awareness
of whistleblowing arrangements

DWP   68 per cent know how to report a suspicion of internal fraud and abuse to
           internal investigations

           48 per cent know what types of cases are looked at by internal investigations

MoD   57 per cent did not know the policy existed

           87 per cent said it would be very helpful or helpful to have independent advice

HMRC   60 per cent said their preferred route for reporting a case of wrongdoing would
           be to their line manager

           36 per cent said their preferred route would be the In Confidence hotline

Notes
1   The findings presented relate to employee awareness of whistleblowing arrangements.
2   HMRC findings are based upon an intranet poll in which staff were given one option to state their preferred
     reporting route.

Source: Department for Work & Pensions Wavelength Survey (5,000 randomly selected staff), spring 2013,
Ministry of Defence independent survey, March 2013 and HM Revenue & Customs employee poll, May 2013

Promoting a positive image of whistleblowing

4.8 We asked three departments how they promoted and supported a culture
of openness that not only enables but encourages individuals to come forward.[26]
Such openness makes it easier for a department to assess the issues, work out how
to investigate the matter, get more information, understand any hidden agendas and
minimise the risk of a sense of mistrust or paranoia developing. Every organisation
faces the risk that something will go badly wrong and should welcome the opportunity
to address it as early as possible.

4.9 The MoD's leadership training programmes focuses on behaviours that support
whistleblowing. On the front line, the DWP provides training to staff to help them better
understand the sort of things that happen and the consequences of not following the
DWP arrangements. HMRC disseminates messages of openness and transparency
through guidance and training packages for all staff, and through regular performance
discussions between staff and managers as well as team meetings. Both the DWP and
HMRC provide guidance, rather than direct training, to line managers on how to handle
the concern appropriately.

4.10 We found most whistleblowing policies, and information available to staff, carried a
message from the top that whistleblowing is important to the organisation. Most policies
are signed off by a senior manager although their endorsement could be made more
prominent on the respective intranet pages. In the MoD, the Permanent Under Secretary
and the Chief of the Defence Staff are expected to write the foreword to the policy when
it is relaunched.

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26   Department for Work & Pensions, HM Revenue & Customs and Ministry of Defence.

4.11 However, in practice, research by PCaW found that institutional silence is a common response; whistleblowers are most likely to experience no response from management either to them personally or to the concern that has been raised.[27] We were told of how some cases were not supported by management, receiving a slow or unjust response (**Figure 21**). Departments can share good examples and promote successful whistleblowing cases to show whistleblowing in a positive light.

Figure 21

Whistleblower case studies – tone from the top of the organisation

Scenario: Senior management should consider whistleblowers as a key source of intelligence to ensure organisations are functioning effectively. However, cases occur in which senior management have turned a blind eye, shown a lack of urgency or deliberately tried to cover up the allegations made, penalising those reporting a concern.

Whistleblowers can receive a negative message from the top of the organisation:

- Whistleblower A, who followed the whistleblowing procedures to report concerns including financial mismanagement, gross maladministration, and unethical practice regarding abuse of vulnerable people received a hostile response from senior officials/councillors. They colluded to keep issues suppressed, using their position of power to influence and circumvent the legitimate concerns being raised.

Responses to disclosures can be slow, and unjust:

- It took two years after the lodging of a grievance before whistleblower B was eventually removed from his post, with no prospect of returning to his job. He received four separate gross misconduct charges which all collapsed at his final employment hearing. A clause in the subsequent compromise agreement prevented him from exercising his statutory Freedom of Information (FOI) and Data Protection querying rights for 20 months. In the opinion of the Information Commissioner's Office, this was a likely breach of the FOI Act and may have had possible implications under the Human Rights Act.

- For whistleblower C, the issues raised about the way in which specialist child services were provided was repeatedly discussed with managers at various levels for two years but to no avail. They found that senior management placed emphasis on shifting the blame to the consultant team with no responsibility acknowledged by the management.

Source: National Audit Office interviews with whistleblowers

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27 Public Concern at Work and the University of Greenwich, *Whistleblowing: the inside story – a study of the experiences of 1,000 whistleblowers*, May 2013.

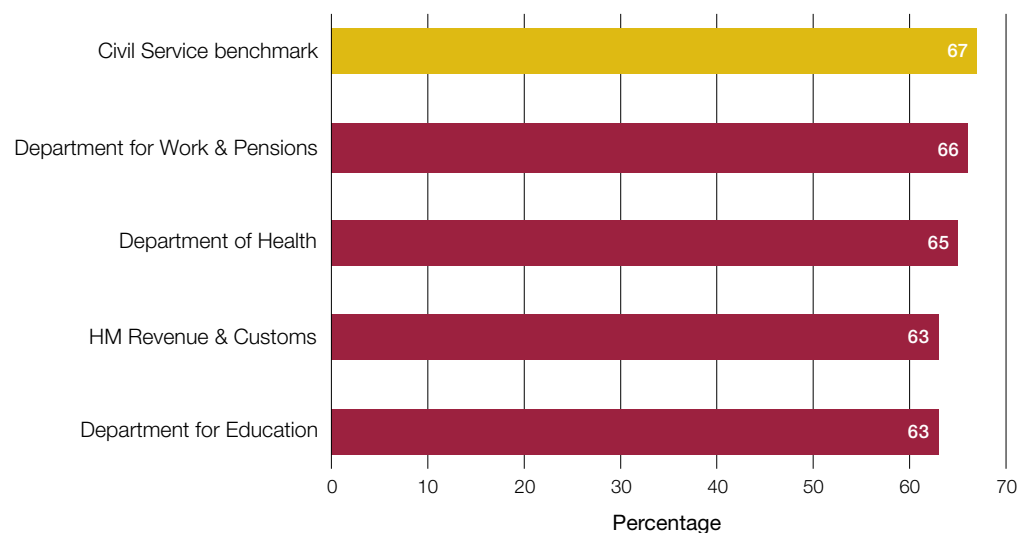## Trust in whistleblowing arrangements

4.12 Without effective arrangements, and the right culture, which offer employees safe ways to raise a whistleblowing concern, it is difficult for an organisation to effectively manage the risks it faces. Staff need to have trust in the arrangements in order to have the confidence to report a case of wrongdoing. In July 2009, the Public Administration Select Committee reported that:

"It is essential that staff have confidence that using whistleblowing procedures will be a positive experience and not be damaging to their careers… The lack of good whistleblowing procedures leads to more serious wrongdoing… The most effective way to prevent leaks by civil servants is to provide accessible, effective and visible channels by which civil servants of all grades can raise genuine concerns about the conduct of government… Two key questions a government department should ask itself following a leak are whether the matter had been raised internally and, if not, why not?" [28]

4.13 The annual civil service survey collects information on staff confidence in raising a concern. In 2013, 67 per cent of staff who responded were confident that if they raised a concern under the civil service code it would be investigated properly (**Figure 22**).

Figure 22
Confidence levels of staff that a concern would be investigated properly by their department

Note
1   Data for the Ministry of Defence was not available for 2013 at time of writing.

Source: Civil service survey 2013

28   House of Commons Public Administration Committee, *Leaks and Whistleblowing in Whitehall*, July 2009.

4.14 The DWP surveyed its own staff to understand how effectively they felt it deals with cases of internal fraud.[29] Forty-eight per cent of staff who responded agreed that it dealt with this effectively. Of those responding to the MoD survey, 52 per cent of employees who had a concern about serious wrongdoing within the last two years did not raise their concern, and only 40 per cent thought they would not suffer reprisals as a result of raising a concern.

4.15 These findings indicate the importance of providing alternatives for employees in terms of both internal advice and investigative routes available to them. The 'independent' nature of external disclosure is a matter for further consideration by departments, but we recognise the challenge faced by organisations in producing a policy that satisfies the statutory position of both the civil service code and PIDA, and any legislation specific to a particular department or body.

Reassuring staff

4.16 Confidentiality and protection of the whistleblower are key aspects of trust. There have been several recent public cases in which a whistleblower has suffered detriment, which may inhibit others from disclosing wrongdoing (**Figure 23** overleaf).

4.17 In our first report we found that most policies were satisfactory or better in reassuring potential whistleblowers that their concern would be taken seriously and that they would not be victimised for raising a concern. However, we found that organisations could do more to clarify the protection that exists for staff who raise a concern, in particular links to PIDA where appropriate. While arrangements are in place for protecting the confidentiality of whistleblowers, we found a high proportion (85 per cent) of disclosures within the DWP remain anonymous. Such findings indicate that in practice many potential whistleblowers lack confidence in the assurances given by internal processes. Raising a concern anonymously also limits the ability to give feedback to individuals on how their concerns have been acted on, and thus giving them confidence that they have been taken seriously.

Publication of outcomes

4.18 Of the departments we reviewed, only HMRC publishes outcomes to its cases, and only criminal cases are included. Publishing comprehensive statistics on whistleblowing cases received and their outcomes is a means by which to increase staff confidence in arrangements, as it enables staff to see how referrals have been dealt with. Cases referred can be 'lost' from the whistleblower's perspective, which may result in staff feeling less motivated to come forward when they feel that things have not changed.

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29 The DWP's statement "I think DWP deals effectively with internal fraud", covers a wider range of cases than just whistleblowing.

Figure 23
Whistleblower case studies – fears of reprisal

Whistleblowers are concerned about confidentiality:

- A senior care coordinator in a care home for the elderly saw carers had forgotten to give vital medication that day. These concerns were reported to a manager who flushed unused medication down the toilet. As the whistleblower was the sole witness of the manager's actions, it was more than likely the manager would work out that they were the source.

Source: Public Concern at Work, *Where's whistleblowing now? 10 years of legal protection for whistleblowers,* March 2010

Whistleblowers often fear reprisal:

- A junior doctor raised concerns about substandard patient care at an NHS trust with her regulatory body. The referral of her concerns then led to an illegal inquiry into the doctor's personal life but no investigation into patient care was ever conducted. The whistleblower was branded a 'troublemaker' and various aspects of her competence discussed. This speculation was subsequently rescinded following a legal case. The case concluded in the whistleblower's favour and subsequent NHS reports vindicated her concerns.

Source: Case study on Expolink website

- A whistleblower who worked for a council and reported concerns about financial mismanagement and abuse of vulnerable people was 'mobbed', left isolated and hospitalised due to stress. A subsequent investigation found he had been bullied/harassed/subject to abuse of power on a corporate/ departmental and personal basis. The impact has left him unable to get employment, and he told us that with the benefit of hindsight he would not do it again as whistleblowers are not supported or protected. He stressed that whistleblowers need to be more in control of the whistleblowing process in terms of timescales, outcomes and have the opportunity to take their concerns externally if an organisation does not respond appropriately or in a timely manner.

Source: National Audit Office interview with whistleblower

A review found that management and leadership were intimidating:

- A whistleblower reported concerns about an unfair suspension of another whistleblower. An independent review into the hospital reported that staff described management and leadership styles as 'bullying', 'intimidating', 'coercive', 'aggressive', 'hostile' and 'vindictive'. Most staff who attended the sessions reported a culture defined by fear and blame.

Source: National Audit Office interview with whistleblower

Appendix One

Methodology

1   We have a wealth of experience of whistleblowing, gathered through various strands of our work including:

- our first whistleblowing report and our earlier work on confidentiality clauses;

- our work with the Public Audit forum; and

- the Comptroller and Auditor General's role as a prescribed person, through which we receive whistleblowing disclosures and other concerns.

We drew this information together and built on our knowledge to set the foundation for this report.

2   We worked with Public Concern at Work to identify good practice in each area.

3   We reviewed relevant literature, including publications by the Chartered Institute for Internal Auditors and Public Concern at Work.

4   We consulted with whistleblowers and drew on the experiences of whistleblowers we have seen in our role as a prescribed person.

5   We worked with five departments and their arm's-length bodies, gathering data on their whistleblowing arrangements. For each case study department we took the following approach:

Department for Work & Pensions, HM Revenue & Customs and Ministry of Defence

6   We asked these departments to share information on:

- how whistleblowing is promoted and encouraged;

- the governance arrangements to oversee whistleblowing procedures; and

- the management information collected on whistleblowing.

7   We carried out site visits to understand how departments handle whistleblowing referrals and to map their process.

Department of Health (DoH) and Department for Education (DfE)

8   We reviewed whistleblowing policies for these departments arm's-length bodies and providers to map the reporting routes promoted to potential whistleblowers to report incidents.

9   In managing the volume of NHS and foundation trusts and clinical commissioning groups (health) and schools/academies (education) we reviewed policies on a sample basis.

Health:

- 7 local authorities;

- 18 providers (NHS trusts and foundation trusts); and

- 10 clinical commissioning groups.

Education:

- 34 schools and early years providers' policies; and

- 10 local authority policies.

10   We reviewed the websites of health regulators to assess the information available to staff wishing to refer a case to them from an external body.

11   With the relevant bodies in the DoH (Care Quality Commission, Monitor, NHS Protect and NHS England) and the DfE (Ofqual and Ofsted, the Department for Education, the Education Funding Agency and Internal Audit) we discussed:

- sources of intelligence (internal and external) with regard to matters of patient safety/clinical negligence and/or financial malfeasance;

- the types of intelligence received; and

- how such intelligence is used/shared.

Appendix Two

Case handling processes

The process of handling referrals

We carried out site visits to the Department for Work & Pensions, HM Revenue & Customs and the Ministry of Defence to understand how departments handle the cases they receive. Departments offer training to those responsible for investigating concerns. **Figure 24** shows the minimum points this training should cover. The Ministry of Defence is currently improving its arrangements. The process varies between the other two departments: although each has the same elements (**Figure 25** overleaf). **Figure 26** on page 52 shows an example process.

Figure 24

Optimal behaviours and required experience for an investigation officer

Officers with a designated role in the whistleblowing policy are trained on:

- managing confidentiality – how to maintain confidentiality and potential limitations;

- responding swiftly;

- reassurance – for the individual that victimisation for raising a concern will not be tolerated;

- escalation – to whom, how and when;

- support – for the manager and the individual;

- protection – what internal arrangements have been made for the individual and what to do if they experience victimisation;

- feedback – how to keep the individual informed, when to feedback and limitations;

- the audit and review process – including the role of the National Audit Office; and

- the legal framework – an overview of the Public Interest Disclosure Act 1998.

Source: Expert advice from Public Concern at Work

Figure 25
Process for handling whistleblowing cases received by investigations teams

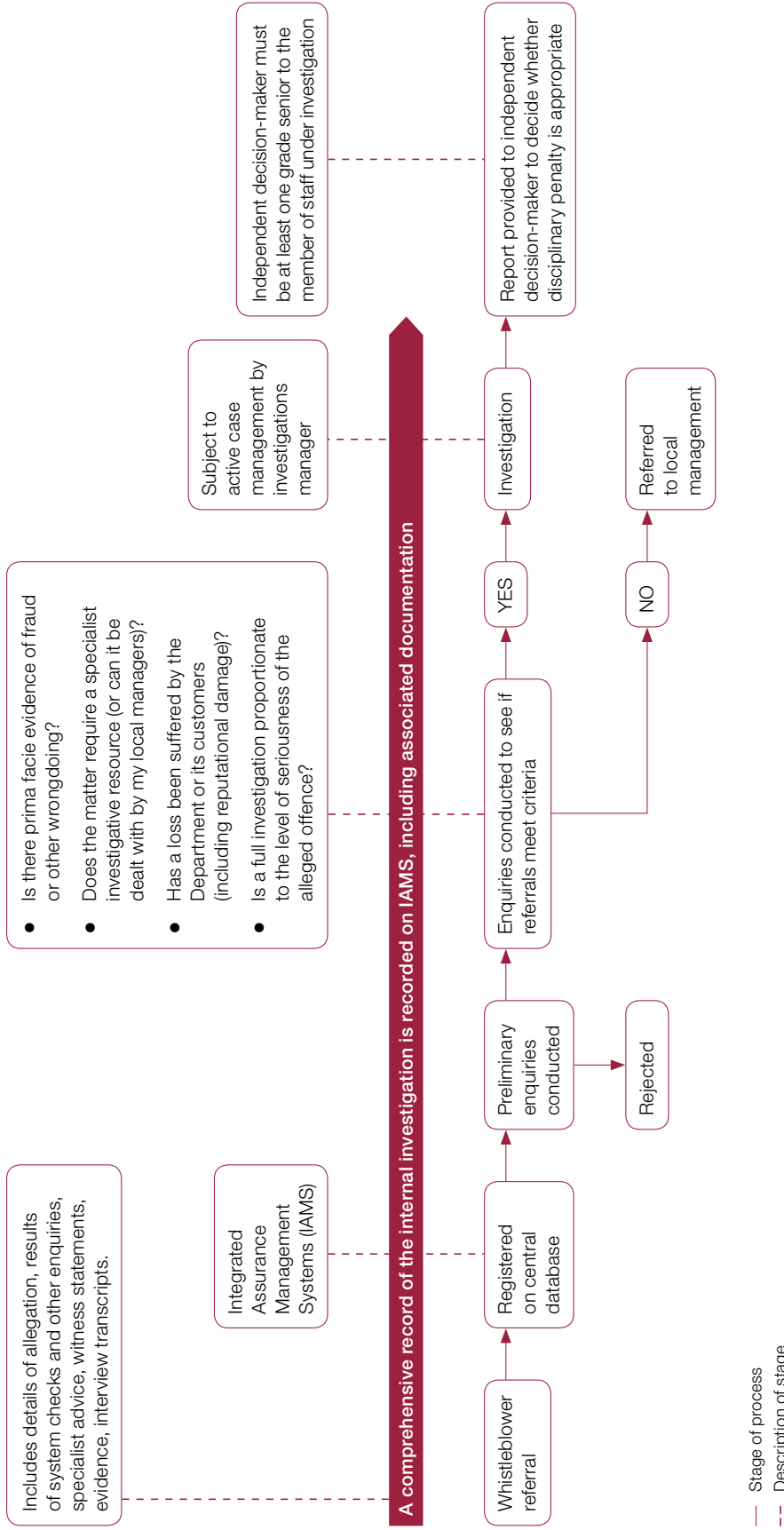|	DWP	HMRC	MoD
Handling referrals received by investigations team	Initial decision by central referrals team normally made within five days of the referral being received. In less serious cases line managers may deal with the matter without the need for further enquiries or a formal investigation. In 2012-13, 101 cases were received (35 via email or letter, 66 via hotline). 79 referrals were referred to local management for action. The remaining 22 cases resulted in a formal investigation.	Recipient (usually a manager) of the concern holds a meeting with the whistleblower to determine whether or not the case falls under the whistleblowing policy and how it should be addressed. Managers and nominated officers refer serious cases to its internal governance team, which also receive some referrals directly including those made via anonymous reporting channels. In 2012-13, 68 referrals were received by the internal governance team.	Majority of cases received by either line managers or nominated officers. Cases can be referred for legal advice (in-house team) or to the defence business services.
Criteria used in decision-making	Overarching criteria for authorising further enquiries include: ● evidence of wrongdoing; ● grounds for requiring an individual to explain or account for their actions; ● investigative resource needed to establish the facts; and ● nature and extent of the person's behaviour, which may have had a material impact on, or harm on reputation, funds or customers. Additional criteria include: ● whether a full investigation is proportionate to the offence; ● if the nature/extent/impact of the offence justifies the cost of an investigation; ● if an investigation is viable and a clear outcome is likely; and ● if an investigation will add value.	All cases received are investigated. The only criteria for not taking forward an investigation is where there is insufficient information to do so, or it is found there is no case to answer. The HMRC whistleblowing policy sets out the guidance on how a concern should be assessed, flowcharts on how the concern raised should be taken forward, and the whistleblower should be informed of the action being taken, which may involve a referral to the Independent Police Complaints Commission. The nature of the allegation determines whether it is also appropriate to instigate a misconduct or criminal investigation. Criminal cases follow adoption criteria on a case-by-case basis. Additionally, certain serious cases are referred to the Independent Police Complaints Commission (in England and Wales) or the Crown Office and Procurator Fiscal Service (in Scotland).	Either a nominated officer or the line manager will take the decision on whether to investigate the complaint further. There are currently no consistently applied criteria. All investigations can search for additional evidence and make use of real time evidence such as CCTV, photographs, entry gate logs and phone records.
Triage	If allocated, this will be to the individual investigator. The 'assessment period' allows the investigator up to a further 21 days from receipt of the case to conduct further enquiries to determine whether or not a full investigation is appropriate.	The internal governance triage assessment timescales are four days for potential discipline cases, and 21 days for the majority of referrals relating to potential criminal offences. The assessment involves undertaking further enquiries to establish the extent of the alleged wrongdoing, the availability of evidence and who is best placed to take forward the investigation.	The policy gives 20 days to decide to investigate but this timescale is not centrally monitored.

	DWP	HMRC	MoD
Investigation	Various techniques applied in the cases we examined. Evidence collected via social media, ebay accounts, or payment systems for example.	Various investigative techniques were applied in the cases that we examined. These were dependent on the nature of the investigation with due regard for necessity and proportionality.	Investigation process in development.
Outcome	101 referrals made in 2012-13: 79 did not meet criteria, and were referred to line managers for action. Of the 22 cases 'investigated', eight were found to have a case to answer.	68 referrals made in 2012-13: 45 cases have no case to answer; ten ongoing; seven referred to line of business manager; four passed to internal governance team (IG) for investigation; and two written warnings.	An end of case report is produced for every investigation. This could identify lessons learned but these are not identified or shared widely.
Quality assurance (see Figure 9 in main body)	Nine cases are selected for checking each month. The sample aims to cover all investigators at least once over the course of the year. Results for 2013-14: 87 per cent of cases checked were marked either satisfactory (where the investigation has met, or complied with, all lay-down processes) or good (where, in addition, the investigator has adopted an innovative approach to resolving difficulties or has identified areas of investigatory best practice). 13 per cent of cases were not rated as 'good' or 'satisfactory'. These were found to have aspects which could have been improved on. The outcomes were not however considered unreliable or unsatisfactory.	The conduct and quality of IG investigations is monitored by a senior officer (SO) and on occasion will also be overseen by an intermediate level case manager. All criminal investigations require a case management record to be completed monthly which is agreed by the SO and periodically reviewed by the senior manager. Data used to benchmark performance. Agreement reached with the DWP to create comparable data.	Quality assurance in development.

Note

1   During the triage stage, more intelligence is gathered on a case to determine whether a full investigation is needed or there is evidence to support there being no case to answer.

Figure 26
Case-handling process in the Department for Work & Pensions

Includes details of allegation, results of system checks and other enquiries, specialist advice, witness statements, evidence, interview transcripts.

Integrated Assurance Management Systems (IAMS)

- Is there prima facie evidence of fraud or other wrongdoing?
- Does the matter require a specialist investigative resource (or can it be dealt with by my local managers)?
- Has a loss been suffered by the Department or its customers (including reputational damage)?
- Is a full investigation proportionate to the level of seriousness of the alleged offence?

Subject to active case management by investigations manager

Independent decision-maker must be at least one grade senior to the member of staff under investigation

A comprehensive record of the internal investigation is recorded on IAMS, including associated documentation

Report provided to independent decision-maker to decide whether disciplinary penalty is appropriate

Whistleblower referral

Registered on central database

Preliminary enquiries conducted

Rejected

Enquiries conducted to see if referrals meet criteria

YES

NO

Investigation

Referred to local management

—— Stage of process
–– Description of stage

Source: National Audit Office analysis of departmental data

Appendix Three

Whistleblower case studies

Figure 27

Gross waste and mismanagement

Ali worked for an agency of a government department and was involved in a project to provide services in partnership with a national charity. Both the charity and the sponsoring department were investing significant sums of money. Early on in the project, Ali became concerned that the project leader had very little experience in project management and was not complying with procurement procedures. The project manager's lack of experience had led to poor planning and a failure to ensure that the project delivered value for money and the right service for the complex needs of the service users. Ali raised his concerns internally and was subjected to bullying by the project manager. However Ali continued to try and raise concerns but the project went ahead on what Ali considered to be a flawed basis. On finalisation of the project a number of the service users complained that the service was deficient and was unable to answer their needs. This became the topic of a media exposé. Ali was concerned that while some of the problems had been identified, the failure to heed his warnings and the culpability of those that led the project remained unaddressed. Additionally Ali felt significant sums of both public and charitable money had been wasted. PCaW advised Ali of all his options and that he needed to raise the matter externally.

The project costs increased threefold under the project manager. The project manager was eventually removed but no further action was taken against the project manager (or those responsible for managing him). The department conducted a more thorough project evaluation than would have otherwise been the case. More public money has now been spent to rectify the initial mistakes bringing the total cost of the project to over seven times the original estimate.

Note

1   Names and circumstances have been changed to protect the identity of the whistleblower.

Source: Public Concern at Work

Figure 28

Misuse of position

Bryn was a planning officer at a local authority and was responsible for administering tree protection measures. Chris, a fellow employee, had applied a tree preservation order to land in 1999. This had rendered the land commercially worthless, and Chris purchased it at a nominal rate. Chris had then applied for a free felling order and had begun to remove trees with the intention of developing the land. Bryn refused this application and instead issued a tree replacement notice. Chris subjected Bryn to unwarranted personal attacks and Bryn raised a grievance in which he highlighted the corruption and professional malpractice. During the grievance process a number of false statements were made by Chris. The local authority said they would investigate the concerns under their whistleblowing policy.

Unknown to Bryn, Chris was disciplined; however an outcome of this was to remove the responsibility of enforcing tree replacement notices from Bryn. Months later Bryn had still not heard anything further, despite repeated requests. Bryn found this distressing and went on sick leave. The local authority dismissed Bryn for capability on sickness grounds. Bryn then won a claim under the Public Interest Disclosure Act for detriment and dismissal. The tribunal found that the local authority had failed to comply with their own whistleblowing policy, specifically in failing to feedback that action had been taken against Chris. While there were competing duties of confidentiality, at a minimum the employee should have informed Bryn that action had been taken short of dismissal. Additionally the ultimate cause of Bryn's illness was the actions of the local authority in how they dealt with his whistleblowing concerns.

Note

1   Names and circumstances have been changed to protect the identity of the whistleblower.

Source: Public Concern at Work

Figure 29

Misdiagnosis

Owen, a healthcare professional, was worried that a very ill patient had been wrongly informed he had terminal cancer by a consultant who had misread his file. Owen said the patient was already on haemodialysis, and had been advised by the consultant to discontinue this treatment. Owen thought the patient might die if he came off the haemodialysis, so he and other nurses convinced him to remain on it.

Owen said that many others had concerns about the consultant but found him intimidating. They were frightened for their jobs. Owen had tried to raise a concern in the past and the consultant had ignored him. Additionally, the daughter of the patient concerned had complained about the consultant, but this had not been investigated and the complaint letter was no longer on file. Owen was particularly worried as the new diagnosis had made the patient lose hope and the change in medication was leading to dramatic weight loss.

Owen said other nurses were worried about raising issues but that two nurses and his line manager were supporting him. Owen tried to raise concerns with the medical director but had been told to put the matter in writing. He felt fobbed off.

PCaW advised Owen that he had acted sensibly: it was good that he had raised the matter openly and that he had the support of his line manager and others. While the response was not very encouraging, it was a very serious concern and it might help for it to be formally recorded. PCaW encouraged Owen to proceed and pointed out that if the trust handled this properly, it would give others the confidence to raise concerns.

PCaW warned Owen that he might not be kept informed regarding the investigation due to issues such as confidentiality. Owen said that there had been a positive response to his concerns. At a staff meeting management said staff should feel free to approach them if they had any concerns. Owen said that this had made a real difference and had resulted in a more collegiate working environment. Nurses had approached Owen to say that they were being listened to.

Note

1   Names and circumstances have been changed to protect the identity of the whistleblower.

Source: Public Concern at Work