



SILENCE IN THE CITY

#SITC2



Foreword from Protect

Protect is the UK's whistleblowing charity. We are the leading authority on whistleblowing with more than 25 years' expertise advising whistleblowers on our free, confidential legal Advice Line, and many years of delivering best practice training to financial institutions. No other organisation captures such a unique dataset from so many whistleblowers across all sectors. We are proud to have supported more than 40,000 whistleblowers and our Advice Line calls are growing annually.

Back in 2012 we conducted research – Silence in The City – into the experience of whistleblowing in the financial services sector. At that time the financial crash and Libor scandal raised the question - why hadn't whistleblowers come forward with concerns? We wanted to explore the reasons behind this and our research found a lack of trust and transparency in the City. We decided that, three years after the new whistleblowing rules were implemented by the financial regulators in 2016, it was time to revisit the sector and once again scrutinise the data to see what difference, if any, those rules made. Was it easier now to be a whistleblower? Were they better treated? Had the rules on employers made a difference to workplace culture in the City?

Our findings were revealing. We identified some real changes from our first Silence in The City report – with much more awareness and trust by employees in the internal whistleblowing arrangements put in place by employers. But we also found much to suggest that the changes are only cosmetic. While our sample are whistleblowers who have self-identified as in need of advice - we were shocked to find that still 7 in 10 of those raising concerns were victimised for doing so and a third reported that their concerns were ignored. The recent focus of the #MeToo campaign may have contributed to the 1 in 20 whistleblowing concerns reported to Protect being about discrimination and harassment.



LIZ GARDINER
CHIEF EXECUTIVE
PROTECT



That so many whistleblowers continue to be ignored is particularly disappointing. We were hoping to see stronger results here and this is a real failing in whistleblowing cultures. Managers, chief executives and boards need to be the drivers of change when it comes to improved whistleblowing culture. We were particularly sad to see over half of whistleblowers (58%) said their reports of victimisation were also ignored by their employer. Our findings suggest that it is time to review how the whistleblowing law works and place a positive duty on employers to prevent victimisation, rather than leave it to the individual who has suffered to navigate the tribunal system.

Our research found that many whistleblowers were reporting on systemic and organisation-wide problems – which any good employer ignores at their peril. Over 90% reported through internal channels first – it is clear that whistleblowers are giving their employer a chance to put things right by speaking up, but the employer is not listening-up in response.

At Protect we work with many financial services employers who understand the value of whistleblowing and strive for best practice in this area. We hope that the findings of Silence in the City 2 will encourage financial sector employers to review whether their arrangements are working. However, all employers need to consider what more they can do to improve their engagement with staff, make the words in their policies about protecting victims a reality and demonstrate that sanctions are taken against those who treat whistleblowers badly. Until that happens, whistleblowers will choose to be silent in the City, and we will all be the poorer for it.

Foreword from Slater & Gordon Lawyers

In any research, it is always helpful to look at the bigger picture and Silence in the City 2 highlights both good and bad findings, but it is what happens next, in the next unwritten chapter that I believe will be as interesting.

That more finance sector workers are choosing to come forward to speak up about wrongdoing than our previous report in 2012, is a definite positive. But for this to count as real progression, the rise in speaking up has to be matched by employers listening up. Why so many whistleblowers continue to be ignored in such a heavily regulated sector, with so many employed in designated whistleblowing and compliance roles, is a mystery. There is a very real danger we see a slump in those choosing to speak up if employers continue to ignore or not listen to staff.

This report features real life case studies Protect received to its Advice Line. They are each unsettling. They all demonstrate the employee, the whistleblower, doing the right thing. They all demonstrate organisations wronging their employee.

Confirming our own experiences with clients, blowing the whistle is a lonely exercise in Financial Services. The whistleblower invariably is forced to act alone, raising their concern without any support from colleagues.



CLIVE HOWARD
SENIOR PRINCIPAL
EMPLOYMENT LAWYER,
SLATER & GORDON



The Lloyds of London news story shook the City last year when it was revealed as many as 1 in 10 staff had witnessed sexual harassment and a male dominated culture of bullying, sexism and drinking at the financial institution. Lloyds have vowed to get things right with a new standard of business conduct and an advisory group to drive “cultural transformation”. A high profile news story can trigger a chain reaction, as we saw with the #MeToo movement, for others to come forward and it is likely it has served as a catalyst for many to come forward and speak up.

It appears much is still to be done to strengthen the culture of whistleblowing and corporate accountability. If whistleblowing and its importance isn't high on Board agendas already, I hope this report goes some way to changing that.

It has been a pleasure to partner with Protect for this research and we hope the sector take on board the findings and learnings.

In the research, we wanted to outline the lived experience of financial sector whistleblowers by coding their whistleblowing journey from our Advice Line case notes. We conducted research into the whistleblowing experiences of 352 callers to Protect's free legal Advice Line over three years between January 2017 to December 2019. Our analysis reveals both positive and negative changes in the City since our first report Silence in the City 2012 (SITC1).

The analysis found most of the financial sector whistleblowers – 47% - tend to be new employees, with managerial responsibilities. Most had worked for their organisation less than two years.

Two thirds– 64% - raised their concerns whilst in employment with their current employer. The concerns raised were wide ranging and included breaches of FCA regulations, theft, data protection breaches, and incidents of discrimination and harassment.

Three quarters - 78% - reported that the concerns were recurring, not one-off events, and 57% stated that the problem is organisation-wide rather than just within a department or about an individual.

When it came to raising the concern, most acted promptly, with 52% reporting the wrongdoing within six months of witnessing it, but 16% waited more than two years.

However, in a third of cases, the employer ignored the concerns raised.

POSITIVE FINDINGS:

- There's more trust among whistleblowers to use internal whistleblowing arrangements. While in SITC1 we found 78% of whistleblowers raised their concerns internally, i.e. with their employers, our new research (SITC2) shows this has significantly increased, to 93%.
- Our research shows whistleblowers are 10% more likely to raise their concern a second time if required. In SITC1, only 20% of financial services whistleblowers raised their concern a second time, in SITC2 this has risen to 30%.

NEGATIVE FINDINGS:

- Too many whistleblowers are still suffering from victimisation - our research shows 70% of whistleblowers were either victimised, dismissed or felt resignation was the only option open to them.
- Discrimination and harassment cases form part of the top six concerns raised by whistleblowers. This is possibly due to the #MeToo movement and reflection of this campaign's impact on workplace culture.
- 33% of concerns were ignored – a small increase from 30% (SITC1). This shows lessons have not been learned in the sector about responding to whistleblowing concerns and providing feedback.
- The top concern whistleblowers are raising has shifted from fraudulent or criminal activity in SITC1 which includes theft of client's funds, expenses fraud etc. (17%), to breaches of legal or regulatory obligations which can include mis-selling of financial products, failure to follow compliance rules around loans etc. (19%).

ROOM FOR IMPROVEMENT

Though it is positive to see increased trust in internal whistleblowing arrangements in the sector, it is disappointing to see organisations not match whistleblowers' commitment with a renewed effort to respond to victimisation, deal with the concerns raised or provide feedback. Too often organisations seem to see whistleblowing as a tick-box exercise: fulfilling the requirements laid out by the regulators in their whistleblowing rules but failing to ensure these rules change the culture in the organisation itself. The problems highlighted in SITC2 show that the way financial institutions operationally handle whistleblowers and their concerns needs to radically improve.

This should take the form of training for managers handling concerns and ensuring feedback is provided to whistleblowers on their concern (and reasons given where feedback can only be limited). Employers need to be more proactive in dealing with victimisation, and actively follow-up and get feedback from those that have raised concerns, to ensure action can be taken as soon as possible. The failings operationally to handle whistleblowing emphasises the need for Whistleblowing Champions and Boards in the financial sector to carry out regular reviews of their arrangements to identify and improve on these issues.

The Government needs to introduce a positive duty on employers to prevent the victimisation of a member of staff raising concerns - which would go beyond the current legal protection which gives a whistleblower a legal right to bring a claim against their employer should they be victimised for raising whistleblowing concerns. The duty would mean an employer would need to show what they had in place to safeguard a whistleblower making the law much more proactive.

Until employers and regulators grapple with these operational matters then this research highlights how positive changes in firms' whistleblowing cultures will only ever be superficial.

METHODOLOGY

The SITC 2 research was carried out by Protect, overseen by Protect's Head of Policy Andrew Pepper-Parsons with the assistance of trainee solicitor Toni McGee, kindly seconded from Slater & Gordon Lawyers, along with Protect legal volunteers Dan McLean and Megan Davis.

For the analysis we used a sample of 352 cases of individuals from the financial services sector who contacted Protect's legal Advice Line between 1 January 2017 and 31 December 2019. The date range was chosen to assess the impact of the Financial Conduct Authority (FCA) and the Prudential Regulation Authority (PRA) Whistleblowing Rules, implemented in 2016 across the sector. We have also compared this new research (SITC2) against the initial report, Silence in the City which we published with Slater & Gordon in 2012 (SITC1).

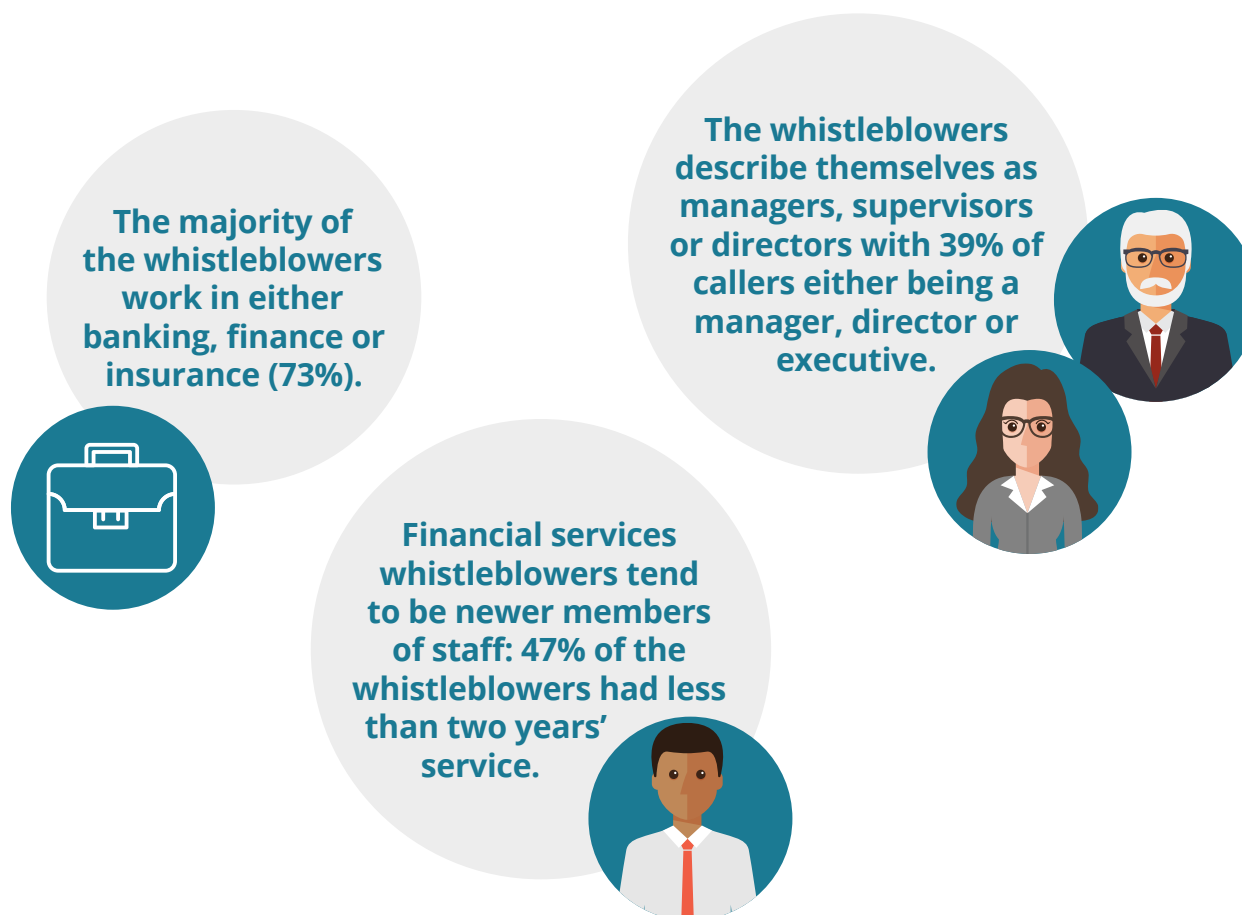
Protect runs a confidential and free legal Advice Line service for all whistleblowers regardless of the sector or industry they work in. As part of requirements under the Solicitor Regulation Authority we maintain detailed notes of these calls. We developed a code book of key trends and themes in the case notes to paint a picture detailing the lived experience of whistleblowers' journeys in the financial services sector.

1.	Who are the financial services whistleblowers?	11
2.	What wrongdoing do the whistleblowers witness?	18
3.	Where and how do they raise their concerns?	26
4.	What treatment did the whistleblowers face?	32
5.	What action was taken on the concerns?	38
6.	Conclusions	43

Who are the financial services whistleblowers?

This chapter builds a profile as to who the whistleblowers are from the financial services sector, where they work, what their role is, and how long have they been in their job etc.

We will also see whether the profile of the whistleblowers has changed markedly from SITC 1 in 2012 to SITC2 by comparing the data from both reports.



THE MAJORITY OF THE WHISTLEBLOWERS WORK IN EITHER BANKING, FINANCE OR INSURANCE (73%).

We coded where each whistleblower in the data worked comparing the top 10 sectors from SITC1 and SITC2.

Table 1: Where the whistleblowers work

Type of Org	SITC 2	SITC 1
Bank	45%	48%
Finance Company	17%	4%
Insurance Company	11%	9%
Investment Bank	8%	9%
Brokerage/Trading House	6%	4%
Accountancy Firm	4%	5%
Asset Management Firm	4%	6%
Independent Financial Adviser	3%	7%
Mortgage Company	1%	Did not feature in the report
Building Society	1%	Did not feature in the report
Sample size	302	242

HOW WE UNDERSTAND THESE RESULTS

The results may reflect how whistleblowing has a higher profile in the sector since the FCA/PRA whistleblowing rules went into effect in 2016. The top three types of organisations (banks, finance and insurance companies) - making up 73% of the employers in our report - are all subjected to these rules which include requirements around not just having a policy but training and communicating it to staff which may explain the shift in the representation of these organisations in our call numbers.

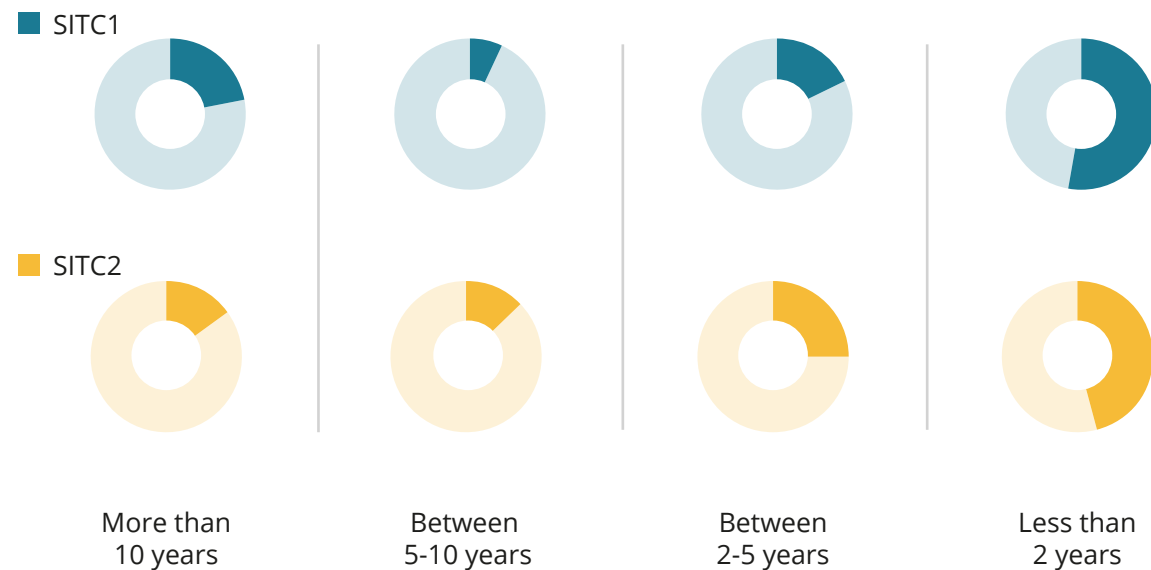
Just under half of whistleblowers have less than two years' service at 47%. This is a slight decrease compared to SITC1 which has the figure at 53%.

We coded the length of time the whistleblowers had spent working for the employer they had the concerns about and were seeking advice from Protect. We then compared the percentages to SITC1 to see whether there were any differences in the numbers.

RULE 18.3.1

(1) A firm must establish, implement and maintain appropriate and effective arrangements for the disclosure of reportable concerns by whistleblowers.

Graph 1: Length of service of the whistleblower



Sample size

SITC2: 280 SITC1: 139

HOW WE UNDERSTAND THESE RESULTS

It is still the case that around half of whistleblowers are new to organisations with less than two years' service (and therefore lacking enough service for protection against ordinary unfair dismissal). It may be that newcomers have fresh eyes and ears and notice wrongdoing which has become normalised to other employees. However, there is a change in the distribution of whistleblowers with an increase of 5% in the category of staff with two to five years' experience and an almost doubling (from 7 % to 13%) in the percentage of those who have worked between five to ten years for their employer. One explanation for this change could be the requirement in the whistleblowing rules for training to be rolled out to all staff, rather than something that would only be part of an induction for new staff.¹

WHAT JOB ROLE DOES THE WHISTLEBLOWER HAVE?

39% of the whistleblowers have some kind of management responsibility, with 12% describing themselves as either a director or executive.

We also coded the job role of the whistleblowers and then compared it to the job roles recorded in SITC 1.

¹ P.g.5 of the Chapter 18
Whistleblowing, FCA Handbook

Table 2: Job role of the whistleblower

Job role	SITC2	Job Role	SITC1
Director, Executive & Partner	12%	Director, Executive & Partner	16%
Manager or Senior Manager	27%	Manager or Senior Manager	21%
Financial Adviser or Consultant	13%	Financial Adviser or Consultant	11%
Compliance, Risk & Fraud Specialist	12%	Compliance, Risk & Fraud Specialist	7%
Analyst	6%	Accountant Auditor	10%
Administrator	9%	Analyst	7%
Sample size	262	Sample size	242

HOW WE UNDERSTAND THESE FINDINGS:

SITC1 found that most of the whistleblowers approaching us for advice were senior people in their organisation with managerial responsibilities.

We have seen some change in the numbers below the managerial positions. We have seen increases for financial advisers and consultants and compliance, risk and fraud specialists which make up 25% of SITC2, compared to 18% in SITC1.

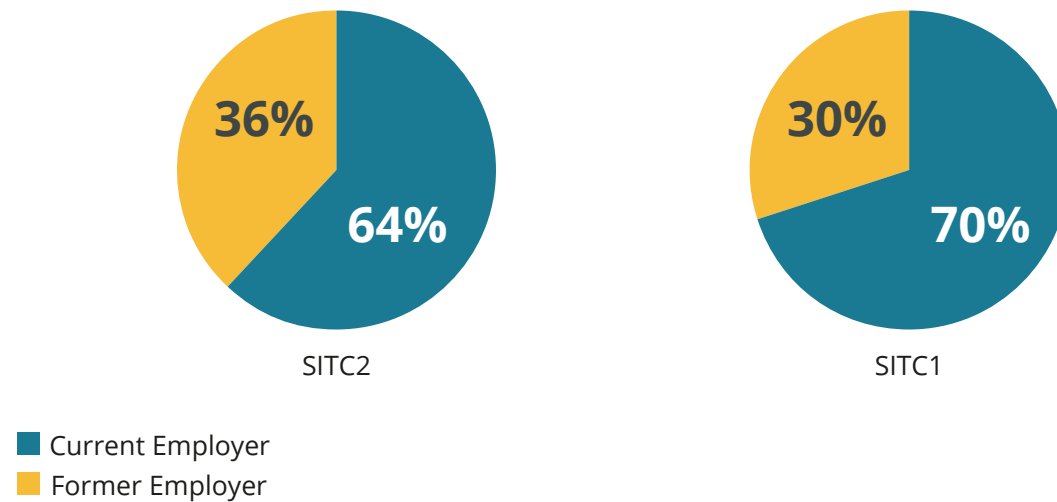
This variable is quite static between SITC1 and SITC2, showing there is still a challenge for the financial services sector to reassure and inform more junior or technical-based members of staff to raise concerns. This is an area where employers may want to research or investigate to see whether those raising concerns through their internal systems tend to be more senior people, and consider whether communication needs to be targeted at more junior staff to reassure them that they can also raise concerns.

EMPLOYMENT STATUS

The majority of whistleblowers are seeking advice about wrongdoing or malpractice in their current employer (64%).

The employment status variable in the research captures whether the whistleblower is seeking advice on a concern that they've witnessed with their current employer, or whether it was witnessed with a former employer. This will tell us the rate at which whistleblowers are willing to raise concerns while still employed somewhere, or whether they will only come forward if they are no longer working for the organisation.

Graph 2: Showing the employment status of the whistleblower



Sample size

SITC1: not stated in 2012

report SITC2: 352

HOW WE UNDERSTAND THESE FINDINGS:

There has been little change in whistleblowers seeking advice from Protect's Advice Line for concerns they've witnessed with a current employer. For the financial services sector this underlines the importance of internal whistleblowing arrangements: most whistleblowers are raising current concerns and this means employers have an opportunity to act on concerns raised by their employees. Callers seeking advice from Protect via its Advice Line are generally doing so because they have witnessed something in their current employment (as 36% are not).

What wrongdoing do the whistleblowers witness?













This chapter looks at what wrongdoing, malpractice or risk the whistleblowers witnessed to see whether there are any patterns or trends from the sector. These findings were then compared to SITC1 to see whether there are any differences. The numbers are higher than the overall number of cases analysed because some callers report several types of wrongdoing.

THE KEY FINDINGS:

Our data shows the top concern whistleblowers are raising has shifted from fraudulent or criminal activity in SITC1 (17%), to breaches of legal or regulatory obligations in SITC2 (19%).

Discrimination and harassment cases form part of the top six concerns (making 5% of our cases) raised by whistleblowers.

Table 3: The wrongdoing witnessed by the whistleblowers

Type of wrongdoing	SITC2	Type of Wrongdoing	SITC1
 Breach of legal or regulatory obligations	19%	 Fraudulent or criminal activity	17%
 Fraudulent or criminal activity	11%	 Breach of company policy	14%
 Incorrect reporting to a client or third party	9%	 Mis-selling	14%
 Breaches in data protection or client confidentiality	7%	 Breach of legal or regulatory obligations	13%
 Competence or conduct of staff	5%	 Incorrect reporting to employer or stakeholders	6%
 Discrimination or harassment	5%	 Incorrect reporting to a client or third party	5%
Sample size	430	Sample size	316

HOW WE UNDERSTAND THESE FINDINGS:

The most notable change is how discrimination and harassment cases have moved from not featuring in the top six concerns in SITC1 to being 5% of the concerns raised in SITC2. This could reflect the effect the #MeToo movement has had on the sector, which was underlined when the FCA published a letter to all firms subject to the whistleblowing rules that failure to deal with bullying, discrimination and harassment issues would be a cause of concern. The bullying and harassment cases included in this category will either be situations where a whistleblower has witnessed others being subjected to such behaviour or where they are part of large group of people affected by such behaviour.

In other words, whistleblowers are identifying a wider cultural problem in their place of work, rather than reporting a situation where the caller feels that they alone have been personally discriminated against or harassed. This means that it may be more effective for a whistleblower, even if they are also a victim of the harassment or bullying, to use the whistleblowing arrangements because it has this wider public interest significance. Equally it will often be more effective to use Human Resources processes (e.g. employee assistance resources, grievances etc.) than whistleblowing arrangements if the bullying and harassment is about an isolated incident that affects one person.

Employers in the sector will want to use the whistleblowing arrangements to identify and then act on incidents of harassment and discrimination that pose a cultural problem for a department or area of their business. They will be well placed to identify such problems, where multiple HR or whistleblowing concerns have been raised about a particular worker, team, department etc. in their organisations.

Employers, though, need to ensure that their HR team and managers are trained in whistleblowing - this includes understanding how to interact with a whistleblower and having knowledge of the whistleblowing system in their place of work.

Carl - Compliance Officer

VICTIMISED FOR WHISTLEBLOWING ON WIDE SCALE SEXUAL HARASSMENT, SYSTEMIC BULLYING AND MISCONDUCT IN THE WORKPLACE

My colleagues trusted me. Being the Compliance Officer at my firm for over 15 years, I think helped give that sense of trust, as employees felt safe to come talk to me about their experiences.

It started as a trickle at first, but then more and more employees began confiding in me. The state of affairs at the firm was extremely distressing, with colleagues being sexually harassed and bullied and yet too afraid to speak up, for fear of losing their jobs and livelihood.

In all, I had over 10 colleagues, men and women across the various departments, approach me with a mix of sexual harassment, bullying and racial discrimination complaints. A male colleague recounted his very upsetting experience of sexual harassment at the hands of his manager. Another colleague was subjected to bullying, verbal attacks and racial slurs by her manager. Both confirmed that their mistreatment was well known to HR, but they were advised by HR not to make any official grievance complaint against the senior employees, otherwise they would face certain retribution. The employees informed me that they have both suffered mental health breakdowns and are currently receiving treatment for mental health related issues arising from bullying and sexual harassment at work.

Following the various complaints made to me, I raised a whistleblowing report. Although the report was about the mistreatment of employees, I became the target of attack for reporting the wrongdoings. I was harassed, intimidated and racially abused. A so called investigation was set up by the same individuals implicated in the wrongdoings, however it soon became apparent that the entire investigation process was part of a cover-up to protect the individuals implicated.

"ANOTHER MANAGER WAS BULLIED TO THE POINT OF FEELING SUICIDAL. IT WAS SO BAD, AN OCCUPATIONAL HEALTH PROFESSIONAL CALLED IN UNDER THE EMPLOYEE BENEFIT PROGRAMME SCHEME SUGGESTED THE EMPLOYEE BE PUT ON SUICIDE WATCH"

It's been extremely upsetting to see employees suffer such horrendous treatment in the hands of senior employees who act with absolute impunity and blatantly abused their positions of power and misuse authority to gain benefit. Although I no longer work for the company, the mental and psychological trauma on me has been immense. To date I still experience flashbacks and am undergoing counselling, including medication for stress caused to me.

The question I've been consistently asked by those close to me has been, "was it worth putting yourself through all that stress and at such great financial cost, for the sake of other people, in order to call out bad behaviour"? My response is and has always been that, "to be silent is to be complicit". I consider myself to be someone with a reasonable sense of fairness and justice and so I would rather do the right thing and face the consequences, than be silent and live a life of regret, by opting for the easy way out. I believe that change beneficial to society is paramount and sometimes does come at a cost, which could include personal cost to me.

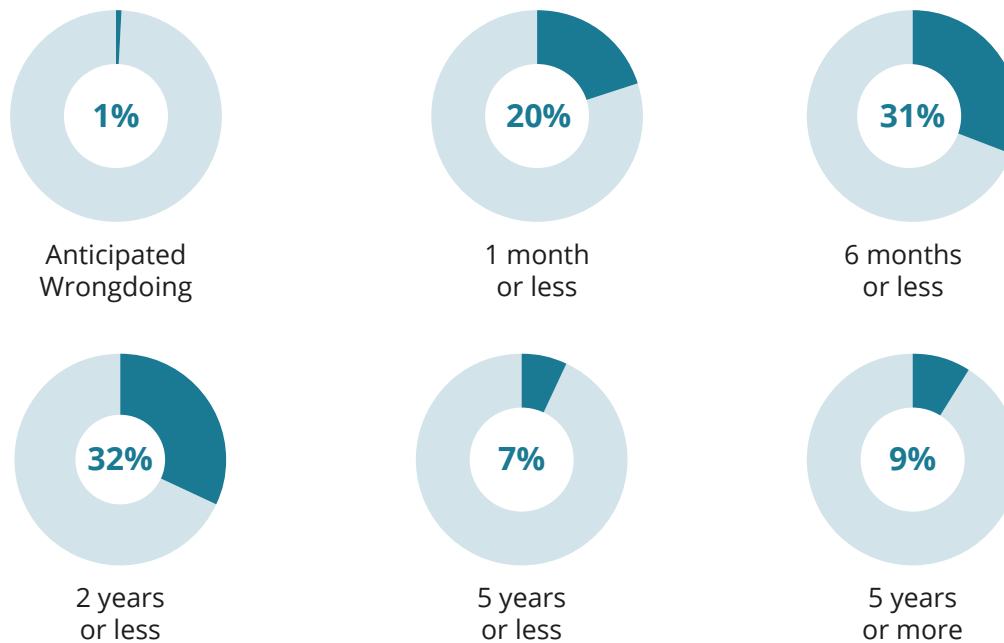
Whistleblowers have a very important role to play in the workplace and civilised society and yet receive very little real protection under the current statute and have remained victims condemned to execution by the circular firing squad of establishment. Unless the government changes the law relating to whistleblowing and until perpetrators are held to account for their wrongdoings, unfortunately these organisations will continue to "shoot the messenger" and whistleblowers will continue to be vilified and suffer the inevitable full brunt of these unethical organisations with deep pockets."

Over half of whistleblowers raise their concerns within six months of witnessing the wrongdoing. Worryingly a third of whistleblowers waited nearly two years to raise their concerns.

Here we coded the length of time the wrongdoing or concern had been happening before the whistleblower then raised the concerns, this indicates how long it can take for worried workers to step forward and raise their concerns.

Graph 3: Duration of wrongdoing before the concern was raised

Sample size: 188



HOW WE UNDERSTAND THESE FINDINGS:

In SITC1 47% of whistleblowers raised their concerns within six months of witnessing the concern, this is comparable with the results in SITC2.

Both sets of results show that whistleblowers in financial services are likely to raise their concerns at an early opportunity, in fact 20% raise it within four weeks of witnessing the concerns. This is a positive sign because for employers it strengthens their ability to respond to the concern: investigation should be easier because the information passed on is fresh, and as a consequence it minimises the potential for the concerns to escalate into a more serious situation.

A caveat to this is the finding that 16% of whistleblowers take more than two years to come forward with their concerns which makes investigating and responding to the concerns so much harder.

This metric is a good one for organisations to pay close attention to when they are looking to review their internal whistleblowing arrangements as it can indicate to an organisation how trusted those arrangements are. High levels of whistleblowers delaying raising their concerns could indicate lower levels of trust in the system.

OTHER FINDINGS ON THE WRONGDOING WITNESSED BY WHISTLEBLOWERS:

- 78% of whistleblowers reported that the wrongdoing they were raising was in fact a recurring issue rather than being a one-off incident or event. If the issues are systemic rather than one-off events, then this may indicate that others in a department or workplace may also be aware of the concerns. If this is the case then employers may want to pay close attention: were other staff aware and, if so, why did they not come forward? This could again indicate a lack of trust in the system more generally.
- We also coded whether the concerns being raised by the whistleblower were issues that could be perceived as being caused by an individual, a department or were organisation-wide. Over 57% were characterised by the whistleblower as being organisation-wide, rather than being a problem that existed in one department or individual. This again underlines the point that the concerns could well be both recurring and systemic.

Where do whistleblowers raise their concerns?

Here we consider where whistleblowers raise their concerns and crucially how many times they raise concerns. Who they raise concerns with and how often will indicate how persistent they are, and their reaction if they are not listened to.

WHO ARE THE CONCERNS RAISED WITH?

There is more trust among whistleblowers to use internal whistleblowing arrangements. 78% of whistleblowers raised their concerns internally in SITC1 this increased to 93% in our new research.

We have also seen a fall in disclosures made to FCA at the first attempt by whistleblowers to raise their concerns: this was at 18% in SITC1 but has fallen to 7% in this new research.

For this variable we tracked the first three attempts the whistleblower made in trying to raise their concerns, so here we recorded where the whistleblower raised the concerns. This is a research method we deployed in SITC1 so direct comparison is possible. Table 4 displays the results from SITC1 and SITC2.

Table 4: The recipient of the concerns

	SITC2	SITC1	SITC2	SITC1	SITC2	SITC1
Recipient of concern	Raised once	Raised once	Raised twice	Raised twice	Raised three times	Raised three times
Whistleblowing Champion or designated contact under the whistleblowing policy	11%	Not part of coding	9%	Not part of coding	13%	Not part of coding
Colleague	3%	2%	1%	0%	0%	0%
Compliance, risk or legal department	9%	10%	12%	5%	21%	7%
Director/Executive	24%	18%	22%	14%	18%	6%
Whistleblowing hotline or designated officer	0%	8%	1%	8%	0%	7%
Human Resources	10%	2%	11%	11%	13%	19%
Line Manager	28%	27%	6%	5%	5%	2%
Senior Manager	8%	4%	9%	3%	10%	0%
Financial Conduct/Prudential Regulatory Authority	7%	18%	22%	39%	33%	50%
HMRC	0%	Not part of coding	3%	Not part of coding	0%	Not part of coding
Information Commissioners Officer	0%	Not part of coding	1%	Not part of coding	0%	Not part of coding
Professional Body (e.g. CIMA, ACCA, SRA etc)	0%	Not part of coding	1%	1%	0%	0%
SFO/SOCA	0%	Not part of coding	1%	Not part of coding	0%	Not part of coding
External/Police	Not reported	0	Not reported	5%	44	2%
Wrongdoer	0%	7%	0%	2%	0%	2%
Other	Not reported	4%	Not reported	7%	Not reported	6%
Sample size	239	257	108	151	44	54

Internal disclosures: SITC2 (93%), SITC1 (78%)

HOW WE UNDERSTAND THESE FINDINGS:

There are two large positive changes in the data between the SITC1 and SITC2.

In SITC1 our research showed that 78% of callers raised their concerns internally first, by which we mean that their concerns were raised with their employer, whether that was with a line manager, a compliance team, Whistleblowing Champion, Chief Executive etc. Our new research shows that internal disclosure has risen at the first attempt by 15%, to 93% of whistleblowers raising their concerns internally at the first attempt. If a whistleblower feels they need to raise their concerns a second time internally the figures between SITC 1 and 2 are 48% and 71% respectively.

These findings are quite striking as SITC1's findings cover a period in time when there were no Whistleblowing Rules imposed on financial institutions: in effect there were no standards across the sector on what the whistleblowing policy, training and monitoring of the whistleblowing arrangements should look like, or whether it should be in place at all. Since the introduction of the rules, which includes requirements on the training and publicity of the whistleblowing arrangements, our new research has seen a big increase in the use of internal routes to raise the concerns.

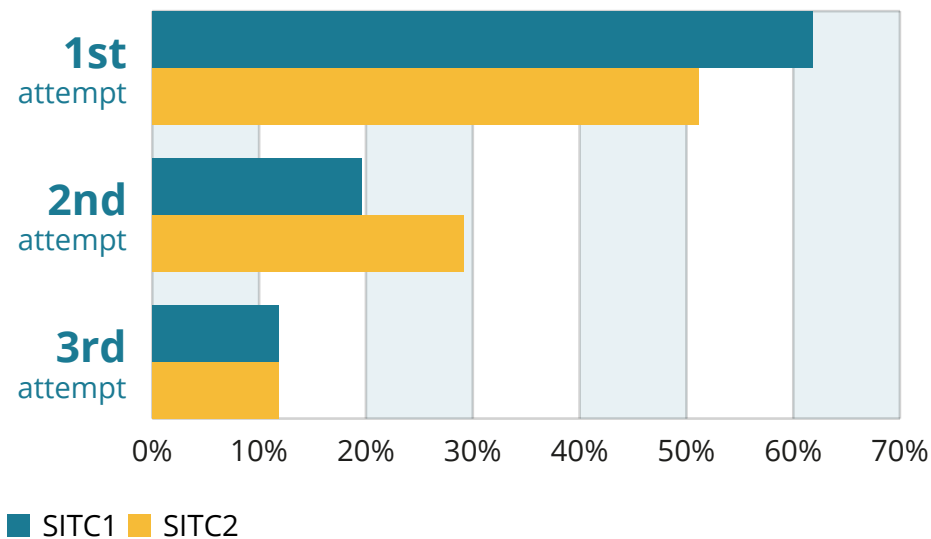
Connected to this finding is the reduction in the number of whistleblowers approaching the FCA in the first disclosure. In SITC1 this figure stood at 18%, but in SITC2 this figure falls to 7% at the first disclosures. We also saw disclosures to the FCA fall if the whistleblower had to raise their concerns a second time, this time by 17%: where SITC1 found the figure to be 39%, while SITC2 had the number at 22%. A reduction in concerns reported to the regulator underlines the point that more concerned workers in the sector are either more confident in the internal arrangements compared to our last report, or they are more aware of the existence of internal arrangements. Employers should take note: whistleblowers are keen to give them a chance to put things right and are not taking the matter straight to the regulator. Whistleblowers can be an invaluable early-warning system which employers should heed.

HOW PERSISTENT ARE FINANCIAL SERVICE WHISTLEBLOWERS IN RAISING THEIR CONCERNS?

We also looked at how many times a financial service whistleblower attempted to raise their concern. This is important as the common stereotype of whistleblowers is that they are persistent individuals but this is not matched by the reality. Previous research in SITC1 showed that whistleblowers from the sector were only likely to raise their concerns a second time 20% of the time. This was lower in financial services than in other sectors – the figure for raising a second time across all sectors stood at 39%.² We wanted to see whether there has been a change in this variable.

We have seen an increase in our data of whistleblowers raising their concerns more than once. In SITC1, financial service whistleblowers were unlikely to raise their concerns a second time standing at 20%. The new research shows that 30% of whistleblowers raise their concerns a second time.

2 P.g. 3 Whistleblowing: The Inside Story, 2013, Protect (formerly Public Concern at Work) and Greenwich University.

Graph 4: How many times the whistleblower tried to raise the concerns

HOW WE UNDERSTAND THESE FINDINGS:

These results show us that compared to SITC1 whistleblowers are 10% more likely to raise their concerns a second time and the figures for raising it a third time are the same across both data sets. Whilst this does still put the financial services sector behind the sector average by 9%, it is a marked improvement. When combined with the previous finding that internal disclosures have increased across first and second attempts to raise concerns it shows there is potentially more trust in the system to not only use internal disclosures but to also persist in raising the concerns.

THERE ARE SOME OTHER NOTABLE FINDINGS FROM THE RESEARCH WHICH INCLUDE:

- Awareness of the whistleblowing policy and use of it is high. 93% of whistleblowers were aware of the whistleblowing policy with 87% saying they had either used the policy or were considering using it. This may reflect well on attempts by employers to raise awareness among staff.
- Financial services whistleblowers overwhelmingly witness and raise their concerns on their own, and rarely raise the concerns as part of a group. Only 4% of whistleblowers raised their concerns with other colleagues, 70% of whistleblowers witnessed their concerns alone, and 26% witnessed their concerns with others yet raised their concerns on their own.

What treatment did the whistleblowers face?

Since the Whistleblowing Rules were implemented, between 2017-2019 70% of whistleblowers report they have been victimised, dismissed or forced out of their jobs. This is still scandalously high, and represents only a drop of 7% from 2014-2016.

The victimisation of a whistleblower is important for the sector on a few different levels. The first is compliance. Alongside employment rights that whistleblowers have access to should they be victimised for raising concerns under the Public Interest Disclosure Act 1998 (PIDA), the FCA sees victimisation as a potential regulatory breach. They require firms to inform them of any lost tribunal cases under PIDA, and for firms to be proactive in responding to victimisation when it's reported.

To judge the effects of the Whistleblowing Rules we compared the treatment of whistleblowers reporting to Protect where the whistleblowers has suffered victimisation from co-workers, managers, where they have been dismissed or resigned from their roles for three years before the rules were introduced (2014-2016) and the three years since the rules were introduced (2017-2019). This will assist in seeing whether the rules have improved the rates of victimisation and whether the culture has improved.

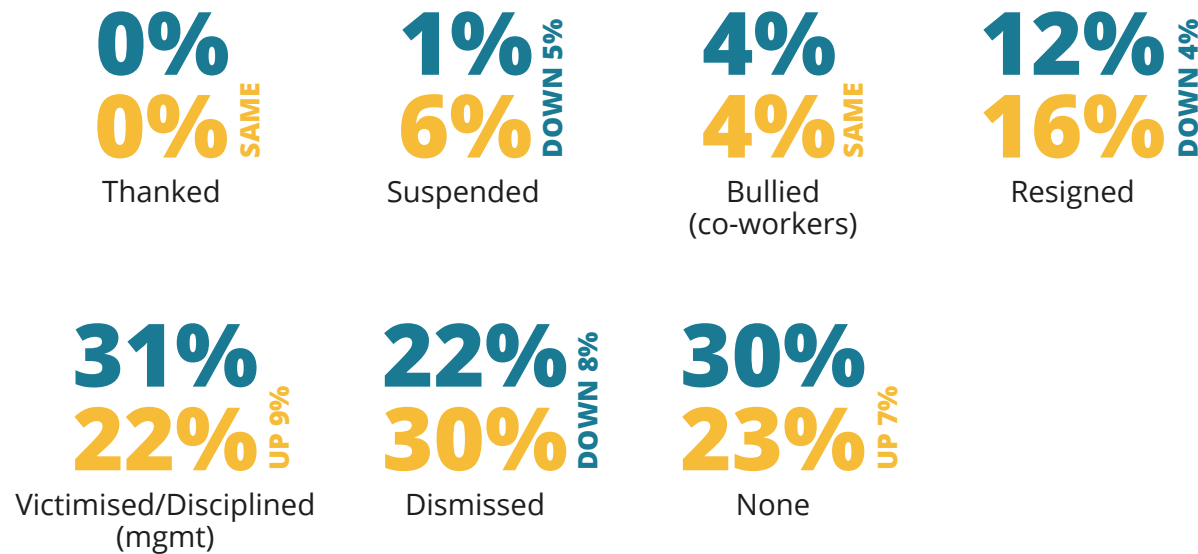
Table 5: Rates of victimisation pre- and post-FCA Whistleblowing Rules

	Percentage of whistleblowers reporting victimisation, dismissal or resignation
Pre-Whistleblowing Rules (2014-2016)	77%
Post-implementation of the Whistleblowing Rules (2017-2019)	70%

HOW WE UNDERSTAND THESE RESULTS

The reduction here is modest and the vast majority of whistleblowers are still suffering victimisation in some form or another. This level should concern employers and policy makers as these acts of victimisation will chip away and undermine the trust whistleblowers have in their employer's internal whistleblowing arrangements if they see others suffering for raising their concerns.

Graph 5: Employer response as an average Pre and post FCA Whistleblowing Rules



■ Post implementation of the Whistleblowing Rules (2017-2019)

■ Pre Whistleblowing Rules (2014-2016)

HOW WE UNDERSTAND THESE RESULTS

What we can see here is that suspension and dismissal rates have fallen in our data, while there was a 7% increase in the number of whistleblowers reporting no negative or positive response from the employer for raising the concerns.

Worryingly though we have seen a 9% increase in whistleblowers reporting to us that they believe managers have victimised them (victimisation from co-workers remains small and static at 4% for both data sets).

This data paints a worrying picture that financial sector employers are still not doing enough to confront victimisation.

The response from firms when whistleblowers reported to their employer that they had been victimised has been disappointing. While 75% of whistleblowers reported such behaviour to their employer, 58% of whistleblowers report that their employer ignored these incidents.

The Whistleblowing Rules calls for firms to be more proactive in dealing with victimisation. As a result of this, we coded each time a whistleblower reported acts of victimisation and the employer response to these reports.

We found that 75% of whistleblowers reported victimisation to their employers (defined here by acts that fall short of dismissal alleged to have come from either managers or co-workers) and 25% did not.

From here over half of whistleblowers (58%) stated that these reports were ignored by the employer. The next largest category of responses from employers was to deny the victimisation had occurred (24%).

Only 9% said that steps were taken by the employer to resolve or act on the report and we had zero situations where the victimisation was resolved.

RULE 18.3.9

The FCA would regard as a serious matter any evidence that a firm had acted to the detriment of a whistleblower. Such evidence could call into question the fitness and propriety of the firm or relevant members of its staff

HOW WE UNDERSTAND THESE RESULTS

This paints a fairly bleak picture in terms of how firms are responding to reported acts of victimisation. Being ignored when they report such incidents is particularly difficult for whistleblowers. These figures may indicate that firms are struggling to deal with reports on the ground: our data shows that the vast majority raise these incidents, so reporting levels may be high though as this is a new variable we can not say whether this is an improved rate. But it indicates the problems is less about reporting levels and more to do with a lack of response from the employer. The data doesn't tell us what the blockage might be however - whether it was a communication problem, or whether there have been problems in HR practices. Either way this is a worrying finding for firms, regulators and policy makers.

This data highlights to regulators and policy makers the need to create positive duty on employers to protect whistleblowers by taking all reasonable steps to prevent detrimental treatment. The current protection for whistleblowers in the Public Interest Disclosure Act 1998 (PIDA) makes the victimisation of a whistleblower unlawful, giving them an action at tribunal if they are victimised. The duty would go one step further and would require an employer to have things in place to prevent victimisation: failure to do so could result in regulatory action or fines.

Equally the financial sector whistleblowers will not be the only ones suffering in this way. We recommend that all employers should be able to demonstrate that they have effective measures in place to prevent victimisation. This would bolster the current set of employment rights that whistleblowers have in PIDA. Enforcement of whistleblowing rights need not simply be left to individuals bringing tribunal claims.

Jenny, compliance worker

VICTIMISED, CONCERNS OVER FINANCIAL BREACHES IGNORED AND NOT INVESTIGATED

"I worked in compliance for a financial institution where I had worked for over 15 years, in a very busy job I enjoyed.

My concern began when my Senior Manager asked me to monitor some calls to ensure quality training of our customer services department. The task was to ensure the calls were clear and our customers could understand the operators, who are based in call centres abroad.

It was during this exercise I discovered money had been taken from a customer five days before the direct debit had been set up. This left the customer without money over a weekend which I thought was wrong. It went against all my compliance training and I raised it with my senior manager, but he was not interested and brushed it off, saying, the customer only needed the money to go to the pub... but I was worried that they may need money for food. Even if they did just want the money to go to the pub, it was surely their money, and their decision? I thought it wrong, so I asked another department to investigate and I discovered that the customer had indeed been telling the truth. If it could happen to one customer, perhaps it was happening to more? But the customer relations team did not help the customer and advised them that there was nothing that could be done.

I was worried this could be a widespread problem for other customers so I asked my senior manager again to investigate this, but instead of taking my concerns seriously, he just became angry and point blank refused to look into it. It was really puzzling for me. I don't know why he acted like this towards me. From then on, every exchange with him was fraught. He would bite my head off every time I spoke to him and refused to look at me. I began to suffer extreme anxiety and I lodged a grievance with HR and was told if

***"NOT ONE PERSON
STOOD UP FOR ME.
NOBODY. I TOTALLY
THOUGHT HR WOULD
SUPPORT ME.
THERE WASN'T ANY
WHISTLEBLOWING
CONTACT IN THE
COMPANY I COULD
SPEAK TO..."***

I wanted to talk to him, I would need to do so through my line manager. It was ridiculous, I thought to myself, we aren't children, why do we need to act like this? Then I was told to only talk to HR, I was being run ragged. His behaviour and the way the company was acting made me so anxious, in the end, I was signed off work.

Not one person stood up for me. Nothing. I totally thought HR would support me. There wasn't any whistleblowing contact in the company I could speak to but I did contact the Financial Conduct Authority (FCA) who said they would contact me if they were going to take it any further.

After four months I returned to work. I was determined to get some answers over the concern I had raised but the issue with the customer had not been investigated. Nor had my grievance issues. If anything, things with my line manager got worse. She became very intimidating and started to bully me. I told HR, but my line manager said it was all related to my anxiety. I couldn't win. This was all going on during the time the Jes Staley Barclays scandal broke, so I felt very on my own. I felt hunted down.

I decided to leave because of the bullying I suffered from whistleblowing. There was a meeting to look into my grievances and the issue I raised with the Director responsible for fraud at the company saying 'It's just one customer'.... To me, one is enough.

In the end, despite making a PIDA claim I reached a settlement agreement with the company. I was advised it would cost me thousands and at least 18 months to take it to a tribunal and I was already broken so I settled and was made to sign a NDA. I've asked the company for an apology, an assurance that the issue has been reported to the FCA and for a Whistleblowing Policy to be developed at the company.

The whole experience has been horrendous. I didn't trust anybody, I was isolated and I'd just lost myself. You grieve for your job. I'd gone from having a very busy job to bam - nothing. I have a rescue dog and in all honesty, he's the one who has rescued me.

I am now just at the stage where I feel able to once again look for work.

Would I whistleblow again? I would. I'm a religious person and I believe in doing the right thing."

What action was taken on the concerns?

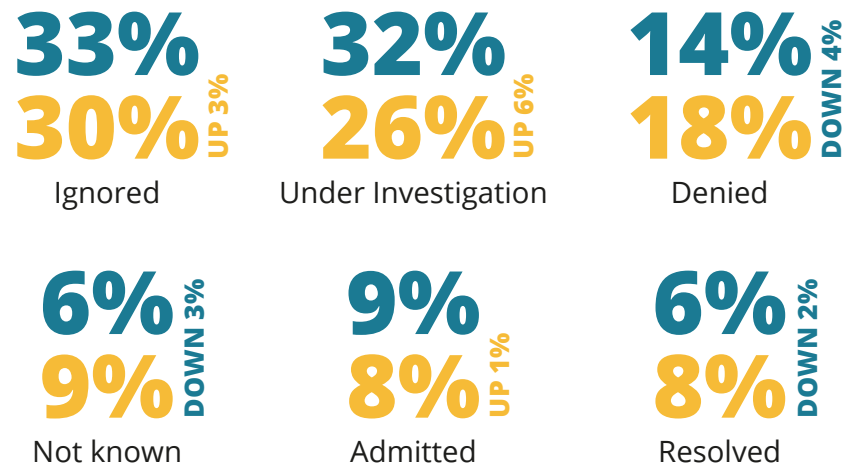
The other important factor in an organisation's response to whistleblowing is how they respond to the wrongdoing itself.

This chapter examines whether action was taken to deal with the wrongdoing raised, and whether the FCA Whistleblowing Rules have had an effect in driving these standards up among financial services employers. This section compares our data from the three years before the FCA rules were introduced 2014-2016 and the three years since the rules were implemented from 2017-2019.

Since the FCA rules have been introduced we have seen a small increase in the number of whistleblowers reporting that their concerns have been ignored.

It is disappointing to see that the percentage of whistleblowers calling Protect's Advice Line and reporting their concerns are ignored remains similar post the introduction of the Whistleblowing Rules. From 2014-2016, before the rules were introduced, 30% of our cases stated their concerns had been ignored when they raised it, this in fact moved up to 33% from 2017-2019 when the rules were introduced.

Graph 6: Response to the wrongdoing raised



■ Post implementation of the Whistleblowing Rules (2017-2019)

■ Pre Whistleblowing Rules (2014-2016)

75% of whistleblowers say they receive no feedback about the concerns they have raised

A connected issue here for whistleblowers is the lack of feedback on cases. The majority of whistleblowers between 2017-2019 are still not receiving feedback from employers when they raise concerns internally. 75% of whistleblowers from the sample said they received no feedback. This is despite the Whistleblowing Rules making it clear that they expect firms to provide feedback whenever feasible and appropriate.³ This data is not about a whistleblower being told that their concerns were misplaced or unproven, rather that they have received no information at all on what the response has been to their concerns. This will create or exacerbate feelings of isolation for the whistleblower, as well

³ P.g.4 of the Chapter 18 Whistleblowing, FCA Handbook

as undermining a good whistleblowing culture within the organisation. If a perception exists among staff that whistleblowing concerns will simply be ignored by senior managers, then it may mean that concerned workers in the future may not come forward with their concerns.

HOW WE UNDERSTAND THESE RESULTS

The combination from our data of whistleblowers feeling their concerns have been ignored and a lack of feedback when they do come forward paints a worrying picture of whistleblowers raising concerns but receiving stony silences from their employer. Whistleblowing Champions and Boards need to ensure that whistleblowing arrangements are reviewed regularly and that feedback from whistleblowers is sought out rather than just passively taken on board.

The regulators in the sector and individual employers have to ask themselves whether whistleblowing is being taken seriously, whether feedback is seen as tick-box exercise: the rules are in place but they are not always followed.

Peter, Economic Researcher

VICTIMISED, THEN KEPT IN DARK OVER FEEDBACK

"I worked in research for a FCA regulated firm. Every year, staff completed an online regulatory training module which present various workplace scenarios. It had been over a year when I requested the need to complete a training module. I found myself confronted by a situation I'd seen in training- that research needed to be independent and kept far from other parts of the business and to not interfere with research findings.

Some research the firm had compiled about a sister company was quite negative and instead of being published, had been recalled, which was highly unusual. It raised alarms, so I questioned this with the Chief Compliance Officer. He agreed and said to me 'That's strange' and told me he would investigate. Weeks went by and I didn't hear anything. I checked the firm's regulation handbook which stated employees were meant to be kept up to date on concerns raised.

After about six weeks, and hearing nothing, I ended up emailing the Chief Compliance Officer to try to find out what was going on. I didn't know if I had to report it to the FCA so I wanted some answers. The response was 'we have looked into this' and sent it to an independent person to investigate and the matter is closed. It was a cause for concern and a surprise that the investigation had taken place and I had not informed or been contacted for more details.

I still wasn't sure whether I had to bring the matter to the FCA's attention, so I asked my company if I could see the results of the investigation – but I never got a reply.

From documents that I saw later, it seems that the upshot was no course of action had been taken. The 'independent person' turned out, to be someone known to the company, so I question the independence of the investigation. I was very disappointed by the company's internal processes.

"I WAS TOLD IF YOU PROMISE NOT TO GO TO AN EMPLOYMENT TRIBUNAL WE WILL DROP ALLEGATIONS, IF YOU DON'T, WE ARE GOING TO FIND YOU GUILTY OF MISCONDUCT AND GET POLICE INVOLVED. THEY WERE MAKING ALL KINDS OF THREATS"

Before I blew the whistle, I was going through a redundancy process. My redundancy had nothing to do with the disclosure. But two weeks before I was due to leave, as I was working my notice period, I was told I was facing a gross misconduct charge. I was of the view this was revenge tactics as the charges were so petty- I was accused of stealing property and disobeying instructions by emailing clients. There was nothing contentious in those emails. I refused to attend a meeting I had been given just a few hours' notice to attend.

I did raise a grievance with the firm's Board and explained the accusations I faced because of a whistleblowing disclosure; but the Board decided to stand by the company and charges of 'disobeying an instruction'.

Whilst still in employment and working my notice, I was told if you promise not to go to an employment tribunal we will drop allegations, if you don't, we are going to find you guilty of misconduct and get police involved. They were making all kinds of threats and I just had to ignore that. I had never seen the nasty side of that really conniving bully boy side of financial services before.

I'm pursuing an employment tribunal claim for unfair dismissal and a separate detriment claim.

If I'm honest, I would definitely think twice about whistleblowing again in the future, especially if it was a small company, with one guy doing everything. Maybe if it was a big, big bank, with a separate HR function, and a whistleblowing department, then perhaps."

We hope this report will provide real insight into the experience of whistleblowers in the financial sector so that employers, regulators and policy makers can improve the system for the future.

It is positive that this research has seen an increase in whistleblowers raising their concerns internally, when compared with the results from SITC1, and that they are more likely to be persistent with their concerns. This shows that whistleblowers in the financial sector are doing the right thing and raising their concerns, and, perhaps, that they are willing to trust their employers' whistleblowing arrangements more.

Our research shows that bullying and harassment concerns are increasingly being raised through the whistleblowing process presenting a challenge to employers to ensure they are reacting not just to individual complaints but dealing with cultural problems. This means being alive to how whistleblowing arrangements can highlight multiple issues that may be missed in HR processes.

We are concerned that the way employers respond to the whistleblower personally, and to the concerns they have raised, may reverse this progress. Our research paints a bleak picture of many whistleblowers being ignored when they raise the concerns and being ignored if they report victimisation. A failure to listen to whistleblowers' concerns may increase the risk of harm and wrongdoing going unchecked.

Employers need to ask whether their whistleblowing arrangements are effective, not just whether they are compliant, as our research highlights a gap between the requirement to have whistleblowing arrangements and the experience of whistleblowers who try to use them. The presence of legal rules does not automatically translate into a good experience for whistleblowers. Addressing this gap will come down to whether managers across an organisation are trained sufficiently to identify and act on whistleblowers' concerns. Too few whistleblowers receive feedback on what the employer has done with their concerns – and there is much room for improvement here. There is much to learn from whistleblowers' own feedback on their experience of the system too – they may have valuable insights into where problems lie.

Regulators need to be more proactive when whistleblowers have been ignored and when they have alerted their employer to acts of victimisation that have not been addressed. Whistleblowing Rules require firms to inform the regulator if they contest and lose a whistleblowing tribunal claim, but this is far too late for many whistleblowers – many will never reach tribunal, choosing to settle their claim or walk away instead. In 2018 the FCA’s review of whistleblowing arrangements in retail and wholesale banking found “A number of firms needed to develop or enhance their arrangements to demonstrate how whistleblowers would be protected against victimisation”.⁴ In the light of our report, this needs further follow up. The sector’s regulators must hold firms and senior managers to account where there is a credible case that a whistleblower has been victimised for raising concerns.

For policy makers the issues highlighted by the research are that the Whistleblowing Rules have encouraged the introduction of internal processes, and this has led to greater awareness and willingness to blow the whistle close to the wrongdoing. These changes are welcome, and similar rules may be appropriate across other sectors. However, operationally many employers in the financial sector may be treating this process as a tick-box exercise. Protect’s recommendation is that law makers should amend the Public Interest Disclosure Act 1998 to create a positive duty on employers to prevent victimisation. Such a duty needs to be pro-active, so that systems are in place to assess and minimise the risks of harm coming to whistleblowers, before victimisation occurs. Leaving it to the whistleblower who has suffered to bring a challenge in tribunal is insufficient legal protection for those who speak up to stop harm.

4 Retail and Wholesale Banking: review of firms’ whistleblowing arrangements, FCA, 2018: <https://www.fca.org.uk/publications/multi-firm-reviews/retail-and-wholesale-banking-review-firms-whistleblowing-arrangements>



Protect Advice Line: **020 3117 2520** (* option 1)

Business Support: **020 3117 2520** (*option 2)

Protect Advice line: **whistle@protect-advice.org.uk**

Business support services: **business@protect-advice.org.uk**

www.protect-advice.org.uk

Protect is a registered Charity No.1025557. Registered as a Company limited by guarantee in England No. 2849833. Registered office at The Green House, 244-254 Cambridge Heath Road, London E2 9DA.

Copyright © 2020 Protect. All rights reserved.

SILENCE IN THE CITY
#SITC2

