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Whistle-blowing

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Whistleblowing

- What is whistleblowing?
- Blow whistle where misconduct suspected
- Confidence concerns will be considered
- ... with no personal repercussions
- Importance of culture: in society, and in the business

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Whistleblowing – United Kingdom

- UK Public Interest Disclosure Act: it is unlawful for a worker to be dismissed or victimised for making a protected disclosure
- Duty to blow the whistle?
- No general UK legal or regulatory duty to have whistleblowing arrangements in place
- But the Financial Conduct Authority is bringing rules into force regarding whistleblowing for certain regulated business

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Public Interest Disclosure Act 1998

- Disclosures should be made in the public interest
- If workers cannot go to their employer with the disclosure first they should contact a prescribed person or body
- Unfair dismissal
- Disclosure made in "bad faith"?

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Whistleblowing - USA

- US Sarbanes-Oxley Act 2002
- Problems with internal whistleblower systems?
- Importance of culture: UK culture compared to US culture?
- Rewards/incentives/protection/doing the right thing?

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Whistleblowing - Europe

- Few European countries have laws directly protecting whistleblowers
- EU officials
- Article 10 ECHR: freedom of expression

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Association of Certified Fraud Examiners

- Report to the Nations on Occupational Fraud and Abuse 2014
- Detection of fraud schemes
- Detection method is directly related to both fraud prevention and loss mitigation
- Tips are consistently the most common detection method of occupational fraud
- Impact of hotlines

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UK PCBS: changing banking for good

- UK Parliamentary Commission on Banking Standards
- Recommendation that banks put in place mechanisms to allow their employees to raise concerns initially (i.e. to “blow the whistle”) and that regulators ensure these mechanisms are effective

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UK FCA/PRA Consultation February 2015

- UK Financial Conduct Authority and Bank of England Prudential Regulation Authority Consultation Paper: Whistleblowing in deposit-takers, PRA-designated investment firms and insurers

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UK FCA/PRA Rules on Whistleblowing

- Following recommendations by PCBS
- Rules take full effect in September 2016
- Apply to deposit takers with over £250m in assets and to PRA-designated investment firms and insurers
- Non binding guidance for other regulated businesses
- Consultation on application to UK branches of overseas banks

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UK FCA/PRA Rules on Whistleblowing

New key rules require a firm to:

- Appoint a Senior Manager as their whistleblowers' champion with responsibility for overseeing effectiveness of arrangements, reporting to board, and reporting to FCA
- Put in place internal whistleblowing arrangements able to handle all types of disclosure from all types of person
- Put text in settlement agreements explaining that workers have a legal right to blow the whistle
- Tell UK-based employees about the FCA and PRA whistleblowing service

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UK FCA/PRA Rules on Whistleblowing

- New rules, continued:
 - Present a report on whistleblowing to the board at least annually
 - Inform the FCA if it loses an employment tribunal with a whistleblower
 - Require its appointed representatives and tied agents to tell their UK-based employees about the FCA whistleblowing service

Whistleblowing: other contexts

- Freedom to speak up: an independent review into creating an open and honest reporting culture in the UK National Health Service, February 2015
- Review set up in response to continuing disquiet about how concerns raised by NHS staff are dealt with, and the treatment of those who have spoken up

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