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The Price Of Being A Whistleblower

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Photo by Dennis Van Tine/ISTAR MEDIA/PA. Edward Snowden speaks at the launch of a campaign calling on President Obama to pardon him.

Whistleblowing continues to make headline news and some individuals such as Edward Snowden and Chelsea Manning continue to divide opinion, as they are often seen as heroes or vilified as a traitor depending on your point of view.

In the U.K., the Law Commission has recently published plans suggesting that maximum jail sentences for those leaking information should rise from two years to 14. These provisional recommendations include sentencing provisions stipulating jail sentences, which place leaking and whistleblowing in the same category as spying for foreign powers. According to the proposals, these sentences would apply to any leaker, whether or not they were a British citizen or operating within the U.K. These proposals have been met with alarm by civil liberty groups such as Open Rights Group, Public Concern at Work and human rights group Liberty.

Whistleblowers often pay a heavy price for their courage to speak up about corruption, according to a report commissioned by the Association of Chartered Certified Accountants.

The report entitled "Effective Speak Up Arrangements for Whistleblowers" revealed that organisations demonize whistleblowers and portray them as mentally ill or discredit their claims. The study of 25 workers who revealed wrongdoing in their organizations such as banks and healthcare found that whistleblowers lost their job either by being pressured out of the organization or being dismissed. If they did stay they suffered retaliation through bullying, demotion, isolation or harassment while some were forced by their company to take mental health counselling. Many did crack under pressure, suffering mental illness through depression, panic attacks or developed drinking problems.

Marianna Fotaki, Professor of Business Ethics at Warwick Business School said: "We spoke to real-life whistleblowers. The stigma surrounding mental illness can be used as a weapon intended to defame and neutralise a person who discloses wrongdoing, with the process of whistleblowing only intensifying the likelihood of experiencing such negative health effects. The mental health of litigants can be used by organisations in defending allegations and can result in diverting attention away from the seriousness of the disclosure and discrediting the whistleblower."

Yet whistleblowers are often the most effective method of exposing fraud, according to the global fraud and risk report by Kroll. "The recognition of the importance of the whistleblower is well-deserved," said Fotaki. "But without a strong mandate from the leadership for the protection of whistleblowers, HR cannot do very much. Employees need to know how whistleblowers are treated. It really pays off to set up proper channels as it saves reputational damage."

The report also revealed that effective speak-up arrangements for organisations involve a number of different channels through which employees can voice concerns such as HR, compliance and board members as well as in person, telephone or web-based methods. The report recommends organizations put in place robust systems to respond to all concerns which includes making sure any concerns are systemically dealt with and using aggregated data on speak-up activity for the purposes of risk management and people management.

HR can play an important role in protecting whistleblowers in organizations, remarked Fotaki. "How can you improve the internal 'speaking-out' arrangements? The answer for us is tackling speaking up arrangements. There are different types of arrangements in organizations and these channels are managed by HR. You can have information hotlines or a dedicated person who has a degree of independence and seniority."

Whistleblowing policies can be a difficult area for organizations to get right, remarks Rachel Suff, public policy advisor for the Chartered Institute of Personnel and Development. "We've seen with what happens in the NHS how damaging the fall-out can be for individuals and the organization's reputation."

HR's role needs to be pro-active and support the drafting of the whistleblowing policy, added Suff. "But it's also about the culture of the organization. A written policy needs to be communicated. The policy needs to be robust and make it clear that whistleblowers will be protected. It's about putting in place the procedures to disclose information if you feel there is wrong-doing." Suff argues that HR needs to be clear about the purpose of the Protected Disclosures Act and what type of wrong-doing comes under that Act. "It could be things like criminal offences or a risk to health and safety or a failure to comply with legal obligations or damage to the environment. Disclosure is usually to an external body."

Suff argues that line managers play a critical role in creating a culture where employees can feel confident to speak up about wrongdoing. "Line managers are the first port of call for whistleblowers but they need to be trained in dealing with disclosure and supporting the members of their team. If the person doesn't feel comfortable approaching the line manager then the whistleblowing policy should set out the senior person the employees can approach. HR should promote that policy throughout the organization. The tone of the organizational culture is set by the leadership and that is why it's important to get the culture right and encourage an environment that people can feel they can come forward."

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