

Response To Office for The Whistleblower Debate

Friday 25th June 2021

A Report by Eileen Chubb ©

Please note* Due to helpline obligations, this is our first opportunity to respond to the assertions made in this debate.

As with all the work of Compassion in Care, this report is evidenced based.

Introduction

We have previously fully responded to all proposed UK Whistleblowing laws. The office for the whistleblower proposal has required further responses due to the serious risk it poses to our beneficiaries.

Our helpline data shows that over 94% of over 9 thousand whistleblowers contacting our helpline cannot access the laws protection. This is the tip of the iceberg. Those contacting us and the Whistler,m are predominantly frontline workers, on low pay, with little or no savings; they have no buffer, their courage is all the more extraordinary because of their circumstances. Every day I speak to genuine whistleblowers, who want above all else for the abuse, harm, and other wrongdoing to be stopped.

The existence of this 94% shames the law, the government and most of all those who see whistleblowers as a personal opportunity for their own agenda. Baroness Kramer, WBUK, the APPG on whistleblowing and all those connected with them, have repeatedly denied the existence of the 94% for one reason only, there is no profit to made from them. This 94% have no value to anyone other than those whose lives depend on these whistleblowers being heard, perversely the very essence of whistleblowing is putting others before self, is under attack by those who put their own agenda first.

This report will use Baroness Kramer's own words as recorded in Hansard to prove the dishonesty and the lies involved.

The 94% are not heard in parliament because they do not have the financial clout to gain access, to fund an APPG or to push through a law.

The office for the Whistleblower, the APPG on Whistleblowing and its secretariat, WBUK are ethically and financially compromised on an unprecedented scale. We ask only that you read the text of the debate, taken from Hansard and compare it to the factual, incontrovertible evidence that fully contradicts the assertions being made by **Baroness Kramer**.

Baroness Kramer, *“The scandals exposed by whistleblowers range from care homes, the NHS, policing, the prison service and transport projects to **financial institutions**-many of those unfortunately -and many private companies. Research by the chartered institute of **fraud** has found that 42% of all internal **fraud** is identified by Whistleblowers.*

Response, re the sentence “*Financial institutions-many of those unfortunately*”

This statement is clearly emphasizing financial fraud as the most predominant sector in whistleblowing numbers. This is further reinforced by quoting data from the Chartered Institute of Fraud. This statement is completely misleading and untruthful.

PIDA Prescribed regulators are supposed to publish all whistleblowing reports annually. We have selected some of the most recently published data.

Financial

FCA 1.046

HMRC 13.640 (Due to furlough Fraud) Please Note HMRC states that not all of these cases relate to whistleblowing.

Health & Safety

9. 591

Health and Social Care

FTSU 20.388

NMC 192

CQC Data Unavailable

Healthwatch Data Unavailable

Data Protection

ICO 309

Charity Commission

431

The APPG on whistleblowing survey published in 2019 stated that only 6.9% of respondents were from the financial sector, with the largest numbers being from healthcare. It is concerning that all those connected to this APPG are using evidence from whistleblowers as a veneer of credibility but are only emphasising those facts that suit. The record shows the priorities of Baroness Kramer, The APPG on whistleblowing and WBUK has always been **financial** whistleblowing.

This contravenes the rule of law, all whistleblowers must be equally protected by law.

Baroness Kramer

“The first phase of the work of the APPG for whistleblowing focused on providing a platform for whistleblowers to describe their experiences and recommend reforms...Crucially it recommended the creation of an independent office for the whistleblower”

My Response

Completely Untrue The office for the whistleblower in its current form first appeared on the WBUK website as early as **2015**. This law was always

the aim from the outset. To say that it was formulated by the APPG on whistleblowing as a result of evidence collected is entirely untrue.

Baroness Kramer

“I have never heard of a regulator intervening in an employment tribunal case even though this is where most employees who speak out end up”

My Response

I will deal with the first line of the above statement regarding regulators intervening in a later section.

The false assertion that most whistleblowers end up in employment tribunals is again entirely untrue. Baroness Kramer knew this statement to be untrue, the truth is that all connected to the APPG on Whistleblowing are only interested in whistleblowers who can access the law, they have never been interested in those whistleblowers, the 94% who cannot access the law, yet this is perversely where the **most** injustice exists.

Baroness Kramer's words have betrayed her real agenda, what kind of law do you think, Office for The Whistleblower would be, when the priorities are just 6% of all whistleblowers. A law built on a lies alleged to protect those, who speak truth.

WBUK states that most whistleblowers are professionals and from senior management.

Over 94% of whistleblowers contacting Compassion in Care, are front line workers on low pay, they cannot access the law. This is the vast majority of whistleblowers, the unprofitable, poorly paid who cannot afford to pay WBUK the hundred pounds an hour and hefty percentage from any Tribunal Award.

Do not just take our helpline evidence alone but look at the independent evidence that fully validates what we are saying as opposed to what Baroness Kramer, WBUK and the APPG are stating.

Baroness Kramer clearly states, *“Most whistleblowers end up in tribunal”*

We state 94% are failed from the outset

We rely for our case on the independent factual Data available, the following is taken from Employment Tribunals and the BEIS Department.

Parliamentary Undersecretary of state BEIS Lord Callanan

“There were 35,000 whistleblowing disclosures made to prescribed persons in 2018-19”

*Please note, those who contact a prescribed regulator to raise concerns, will have mostly raised those concerns with their employer first and then gone to a regulator because no action was taken by the employer.

Whistleblowing disclosures made to regulators 2018-19

35,000

Employment Tribunal cases lodged in 2018-19

2,599

Even post Covid when whistleblowing disclosures were at an all-time high, only **3,128** Employment Tribunal cases were lodged.

Our evidence shows that the act of whistleblowing to a prescribed regulator results in whistleblowers being constructively dismissed. It's the act of going to a regulator that is viewed as the ultimate treachery.

Baroness Kramer has made no error, she has lied in the process of pushing through her law. Its hard enough being a whistleblower, imagine struggling to live, trying to access justice but being failed because you did not save up before reporting abuse; and then you hear the words of Baroness Kramer, ***“Most whistleblowers end up in Employment Tribunals”***

Baroness Kramer, The APPG on Whistleblowing and WBUK and all those who have engaged and given credence to them, have all aided and abetted this dishonesty and gross injustice.

Most whistleblowers resign because they cannot continue to work in such hostile conditions. Most whistleblowers are not sacked they are targeted until they break, they go sick with stress and are forced to resign.

If you want to read more about what its like to work in such hostile conditions, I suggest you read [Dismantling the facade](#)

Baroness Kramer

“One objection raised in opposition to creating an office for the whistleblower is the cost it would take to set up and run, to that I say this: the money lost through scandals corruption far outweighs the cost it would take to run this office. But in pounds, shillings and pence, the financial penalties from one successful prosecution of financial abuse would pay for the office for years- a good example is the £45 million fine from the Lloyds reading fraud case”

My Response If ten whistleblowers contacted, (OFTW) The Office for The Whistleblower, 2 cleaners, 5 care workers, 1 student nurse and 2 financial sector whistleblowers, would all these ten staff members have equal access to justice?

When the existence of such an organisation as OFTW depends solely for its income on fines from the prosecution of financial/banking sector cases.

Would there be any underlying prejudice in how some of these 10 cases were supported?

Could there be a blatant flaw in the logic being put forward?

Of course, the system would favour those cases that were the most lucrative, these are the cases that would pay the wages of the OFTW, and any crumbs left will be thrown to everyone else. The 94% are worthless in the bigger picture. This is why Baroness Kramer, WBUK and the APPG on whistleblowing highlight **fraud** and **financial** whistleblowing so much, why they deny the very existence of the 94%.

If a case of alleged whistleblowing is asking for damages in the region of a million pounds, are WBUK currently more likely to support such cases? The answer to this is yes, it's clearly evidenced on the record. They have no interest at all in the 94%, in fact WBUK have publicly stated, that” **Most whistleblowers are professionals from senior management positions.** “

This is the lie that betrays the 94%, the deliberate denial of their existence. This false narrative contaminates all those connected to the office for whistleblower, whose only allegiance is their own self-interest, no matter what the cost. But the cost is paid with human suffering every hour, of every day across this country. After every avoidable scandal, avoidable loss of life, national disaster, people will ask, how could this happen? This is exactly why, when the UK had a chance to change things, they allowed lies and greed to prevail.

Baroness Kramer

“I have never heard of a regulator intervening in an Employment Tribunal case”

My Response

Baroness Kramer is well aware of the BUPA 7 case, it was the very first PIDA case and has been extensively written about, including two books.

The Office for the Whistleblower relies on the myth that they would ensure regulators acted on whistleblowers concerns, leaving aside all the evidence we have gathered regarding the fundamental failures of regulators.

Let's imagine a perfect case example, a case where all the wrong doing was investigated robustly and upheld and where a regulator intervened in an Employment Tribunal case,

Would that be enough to stop the abusers continuing to harm?

The regulators evidence to the Tribunal was that BUPA secretly redeployed the most dangerous abuser to other BUPA homes against the regulators recommendations. The abuse continued and was later exposed in the media.

Would that be enough for the whistleblowers to obtain Justice?

The evidence from the prescribed regulator was ignored and the judge gave assurances to BUPA that the regulators inquiry report, which fully upheld the abuse, would not be disclosed in the proceedings.

The PIDA prescribed regulator gave evidence on oath at the Ashford Employment Tribunal that the BUPA 7 whistleblowers were telling the truth about both the abuse of vulnerable people and the harassment of the whistleblowers as a result of whistleblowing. (Court Statements available on request)

This is the reason that the BUPA 7 appealed to parliament at the time for a full inquiry and why we now campaign for a jury led inquiry into all whistleblowers failed, you cannot build justice on injustice any more than you can build it on lies.

BUPA Seven

HC Deb 15 July 2004 vol 423 c1633

1633

Mr. John Horam (Orpington) (Con) I wish to present a petition on behalf of Eileen Chubb of the BUPA seven and others. BUPA seven is composed of former care workers who spoke out against elder abuse in a care home in Bromley.

6.13 pm
§

The petition states: "That silence is a major contributory factor in elder abuse in care homes and that unless whistleblowers are fully protected, the silence will continue, along with the suffering of those who are unable to speak out for themselves. The Petitioners further declare that the case of the "BUPA Seven" has raised real concerns that the [Public Interest Disclosure Act](#) is failing to protect those who speak out in defence of the legitimate interests of others. Amongst these failings is the fact that if the employer contests disclosures then the whistleblower is left in a situation where the only court that can hear the case has no jurisdiction to hear criminal evidence. The Petitioners further declare that the verdict in the case of the "BUPA Seven" will serve to encourage others not to report cases of abuse, and they note the conclusion of the Health Committee in its Report on Elder Abuse that further measures to make staff aware of their responsibility to report abuse, and to allow them to do this in a confidential manner, may be needed." "The Petitioners therefore request that the House of Commons urge the Government to hold a full public inquiry into the case of the "BUPA Seven" in order to address in full the concerns raised and to ensure that whistleblowers can speak out without fear of reprisal or victimisation and that fear and silence are not encouraged."

And the Petitioners remain, etc.

To lie upon the Table.

On the issue of suppressing vital court evidence in whistleblowing cases, we note we are the only UK organisation that has noted and objected to the clause in the current, Health and Care Act 2021, which would suppress such evidence in future.

103 Admissibility of reports

- (1) A final report, an interim report and the draft of a final or interim report sent to a person under section 101 are not admissible in any proceedings within subsection (2).
- (2) Those proceedings are—
 - (a) proceedings to determine civil or criminal liability in respect of any matter;
 - (b) proceedings before any employment tribunal;

Baroness Kramer infers that a regulator intervening in a whistleblowing case would offer some protection to whistleblowers. Baroness Kramer, the APPG and WBUK are all fully aware of the BUPA 7 case, the first PIDA case made a mockery of both PIDA and makes a mockery of the proposals of an OFTW, this is why the BUPA 7 case and Edna's Law have been the target of sustained malicious allegations made by WBUK.

We cannot say too much at this point on the separate issue of the malicious allegations for legal reasons we do not wish to prejudice a police inquiry.

But we can say that charities and campaign groups who blow the whistle on serious malpractice by those in parliament and suffer retribution as a direct result should be given whistleblower protection.

Baroness Kramer

"I think we can all agree that regulators work hard to ensure that the confidentiality of whistleblowers is protected"

[CQC gave whistleblowers names to employer](#)

We were asked by the Charity Commission why we did not inform employers when whistleblowers contacted us?

Summery

We totally agree with some of the comments of Lord Berkley of Knighton from the same debate,

“I do not expect the minister to agree with everything I am about to say but surely an important example needs to be set by those holding the highest offices in the land instead of which there seems to be a more determined effort than ever to ride out scandals simply ignore wide calls for resignations and tough it out this is relevant because it undermines the principle of accountability....”

Response We agree with the above comments and ask Lord Berkley to carefully consider all the evidence.

Many MPs and Peers have been provided with whistleblowing training by WBUK, many would call this groomed on the OFTW, courtesy of a parliamentary pass, which has allowed this deceit to flourish. We do not blame those MPs and peers who have clearly been lied to (With the exception of those who were, or are members of the APPG on whistleblowing)

But we ask those MPs and peers who have been deliberately lied to and misled, to have the courage of a whistleblower and stand up and admit they were misled and call for accountability.

Baroness Kramer, The APPG on whistleblowing and WBUK have lied to both houses, have knowingly put forward a law that would hugely benefit both the funders of and members of the APPG on whistleblowing, The OFTW will make millions for the compliance and legal industry's.

Constantine Cannon will no doubt be one of the OFTW accredited law firms proposed.

The Nolen principles

1.1 Selflessness

Holders of public office should act solely in terms of the public interest.

1.2 Integrity

Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.

1.3 Objectivity

Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

1.4 Accountability

Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

1.5 Openness

Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

1.6 Honesty

Holders of public office should be truthful.

1.7 Leadership

Holders of public office should exhibit these principles in their own behaviour and treat

This report is going to the Standards Select Committee, there is no other parliamentary entity that will act on blatant lies and dishonesty.

If whistleblowing is about anything it must be about truth.

Eileen Chubb on behalf of the 94%

Compassion in Care

The Whistler

