



# Conversation with Paul Boyle OBE

KPMG Board Leadership Centre



Paul Boyle is a former chief executive of the Financial Reporting Council and chief internal auditor at insurance giant Aviva. Today, in what he calls “the overtime phase of his career”, he chairs whistleblowing charity Protect. At our FTSE100 Audit and risk committee chairs dinner, Paul talked about his ambition to shake up existing UK legislation in order to extend legal protections to everyone who, in the public interest, blows the whistle on corporate malpractice.

Big corporate incidents like the Piper Alpha explosion, the Zeebrugge Ferry disaster and the Clapham Junction rail crash, might never have happened if workers had been able to air their concerns without fear of discrimination. They weren't. And the consequences were deadly.

Set up in 1994, UK charity 'Public Concern at Work' sought to provide a helpline and advice for whistleblowers to expose criminal or negligent wrongdoings, particularly those that present a danger to health, safety and/or the environment. In 1998, it drafted and got government backing for the Public Interest Disclosure Act (PIDA) that overrides employees' duty of confidentiality to employers and provides protection where they blow the whistle in the public interest.

### Three-pronged brief

When Paul Boyle became chairman in 2017, he oversaw the charity's name change to Protect, accompanied by the new strapline “Speak up, stop harm”. Protect has three main activities.

Every year, Protect provides free, confidential and legally privileged advice to around 3,000 UK whistleblowers. This is its primary activity. “Think of us as ‘Samaritans for whistleblowers’,” he says.

Some cases are relatively straightforward; others are tricky. In one instance, an abattoir worker called the Protect helpline with concerns that animals were being slaughtered more than one week ahead of reported dates. “Protect does not have investigative powers, but we were able to tip off a major supermarket buyer who carried out an unannounced audit and nipped the practice in the bud,” explains Boyle.

Secondly, Protect carries out advisory work for corporates, which provides its main source of income. It works with entities to help them improve the effectiveness of their whistleblowing arrangements with robust protocols and mechanisms for reporting, investigating and resolving claims.

It not only serves to protect the corporate's own interests if the whistle is blown, but their customers too, and could, arguably, guard against corporate failures.

Protect's benchmarking tool is based on 25 years' experience with hundreds of corporates. It focuses on:

- governance over whistleblowing arrangements
- operations, which includes procedures for tracking whistleblowers' calls and investigations
- staff engagement, which means ensuring that frontline managers can distinguish between a vexatious grumble and a genuine whistleblowing conversation that, if failed to be treated correctly, could result in sanctions, as well as unlimited compensation for the wronged party.

Thirdly, Protect has a mission to shape public policy. In the 20 years since the PIDA came into force, there are new gaps to fill. Among them is the loophole that allows companies to discriminate against non-workers, which includes job applicants that may have blown the whistle in previous roles, volunteers and non-executive directors too. “For non-executive directors, the charge that something should not have happened on their watch is pretty damning. Closing that loophole means they would be protected in the event that they blow the whistle on corporate malpractice.”

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**//** In March 2020, a healthcare trust paid £750,000 in compensation for failing to listen to a consultant's concerns and being found to be prejudiced against him.

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In reforming the law and improving regulatory practice, Protect also wants to change the language relating to whistleblowing.

From defamatory words like “grass” and “sneak”, Boyle wants to encourage expressions like “concerned citizens” and “courageous colleagues”. Boyle hopes that conversations about speaking-up might even extend into the classroom or to the family dinner table, so that children, safe in the knowledge that they will be supported, learn to speak up in situations where they feel uncomfortable.

### Listen and balance the risk

Not all whistleblowers are well motivated. Some will report concerns for personal gain; others, inevitably, will wrongly interpret events or treatment. However, Boyle urges companies to “stop treating whistleblowers as a virus but as witnesses” and to test their concerns against other sources before drawing conclusions.

The bigger danger is that people with valid concerns are not heard – for fear of a backlash or lack of knowledge about how to report – or are dismissed. Failure to take concerns seriously may not only perpetuate poor practices, such as bullying, but could lead to unfair dismissal and subsequent claims for unlimited compensation for damages, loss of earnings and prejudice. Boyle observes that the top three sectors in the UK for whistleblowing are health and social care, charity and education. “Three sectors that are exclusively focused on doing good are rife with bad practice. Some of these organisations are grossly abusing public money to take genuine whistleblowers to court.”

### Making the call

Blowing the whistle on an employer is a big deal. Callers are often distressed and nervous. Advice line staff at Protect can help callers to articulate their concerns about wrongdoing in the workplace and understand their eligibility for protection under whistleblowing legislation. Protect’s advice is legally privileged, based on years of experience and is free to all callers, irrespective of whether or not they work for an organisation which is a subscriber to Protect.

Many organisations set up their own whistleblowing hotlines; some use dedicated commercial providers. KPMG has an independent whistleblowing ombudsman to whom staff can confide concerns, which are investigated and reported to its public interest committee and the partner responsible for ethics.



Whistleblowers may be reluctant to report concerns internally for fear of recrimination and job security. As third parties, with formal procedures on handling inside information, statutory auditors could potentially become prescribed persons to whom whistleblowers might make disclosures.

Paul Boyle, Chairman, Protect

The burden of proof is not on the whistleblower - they just need to have reasons to be concerned. It is for employers to gather evidence relating to the concerns and come to a balanced view of the evidence.

### What boards should do about whistleblowing

Boyle identifies two key activities for companies to improve their whistleblowing arrangements.

Don’t treat whistleblowing arrangements as a corporate add-on. Unless they fit into the organisation’s broader cultural approach, where staff are engaged in understanding the business and are encouraged to make suggestions and where there is visible leadership from the top, any attempt at implementing whistleblowing protocols will be met with scepticism.

Benchmark your whistleblowing arrangements to assess their effectiveness. Just one example of an individual who is penalised for speaking up will damage the credibility of the whistleblowing arrangements. Benchmark your performance to ensure there is no discrimination – i.e., in salary reviews or promotion – both immediately after and in the years following disclosure. In bigger organisations, assign someone to keep track of whistleblowers to guard against discrimination which might arise in the years after an employee has blown the whistle.

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