Registration Number: 1702123501

LAW – 40033

MA Adult Safeguarding - The Emergency of Adult Safeguarding.

Question

"Critically assess the issues faced by whistle-blowers in safeguarding adults from abuse or neglect and the protection afforded to them under the Public Interest Disclosure Act 1998."

Word Count: 4951

Introduction

Public enquiries have repeatedly shown that the real problem when scandals emerge is not the events or behaviour they uncover but the number of people who knew it was happening and said or did nothing about it.[1] Whistle-blowing in its broadest sense is a vital tool in safeguarding adults from exploitation, harm and wrongdoing. History has shown it to be the sharpest tool and often the only manner in which matters that others wish to hide can be brought to light and dealt with - and more importantly learned from. But finding a balance which affords enough protection for those may feel compelled to blow the whistle and not too much that institutions remain afraid of it happening is an extraordinarily difficult and unenviable task.

If the ultimate goal is protection of adults from abuse and neglect and learning from mistakes or wrongdoing, the balance must fall in favour of protections for those who blow the whistle. How far in favour remains the question. There must be enough protection for those who genuinely believe they are doing the right thing even if they are wrong, who are doing it for pure motives and not for personal gain and for those who have exhausted all internal avenues of redress.

The Public Interest and Disclosure Act 1998 [PIDA] was a bold and brave piece of legislation. Applauded at the time for its foresight and vision, it constituted a legal footing to outline the what disclosure would be protected and who would be protected in making it.

This author does not suggest that PIDA is the final answer to the legislative framework required for whistleblowing nor that it is not and will not in the future be in need of reforms and

[1] North Lakeland NHS Trust, Winterbourne View Hospital, Francis Inquiry and Shipman Inquiry to name a few.

amendment. That clearly cannot be argued of any legislation which needs to move with social, political and generational change. It does argue however that focus on legislative reforms should not distract from the real issue with whistle-blowing and protecting both those who blow the whistle and those adults who would continue to suffer if they did not. That real issue comes in the form of lack of education and awareness - it comes in the form of lack of cultural change.

In the first instance this must be the focus of protection for whistleblowers. PIDA must now be properly used to focus on educating *all* parties on the issue of properly raising concerns. This education and change must include employers and institutions, through willingness not force, for that change to ever have meaningful effect. If legislation continues to fail to become policy and that policy continues to fail to become practice, legislation such as PIDA will only ever achieve part of what we seek.

Common Law Whistleblowing

Described by Mandelstam[2] as an 'irregular' form of regulation in the health and social care setting, whistleblowing has historically sat very uneasily in the employment context. The relationship between employee and employer has always been premised on conditions of mutual trust and confidence whether it be express or implied. Indeed, the common law offered protection against an employee disclosing information connected to their employment and offered little protection to those who did. Arguably, such disclosures undermined the relationship of trust between employee and employer and could give rise to action for breach of contract and implied terms. Any breach of those contractual terms invariably amounted to

[2] Safeguarding Adults and the Law (Second Edition) by Michael Mandelstam. (page 272)

gross misconduct. Furthermore, disclosures of some information could be prevented under the duty of fidelity in employment and restrictive covenants afterwards. The overriding assumption was that employees did not disclose matters which were disclosed to them in confidence in employment[3] and if they did their defence for such actions was very limited.

Action brought against them for breach of contract could only be defended by advancing the argument that the disclosure was made in the public interest. Whilst the Courts did recognise it and indeed protect it in some instances, the bar was high and the guidelines assisting someone prior to disclosure were very unclear. The case law did not definitively rectify it but rather decided on a case by case basis.

Initial Services v Putterill [1968][4] first allowed a public interest exception to the expectation of non-disclosure of confidential information. That exception could be found where there is *"any misconduct of such a nature that it ought in the public interest to be disclosed to others."* It was not however an unfettered exception and parameters still had to be met – understandably given the type of exception it was at that time creating. The disclosure had to have been made to someone who themselves had an interest in it being disclosed to. In this case it was the media - worthy of some attention given the legislative provisions which followed and are discussed later in this essay. Lord Denning ruled in this case that they did have sufficient interest. The automatic assumption of sufficiency of interest when it came to the media was questioned however in *Lion Laboratories Ltd v Evans* [1985][5] by the Court of Appeal. Lion Laboratories (the employer) sought an injunction against two employees who had attempted to disclose to a

[3] Hivac Ltd v Park Royal Ltd [1946] Ch.169 and Attorney-General v Guardian [No. 2] [1990] 1 AC

[4] 1 QB 396
[5] QB 526.

national newspaper documentary evidence casting doubt on the reliability of the products being sold. The documents were obtained internally – not from another source. The employer sought to argue, in support of the injunction, that the disclosure would amount to breach of confidence. Whilst the Court of Appeal ruled against the injunction on the basis that in this case the employees had *"just cause or excuse"* for making the disclosure they were at pains to make clear that this did not mean the media were necessarily the normal or appropriate audience for disclosure. Disclosures to regulatory bodies, rather understandably, were afforded more specific direction, even when malice on the part of the employer was also a possible motive. In *Re a Company's Application* [1989][6] an employer again sought an injunction against an employee disclosing confidential information to the regulator. Whilst the High Court allowed an injunction of a general nature to continue it was specifically ruled that the duty of confidence could not be used to prevent disclosure to regulatory bodies concerns which were directly within their purview to investigate. The presence of malice was not a relevant issue at common law. This was essentially the first occasion of real guidance as to the type of disclosure which could be made and to whom it could be made. Absent a disclosure to regulatory bodies an individual took their chances on whether the court would or would not protect them.

The value of whistleblowing generally increased following a series of disasters throughout the 1980's and 1990's such as the Clapham Rail disaster and the Bristol Royal Infirmary among many others. Campaigns by organisations such as Public Concern at Work[7] brought public attention to an issue previously viewed within the realms of private employment matters alone.

[6] IRLR 477.
[7] http://www.pcaw.org.uk/ - an independent charity set up in 1993 focused entirely on whistleblowing at work.

The Public and Disclosure Act 1998

To some extent legislative protection exists in the form of Article 10 of the Human Rights Act 1998. Freedom of expression as a right was protected in circumstances where employers sought to prevent disclosure. Whether that right had been breached requires balancing the right of the individual and the general public as well as the application of general principles of proportionality. Thus, the reasons for the disclosure and whether it related to any pressing social need are central to that determination. The Court has, since the implementation of the Act, demonstrated a willingness to carry out that exercise properly and afford protection to whistle-blowers. In *Heinisch v Germany* [2011][8] a geriatric nurse had been dismissed following receipt of a complaint she made about the provision of institutional care by her employer. The Court ruled that there had been a breach of Article 10. The difficulty however, much as with common law, was that determinations were being made on a case by case basis and one only knew if they were going to be protected after the disclosure had already been made – a rather obvious disincentive.

The Public Interest Disclosure Act 1998 [PIDA] was the first legislative footing specifically intended to outline what type of disclosure would be protected, who would be protected and in what circumstances they would be protected. Whilst of course it could never have dispensed with the need for judicial interpretation and application (whether in the Employment Tribunal or higher) it at least afforded some clearer guidance for those considering making a disclosure. In other words, it offered an opportunity for an individual to make a reasonably informed decision about whether they were going to be within the law in doing what they intended before

[8] Ref: 28274/08, [2011] ECHR 1175

doing it. Furthermore, for all the justifiable criticism of the common law outlined above, there were and still are clear echoes of the common law trend and approach within the Act.

PIDA began life as a private members' Bill which, through the instrumental efforts of the Public Concern at Work[9], gained cross-party support. With a central focus on attempting to find internal remedies it outlined a tiered disclosure process. The intention was to protect those who raised concerns the right and responsible way and not those who prompted media scandal without attempting resolution by other methods. Further it outlined the specific disclosure it sought to protect as being in the public interest.

The Act will protect disclosures it deems to be 'qualifying'. Section 43B outlines clearly that these revolve around commission of criminal offences, failure to comply with legal obligations, miscarriage of justice, endangering the health and safety of an individual, damage to the environment or attempts to conceal any of the above. Of great significance, subsection (2) opens protection up to failures outside of the United Kingdom. Subsequent sections[10] deal with disclosures to varying audiences with section 43G dealing with "disclosures in other cases". To avoid overlap with the discussion that follows analysis of these sections is reserved except for 43J which makes automatically void any contractual duty of confidentiality even if signed. Given the previous common law approach this is a decisive move away from previous assumptions and principles – and a welcome one at that. Although the Whistleblowing Commission Report called for strengthening of anti-gagging provisions in the law it is highly questionable whether this is actually needed at all.[11]

[9] Ibid 7.
[10] Sections 43C to 43F.
[11] Recommendations 17 and 18.

As an Act it came into effect as Part IVA of the Employment Right Act 1996[12] and has been almost universally regarded as an outstanding piece of legislation. It was the model for the Protected Disclosures Act 2000 in South Africa and has been cited in debates in many other countries including New Zealand, Ireland, the Netherlands and Australia. As a result of the Volkswagen emissions scandal the European Union are now considering it as part of a call to all members to review their policies in relation to whistleblowing.

Room for improvement on PIDA?

To suggest that PIDA resolved all issues which existed prior to its existence would be wrong. However, developments through legislative amendment (in the main through The Enterprise and Regulatory Reform Act 2013 [ERRA]) and case law have rectified these to the extent that this author believes further widening of ambit should only be considered with great caution.[13]

Employees or workers

The shift from employee to worker was a significant one and brought the expanded protection in line with the Employment Rights Act 1996. Section 43K of the Act itself further purposefully extended the meaning of 'worker' for the purposes of PIDA. This was to include those who were not workers for the purpose of section 230(3) but who nonetheless work under terms substantially determined not by him or work under contract connected to business. Whatever arrangements may have been deemed to 'fall between the cracks' of this definition after PIDA in its original form, section 20 of the ERRA further amended it to widen again the ambit of those included in the protections. Critically it now includes certain new contractual arrangements put in place in the healthcare sector and furthermore given the Secretary of State

[12] https://www.legislation.gov.uk/ukpga/1996/18/part/IVA

[13] Some commentators believe the Act to be unfit for purpose in modern times and call for wholesale change. See D. Lewis 'Nineteen years of whistleblowing protection in the UK: is it time for a more comprehensive approach?' 2017 International Journal of Law and Management 2017, 59(6), 1126-1142

additional powers through secondary legislation to add to the list without the need to place the amendment before Parliament.

In *Day v Lewisham and Greenwich NHS Trust & Health Education England* [2017][14] the claimant, who was a junior doctor, brought proceedings against the NHS Trust he worked in and HEE for detriment he suffered following his disclosures regarding patient safety. The case centred on the correct interpretation of section 43K as HEE argued that Dr Day was not covered within the 'worker' status it having been accepted that that he was not a worker within s230(3) ERA with them as he was with the Trust. The EAT upheld the ET that being covered under s230(3) ERA with the Trust, who substantially determined the terms of work, precluded him taking advantage of the extended definition of 'worker' in s43K in respect of HEE. The Court of Appeal overturned that ruling finding that more than one body could "substantially determine" the terms of engagement and the fact that the contract with HEE was for training not employment did not preclude exercising rights. This must be right.

Ashton (2015)[15] argues that the expansion *"still leaves a substantial number of individuals without protection e.g. students…"* It is not clear what sort of situation she is referring to and is somewhat watered down by the immediate concession in the second half of the sentence that *"it is likely a student on a placement year would be protected."* It is hard to envisage a more temporary working relationship in existence or why it would not be included in the current law. However, like others including Lewis (2017)[16], she draws attention to some clear avenues for improved protection and they are more than worthy of consideration. Although the Whistleblowing Commission recommendation that protection be extended to LLP members

[14] IRLR 623, EWCA Civ 329
[15] J. Ashton 'Fifteen years of whistleblowing protection under the Public Interest Disclosure Act 1998: are we still shooting the messenger?' Industrial Law Journal 2015 44 (1):31-52
[16] Ibid. 13.

has already been ruled upon determinatively by the Supreme Court[17] other categories remain open to proper incorporation. Volunteers and interns should be included given the increased prominence they have in the market workforce including unpaid work placements – particularly within charitable organisations. Recent 'scandals' might chime with such a suggestion. Another category is priests and ministers of religion. Given the varying defences put forward in the scandals around religious institutions for the failure to draw concerns to the attention of external organisation even when the institution itself ignored the concerns, one must ask if we can afford not to include them. Their proposal to include all workers listed under the Equality Act 2010 seems obvious and sensible and could take place swiftly under the secondary legislation.

However, now that the issue of post-employment protection has also already been comprehensively dealt with by the Courts[18], the question of pre-employment protection must equally be addressed. The Whistleblowing Commission Report recommendation 10 called for specific provisions against the blacklisting of whistle-blowers. This is the only aspect of PIDA which this author agrees is long overdue for immediate amendment. The reality is that, regardless of legislation, some whistle-blowers will not want to remain in the organisation they have exposed – purposeful attempts to ensure they are not employed elsewhere must be urgently addressed if the legislation is to be complete and comprehensive.

A 'public interest.'

In *Parkins v Sodexho Ltd* [2002][19] a worker raised a health and safety concern regarding the failure of his employer to provide proper supervision whilst he was using machinery. It

[17] Bates van Winkelhof v Clyde & Co LLP [2014] UKSC 32; [2014] 1 W.L.R. 2047
[18] Onayango v Berkeley Solicitors [2013] IRLR 338.
[19] IRLR 109

provided an interesting centre for debate following a ruling by the Employment Appeals Tribunal that disclosure of a failure to comply with a legal obligation arising from a workers own contract was encompassed in section 43B(1). The Court ruled in *Douglas v Birmingham City Council* [2003][20] that a complaint made by a classroom assistant about the failure of the school head teacher to properly apply an equal opportunities policy in a recruitment decision was also within the scope. It was argued that such disclosures were not what the Act was intended for nor indeed what it should be for. Furthermore, the Act was potentially allowing parties to enforce employment rights and contractual rights through the back door when otherwise they may not have had the term of service to do so. Given the very name of the Act this was hardly the intention – nor indeed the sort of disclosure the Act intended to protect.

The ERRA inserted into section 43B(1) the requirement of a reasonable belief on the part of the worker making the disclosure that it is in the public interest to do so.[21] *Chesterton v Nurmohamed* [2017][22] was the first case to consider the introduction of the public interest requirement. Whilst not in a health or social care context the ruling is useful in many respects. Mr Nurmohamed was director of a Mayfair office of estate agents. He reported to his superiors that the accounts were being manipulated to deflate the amount owed to managers in commission payments. Having raised this, he was dismissed from his employment. The central question for the court was whether this disclosure was in the public interest. Making direct reference to the case of *Parkins* Lord Justice Underhill referred to the law on one's own contract of employment being the subject of the disclosure. Two opposing arguments were advanced. On behalf of Mr Nurmohamed is was argued that disclosure was in the public

20 [2003] UKEAT 0518 02 1703

[21] inserted (25.6.2013) by Enterprise and Regulatory Reform Act 2013 (c. 24), ss. 17, 103(2) (with s. 24(6))
[22] EWCA Civ 979

interest if it was in the interests of anyone other than the person disclosing. In this case there were up to one hundred managers affected. On behalf of Chesterton it was argued that the number of people affected cannot equate to public interest – there needed to be implications beyond a workplace dispute. The Court took an overarching view of both arguments and determined a number of factors to be relevant in deciding whether a disclosure was in the public interest. Firstly, one considers the number of people affected. They did not give the minimum number except to open it to beyond the whistle-blower themselves. Secondly, one has to consider the nature of the disclosure and wrongdoing it exposes. Finally, there only need be a genuine belief that disclosure is in the public interest. And this is to be viewed from the workers perspective regardless of whether they are right, or it is even their predominant motive. Criticised for failing to take the law any further, other than to rule Mr Parkins out in the future, one wonders how a judge is able to lay parameters and tests to assist without being accused of being prescriptive whilst at the same time being accused of relying on the defence of case by case analysis. Such criticism is unjustified.

Good faith

In *Street v Derbyshire UWC* [2004][23] the Court of Appeal ruled on a case that had become almost entirely focused on the motivations of the individual making the disclosure – rather than the disclosure itself. In upholding the ruling of the EAT the Court of Appeal ruled that the notion of good faith must be viewed as adding something to the requirement of reasonable belief in the truth of the disclosure. They further ruled that there was a contradiction in the purpose of the whistleblowing being in the public interest if malice was behind the disclosure – they therefore could not be in the public interest. It was ruled that a worker could lose the automatic protection otherwise afforded them under the Act if the employment tribunal was

[23] EWCA Civ 964.

"of the view that the dominant or predominant purpose of making it was for some ulterior motive."[24] Ironically, the motive, previously deemed irrelevant in common law had been give legislative relevance in PIDA and focus moved from consideration of the disclosure to consideration of the motives behind the disclosure. Given that the reality in practice is that the two are rarely separate the value is hard to judge it seems nonsensical. Furthermore, as Bowers[25] rightly points out, ulterior motives do not necessarily make the disclosure any less valuable or significant. As recommended in the Shipman Report[26] the PIDA good faith test was removed by the ERRA to avoid such matters turning into assessments of character rather than disclosure. The relevance of "good faith" did not disappear completely however. Quite properly it remained relevant, but only after the disclosure itself is made. It appears in the form of a discretionary reduction in compensation of up to 25% should the tribunal rule in favour of the worker. This is the most appropriate forum for such an assessment and likely to appropriately penalise someone making such a disclosure in bad faith.

Co-worker issues

In a context where the vast majority of difficulties faced by whistle-blowers are likely to be subtle and not directly from management, especially if their disclosure has reflected poorly on colleagues, the response to the case of *Fecitt and Others v Manchester NHS* [2011][27] is likely to have the most practical benefit. In *Fecitt* a worker suffered a great deal at the hands of co-workers because her name was disclosed as part of her concern. The Court of Appeal ruled that the doctrine of vicarious liability could not operate to make an employer liable under s47B. The rationale was that an individual employee could not be personally liable for victimizing a

[24] EWCA Civ 964 at paragraph 56.
[25] Lewis, Bowers, Fodder, Mitchell 'Whistleblowing: Law and Practice' 3rd edition, OUP, 2017
[26] Fifth Report of the Shipman Inquiry, Dame Janet Smith (9 December 2004)
[27] EWCA Civ 1190

whistle-blower at work and therefore the doctrine could not apply. Whilst not wrong in strict law the determination did little to engender confidence in workers as to their protection after disclosure and was far from the hopes for practical application of the Act. Again, the ERRA resolved the issue through Section 19 which amended this to afford protection not just from repercussions from an employer but also made an employer liable for similar issues from co-workers unless they could demonstrate they had taken reasonable steps to prevent such behaviour. Given the practical difficulties faced by an employer in complying with this is seems unwise to take legislation any further on this point unless it risks becoming meaningless.

So what becomes the whistle-blower?

Mandelstam rightly points out that:

> "*for professionals a dilemma is created. Their codes of practice state that they should raise concerns if patients or clients are suffering harm and that they should persist in raising them if nothing is done. However, if they have a mortgage, family and career hopes, they would be better advised to keep quiet."*[28]

The dilemma is not simply created by their codes of practice but by the Department of Health and indeed likely, on paper, their own employers. Whilst PIDA likely does deal with situations where these concerns are about colleagues and internal difficulties unconnected to management or wider practice the same is unlikely in situations of systemic or organisational failure. And as Mandelstam recognises – reluctance to embrace systems failure *"makes it particularly difficult to tackle systemic neglect accorded to older people within health and social care."*

[28] Safeguarding Adults and the Law (Second Edition) by Michael Mandelstam.

Sadly, it tends to be these cases which form the basis of public inquiries. But how can this be changed?

Of greatest notoriety was the Mid-Staffordshire Inquiry and the subsequent Francis Reports. As one would expect the Report found that the failures which occurred could not be attributed to particular acts of identifiable individuals and the causes which lead to them happening were complex. However, the report outlined key findings and a brief review can link them all to cultural problems within the organisation either in the manner of providing the care, high tolerance of poor standards or failure in communication of concerns. But of greatest concern in the context of whistleblowing was an institutional culture which valued positive information about itself above negative information which should have raised cause for concern. This is not the first report to use such words and sadly it will not be the last.[29] Such difficulties will never be dealt with by legislation alone and the fact that very few people would be able to name the individuals responsible for bringing the wrongdoing to light probably tells a great deal.

Evidence does suggest that PIDA is having a positive impact in promoting increased transparency and better practice in relation to the raising of concerns and whistleblowing. A YouGov survey in 2013 found that 42% of respondents said their workplace had an active whistleblowing policy and 72% viewed the term 'whistle-blower' as a positive or neutral term. Both of these figures increased in the same survey in 2015 to 48% and 74% respectively. Notably however the majority of people on both occasions were unaware that there was a law protecting whistle-blowers. As such practice remains the issue – education, awareness and culture.

[29] Ibid 1.

The Whistleblowing Commission Report[30] made significant recommendations and interestingly again most related to codes of practice and a need for better internal policies – not simply legislative reform. Echoing *Francis* (2013) it focuses on more effective procedures and attitudes. Those recommendations are both sensible and as yet unanswered. They call on the Secretary of State to adopt the Commission's Code of Practice detailing whistleblowing arrangements in the workplace and further calls for it to be taken into account by tribunals hearing cases where whistleblowing issues arise.[31] It calls for specialist training for tribunal members to handle whistleblowing claims effectively.[32]

Much of its recommendations focus on the practice of relevant regulators calling on them to require or encourage the adoption of the Code by all those they regulate.[33] In addition it recommends that regulators sanction, by virtue of reviewing licence or registration, organisations who fail to put in place effective whistleblowing arrangements[34]. Finally, it calls on the regulators themselves to become more transparent about their own arrangements and report on them.[35] All of these recommendations are sensible and would effect real and meaningful change in practice. This change in practice is where the true protection will come from.

As one might expect is also calls for greater strength and clarity of the legal protection for whistle-blowers in PIDA.[36] This is however a process that is best left to the Courts and not to legislation. The temptation to speed this process up or force change by making the legislation

[30] Whistleblowing Commission Report (2013) (Public Concern at Work)
[31] Recommendation 1.
[32] Recommendation 21.
[33] Recommendation 2.
[34] Recommendation 3.
[35] Recommendation 5.
[36] Recommendations 8-20.

wider and wider or more and more forceful is almost irresistible. However, it will not assist in education, normalisation or culture change. In fact, it is most likely to be counter-productive. Such change needs the cooperation of employers and organisations and this will take time – nothing else. For it to happen at all they need to be at least moderately engaged and for this the repercussions cannot be too painful. That is the sad reality of life and politics and one which must be accepted if meaningful change is actually sought.

Conclusion

PIDA is not perfect but in an arena of so many competing interests we may have to accept it will never be. Furthermore, even if it were, legislation will only take matters so far. It will be impossible to protect against every possible difficulty that might arise for whistleblowers until cultural norms shift to accept honesty about wrongdoing as the norm. When this occurs the term whistleblowing as a term will become virtually redundant.

One should not be naïve enough to think that that will ever occur however constant focus on legislation without equal efforts on practical issues will never even get close. Real change will require the co-operation of all parties to educate and become transparent – this will not happen by legislation alone. Furthermore, to ignore practice would itself be criminal as it forgets that the purpose of offering protection to whistleblowers is to encourage them to speak up about wrongdoing to others who cannot. Given this it must be unarguable that the balance should fall in favour of protection - but only so far as genuinely needed. If this arena fails to focus on practice then legislation such as PIDA, in whatever form it comes, will remain nothing but an aspirational statement of what we seek. Whilst there is some value in aspirational statements of course – there is virtually none in aspirational legislation. It tends to remain nothing but a romantic notion without a purpose. Without a clear purpose there can be no protection at all.

Bibliography

Texts:

Safeguarding Adults (2014) by Alison Brammer.
Vulnerable Adults and the Law (2016) by Jonathan Herring.
Safeguarding Adults and the Law (Second Edition) by Michael Mandelstam.
Lewis, Bowers, Fodder, Mitchell 'Whistleblowing: Law and Practice' 3rd edition, OUP, 2017

Policies, Reports and Guidance:

Dame Janet Smith, Fifth Report - Safeguarding Patients: Lessons from the Past - Proposals for the Future. 9 December 2004 Command Paper Cm 6394

Anthony Hidden Q.C. Investigation into the Clapham Junction Railway Accident. November 1989

Cullen, The Hon. Lord W. Douglas, The Public Inquiry into the Piper Alpha disaster. (1990)

Learning from Bristol: the report of the public inquiry into children's heart surgery at the Bristol Royal Infirmary 1984-1995. Command Paper 5207 (2001)

Sir Robert Francis, Report of the Mid Staffordshire NHS Foundation Trust Public Inquiry. 6 February 2013

Gosport War Memorial Hospital: The Report of the Gosport Independent Panel. June 2018

Department of Health, No Secrets, Guidance on Developing and Implementing Multi-Agency Policies and Procedures to Protect Vulnerable Adults from Abuse (Department of Health, 2000)

Department for Business Innovation and Skills, Whistleblowing, Guidance for Employers and Code of Practice, (March 2015)

"Whistle while you work" (2010) British Medcial Journal, Adrain O'Dowd, Josephine Hayes and Deborah Cohen.

Whistleblowing Commission Report (2013)

Statute:

Employment Rights Act 1996
Human Rights Act 1998 (Article 10 specifically)
Public Interest and Disclosure Act 1998
Enterprise and Regulatory Reform Act 2013

Case Law:

Hivac Ltd v Park Royal Ltd [1946] Ch.169
Attorney-General v Guardian [No. 2] [1990] 1 AC
Initial Services v Putterill [1968] 1 QB 396
Lion Laboratories Ltd v Evans [1985] QB 526.
Re a Company's Application [1989] IRLR 477
Heinisch v Germany [2011] ECHR 1175
Day v Lewisham and Greenwich NHS Trust & Health Education England [2017] IRLR 623, EWCA Civ 329
Bates van Winkelhof v Clyde & Co LLP [2014] UKSC 32; [2014] 1 W.L.R. 2047
Onayango v Berkeley Solicitors [2013] IRLR 338
Parkins v Sodexho Ltd [2002] IRLR 109
Douglas v Birmingham City Council [2003] UKEAT 0518 02 1703
Chesterton v Nurmohamed [2017] EWCA Civ 979
Street v Derbyshire UWC [2004] EWCA Civ 964.
Fecitt and Others v Manchester NHS [2011] EWCA Civ 1190

Articles and Essays:

J. Ashton 'Fifteen years of whistleblowing protection under the Public Interest Disclosure Act 1998: are we still shooting the messenger?' Industrial Law Journal 2015 44 (1):31-52

D. Lewis 'Nineteen years of whistleblowing protection in the UK: is it time for a more comprehensive approach?' 2017 International Journal of Law and Management 2017, 59(6), 1126-1142

J. Ashton 'Whistleblowing protection and concurrent 'worker' status for a junior doctor: *Day v Health Education England* Industrial Law Journal 2017 46(3): 397-405

British Psychological Society response to the Robert Francis QC Independent Review. Whistleblowing in the NHS: indepednet review.

Whistleblowing: The inside story, a study of 100 whistleblowers (Public Concern at Work and the Univeristy of Greenwich.

Vandekerckhove, Wim and Lewis, David B. (2012) The content of whistleblowing procedures: a critical review of recent official guidelines. Journal of Business Ethics, 108 (2). pp. 253-264.

Online Resources:

Nursing and Midwifery Council - https://www.nmc.org.uk

http://www.pcaw.org.uk/

http://www.midstaffspublicinquiry.com/

https://freedomtospeakup.org.uk/the-report/

https://www.england.nhs.uk/ourwork/whistleblowing/

https://www.gmc-uk.org/-

/media/documents/DC5900_Whistleblowing_guidance.pdf_57107304.pdf

https://www.cqc.org.uk/contact-us/report-concern/report-concern-if-you-are-member-staff

https://ohchr.org/