

When the Whistle Blows

An Ethics Experience Report

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* * DISCLAIMER * *

I am not a lawyer, and this is NOT legal advice!

UK Resources

Protect <https://protect-advice.org.uk>

ACAS <https://www.acas.org.uk/whistleblowing-at-work>

GOV.UK whistleblowing guidance <https://www.gov.uk/whistleblowing>

GOV.UK prescribed persons list

<https://www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies--2>

Citizens Advice <https://www.citizensadvice.org.uk/work>

US Resources

OSHA Whistleblower Protection Program <https://www.whistleblowers.gov>

SEC Whistleblower Program <https://www.sec.gov/whistleblower>

CFTC Whistleblower Program <https://www.whistleblower.gov>

US Office of Special Counsel <https://osc.gov>

National Whistleblower Center <https://www.whistleblowers.org>

Government Accountability Project <https://whistleblower.org>

Whistleblower Aid <https://whistlebloweraid.org>

About Me

- Over 25 years in software quality, test automation, process improvement, and transformation
 - Fiserv, Barclays, Citigroup, UBS
 - Leading AI test approach at KPMG
 - Led engagements at over 50 clients
 - Lived and worked in the US, UK, and APAC



- Chartered Management Consultant
- Association for Software Testing
- Quality Remarks
- Blardee, blardee, blar...

“When good men do nothing...”

- Bullying, physical threats, violence
- Inside contract awards
- Transfer price fixing
- Recruitment scams
- Substance abuse
- Self dealing
- Theft

Why Don't People Speak Up

Structural Disincentives

- Fear
- Doubt
- Futility
- Loyalty
- Power
- Cost

Why Don't People Speak Up

Institutional Disincentives

- HR, Legal, Compliance, and external investigators are NOT neutral
- UK Law and Whistleblowing
 - **Public Interest Disclosure Act 1998**
 - **Employment Rights Act 1996**
- US Law and Whistleblowing
 - **Whistleblower Protection Act; Sarbanes-Oxley; Dodd-Frank; False Claims Act**



Case Study - Transparency or Disloyalty

- **Context**

- Building a software testing training and jobs program: national non-profit - non-profit trained candidates, we employed graduates, revenues and program expenses were shared
- City, State, and Federal funding as well as private investors/foundations

- **Ethical Dilemma**

- There are “breach of contract” allegations (forecast, revenue, expenses) and you have a fiduciary responsibility to shareholders and the transparency needed to run the partnership

- **Action**

- Shared financial information with non-profit, BoD, and foundations

- **Outcome**

- Sued in Federal court

- **Aftermath**

- Financial strain, legal/compliance, industry slander/libel, personal damage

Case Study – Honesty or Exposure

- **Context**

- Leading test team for a major transformation program: multi-year failures, £100m+ invested, last attempt at going live, highly charged politics
- Program Board, C-level sponsors, leadership team, and business now get test evidence to make readiness and go-live decisions

- **Ethical Dilemma**

- There is evidence of misrepresented or altered test status, delivery risk, and program-readiness information being presented to governance forums, and you're being pressured to change reporting

- **Action**

- Refused to change test and risk reporting input into governance process and participated in internal/external ethics investigation

- **Outcome**

- Removed from program

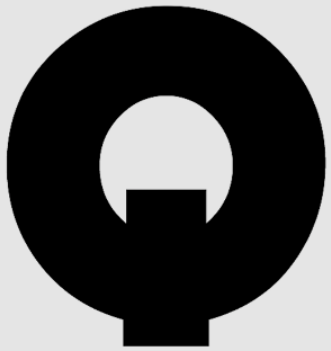
- **Aftermath**

- Reputational damage, loss of role, career uncertainty, professional credibility questioned, and personal damage

Lessons Learned

- Don't do it!
- If you decide to do it...
- **Protected disclosure test**
 - Did I disclose information, not just make an allegation?
 - Did I reasonably believe it showed wrongdoing?
 - Did I reasonably believe it was in the public interest?
 - Did I report through an appropriate channel?
 - Did I suffer detriment or dismissal because of it?
- **Survival guide**
 - Write facts, dates, names, decisions, and impacts
 - Separate evidence from interpretation
 - Use the right channels – get advice early!
 - Assume everything will be read by HR, Legal, a regulator, or a tribunal

Thank you!



www.qualityremarks.com

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