

INTERNATIONAL STANDARDS AND BEST PRACTICE IN PROTECTION OF WHISTLEBLOWERS

SOFIA, 12 DECEMBER 2019

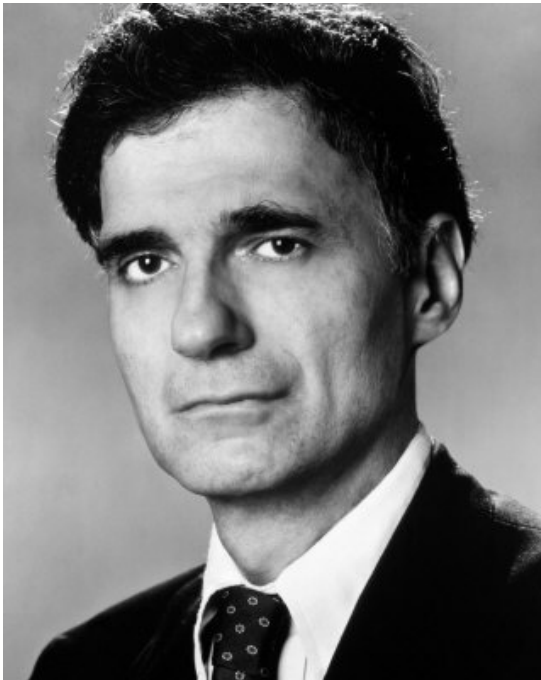
John Devitt, Transparency International Ireland

OUTLINE



- Legal protections
- Developments
- Creating a supportive environment for whistleblowers

WHAT IS WHISTLEBLOWING?



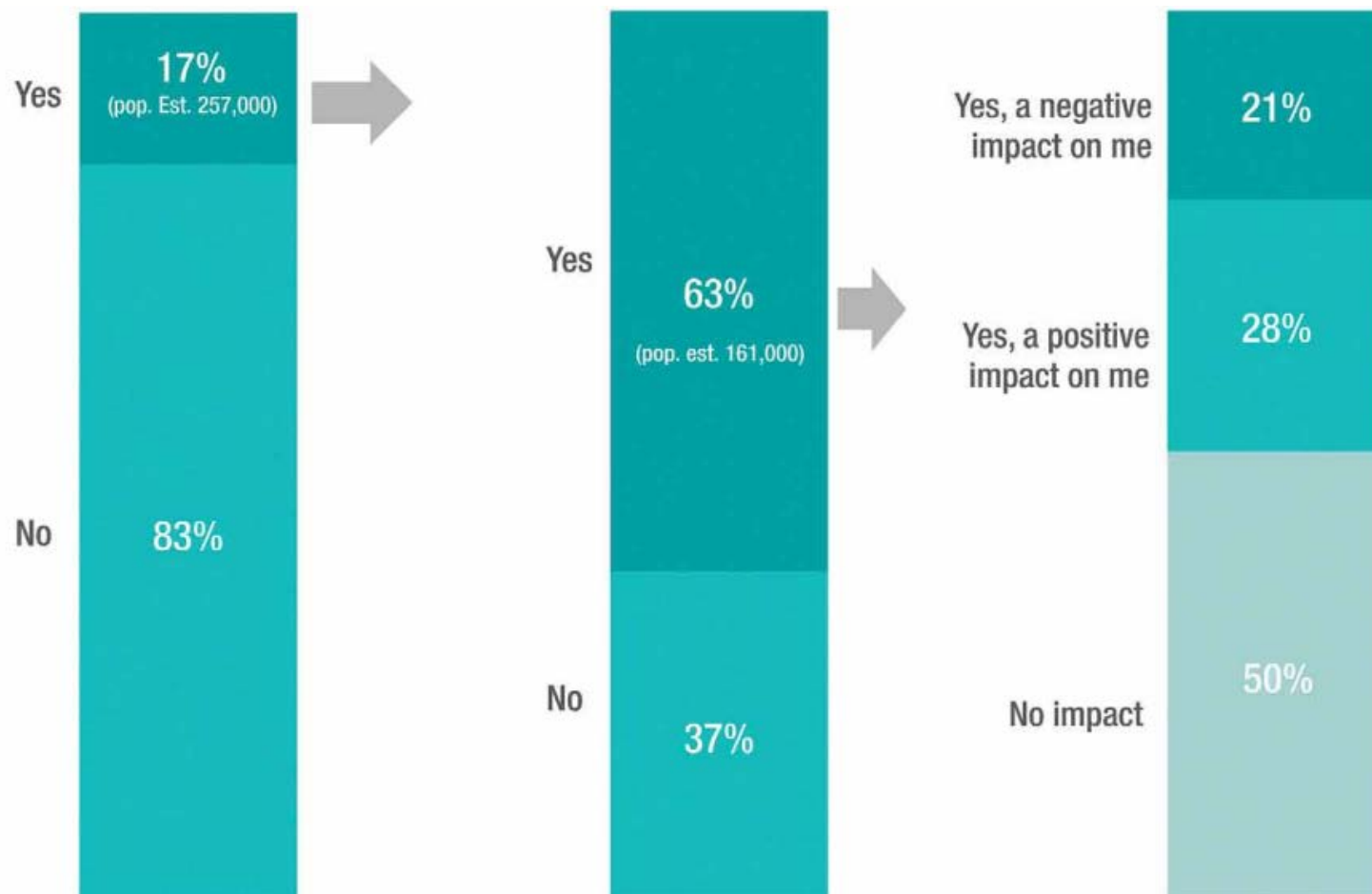
“An act of a man or woman who, believing that the public interest overrides the interest of the organization he serves, blows the whistle that the organization is [engaged] in corrupt, illegal, fraudulent or harmful activity”

Ralph Nader, 1974

Nader, Petkas, and Blackwell, Whistleblowing, Penguin, 1974



PERSONAL EXPERIENCE OF WHISTLEBLOWING



LEGAL PROTECTIONS

PROTECTION – A GROWING TREND



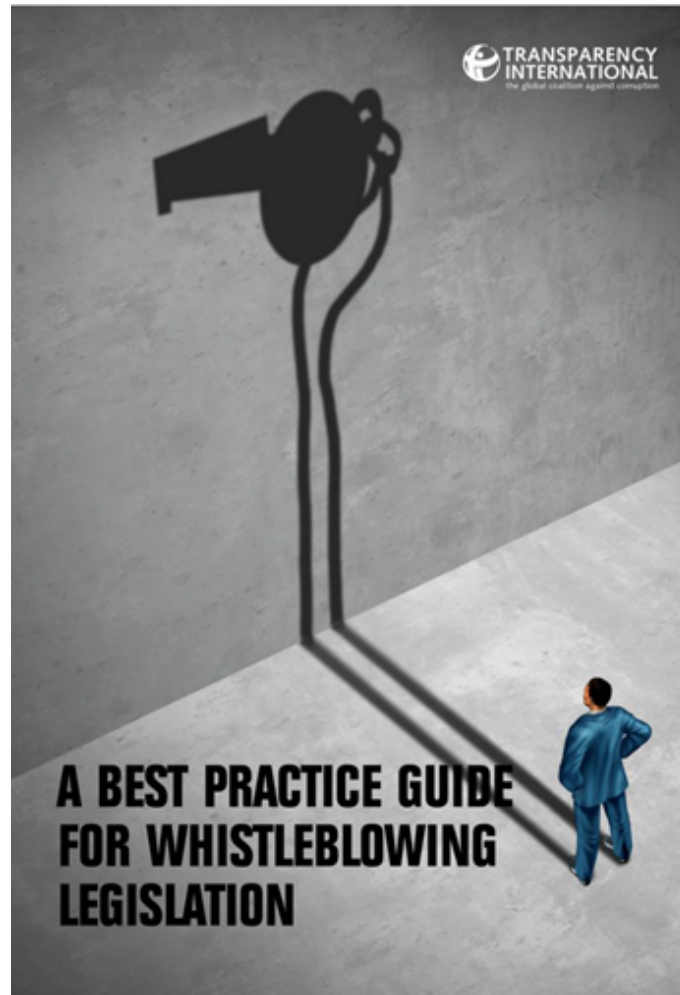
- Sweden, 1766; US, 1863, 1912, 1989
- New South Wales, 1994; UK, 1998
- New Zealand, 2000; South Africa, 2000; Romania, 2004; Ghana 2006; Japan, 2006
- Kosovo, 2011; Luxembourg, 2011; Slovenia, 2011; South Korea, 2012; Belgium, 2013; Hungary, 2013; Malta, 2013; Bosnia and Herzegovina, 2014; Greece, 2014; Ireland, 2014; Serbia, 2014; Slovakia, 2014; Macedonia, 2015; Montenegro, 2015; France, 2016; Netherlands, 2016; Albania, 2016; Sweden, 2016; Italy, 2017, Latvia, 2019; All of EU, 2021



BEST PRACTICE

1. All sectors and industries covered (Ireland, Serbia)
2. Wide definition of 'worker' or person (Serbia, Kosovo)
3. Broad categories of wrongdoing (Norway, Ireland)
4. Burden of Proof and Reasonable Belief (UK)
5. External Disclosure protected (Sweden, Ireland)
6. Wide definition of penalisation (Ireland)
7. Immunity, Legal Rights (Malta, Ireland)
8. Confidentiality and Anonymity (Serbia, France)
9. Sanctions for retaliation (Italy, France)
10. No motivation test (Ireland, UK, Slovakia)
11. Requirement to take action (France, Netherlands, Italy)
12. Whistleblower authorities/oversight (France, Netherlands, Ireland)

BEST PRACTICE



DEVELOPMENTS

EU DIRECTIVE



1. Broad categories of wrongdoing
2. 'Stepped Disclosures Regime'
3. Mandatory Procedures
4. Competent authorities
5. Legal protections extended to non-workers
6. Supports

ISO 37002



Three principles:

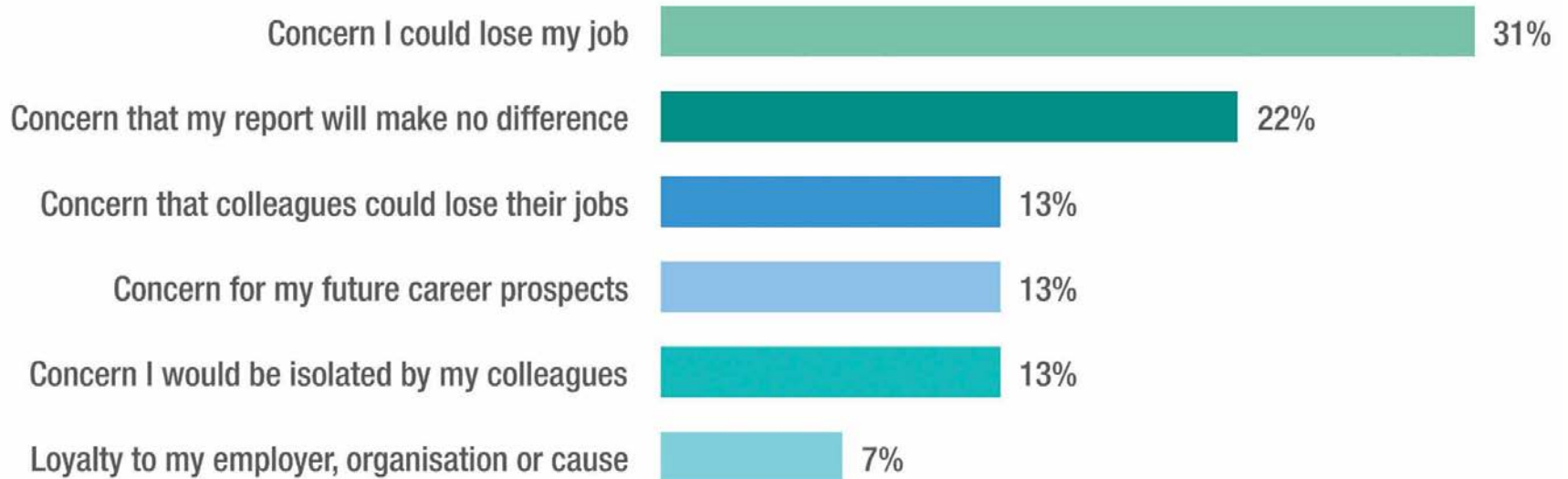
1. Trust
2. Impartiality
3. Protection

Will guide organizations in managing:

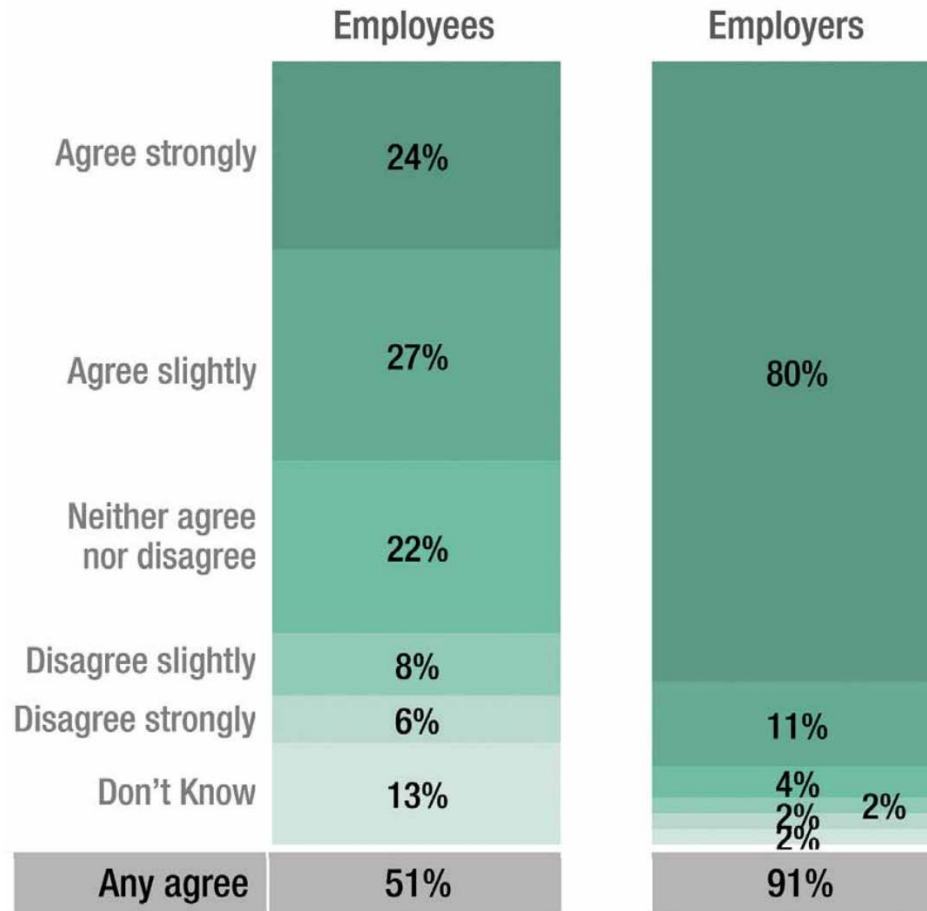
1. How concerns of wrongdoing are identified and reported
2. How concerns of wrongdoing are assessed
3. How concerns of wrongdoing are addressed
4. How whistleblowing cases are closed

CREATING SUPPORTIVE ENVIRONMENTS

KEY BARRIERS TO REPORTING



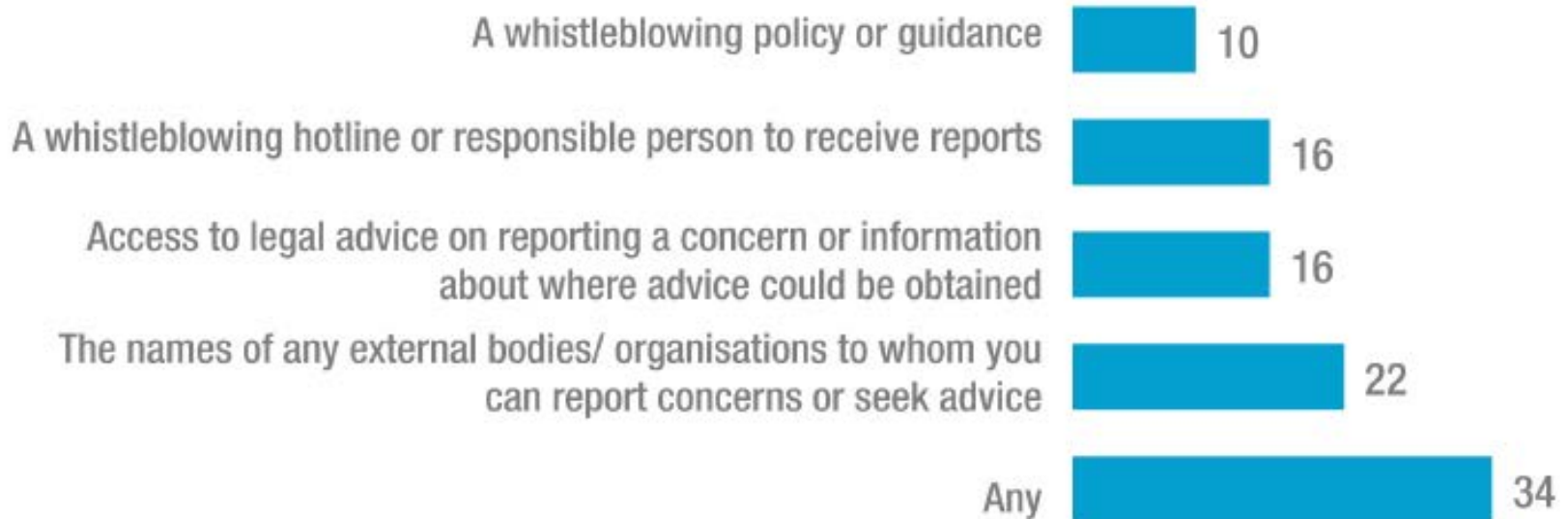
EMPLOYEE V EMPLOYER CONFIDENCE



EMPLOYER PROCEDURES



Employer %



SURVEY CONCLUSIONS



1. Employers are generally supportive of whistleblowers
2. Most private sector employers have a limited understanding of the law
3. Organisations need to work on assuring their staff that reports will be acted upon and they will be protected.

SUPPORTIVE WORKING ENVIRONMENTS



1. A variety of voicing channels and external independent advice channel
2. Welcome disclosures that identify previously unidentified risks.
3. A speak-up 'back office' to record concerns and data
4. Ensure that responsiveness is well organised, clearly mandated and adequately resourced.
5. Make responses visible where possible.
6. Participate in the development of standards.

INTEGRITY AT WORK



A multi-stakeholder initiative promoting supportive working environments for anyone reporting concerns of wrongdoing

INTEGRITY AT WORK - WHAT'S INVOLVED?



1. The IAW Pledge
2. Self-Assessment Framework
3. Revised Policy & Procedures
4. Training and Guidance
5. Forums and IAW National Conference
6. Promote access to the Speak Up helpline & TLAC
7. Case Support & Feedback
8. Annual Review for Members

IAW MEMBERS



act:onaid



AN ROINN DEPARTMENT OF
OIDEACHAIS EDUCATION
AGUS SCILEANNA AND SKILLS



Coimisiún na hÉireann um Chearta
an Duine agus Comhionannas
Irish Human Rights and Equality Commission



AN TÚDARÁS PÓILÍNEACHTA
POLICING AUTHORITY



Valuation Office
Oifig Luachála



Charities
Regulatory
Authority
An tÚdarás
Rialála
Carthanas



GARDA
INSPECTORATE
PROMOTING EXCELLENCE & ACCOUNTABILITY



LIT
ACTIVE LEADERSHIP IN
EDUCATION, ENTERPRISE
AND ENGAGEMENT



AN ROINN DLÍ AGUS CIRT AGUS COMHIONANNAIS
DEPARTMENT OF JUSTICE AND EQUALITY



An tSeirbhís Phromhaidh
The Probation Service

STRONGER TOGETHER
CONGRESS
Irish Congress of Trade Unions



An tÚdarás Clárúcháin Maoine
Property Registration Authority



COURTS SERVICE
An tSeirbhís Chúirteanna
IRELAND



An Garda Síochána
Ireland's National Police Service

NDA



Údarás Um Shábháilteacht Ar Bhóithre
Road Safety Authority



Environmental Protection Agency
An Ghníomhaireacht um Doimníocht Cairbhíoch

CRIMINAL
ASSETS
BUREAU

HEA | HIGHER EDUCATION AUTHORITY
AN tÚDARÁS um ARD-OIDEACHAS



Seirbhís Phríosúin na hÉireann
IRISH PRISON SERVICE

IT Sligo
An Institiúid Teicneolaíochta, Sligo



Waterford Institute of Technology



Rehab

trócaire

Revenue



IFCO
IRISH FILM CLASSIFICATION OFFICE

RESOURCES



1. A Best Practice Guide for Whistleblowing Legislation
https://www.transparency.org/whatwedo/publication/best_practice_guide_for_whistleblowing_legislation
2. TI Business Case for Speaking Up
https://www.transparency.org/whatwedo/publication/business_case_for_speaking_up
3. ACCA
<https://www.accaglobal.com/wales/en/about-us/regulation/ethics/whistleblowing.html>
4. ISO
<https://committee.iso.org/sites/tc309/home/projects/ongoing/ongoing-2.html>
5. Integrity at Work
www.integrityatwork.ie

БЛАГОДАРЯ ВИ



www.transparency.ie

support@transparency.ie
+353 1 554 3953

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