

STATES OF JERSEY



WHISTLEBLOWING – INTRODUCTION OF LEGISLATION

Lodged au Greffe on 27th June 2023
by Deputy C.S. Alves of St. Helier Central
Earliest date for debate: 18th July 2023

STATES GREFFE

PROPOSITION

THE STATES are asked to decide whether they are of opinion –

to agree that Whistleblowing legislation should be introduced, and to request the Chief Minister, in consultation with the Council of Ministers, to bring forward the necessary legislation for approval by the Assembly prior to the end of June 2024.

DEPUTY C.S. ALVES OF ST. HELIER CENTRAL

REPORT

During my last term in office, I completed the Professional Development Certificate in Parliamentary Governance course provided by McGill university. One of the modules in this course asked participants to undertake a critical examination of the right to information legislation in their jurisdiction.

Looking through other models and comparing Jersey's legal framework to international and regional laws and standards, it is clear we have a robust information legalisation currently in place. There was one area, however, that Jersey unfortunately fails to meet at all, in that there is currently no specific legal protection and compensation for whistle-blowers. Although [policies](#) are in place for Government as a whole and local organisations can choose to put a whistleblowing procedure in place internally (and are encouraged and recommended to do so by the Jersey Financial Services Commission, who also have a special whistleblowing hotline) there are no legal measures in place to protect and compensate whistle-blowers, for example from loss of employment, after a disclosure, unlike in the UK, and this has caused great concern.

The UK introduced legal protection for workers making a protected disclosure in 1999 with the Public Interest Disclosure Act (PIDA). This was amended with further additions in 2013.

Protected disclosures can be made if a worker wants to disclose evidence of actions that are:

- (a) criminal
- (b) harmful
- (c) show evidence of failure,
- (d) endangering health and safety
- (e) a miscarriage of justice
- (f) causing damage to the environment

Oben Law, a Jersey-based law firm, published an article on their website entitled [“Whistle-blowing in Jersey: a need for statutory protection?”](#) which outlines why there is a need for whistleblowing legalisation and quotes some of the real life impacts on those who have been whistle blowers and not having this legalisation in place. The report states:

“..two whistle-blowers have said their lives have now been ruined as a consequence of blowing the whistle. Jonathan Sugarman, a former risk manager at the Dublin branch of UniCredit appeared before the Oireachtas Finance Committee on 13 April 2017. In his opening remarks he said he has been “totally unemployable” for ten years for attempting to bring the truth to light. He also said that “Official Ireland has absolutely and completely destroyed the lives of every single whistle-blower who has come forward, from whatever walk of life they’ve come”.

Nicholas Wilson (the whistle-blower in the HSBC case), commenting on a recent whistle-blowing case stated, “it’s hell, especially if you are whistle-blowing against banks and I’ve been insulted, patronised, mainly by the media, I have to say, shut down, censored” he went on to state: “it has destroyed my life, I haven’t worked properly since I blew the whistle.”

Given the publicity surrounding the negativity faced by whistle-blowers, and indeed these two prominent whistle-blowers stating categorically that blowing the whistle has destroyed their lives, what would motivate an individual to blow the whistle when faced with loss of income and loss of reputation?"

The need for openness and transparency is clear and something we should all be encouraging; this legislation would be a big step in the right direction to ensure that there is strong protection to whistleblowing employees and encourage openness and transparency without fear of reprisal.

Financial and manpower implications

There will be substantial manpower implications arising from this proposition, in relation to policy work and Legislative Drafting requirements. As this is an in principle proposition it is not possible to put a figure on these requirements at this time, as the relevant teams will need to scope the project accordingly.