Preventing Victimisation of Whistle-blowers

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For the whistle-blowers interviewed, the study was an opportunity to describe what happened when they reported misconduct and subsequent events. It was appreciated that they were able to confidentially share their views and experiences as part of the study, even if re-living negative situations was at times for some, painful and unpleasant. For the individuals who dealt with whistle-blowers, their perspectives added valuable information about the process of what happens within organisations when people blow the whistle.

It is hoped that the information provided in this report will prove useful to whistle-blowers who participated in the study and to others. The findings may be of interest to organisations where whistle-blowers and potential whistle-blowers work and to the various agencies/individuals that receive whistle-blower reports and deal with the whistle-blowers. Perhaps the findings may contribute to greater understanding of the problems whistle-blowers face and to considering improvements to the process of responding to whistle-blowers concerns.
About the Authors

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Executive Summary

Aims of the Study
The central focus of the study was on understanding the experiences of whistle-blowers after they had reported wrongdoing. In particular, the aims were to investigate the nature of victimisation, retaliation or other negative treatment against whistle-blowers and what the impact of such actions was on the whistle-blowers. A further aim was to identify what factors might prevent such actions and protect whistle-blowers when they speak out against misconduct. As part of this approach, information was also obtained about the type of misconduct involved, about the organisations where the whistle-blowers were working; and about what processes they had in place for reporting misconduct and for protecting the whistle-blowers.

Study Participants
Qualitative semi-structured interviews (a majority of these were by telephone) were conducted with 36 whistle-blowers who were self-selected after being invited to participate through an independent hotline (n=12 out of 19 who had originally contacted the researchers) and through a volunteer support line Whistle-blowers Australia (n=24 out of 36 who had made initial contact) corresponding to a rate for interview of 65 percent (63 percent for the hotline and 66 percent for the support line). Of those interviewed 44 percent were female and 56 percent were male (there were more males from the support line, while more females came via the hotline). The age categories ranged from 30’s to 70’s at the time of interview. Participants resided principally in Victoria, NSW and Queensland with a few from the other states.

A further set of interviews were conducted with persons who, in a professional capacity, had dealt with whistle-blowers, to enable alternative perspectives on the whistle blowing experience to be obtained. After being invited to participate principally through the hotline, which sent an email to client organisations, 19 qualitative semi-structured interviews were conducted (of whom 6 were female and 13 male). Interviewees came from independent hotlines, integrity bodies with roles in whistle blowing processes including investigations, public sector disclosure coordinators as well as persons from the private sector with a role for handling whistle-blowers reports.

Types of Misconduct Reported
Responses from both the whistle-blowers and persons who deal with whistle-blowers indicated that while misconduct could involve dishonesty, fraud and deception, a greater proportion related to what can be broadly termed as ‘workplace grievances’, covering bullying, harassment and intimidation. For some whistle-blowers, in particular from the support line, the misconduct had occurred many years ago; for the hotline it had been in the last six years. In many instances the misconduct had gone on for some time before the whistle-blowers made the reports.

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1 Note on terminology: the term ‘whistle-blower’ used in this report can cover other terms, such as public interest discloser or complainant and refers to a person who reports misconduct, illegal behaviour, wrong doing, has concerns, grievances or complaints about observed/known non complaint conduct usually in the workplace. As a consequence of reporting misconduct, the whistle-blower may then be subject to victimisation, retaliation, reprisals, detrimental actions or negative treatment.

2 STOP line is a provider of confidential hotlines and supporting whistleblowing programs is their core business, including confidential receipt of disclosures by telephone, email or post, which allows individuals to maintain their anonymity.

3 Whistle-blowers Australia Inc. (WBA) is an association for those who have exposed corruption or any form of malpractice, especially if they were hindered or abused, and for those who are thinking of exposing it or who wish to support those who are doing so.
Whistleblowing Reporting Processes

Whistle-blowers would in the first instance, usually report the misconduct internally, often to their immediate manager or higher, or else to a designated disclosure coordinator (in the public sector) or, in the private sector the use of an independent hotline was available. In general, when whistle-blowers used the hotline there was anonymity for the whistle-blowers and the hotline acted as a go between the whistle-blower and the client organisation. Anonymity appeared to be less assured in public sector organisations, although investigative bodies went to considerable lengths to protect the identity of the whistle-blowers.

There was frustration expressed by whistle-blowers when they tried to report misconduct about a number of issues – that they were not clear how they would be protected, who the right persons were to go to, and that they were not kept informed about what was happening to their reports of misconduct and what the outcomes were. Other complaints emerged along the way about the whistle-blower reports not having been taken seriously or simply ignored. Some whistle-blowers reported not knowing what to do and who to go to when they wanted to report. Some also went to considerable lengths to have their concerns addressed by other avenues when there was an initial lack of responsiveness to their concern. These avenues included the unions, Ministers/MPs, the media, anti-corruption bodies and employment commissions, as well as going to the courts and using lawyers. There appeared to be a variety of avenues available to whistle-blowers to go to report wrongdoing but it was not obvious for many, which was most appropriate and what the best steps were; that also depended on what sector they were working in and on the organisation itself.

When dealing with whistle-blowers in their professional capacity, many interviewees from the agencies dealing with whistle-blowers said that it was important to clarify with whistle-blowers about their expectations and what could be achieved in a practical sense. Some said that the ‘unrealistic’ expectations of many whistle-blowers when they reported misconduct could have negative consequences on the interactions with the agencies they were dealing with, as well as increasing the frustration and indeed the anger of whistle-blowers.

Consequences for Whistle-blowers after Reporting Misconduct – Retaliation and Reprisals

Both groups – the whistle-blowers (once their identity had become known), and some of those who dealt with them, generally acknowledged the overall negative experience of ‘speaking out’, including lack of support, criticism and retaliation by management and being in a workplace culture characterised by denial/defensiveness, blaming, fear and bullying and harassment of the whistle-blower. A number of the interviewees who dealt with whistle-blowers stated that they often did not know about or what had happened to whistle-blowers and, thus they had no or little knowledge about any negative treatment the whistle-blowers were subjected to. Whistle-blowers themselves were able to provide many examples of the victimisation they had suffered. Most common were bullying and harassment in the workplace associated with ostracism, isolation, being excluded from meetings and derogatory remarks on social media as well as being subject to disciplinary actions and counter allegations. Examples were given where whistle-blowers were also physically assaulted, their families threatened. As part of this array was the often mentioned issue of a lack of welfare support for the whistle-blowers. This was particularly emphasised by those who deal with whistle-blowers as being either absent or inadequate; there were some exceptions; an anonymous counselling/welfare service was available for employees (not only for whistle-blowers) in some organisations. About the protection offered by the whistle-blowers legislation there was no one who indicated it was effective in doing so, nor was it effective even as a deterrent. However many suggestions were provided as to how whistle-blowers and the whistle blowing processes could be improved and how negative
experiences could be minimised both by whistle-blowers and in particular by those who dealt with them.

**Impact on Whistle-blowers**

For many whistle-blowers the outcomes of reporting misconduct were significant emotional and psychological impact, including stress, exhaustion, mental health and health related issues as well as the financial costs (using lawyers, going to court, losing their jobs) and a negative impact on their careers (not being promoted, moved sides ways, not having their contract renewed or in a number of cases dismissal). All of the whistle-blowers interviewed were no longer working for the organisation in which they had observed the misconduct; indeed many were no longer working (were unemployed or retired). Above all, whistle-blowers had a pervading sense of injustice and perceived a lack of fairness at the treatment that they had been subjected to after reporting misconduct, and that influenced their sense of trust and confidence in people and organisations. In many instances these experiences of being badly treated when they reported misconduct, led to a radical change in the lives of a number of whistle-blowers; with some changing career direction, some going back to further study (employment/workplace law in particular) and others writing about their experiences and publishing books. Again for other whistle-blowers they had gone on to help other (and potential) whistle-blowers by working for whistle-blower volunteer support lines and establishing websites to inform whistle-blowers about practical strategies and ways of handling the reporting process and the aftermath. When in the light of their experiences, whistle-blowers were asked whether they would do it over again, that is, to report the misconduct, about half said emphatically, yes of course while the other half said no, never.

**Improving Protection for Whistle-blowers**

Some thoughtful suggestions were proposed by whistle-blowers themselves and included:

- Establish an annual citation or award for corporate governance where whistle-blowers are recognised and thanked.
- Provide compensation to the whistle-blowers (as in the US).
- Prosecute those who retaliate against whistle-blowers (has anyone been charged in Australia? asked one whistle-blower).
- Changing the workplace culture was emphasised; the workplace brings together all sorts of people, with different values and ethical standards, increasing the risk of conflict and cultural clashes; ethical competency was identified as needing to be cultivated.
- Investigations need to be done independently, not by Human Resources departments and that the whistle-blower should be given feedback and a copy of the report.
- In some sectors such as sports, there appears to be no grievance process and there is a lack of transparency and independence, especially if there are complaints about conduct.
- While colleagues and peer groups are supportive, they often do not have the information or knowledge to advise effectively or strategically; more appropriate sources are available.
- Support should be provided to whistle-blowers, particularly those who may be vulnerable to reprisals and victimisation; for example having an independent counsellor or psychologist to guide the whistle-blower through the reporting process.

None of the persons interviewed, whether they were whistle-blowers or those dealt with them, perceived legislation as effective in preventing victimisation. More often it was improvements in management and workplace culture that were identified as being more useful. Also the need for workplace policies that are actually implemented and complied with was stressed, as well as and
more practical welfare support for the whistle-blower and more education in the workplace about whistleblowing procedures and processes.
Introduction and Background

The aims of the study were to understand the nature of the victimisation experiences of whistle-blowers that have reported or tried to report wrongdoing in their workplace and to investigate what was done and what happened after reporting that wrongdoing. A further aim of the study was to identify ways in which whistle-blowers can be protected from victimisation that is, from retaliation, reprisals or detrimental action and identify ways in which the whistle-blowing process could be improved.

The importance of whistle-blowers in uncovering misconduct cannot be underestimated. Serious misconduct reported by whistle-blowers and described in the media reveals there are many examples where, without whistle-blowers, much misconduct would remain undetected and would continue. For example, in relation to fraud against the Commonwealth, the Australian Institute of Criminology found that for detecting internal fraud, 29 percent of reports came from external whistle-blowers in 2008/09 (In 2009/10 it was 24 percent); a much smaller proportion came from internal whistle-blowers (5 percent and 3 percent respectively)\(^4\).

It has been said that... secrecy is no longer acceptable; too many lives and livelihoods have been lost or destroyed because a whistle could not be blown. But too often the voice of the honest worker or citizen has been drowned out by the abusive, unaccountable bosses. Invariably, staying silent was the only option. Creating a safe alternative to silence represents a difficult challenge, legally and culturally; separating the message from the messenger is still obstructed by vested interests; deeply ingrained sociological habits and attitudes, and by the limitations of the law... (Kennedy, H. p.1)\(^5\)

Hence it is important to encourage whistle-blowers to come forward and speak out, and there should be ways to do so without being fearful or concerned about the consequences of doing so.

Whistle-blowers and Victimisation

Yet speaking out in the public interest – being a whistleblower - can be risky. Examples from a major enquiry\(^6\) which had uncovered a significant degree of victimisation of whistle-blowers in the UK National Health Service (NHS). The report showed how doctors and nurses had their careers left on the ‘scrap heap’ after they tried to alert managers to unsafe practices and risking lives. Other examples abound\(^7\). The media has had, and will continue to play, a significant role in revealing to the public how whistle-blowers have been treated after they have reported wrongdoing, as well as revealing the misconduct. There have been many instances in the media over recent years where whistle-blowers have been victimised and subject to reprisals. See for example:

- Allegations of union conspiracy against whistle-blower Jackson ‘somewhat ridiculous’ – Victoria/Nick Toscano workplace reporter/Mon Jun 22 2015 – Fairfax Media
- Whistle-blower prison officer Kylie Muscat loses job at Arthur Gorrie Correctional Centre – Queensland/Cameron Atfield/Fri April 17 2015 – Fairfax Media

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\(^{1}\) Smith, R. Australian Institute of Criminology Personal Communication.  
\(^{3}\) Francis, R. 2015 Freedom to speak up: An independent review into creating an open and honest reporting culture in the NHS;  
Most recently, a journalist, in noting the Parliamentary debate about whether whistle-blowers should be compensated, following an enquiry by the Commonwealth Senate Economics Committee (ABC 2015), said that she has received many emails from whistle-blowers about wrongdoing, one of whom she quoted as saying that it was... "fear of losing his job and the financial consequences... if I make this information available I will be terminated and my career will be dead in the water... he asked for compensation for his information... but [the Fairfax media] doesn’t pay for stories so he opted to stay silent."

The journalist further commented that.... "in Australia whistle-blowers suffer stress, isolation, anxiety and a potentially huge financial cost in terms of lost income if they lose their job... they do it because their sense of justice outweighs everything else... the truth is if we want whistle-blowers to provide information, they need to be treated as heroes instead of pariahs... And yet she indicated that whistle-blowers make a difference... 7-Eleven whistle-blowers has helped bring change to the company... the Commonwealth Bank of Australia... helped bring change to the financial planning industry... the National Bank of Australia whistle-blower brought huge change and the 100F whistle-blower has triggered an ASIC inquiry... (The Age 2015).

Overview of Research Literature

A recent study evaluating whistle blowing laws across G20 countries both in the private and public sectors (Wolfe, Worth, Dreyfus and Brown, WB protection rules in G20 countries; the next action plan, June 2014) said in its public consultation draft that there are... "important shortcomings in the whistle-blowers protection laws... [and] specific areas fall well short and needed immediate attention."

Particular weaknesses identified in the public and private sectors included the lack of provision for anonymous channels where whistle-blowers can safely reveal serious wrongdoing, and good internal disclosure procedures. Research has also compared how cultural and organisational factors in both reporting wrongdoing by whistle-blowers and how they are protected, can influence what happens in different countries. One such study comparing France and the UK, noted a number of cultural differences and indicated that whistle-blowers protection legislation has played little role in encouraging reporting.

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8 ABC television 7 Report of an enquiry by the Commonwealth Senate Economics Committee 7 November 2015
9 The Age .com.au 11 June 2015
10 Wolfe, Worth, Dreyfus and Brown, WB protection rules in G20 countries; the next action plan, June 2014
Another study reported on the comparison of public sector whistle-blowers who had observed and reported wrongdoings; it also provided incidence rates of retaliation in Australia, Norway and the US\textsuperscript{12}. Miceli & Near (2013) conducted a secondary analysis of a number of large studies in these countries. They found that the percentage of respondents who perceived any wrongdoing in the previous 12 (24 months for the Australian) months was 36-66 percent for Australia (by type of incident); 40-83 per cent in Norway (by type of incident) and 45 per cent (in 1980) to 14 per cent (1992) in the US. Reporting rates of the misconduct were 22 per cent for Australia; 76 per cent in Norway and 17 to 38 percent in the US. Of particular interest for the current study was the proportion of whistle-blowers who said they had received negative treatment or retaliation – 22 per cent in Australia, 4-8 per cent in Norway and between 17 (1980) and 38 percent (1992) in the US.

It was noted by Miceli & Near (2013) that several theories have attempted to predict retaliation against whistle-blowers and that it could be inversely related to their degree of power in the organisation. Other studies cited by these authors suggest that the whistle-blowers’ perception as to whether managers and supervisors were supportive and the type of wrongdoing reported were also correlated to retaliation. As well, where disclosures were not formally substantiated, whistle-blowers were more at risk of retaliation. The authors conclude that when whistle-blowers report the wrongdoing…there is some possibility that they will suffer retaliation, but it is not an automatic consequence, particularly not in Norway. Allowing for differences in the way the original studies were conducted…country culture and legislative support can vary in important ways and may affect observation of wrongdoing, whistle blowing and its consequences… (p.444).

More research evidence comes from the UK where the recent major enquiry previously cited (The Francis Report \textsuperscript{13}) uncovered a significant degree of victimisation of whistle-blowers. The enquiry had asked frontline health workers about their experience of work. It took evidence from more than 600 people about their experience and received 19,000 responses from an on line survey as well as conducting interviews with whistle-blowers. It found that working in the NHS, where ‘bullying’ was reported to be wide spread, meant working in a ’pervasive culture of fear’ and where to survive, people kept their mouths shut. The consequences for the whistle-blowers when they speak out, led to high levels of stress, burnout and mental suffering (see for example, The Guardian 2014: there-were-hundreds-of-us-crying-out-for-help-afterlife-of-whistleblower)\textsuperscript{14}. As a result, the report made a number of recommendations supported by key principles and specific actions for implementation of key changes. Other reports from the UK about the NHS show\textsuperscript{15} that there is a gap between the people who know about whistle blowing policies and what to do when they see wrongdoing, (89 per cent) and those who feel safest to use them to report concerns (71 per cent) of wrongdoing. It was noted in these reports that there are many barriers to prevent workers from speaking out because they would be viewed as trouble makers, fearing reprisals from managers and/or colleagues and believing that nothing will be done to address their concerns. When they did report their concerns, 60 per cent received no feedback or response.

A study reported by the US Ethics Resource Centre (2011)\textsuperscript{16} suggested that retaliation against whistle-blowers is increasing in the US. According to the Centre’s annual survey, around 45 per cent of employees had observed misconduct, the majority of these (65 per cent) reported it but 22 per cent were retaliated against for doing so (with retaliation defined as being given ‘the cold shoulder’ to

\textsuperscript{12} Miceli & Near, 2013  
\textsuperscript{13} ibid., p.9.  
\textsuperscript{14} The guardian (2014) http://www.the guardian.com/society/2014/nov/22/  
harassing, direct disciplinary action, pay cuts and physical violence. In 2009 the comparative results showed a proportion of 15 percent\(^{17}\). In the 2005 survey, the Centre also reported that, of the whistle-blowers who did not report the misconduct, 46 per cent did so because they feared retaliation. Factors influencing the reporting, included that whistle-blowers who are more financially secure are more likely to report, and if they had more management and co-worker support. The perception of the managers’ ethics was also important as to whether the employees reported the misconduct with them or to higher management. Little difference was found between males and female whistle-blowers, whether they were members of a union or not and whether they were from the private or public sector; similar proportions would report if they observed misconduct. The report also showed that external reporting was far more common if the organisations’ cultural or ethical commitment was perceived as weak.

In a large study conducted into whistle blowing in the Australian public sector in 2005-08\(^{18}\) focusing on current practices for managing whistle-blowers, surveys were conducted of persons employed at that time in public sector agencies, including those who said that they had blown the whistle\(^{19}\), as well as persons who dealt with whistle blowing and managers. The study reported extensively on a range of factors, including the incidence of whistle-blowers and why some persons report misconduct and some does not. About 70 percent of persons surveyed said they had directly observed at least one incident of a range of wrongdoings in their workplace over the previous two years; of these 28 percent, who had observed very/extremely serious wrongdoing, had formally reported it. Reasons given for reporting were primarily: the perceived seriousness and frequency of the wrongdoing, a belief that reporting would or serve some purpose and lead to action. Other reasons were a belief that reporting was an ethical responsibility and there was knowledge about and/or confidence in the process to be followed.

However, when asked why the wrongdoing was not reported, 37 percent believed that nothing would be done, that they would not be protected; had a lack of confidence that they would be supported or protected; lacked trust in the person they had to report to and/or doubt that their identity would be kept secret. Other reasons identified included fear of reprisals from the wrongdoer, colleagues and/or the organisation (24 percent) and lack of evidence to support the disclosure of misconduct. Findings also showed that 63 percent of whistle-blowers said their disclosure was investigated and of these, 56 percent said it had led to improved organisational outcomes. In terms of the treatment of the whistle-blowers, the study reported that…it is not inevitable that a whistle-blower will suffer mistreatment from co-workers or management as a result of reporting wrongdoing, even if reporting is frequently a difficult and stressful experience… (p xxvii). Of the whistle-blowers, 78 percent said they had been treated well or the same by management and co-workers as a result of their reporting, while 22 percent said they were treated badly. Further, the study stated that when whistle-blowers were treated badly, it was more likely to come from management than from colleagues and that being mistreated would also reduce the likelihood of reporting wrongdoing again. Most of the mistreatment took the form of intimidation, harassment, heavy scrutiny of work, ostracism, unsafe or humiliating work. It was also noted that …in very rare cases is the nature of the reprisal such that it could meet the legal threshold required to prove criminal liability (p.xxviii). It was estimated that about 42 percent of all

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\(^{19}\) It was critically noted by P. Swepson, in a publication for the Whistle Blower Action Group Queensland, April 2015 (WWTW: Protecting watchdogs?) about the study cited above, that it significantly excluded former employees who may have observed and reported wrongdoing but had left the organisation; other issues were identified in relation to the ‘limited and biased sample’ used and ‘generalised its findings from a small, non-randomised, self-selected, self-reporting sample to all 1.66m public servants in all nine Australian public sector jurisdictions’ p 7.
whistle-blowers respondents were likely to have suffered increased stress as result of reporting wrongdoing.

Identifying risk factors in the mistreatment of whistle-blowers by management, the study reported that these included: when whistle-blower investigation was not resolved internally and became external (which may have happened anyway because of the whistle-blower mistreatment), and there was a lack of any positive outcome from an investigation. Of interest is the finding that mistreated whistle-blowers appeared to have higher original expectations about management support than those whistle-blowers not mistreated, as well as having lower expectations that they would be exposed to risks. Whistle-blowers also appeared to be less accurate in their ability to predict the likely reaction of management. The authors state that these results ...confirm the importance of internal disclosure systems that support employees in navigating management response to disclosures, given the trust that employees are asked to place in management by reporting and the reality that the responses of individual managers can be adverse... (p. xxix).

More recently in a national survey (2 June 2012) conducted by News poll, it was reported that 81 percent of Australians consider it important to support whistle-blowers for revealing serious misconduct in organisations, and further, 80 percent of respondents who were employees/members of an organisation said that if they observed wrongdoing, they would feel personally obliged to report to someone in the organisation, although only 56 percent think the most effective way to stop serious wrongdoing is to report it to people in authority, via official channels. A large majority (87 percent) said whistle-blowers should also be able to draw attention to the wrongdoing and that Australians largely rely on whistle-blowers as an important integrity measure for organisations. However, only 55 percent of employees/organisation members are confident that something appropriate would be done about wrongdoing if they reported it and similarly, 49 percent perceived their management as serious about protecting people who report wrongdoing.

The trajectory of what happens to whistle-blowers has been well described by Martin (2015)20 and Armstrong and Francis (2015)21. The narrative for whistle-blowers usually begins when whistle-blowers inform their managers that they have concerns or has observed misconduct (and does not necessarily think of themselves as whistle-blowers). However, if no response is forthcoming or there are negative reactions to the complaint, then many whistle-blowers approach others for help; they may be integrity/watchdog bodies or if these provide no help, may approach the media. Martin (2015) states categorically that …not only do whistle-blowers often suffer reprisals, but in most cases speaking out does not fix the problem.... (p219). He identifies a number of tactics that are used against whistle-blowers including covering up the misconduct, devaluing the whistle-blowers, re-interpreting what happened, using the official channel to give the appearance of justice and intimidation of those involved. It is often the latter strategy according to Martin (2015) which whistle-blowers say they are often subjected to. These tactics can be fought by whistle-blowers with countering strategies, such as exposing the attacks, countering the cover up; countering devaluing the whistle-blowers, countering the re-interpretation and resisting intimidation. This author further notes that there are advantages to a different strategy, that is, ‘anonymous whistle blowing’ or ‘public interest leaking’, as this can avoid reprisals if anonymity can be maintained. It also puts the focus on the disclosures rather than on the whistle-blowers. Indeed the author states that …he now recommends leaking wherever possible...more generally the most important thing to help whistle-blowers is to encourage workers to develop knowledge and skills in understanding organisations, collecting information, writing

20 Martin, G. Director Whistleblowers Australia. Personal Communication
University of Cambridge
accounts etc….this is more beneficial than whistle-blowers protection laws which seldom seem to work very well despite decades of use and continual strengthening (Martin 22, 6 October 2015).

Generally, according to Martin (2015), reprisals against whistle-blowers are fairly standard and follow a pattern of escalation; and are often associated with the failure of official channels to help the whistle-blowers. His estimate is that at least 90 per cent of those who contact the volunteer support line of Whistle-blowers Australia (where he is an office holder) have blown the whistle and suffered reprisals.

**Method**

Qualitative semi structured interviews were conducted (mostly over the telephone) with a group of whistle-blowers (n=35) who had contacted either the independent hotline service 23 or the volunteer support line Whistle-blowers Australia (WBA) regarding misconduct or wrongdoing. Interviews were also conducted with 19 individuals who had contact with whistle-blowers in their work role or official capacity (as investigators, disclosure coordinators or whistle-blower hotline staff or volunteers, and who were able to provide another perspective on the experiences of whistle-blowers). The research, including the informed consent form and the participants’ information sheet as well as the semi structured interview schedules, was approved by the Victoria University’s Human Research Ethics Committee in September 2014 (HREC No.0000023639).

**Recruitment Approach**

To gain whistle-blower participation, the researchers made contact in 2014 initially with the independent hotline24 and subsequently with the Whistleblowers Association Australia (WBA) in 2015. They agreed to send out information about the study, explaining what it would involve, to persons on their databases who had made allegations of misconduct or wrongdoing (over the last five years for STOP line and for people who were on the contact list/members of the WBA). The whistle-blowers were invited to contact the researchers directly if they were interested in participation, so that the informed consent form and the participants’ information sheet could be sent to them and then an interview time made. There were 19 who replied from the independent hotline of whom 7 were not able or were un-contactable subsequently; 12 were interviewed. From the WBA source, there were 36 responses of whom 24 were interviewed (12 could not be contacted further to arrange an interview). Hence the whistle-blowers were all self-selected. As noted by Smith (2008) responses rates for social science research are generally low; it was expected that a response rate of between 10 and 20 percent would enable sufficient numbers of participants to be obtained. To illustrate the difficulties in recruiting whistle-blowers, the database from the hotline contained 500 contacts; when these were verified many had email addresses which were no longer active or valid. This left a list of 250 to whom the invitation to participate was sent; from these, 19 made contact with the research giving a response rate of about 8 per cent. It was unclear how large the WBA list of members was.

In respect of the people who deal with whistle-blowers, a total of 38 responded to the invitation to participate which had been sent out through the hotline service to client organisations, as well as

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22 Martin 26 October 2015, ibid., 71
23 Given the low number of whistle-blowers able to be interviewed via the hotline, an approach was made to a whistle-blower volunteer support line, Whistle-blowers Australia. While the latter has a different role in respect of whistle-blowers, an invitation to participate in the study was made through this channel. While it is acknowledged that participants would differ from the two sources, this was taken into account in the analysis, both groups provided valuable insights about their experiences after reporting misconduct.
24 STOPline
additional participants who had been identified through integrity bodies and related sources; of these 19 were able to be interviewed.

To be eligible to participate in the study, whistle-blowers had to consider themselves as whistle-blowers, had contacted either the hotline or the WBA; had reported misconduct or wrongdoing, be aged over 18 years; and be capable of providing informed consent and resident in Australia at the time of the interview (3 exceptions were UK based). The whistle-blowers who made contact with the researchers were then provided with the informed consent form and the participant information sheet, and requested to arrange a suitable time and location for the interview, or in the case of many, provide an appropriate telephone number through which to conduct the interview. It was found that of the 19 individuals who responded to the invitation from the hotline, 7 did not reply further, failed to appear at interview or the email was no longer valid; while 12 were interviewed of whom (one provided a written response)25. Regarding the WBA members of whom 36 had replied to the invitation to participate; 24 were able to be interviewed by telephone or face to face.

In summary, there were 55 whistle-blowers from the two sources, of whom 36 were interviewed and/or provided written information (65 percent interview rate after initial contact).

Data Collection
To gain insight into the realities of the whistle-blower experience, qualitative semi structured interviews were conducted with whistle-blowers, (duration was between 30-60 minutes) with most conducted by telephone for practical reasons (many lived interstate or outside the Melbourne metropolitan area where the researcher was based). In addition to the open ended questions regarding their experiences as whistle-blowers after they had reported wrongdoing, a number of general questions regarding age category, location and organisation type were also asked. As digital recording was not feasible, detailed hand written notes were taken during the interviews by the researcher and these were transcribed as soon as possible after the interview. Care was taken to only use codes to ensure strict confidentiality, and at no point was the identity of the interviewee disclosed outside the research team. Where quotes are used, they are referenced by interview codes. In addition to being interviewed, many whistle-blowers provided written material to help explain their experiences; some provided links to media reports relating to their situations, and others provided additional information relevant to the study.

Data Analysis
The notes from each interview were transcribed and transferred onto the computer to enable coding and analysis. The data was analysed according to pre-set key themes and involved detailed reading of the interview material to enable coding of the information. New themes were also identified in the narratives and a thematic framework was developed for the interviews and enabled patterns to emerge. Following this, the researcher then analysed the themes in conjunction with another, who was independent from the interviews.

Profile of Participants - Whistle-blowers and People Who Dealt with them
The whistle-blowers interviewed ranged in age from 30’s to 70’s; with 20 female and 16 males. While no questions were asked about ethnicity or country of birth, all were fluent in English, (with one exception). Their names mostly indicated Anglo-Saxon origin or connection. Many of the whistle-blowers indicated that they had blown the whistle in work situations outside Victoria, with NSW and Queensland most frequently mentioned; several also came from WA, NT and SA. Both the hotline

25 One whistle-blower indicated he wanted to participate but his case was still being dealt with in the courts; hence no interview was conducted.
and the WBA have an Australia wide focus, and hence whistle-blowers were not limited to Victoria where the researchers were based. It should be noted that whistle-blowers had been working in similar proportions in the private sector (or self-employed) and public sectors (including some NGOs) when they reported the misconduct.

A total of 38 persons who dealt with whistle-blowers in a professional capacity had expressed interest in the study of whom 19 were able to be interviewed. Interviewees consisted of 10 females while 9 were male; the age range was from between 30-40 and 60+ years. Ten had specific roles within Victoria; 9 had Australia wide roles, of these 4 were based in NSW. The types of organisations in which these participants had worked included from the Australia wide independent hotline services (3 persons); Ombudsman and other integrity bodies (5); disclosure coordinators/managers with role responsibility for whistle-blowers within Victorian local/state governments (5), as well as from private sector organisations (5). In addition, one person from WBA who deals with whistle-blowers calls and provides support was also interviewed.

Limitations of the Study
These include the small number of whistle-blowers and people who deal with them who were able to be interviewed. Above all, the whistle-blowers as a group were all self-selected in that they had responded to an invitation to participate in the study; they were unlikely to be typical of whistle-blowers generally. The whistle-blowers interviewed, by agreeing to participate, were sufficiently interested in contributing their views and experiences about what happened after they had reported misconduct, creating a systematic bias in the sample of people interviewed for the study. In addition, the invitation to whistle-blowers carried in the title the ‘victimisation of whistle-blowers’ hence introducing further bias in those who responded to the invitation. Self-selection also meant that the persons defined themselves as whistle-blowers. Their experiences involved a broad range of wrongdoings varying in seriousness, but which may not have met the threshold of misconduct or illegal behaviour, in the formal sense of the public interest disclosure legislation. The study also was not able to assess the extent of victimisation of whistle-blowers because of the way the sample was constituted.

Findings
Perceptions of People Who Deal with Whistle-blowers
In analysing and reporting on the findings of this study, it is important that the perspectives of whistle-blowers and those of the persons who deal with them are presented separately. By presenting first the information coming from the interviews with the persons who received or handled the whistle-blowers reports of misconduct, this enables the experiences of the whistle-blowers to be given a context, grounding in organisational settings where interactions with whistle-blowers occurred. It is intended that this will help in understanding whistle-blowers’ own narratives.

Persons interviewed who have dealt in their official roles with whistle-blowers came from a range of organisational contexts and also had varying backgrounds and experiences with whistle-blowers. The interviews (10 were face to face) covered generally what their roles were in relation to whistle-blowers, and what type of misconduct was reported to them by whistle-blowers. Key questions related to their views about whistle-blowers and what happened to them after they reported wrongdoing, how they were protected and whether they had been subject to reprisals. Further questions covered how whistle-blowers were managed in the organisation as well as issues such as the importance of anonymity, the investigative process, knowledge of outcomes, and available policies and procedures.
to protect the whistle-blowers. Their advice on improvements to the whistle blowing process was also sought.

**Roles and Experience with Whistle-blowers**

Of the 19 persons interviewed, 5 had experience in Victorian integrity bodies (such as the Ombudsman’s office) whose roles in regard to whistle-blowers related to receiving whistle-blowers complaints, assessing them to determine whether they met the statutory criteria and were protected disclosures. Where appropriate, they would investigate the complaint or refer the matter on to other agencies. Their roles also included providing training about whistle-blowers policies and procedures for disclosure co-ordinators in public sector organisations.

Five persons interviewed had roles that included responsibility for coordinating public interest disclosures in Victorian public sector organisations, such as local councils. These disclosure coordinators generally had fewer years’ experience and had seen fewer whistle-blowers (around 20-40), compared to those from the integrity bodies. Furthermore, while the persons from the integrity bodies had roles which primarily focussed on whistle blowing complaints, the disclosure coordinators, in particular those from local government had a multiplicity of other roles as well as handling whistle-blowers. Other responsibilities for this group included corporate services, contracting, governance, legal counsel, internal auditing, risk management and compliance. Some had additional responsibility for dealing with Freedom of Information and dealing with matters relating to the Privacy Act. Their role often included training of staff about whistle-blowers policy, although several in the public sector group noted that they were not as familiar or aware of what the legislation requires and hence it was reported that whistle-blowers receive no or poor advice, with the result that according to some interviewed, the concerns raised were not followed up or investigated.

A further three persons (with backgrounds in policing) were interviewed from the independent hotlines which are run on a commercial basis for client organisations to handle calls from whistle-blowers. Their role was to assess the complaint and report back to the client organisation; usually no investigations were conducted, but they do give the whistle-blowers feedback when the hotlines found out what action had been taken by the client organisation. These hotlines listened to the whistle-blowers about misconduct issues; they explained the process and were able to clarify what the concerns were by asking about the facts of the allegation and so obtaining enough information to enable the client organisations to take action, and investigate if appropriate. According to one hotline operator, whistle-blowers appeared to be confident in reporting misconduct to them, which was mostly (70 percent) by telephone, less by email (19 percent) and 8 percent by letter. This hotline tried to minimise any risk to the whistle-blowers being identified in the workplace, although many do not mind identifying themselves to the hotline (40 percent do so); while 60 percent want to remain anonymous to their employers. Some whistle-blowers chose not to pursue the matter after having reported it…others are looking to [the hotline] for a ‘magic wand’ to fix the matter…... (DC012).

There were also four persons interviewed from large private sector companies who handled whistle-blowers complaints; they were senior managers with a number of other roles such as risk management, security and compliance, in addition to involvement in the whistle-blowers process.

One other person spoken to came from a volunteer support line for whistle-blowers and had a long involvement with whistle-blowers; she had been a whistle-blower herself. (Another member of the support line provided extensive written material and references).

Many of those interviewed (mainly from the independent hotlines, integrity bodies and volunteer support lines), had more than ten years’ experience in dealing with whistle-blowers, and had contact
with more than one hundred whistle-blowers, some having spoken with more than 1000 whistle-blowers.

**Nature of the Misconduct Reported by Whistle-blowers**

The types of misconduct that the persons interviewed had to deal with did not reflect closely the often used categories of misconduct identified by Brown et al (2008)\(^\text{26}\) or by the Independent Commission Against Corruption\(^\text{27}\). According to a majority of those interviewed, the misconduct reported to them by whistle-blowers appeared to be more in the broad improper conduct category relating to incidents of mistreatment, bullying and harassment and other grievances in workplace rather than involving fraud or dishonesty or deception more frequently. For the public sector interviewees in particular, it appeared that much of what whistle-blowers report does *not come near the threshold of the Independent Body Against Corruption (IBAC)...* (DC011) and, according to several interviewees, was not deemed serious.

While the complaints raised by whistle-blowers as reported by an integrity body interviewee included a large range with much relating to dishonest conduct – theft, corruption, fraud, misuse of information, taking advantage of official position, awarding procurements, tenders where people have a stake in the company, favouritism, a significant number of other matters still related to workplace incidents and grievances. When the latter were assessed they were usually referred back to the public sector organisations to handle, as they did not meet the threshold for public interest disclosure and were not handled by the integrity body at that time. As another person interviewed from an integrity body confirmed many whistle-blowers complaints were low level, and overwhelmingly employment related, *not in the league of serious misconduct involving corruption and criminal behaviour*... (IDC/027).

Others interviewed confirmed this trend. Many disclosure coordinators from councils, hospitals and tertiary sectors said that misconduct reported by whistle-blowers often involved workplace concerns, such as conflict of interest, employee complaints against management, not being promoted, falling out between people and favouritism. Many complaints involved bullying and harassment, although less often could also involve fraud and abuse of entitlements, such as travel, which were sometimes identified by finance officers or internal audit as part of their job. Others from the public sector noted that misconduct could also relate to access to inappropriate information and misuse of that, or where the whistle-blower complained about the improper way procurement and contracts for tenders were handled.

When asked about the types of misconduct whistle-blowers reported, a person from an independent hotline said that the concerns raised *could be anything from theft, conflict of interest, governance issues...to bullying: often involves poor management styles...* (DC012). As noted by another *a lot of complaints [I] have to deal with, have to do with bullying and harassment (around 40 percent), mismanagement of staff.... [But] also I have had cases of dishonesty and criminal behaviour...* (DC020). Similarly, from another hotline interviewee, it was estimated that around 60-70 percent were of the bully harassment type of complaint...*although it varies between industries...the retail sector appears to have more conflict between people...while around 30-40 percent relate to serious*

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26 Brown et al (2008) used a list of 39 categories grouped misconduct for material gain, conflict of interest, improper or unprofessional behaviour, defective administration, waste or mismanagement of resources, perverting justice or accountability, personnel and workplace grievances, reprisals against WBs and other. The NSW Independent Commission against Corruption (ICAC) identified public sector misconduct broadly as including failure to disclose/abuse of conflict of interest, improper use of information, fraud, bribery/gifts secret commissions, falsification of records, favouritism/nepotism, intentional failure to document significant information and harassment/victimisation/discrimination.

27 Victorian Government Independent Commission Against Corruption (IBAC)
matters such as fraud or mismanagement...(DC014). It was also noted that the whistle-blowers complaints often touched on workplace cultural issues involving basic values and how people work together.

Whistle-blowers reporting misconduct to local government were said to be mostly external (about 80 percent according to one interviewee) relating to contracts, customer service tenders, and procurement such as allegations that staff are on the take; a smaller number were from internal whistle-blowers. Example: ...staff in the outdoor area of a council were running their own business, an external whistle-blower reported it...it had been going on for two years and the supervisor was aware of it...it was inappropriate...but it stopped after a warning was given and reported to Human Resources...(DC033).

The experiences of dealing with whistle-blowers showed that whistle-blowers could come from any level within the work place. For the disclosure coordinators and the private sector persons, whistle-blowers could be internal but also external to the organisation, such as clients or suppliers.

Significantly, several persons from the hotlines with extensive experience noted that the nature of whistle blowing had changed over the last 10-12 years. It used to be around 30 percent of reports relating to bullying; 17 percent about discrimination and 32 percent about breach of policies and procedures while; 14 percent were other categories. There was now a trend away from bullying/harassment complaints to more breach of policies concerns (and which might be explained by Federal government legislation regarding employment according to the interviewee).

A point made by many interviewees was, while recognising the value of whistle-blowers that it could become a ‘catch all’ for any issues arising in the workplace, and that it diluted or misused the term perceived originally to focus on serious misconduct/wrongdoing and not workplace grievances.

**Views about Whistle-blowers**

It was inevitable that the persons interviewed who dealt with whistle-blowers would reveal a diverse range of views about the whistle-blowers they had encountered in their respective roles and what perceptions they had formed about them.

Initially, they were asked about the categories of people who blow the whistle. It was reported that in general...they can come from all age groups, with about equal numbers of males and females ... (DC014). There can be ....a whole range of whistle-blowers, males, females and all types of misconduct ... (DC013). Others noted that whistle-blowers were unlikely to be aged under 30, and more likely to be older than 45 years; as one person said...they know their rights...they own property, businesses... (DC030). A disclosure coordinator with a council said that about two thirds of whistle-blowers he had dealt with were male and more likely to be over 40 years.

Some of the interviewees found negative aspects of whistle-blowers...you get a picture of the whistle-blowers... they can be pedantic and want to make sure the right process is followed. If the evidence is not strong, the whistle-blower needs to understand that.... may not let go because of the emotional involvement...but because no one has listened to the whistle-blower... they need to be told that they have done the right thing.... (DC036).

Some comments about whistle-blowers were clearly judgmental… Some whistle-blowers become obsessed because of the wrong that had been done.... They were ‘nutters’ (DC011). Another said about whistle-blowers....few people have clean hands… (DC013) and noted that often there are personal reasons why whistle-blowers come forward. Sometimes it has to do with performance at work…it is payback…and this interviewee was very sceptical of whistle-blowers generally….there is
always another story to be told. The reasons why they come forward…is that they want things to be the way they were…want bad things in the workplace fixed… but it’s not like what’s happened…they want something, want restitution and then the problem is gone…(DC011).

Also the whistle-blower can be seen by many, according to one interviewee as… a trouble maker, they want to claim victim status … and they don’t play the corporate game of looking after the organisation... DC014). There was a view that generally whistle-blowers in organisations are not liked; they can expose the organisation, and further that they …always blame others, not themselves …. DC014). Some whistle-blowers, especially those external to councils…they have a gripe…for example, they did not win a tender…a dog owner was charged and felt aggrieved…. (DC030). Another interviewee found that his overall impression was that many whistle-blowers…have a bee in their bonnet…and are not realistic…and according to him…reasonable people would be able to let go…but many whistle-blowers don’t let go… (DC012). Yet another view was that whistle-blowers can be quite difficult people to deal with.

The label itself of being a whistle-blower was commented on by several of those interviewed. One person said…they are not superheroes…the label puts them on a pedestal… (DC013) while another said…they are just like another witness… (DC027). It was noted that the label whistle-blower also carries kudos with it…people see themselves as a whistle-blower, it confers status…they like it especially if they have won court battles as some have… (DC025) However, in some workplaces, such as the police, being a whistle-blower has many repercussions…you become known and no one wants to work with you….because you are a ‘dobber’ … can’t change people’s attitudes…..(DC027).

Overall, in spite of some negative connotations, it would appear for a number of interviewees that whistle-blower as a term is not bad to use for people making reports about wrongdoing to use; it is evocative, descriptive and is generally accepted by the public and confers meaning but it is much broader than the narrow definition in the legislation.

There were other views showing more nuanced perspectives. An experienced investigator who acknowledged that in terms of different whistle-blowers he had to deal with, all have a genuine belief when they come forward that they are right to do so. He noted that there seemed to be two types: the first are those who come because they have been wronged in some way and want revenge. The second group are those who have seen wrongdoing and come forward in the public interest. These will say it is your problem to deal with it, not theirs and they just wanted to report it. According to the investigator…the first group are the most difficult to deal with and to manage in the investigation; as they have a tainted view and often have a prior history….they want to own the process….they want to see what is happening and be kept in the loop..(DC034). The experience of a hotline person was that whistle-blowers fall along a continuum…some report it and then hang up…but the hotline needs more information so that the organisation can fix the concerns. …at the other extreme there are those who don’t let go…the majority [of whistle-blowers] are those who are reasonable and genuine…they are aware of the job situation…often have altruistic motivation for calling the hotline and reporting the misconduct that they want to put a stop to…not for vindictive reasons but they want to be fair in reporting it… (DC012).

A disclosure coordinator from council reported that….some [whistle-blowers] get tarred with the same brush; they have multiple complaints, serial complainers…some with more than 300 letters when the files are checked. They get tagged…then anything they raise gets labelled…then they are not treated properly. This manager believed that it is very important that the first time a whistle-blower reports a complaint …that council outlines the reasons why the council can’t help….say to the whistle-blower that is the best I can do….they are not dills; not fools but they want to get the answer they want…you
can’t just dismiss them... (DC036). He gave an example of a new allegation from a frequent whistle-
blower complainant which was found to be correct. The manager apologised to her and thanked her
for bringing it to his attention. This manager also noted that some of the concerns raised by whistle-
blowers could have been handled differently by Council and that the process itself could be improved.
On the other hand, sometimes whistle-blowers were also reported as being not too happy about the
way their complaint is handled and some won’t accept the umpire’s decision... (DC014). Overall,
very few whistle-blowers are vexatious, less than 5 percent would be mischief making; not necessarily
altruistic but they have been wronged... (DC012).

In expressing their views about whistle-blowers a number of important themes were identified by the
interviewees. Maintaining the anonymity of the whistle-blower was important and enabled them to
avoid retaliation and to be protected. According to the independent hotline interviewees, it was
reported that about two thirds of whistle-blowers want to remain anonymous but gave their names to
the hotlines as a contact point so that they can be contacted if there is a need to ask further questions.
As one hotline person said...there are ways of reporting misconduct...you can make it completely
anonymous....but that’s hard to do... (DC020). Some anonymous whistle-blowers, it was noted, have
been successful but for the investigation to work, you need information from the whistle-blower and
that might expose them. As one person said...they also can inadvertently reveal their identity...
(DC012).

In many cases in terms of anonymity, interviewees said that people in the organisation will know who
the whistle-blower was or they could work it out, so that many whistle-blowers do not remain
anonymous and that can lead to retaliation....then we get complaints about being mistreated;
...shoved to one side...It was acknowledged that ...being a whistle-blower you are taking a big risk;
has big impact on your life......in losing anonymity...(DC016).

The risk of having one’s identity revealed also touched on how difficult it could be for whistle-
blowers to come forward. As one hotline person said, while whistle-blowers may believe they were
protected, the reality is different, especially according to some disclosure coordinators... usually in
the workplace, people know who you are...you ‘get known’ and it’s not good for the career....[it is ]
human nature...(DC025).

In general however it appears that for the independent hotlines, the whistle-blowers were able to
remain mostly anonymous (60 percent do), both to the hotline if they wished or to the work
organisation. Also great care was taken by the integrity bodies to ensure the anonymity of whistle-
blowers was protected. In other organisations it was less certain that the whistle-blower could remain
anonymous.

A frequent theme identified by those who dealt with whistle-blowers was the need to understand and
manage the expectations of the whistle-blower who makes a complaint, and some noted that whistle-
blowers could have unreasonable expectations. One interviewee from an integrity body said what is
done is...to write to the whistle-blower to explain the process; ...when there is an outcome they can
ask for it be reviewed in terms of what had been done.; this is very important to the whistle-
blower...need to manage the expectations of the whistle-blowers...(DC011). Often the whistle-blower
believes that the problem they have reported can be solved...they find it hard to understand ...and to
accept that there is no investigation and nothing more is done.... (DC020) The importance of
expectations was explained by one person in the following way:....The reasons why [whistle-blowers]
come forward...is that they want things to be the way they were...want bad things in the workplace
fixed. They want restitution and then the problem is gone... (DC033). Another interviewee said...
whistle-blowers want something unachievable...they want to be taken seriously; they want to be
Listened to and that the process for investigating their complaint is done seriously and with a fair outcome. (DC034)

Lack of knowledge by the whistle-blower associated with unrealistic expectations, and what could be reported, and what to do, was also frequently mentioned by interviewees. Often the whistle-blowers do not know what the process was for reporting misconduct, as well as how they could be protected. They were said to have no have clear information about who to go to and the right person to complain to might not be obvious. In this context, several persons noted that whistle-blowers prefer not to use Human Resources…they want to report it confidentially on a one to one basis…(DC020).

Many interviewees showed a sympathetic understanding of the impact of the emotional upheaval that can be associated with whistle blowing. Some acknowledged that many of the whistle-blowers are under considerable pressure … the mere fact that they have observed or experienced the misconduct over a long period and are very nervous, very emotional… (DC014). An investigator stated that he…has seen some ‘shockers’….and had a ‘box of tissues ready’….he acknowledged that it is very stressful for whistle-blowers to come forward and they get very emotional but then they can’t talk to anyone, not even family because of confidentiality required by the integrity body…He noted that in some states, whistle-blowers can talk to the media….in fact some whistle-blowers don’t mind being outed… If the legislation was stronger, there should be the possibility for whistle-blowers to speak with their family… (DC034).

Others that said in their experience on the hotline and the support line, whistle-blowers in reporting misconduct can be much stressed when speaking either over the telephone or face to face. One said that…there is a lot of emotion… [We] treat each one as important …give them advice and have them consider the options…. (DC012). Another said that….some [whistle-blowers] are angry at the way they have been treated by the organisation…some are petrified and fear being victimised, although that is unknown territory…(DC020). Some whistle-blowers made repeated calls to the independent hotline…they are looking for a voice…looking for support…I feel sorry for them but am unable to help them…as there is nothing more the hotline can do other than put it in the report to their employer……a lost cause for some…although sometimes whistle-blowers call back to say…it didn’t help but thank you…..

Another important aspect mentioned by those dealing with whistle-blowers was concern about the welfare of the whistle-blower and the need for organisations to improve on this. Blowing the whistle is a life change for many whistle-blowers and they need effective support. It was noted that disclosure coordinators in the public sector should monitor and regularly check on the whistle-blower; but they often they lacked training, and they also had many other roles. The responsibility of being a disclosure coordinator, according to some, was not seen as a desirable job to do. It was noted that they stay in the job for a short time, and so there was a lack of experience with whistle-blower policies and processes, and with whistle-blowers themselves. According to an interviewee… whistle-blowers have so many issues in the first place, makes it hard…hard for the organisation to accept the complaint and also be responsible for their welfare; [but] they have the ultimate responsibility to look after their employees… (DC036).

Above all, interviewees believed that it is important that whistle-blowers are treated properly when they come forward. As one experienced investigator said… it is very important to look after the whistle-blowers…ensure for their wellbeing and give them support. …Organisations have a responsibility to protect whistle-blowers from detrimental action….they should not focus on trying to identify who the whistle-blower is… (DC018). Some of those interviewed mentioned that their
organisation had employee assistance programs which provide counselling, which is not just for whistle-blowers and that also allow them to remain anonymous.

Other avenues were frequently identified for whistle-blowers to go to other than the designated disclosure coordinator or the independent hotlines engaged by the work organisation. Some should be avoided, such as Human Resources, which was not seen as independent, or the Unions which were seen as indifferent or ineffective….Going to Human Resources is not a good idea…they look after management; would be stupid to do that…often Human Resources is outsourced too…lots of problems…(DC033). Another said in the first instance, whistle-blowers should report internally, a good manager would treat it well…; and perhaps, internal auditors, governance committee, as they are more independent than Human Resources…. (DC030). However, if the first response to reporting misconduct is denial or simply no response, often done internally, then there is a risk of escalation and the whistle-blower attempts to go elsewhere outside the organisation.

Where else can the whistle-blowers in the public sector go when their complaint does not meet the stringent Independent Body against Corruption/Victorian Ombudsman criteria for a public interest disclosure? The bulk of whistle-blowers who approach them, were assessed as not being public disclosures said one interviewee. Indeed, one person described a case not accepted by the integrity body, the whistle-blower was subject to detrimental action, and was dismissed. The whistle-blower then took it to the Fair Work Commission with a claim of discrimination; other bodies were also involved, such as the Human Rights and Equal Opportunity Commission.

Going to the media was mentioned by several interviewees but as one said …it depends… and another person said that whistle-blowers do not want to be in the spotlight. Nevertheless, the media’s role was seen as important when considering blowing the whistle and when integrity bodies and other agencies were perceived as not helpful. Persons interviewed gave a number of examples of well-known whistle-blowers in the media and where there had been retaliations (see p8 for examples). Other suggested avenues for whistle-blowers to have their concerns addressed included the courts, the Fair Work Commission, as well as Members of Parliament.

Rarely mentioned by interviewees was that there could be some misuse of the whistle-blower process…for revenge or that whistle-blowers dislike someone on occasions…(DC011). It was noted that any protection for the whistle blower can be abused and …you have to accept the flaws of the system…(DC016), while another person interviewed said that he found that union representatives…may blow the whistle to prove a point in respect of work or safety practices...(DC014).

In general, the views held about whistle-blowers by the persons interviewed revealed a range of perspectives influenced by their role in each organisation in relation to whistle-blowers and their experiences but also, by general knowledge acquired through the media. It was noted that attitudes have changed in the past fifteen years in respect of whistle-blowers from being considered a ‘dobber’ to now a more accepted, and respected view of whistle-blowers. There was also a broad concern that whistle-blowers are treated properly and that support for whistle-blowers has to be from the top down in the organisation.

Consequences for Whistle-Blowers after Reporting Misconduct – Retaliation and Reprisals

A key aim of this study was to find out what happened to whistle-blowers and how they were treated after they reported wrong doing and whether they were victimised and subject to retaliation and reprisals. The persons interviewed who dealt with whistle-blowers were specifically asked about this.
It was surprising then that a number said that they did not really find out what happened to the whistle-blowers and indeed appeared to have little knowledge of whether there had been retaliation or not against whistle-blowers they had dealt with. As one said...the disclosure coordinator does not get feedback about that, only exceptionally...in the vast majority of cases we would not hear about whether [the whistle-blowers] had been targeted or not... (DC014).

For other interviewees however, examples were cited where whistle-blowers had experienced negative consequences when their identity was known. Whistle-blowers were reported to have been victimised in many ways after reporting misconduct...they have been moved, bullied and not wanting them involved in tasks and treated poorly....not enough support is given to whistle-blowers...(DC019). The retaliation could include bullying, social isolation, derogatory remarks, including on social media. Others noted that negative consequences of reporting could include whistle-blowers are not being promoted, not treated properly, and as a result, some whistle-blowers leave the organisation according to one person...a [whistle-blower] was even dismissed...(DC013). Another disclosure coordinator from a council said ...that when whistle-blowers allegations are investigated ...whistle-blowers are not treated well...there is no support or guidance... [And] the perpetrators get off scot free... (DC033). In a further example from another council disclosure coordinator, it was reported that ...whistle-blowers employees can be very vulnerable, especially when up against developers [and cited] an example where the developer blew the whistle on an employee as they were getting in the way of the developers plans...and was dobbed in as a protected disclosure...(DC025). Also some workplaces were located in small communities where...if you were identified as a whistle-blower it would be untenable... (DC034), and the disclosure coordinator had an example of this, involving a risk of real fear of retaliation. Generally in respect of retaliation... you find out about it when the whistle-blower rings back and reports it; often [the hotline] doesn’t get the full story. The form that reprisals take can be change of duties, lack of support by management. Sometimes retaliation occurs against the family of the whistle-blowers...who are subject to abuse like driving past their house, being a hoon. While it can be easy to find out who the whistle-blower is, it could...reflect more on the intelligence of management who want to find out who the whistle-blower is rather than fix the problem... (DC012).

A disclosure coordinator said that in his experience... the whistle-blower often gets isolated and there is often 'push back' in the work place. But in only very few cases [one] have he seen violent mistreatment or assault of the whistle-blower... (DC034). He noted that... much depends on the state of mind of the whistle-blower...they get very emotionally involved and that can affect their perspective on what is happening. Another when asked about retaliation, described instances where there had been missed opportunities for the whistle-blower in the work place; missing out on promotion and performance management... moved out of the area....but it’s hard to know because you are getting it from the whistle-blowers. There can be issues about the person who blows the whistle rather than about the alleged misconduct. In these instances often the whistle-blower may not be believed...and HR is often too familiar with the whistle-blowers involved when they make allegations... (DC033). Another disclosure coordinator wondered... whether the whistle-blower isn’t part of the problem when reprisals occur.... (DC011). Believing the whistle-blower when they report misconduct was not always the case according to a number of interviewees. Some interviewees, who questioned the accounts of retaliation provided by the whistle-blowers, said that it was not easy to prove victimisation28.

28 As an interviewee from an integrity body said...detrimental action has to be linked to the protected disclosure but mostly you can’t do it...very hard to prove (DC012).
The frequent or persistent whistle-blower was also commented on by a number of those interviewed. ‘Vexatious’ whistle-blowers... can be very vocal; they may complain too much but they can be right...and should not be dismissed... (DC025) as one interviewee from a council said.

And another believed that although whistle-blowers do not have all the facts... they may have first-hand information; piles of documents...should not be dismissed out of hand...could be credible... (DC013). In particular, at disclosure coordinator forums, the serial complainer can be seen as pests with axes to grind...training is needed to overcome that view.... (DC036).

It was generally acknowledged by most interviewees how hard it can be for whistle-blowers to come forward to report misconduct. Once the complaint has been reported, according to one disclosure coordinator …the next stage is not necessarily independent; the organisation takes action...and whistle-blowers may see the results, justifying reporting the matter...but whistle-blowers are tagged... (DC012). Often it was the impact on whistle-blowers that was significant in terms of coming forward, reporting misconduct and then having to suffer the consequences of retaliation. One investigator with more than ten years’ experience in dealing with whistle-blowers said ....not one of all of the whistle-blowers he has seen has remained untouched by the experience... (DC027). The psychological impact on whistle-blowers was noted by some…it is especially important for the hotline to calm the whistle-blowers down...they can be very distressed, crying unable to talk; many are getting treatment, lots of sick leave or extended leave... Many whistle-blowers are out of work, others stay until there is an opportunity to move... (DC012).

The impact of how the workplace reacts to the whistle blowing and to the whistle-blower can also influence the likelihood of the whistle-blower doing it again, or discourage potential whistle-blowers from reporting misconduct. Several examples were given where whistle-blowers were subsequently mistreated and harassed; the whistle-blower reportedly said in one example ...never again…. Sometimes it was also reported that the whistle-blower emerges only after they have left the organisations, when there is nothing to fear; as before they were too fearful of retaliation to do so.

Some of the negative consequences for the whistle-blower according to a number of interviewees were that the focus when misconduct is reported, can often be more on finding out who the whistle-blower was rather than on doing something about the reported misconduct. As one disclosure coordinator noted there was a…”witch hunt’ to find out who it was but that is in breach of the act... (DC033). Another said... initially the whistle-blower can make a disclosure but then they change their mind, because they are afraid what might happen and then wish to withdraw it; they don’t trust the system...ask yourself the question, would you do it? People don’t like confrontation...also have ‘paranoia’... (DC013). A council disclosure coordinator gave an example of a disclosure, that... went to the Chief Executive Officer who wanted to find the whistle-blower; the whistle-blower was then excluded in the work place; people stopped talking to him...it was resolved by moving the whistle-blower off site although it was a legitimate complaint that they had reported... (DC025). For another interviewee it was acknowledged that...the whistle-blower can be isolated in the workplace...and management don’t want to hang out their dirty washing... (DC024).

In respect of the independent hotlines, it was stated that they make considerable efforts to allay the fears of whistle-blowers; as one person said...if there is retribution then that is another matter for disclosure... [Because] whistle-blowers are frightened of being identified...but over the ten years [he has been there] has only heard of one or two instances of detrimental action... (DC020). He believed that the process they have in place works when they report to the client organisations who also ensure that there will be no retribution against the whistle-blowers.
Sympathy for people when they blew the whistle was expressed by some interviewees…it is very hard [for the whistle-blower] because it is natural for people to try and find out who it is…sometimes others have been wrongly accused of being the whistle-blowers…(DC021). One person noted that the…NSW Ombudsman Chris Wheeler believes it is better to have the whistle-blower out in the open; so no one can mistreat them; but whistle-blowers if they want to remain anonymous should be able to do so… (DC021). However, for that to happen it takes a mature organisation with a culture of openness where concerns can be raised without fear.

Specific examples were given by interviewees where whistle-blowers were badly treated, including two described below.

**Example** – In the prison sector in the context of serious systematic misconduct where the whistle-blower lived on site at a prison, other staff were smuggling in contraband for prisoners...when the whistle-blower reported it the whistle-blower suffered assaults for having spoken up …there were not good procedures in place at the site to protect the whistle-blower…made it impossible for the whistle-blower and he suffered a great deal… (DC027).

**Example** - At a hospital where there were inappropriate accounting practices...the whistle-blower reported this to the manager who then took it to higher management. The whistle-blower was called to a meeting where the whistle-blower was confronted by the wrongdoers and the whistle-blower was asked to repeat the allegations to their faces. The whistle-blower refused to do that ….but then the next day the whistle-blower’s job was changed…now told to drive a tractor with a trailer and shovel and told to fill in the rabbit holes in the park …the whistle-blower resigned and never came back… (DC027).

**How Whistle-blowers were Managed in Organisations**

Whether whistle-blowers are victimised, or not, according to one frontline hotline person interviewed, comes back to the management of the organisation…in some place it stirs up an ants nest…and they will try and find out who reported the misconduct...although in the experience of this person he found… that only a few [whistle-blowers] say they have been found out…they manage to stay anonymous and hence did not suffer retaliation… (DC012).

It is the workplace culture and organisation that was highlighted by many who dealt with whistle-blowers, both in how the reporting of misconduct was handled and how the whistle-blower was treated subsequently, and as one person said... so much depends on the organisation and on the strength of the manager… (DC019). Another made the point that dealing with the whistle-blower complaint could often be one of communication styles, the way the issues were handled and how the investigation was dealt with by management. In particular, if the whistle-blower complaint is not handled well, it can escalate in the organisation and lead to further problems for the organisation. A culture of defensiveness has to be overcome in organisations for whistle-blowers to feel comfortable about reporting wrongdoing and knowing that they will not be mistreated for doing so.

A council disclosure coordinator noted that staff know what is right and what is not right and must have a zero tolerance approach to wrongdoing, but if the organisation tolerates bad behaviour that signals to staff to be wary of reporting it. He gave the example of a staff member being yelled at by a councillor…highly questionable behaviour...he was not counselled and this will perpetuate his behaviour...the staff were demoralised...but very reluctant to make complaints,... don’t want to be in the firing line...they have seen people moved sideways or exit...it is a challenge... (DC036). On a more positive note, another example from a council involved a planning dispute where a bribe may have been offered. The Disclosure Coordinator went to see the Chief Executive Officer with the
whistle-blower complaint, it was investigated found the planning process needs to be improved...there was no corruption but there was mismanagement. The dispute between the parties went to court...was more powerful that way... (DC030).

For persons interviewed in the private sector (and in several councils) it was found that the central contact point for whistle blowing was often senior management; it could be legal counsel, the manager for risk or security or even the Chief Executive Officer. One interviewee described how she met weekly with the Chief Executive Officer who was very supportive…and would also raise issues with the Chief Financial officer in respect of whistle-blower issues... (DC030).

Managing whistle-blowers well in organisations was seen as a strong point, with policies and practical procedures have been put in place in recent years for handling whistle-blowers, including assisting with their welfare and to ensure there is reporting back to the whistle-blower so that they can have closure in the matter.

One investigator noted that...In terms of the whistle-blower who is victimised...there needs to be in the organisation a welfare support process...although it is getting better, it is in the main poorly managed in the public sector...because they don’t have the support services; although there is now a greater awareness of the welfare needs of whistle-blowers....but it is not the Disclosure Coordinators’ role but they should have a system in place to handle that...For example, at Victoria Police there is a dedicated service to support people, not necessarily only whistle-blowers but they can use that service...(DC027).

Furthermore, in respect of public sector disclosure coordinators, a number of concerns were identified by those interviewed about that role. Often it was reported that...the Disclosure Coordinators don’t know what to do...how to handle the whistle-blowers...it is a recipe for disaster... they lack focus....don’t provide the support the whistle-blowers need... (DC019). Thus sometimes according to one interviewee... if the whistle-blower isn’t anonymous and there is lack of experience by the disclosure coordinators and [internal] investigators, you get whistle-blower complaints that ‘no one listens’...you find out that no one has spoken to the whistle-blower... (DC027). Sometimes the Disclosure Coordinators also have responsibility for Human Resources; the view was expressed by an investigator that it is...not good to have those two roles in the one person...Thus if a whistle-blower reports misconduct, it is important that it not be dealt with under the Human Resources regime...not appropriate. The [integrity body] has been critical of [Disclosure Coordinators] because the whistle-blowers complaint has not been recognised as misconduct and therefore the person was not protected....the whistle-blower was identified when they made the disclosure... (DC019). Another investigator commented that ...Often the Disclosure Coordinators don’t know what to do...how to handle the whistle-blowers...it is a recipe for disaster... It was also noted that some Disclosure Coordinators are not trained to conduct internal investigations, so when they do conduct them, the evidence for the allegations was often found to be inconclusive; although it was noted that IBAC now run courses and provide eLearning.

In terms of conducting investigations of the allegations into whistle-blower reports of misconduct, it was found that while they are often done internally across organisations, in other instances, independent investigators may be brought in when a decision was taken to investigate, but that depends on what the misconduct was. In the experience of an investigator...some whistle-blowers may want to control the investigation, for example, who investigators should speak to... that can be very difficult... you have to tell them that they have done their job in reporting [the misconduct], now it’s our job...must let us get on with that. It is usually settled once that is cleared up.... (DC034). An example was cited where the whistle-blower who reported on the misconduct was subject to...
detrimental action …very poor handling of the whistle-blower …there was a chain of evidence and it was compromised …lot of emotional distress for the whistle-blower. If the investigation was not appropriately managed, then the whistle-blower could come back and complain about detrimental action.

While it was seen as important to provide support for whistle-blowers and for them to talk confidentially to someone, this could make it difficult for the investigators, where confidentiality requirements can prevent the whistle-blower from speaking to supportive others. The relationship with the investigator also needs to be managed, as well as the expectations of the whistle-blower…. whistle-blowers get very emotional, …very understandable…they stand to lose their career…they have to jump over many barriers when they want to report serious misconduct…but much of what the whistle-blower wants to report is not serious…it does not meet the criteria and involves other grievances, maladministration... (DC018).

In general while investigations were being conducted, it was emphasised by interviewees that it is important to keep the whistle-blower informed and that they are told of what was happening to the allegations of misconduct and what the outcomes were.

Another aspect was that many whistle-blower investigation reports conducted by the integrity bodies29 have not been made public, (although in their annual reports, when public interest misconduct had been exposed through investigations the outcomes were briefly reported on).

Some investigators were able to comment on the outcomes of whistle-blowers investigations, where organisations may take appropriate action. As one investigator said…sometimes the wrongdoers’ employee’s job is terminated, and very occasionally the police are called… whistle-blowers are satisfied… (DC020). One person had …seen disciplinary actions taken against perpetrators of the misconduct.... [But] the outcomes are not publicised…so the public does not hear about them… but organisations do not want to leave themselves open either... (DC014). Another said that they.... don’t want their dirty washing hung out... (DC013).

In terms of outcomes of the whistle-blower complaints handled by the independent hotline line, they kept the case open until they hear from the client organisation that the matter had been resolved…that can mean that the client organisation has done something to fix the problem. Only a low proportion are closed….majority [63 percent] are still open but the hotline reports back to whistle-blowers to tell them what has happened... (DC012). Also regarding the outcomes it was said that it depends, and to whom it can be positive… to the whistle-blowers, to the investigator or to the organisation….important that the misconduct does not happen again, actions are taken, more training and not necessarily criminal charges... (DC014). However, another person said…..you don’t read about good outcomes in the public arena…the information also to the whistle-blower is very limited; often the whistle-blower wants action against the people involved rather than changes for the future….for the integrity body if the allegations are substantiated, that is good. And the whistle-blower knows that; also it is good if the whistle-blower is not subject to detrimental action, or is given compensation.... (DC019). Above all, it was emphasised by many interviewees that for whistle-blowers the last thing they want is detrimental action but that was harder to prevent in smaller organisations.

Good outcomes were mentioned including remedial actions, fixing the issues, but again not publicised was that the organisation did well, and that the organisation had supported the whistle-blower; that they had set an example and had been thanked for what they did.

29 See for example the Victorian Ombudsman Annual report 2012/13.
For outcomes of investigations in serious cases, that could often lead to the perpetrators being disciplined; in many cases they resigned and a number of examples were cited. According to one person, whistle-blowers were …more likely to get an outcome if the complaint is about public harm and about public money…they are more likely to get a fair hearing….with work place grievances it is very hard to tell…. (DC016). However, if the whistle-blower was not happy with the outcome it …that could be just sour grapes. It also was noted that, in the case of the independent hotline, its ability to investigate is limited…and there can be insufficient or uncompleted investigations by the client organisation [which] …can lead to increasing frustration for the whistle-blower…. (DC020).

The importance of knowing that as a result of the whistle-blowers’ report of misconduct, action had been taken not against the whistle-blowers themselves, but to uncover the misconduct and the wrongdoer was stressed by many interviewees.

Specific examples were given of whistle-blower investigation outcomes in public sector organisations and are included below.

**Example** - A whistle-blower working in the education sector reported serious misconduct in relation to other employees involving sexual assault and improper relationships. When she formally reported the matter to her manager…the manager told her to withdraw the complaint…they were unhappy [with her] but she refused to take the complaint away; she was determined to sort it out herself. The whistle-blower was suspended from work while the false allegations against her were investigated for six months…it was some months after that, that the formal external investigation found that her original allegations were correct…after twelve months…it was found that she had done nothing wrong, even though she had suffered detrimental action. She was subsequently paid substantial compensation but it did not go through the courts…the agency had done the wrong thing and it had showed up serious governance problems. The whistle-blower got her job back and got back pay paid out. This example provided the whistle-blower with a good outcome but… because it was a confidential investigation, the outcome was not publicised, so you don’t know how the whistle-blower fared or whether the people who retaliated against her were disciplined or prosecuted… (DC027).

**Example** – The whistle-blower was a medical intern and had a complaint about the supervisory specialist. The hospital looked into the complaint…but the whistle-blower had spoken directly to the specialist…subsequently the whistle-blower was marked down in assignments and assessments. Then the whistle-blower had no job for the following year [the jobs are very competitive], so the whistle-blower was victimised…not obviously so but they may have been mistreated. The whistle-blower was a difficult person…had a role in clinical training but would not show up for interview…was not an easy employee. The complaint was taken very seriously; and [I] believe handled the matter well…there was a good outcome and no one was sacked… (DC016).

**Example** – A university employee in the university was bullied by the supervisor and made a whistle blowing complaint. The university appointed an external investigator who found that both the whistle-blower and the supervisor were flawed people; flaws on both sides…but the whistle-blower was not a good employee and would not do what was required; was the manager micro managing or not? Was the whistle-blower bullied or not? The outcome was that there was a workplace problem. The whistle-blower and the manager’s area a year later were moved… (DC016).

**Example** - In relation to an internal investigation, it involved a specific unit…there was some merit to the complaint which had been made in writing; the unit had been subject to a review. She found it hard to do the investigation….but the staff were assured about the process; although they were not reassured. As far as she was aware, there had been no retaliation…she believes because it had been dealt with at the highest levels in the organisation. Some of the people involved have been dealt with;
and because the Chief Executive Officer knows and also the complaint was against a director and because of the high level involved, he knew he could not retaliate... (DC030).

Example – In another case where the whistle-blower allegations were substantiated and the agency involved had handled the matter well; the perpetrator of the misconduct was dismissed. But the whistle-blower was told that they could not return to that section of the organisation...otherwise there would be mass resignations from other staff if the whistle-blower was re-instated. So even though the whistle-blower was not in the wrong, the organisation lacked the courage...so the whistle-blower called the investigator and explained; this led to the investigator saying to the organisation that he would be willing to put in his report that the whistle-blower could not come back to their job...[but] the organisation relented and said the whistle-blower was coming back and no one resigned! (DC027).

**Private Sector Approaches to Whistle-blowers**

The experiences with whistle-blowers were also obtained from four major private sector organisations who were clients of the independent hotline. Less is known about the way whistle-blowers are handled in the private sector, and their perspectives may provide valuable insights for how whistle-blowers can be handled better, including in the public sector. Legislative provisions protecting whistle-blowers in the private sector were introduced into the Australian Corporations Act (Cth) in 2004 and in the 2007 revised Australian Stock Exchange Principles, which recommended that listed corporations include in their code of conduct reference to the way whistle-blowers disclosures are handled. Some private companies including the four below (and some public) organisations use independent hotlines such as STOP line, Deloittes, KPMG and E&Y to assist in dealing with the whistle-blowers and provide access to their services for their employees.

The following four private sector examples give clear descriptions of how whistle-blowing is handled without specific legislation for the protection of the whistle-blowers as exists in the public sector. These examples also show the key role that the independent hotlines play in handling private sector whistle-blowers complaints. It should be noted that the hotline has client organisations both from the public (about 10 percent) and private sector (90 percent). Involvement by senior management in the whistle blowing process was also prominent in these examples.

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Private sector example 1

Two persons from a major telecommunications company were interviewed; one was a senior manager in investigations, the other was compliance manager. Most whistle-blowers (50-100 per year) at this company are handled through the hotline, (mostly internal or former staff). As the company is a client of the independent hotline line, whistle-blowers usually remain anonymous to the company as they can go directly to hotline and have the matter addressed there. The Chief Executive Officer, the Chief Financial Officer and the Company Secretary are all kept informed and receive regular reports about whistle-blower issues. The company openly advertises the policy and ensures awareness by staff of who to speak to about wrongdoing first, or to go two up in the organisation, if it relates to a matter involving the immediate supervisor.

There are two broad categories of whistle-blowers; those relating to Human Resources matters…these are generally about poor management, bullying or harassment, discrimination or about recruitment/promotion issues…DC037. These matters are handled through the central Human Resources team. The other type are more serious and may involve serious misconduct such as theft, fraud and other criminal conduct as well as inappropriate use of the telecommunications system, and conflict of interest concerns in relation to suppliers and contractors. Most whistle-blowers complaints are anonymous; although it is rare for whistle-blowers to be fully anonymous. It was noted that is useful to have the names of the whistle-blowers as more information may be needed from the whistle-blowers about the allegations.

At the company there is a whistle-blower oversight committee…and all whistle-blower complaints get looked at, there are no criteria for excluding any. There is a monthly review chaired by the Company Secretary, with Legal Counsel, security and business…. and HR attending. At that meeting it is decided which whistle-blower reports to investigate, also the reports of whistle-blower investigation come back to the committee with recommendations...DC038. Whistle-blower reporting is a standing item at the Executive, and the Chief Executive Officer and Human Resources access whistle-blower reports on a bi-monthly basis. There is considerable whistle-blower educational awareness training via the internet. In terms of retaliation, the organisation is very conscious of the need to protect whistle-blowers, it is the first priority. If there is a risk to the whistle-blower then we would advise the chair of the committee out of cycle, it is very rare but the policies about misconduct are very clear on retaliation against whistle-blowers; if it occurs the perpetrator may be subject to suspension...DC037. In the interviewees experience there appears to be very little retaliation...may investigate and make discrete enquiries; may only be about 1-4 individuals...can do that in the guise of an audit which is done a lot to avoid the whistle-blower from being identified...DC038. The hotline, when they have been in contact with the whistle-blower, will then send in a report but remove the name and anonymise the complaint. If the allegations are substantiated, then recommendations are made for improvements for enhancing performance and the report will contain remedial action if required.

Dealing with whistle-blowers it was said...is not difficult, although they may think that they have the world’s biggest problem; they can be highly emotional...and it may take some time for them to come forward. You need to work calmly with them; keep them calm...sometimes they will write it all down (8-10 pages or 2 lines); it is important to empathise with them, there often also non work related matters that may impact. Some whistle-blowers are not happy with the outcome...they may expect the person for the misconduct to be disciplined ... (DC038). The company also has an employee support program which provides anonymous counselling and whistle-blowers may be referred to use that. It was estimated that more than 50 percent of the whistle-blower allegations would be substantiated and one of 20 would be valuable to the organisation. In the opinion of the persons interviewed whistle-blowers... need something like the independent hotline….very important to have that independence from the organisation; then there are the internal governance arrangements and since 2003 an independent senior committee to monitor. The company’s whistle-blower policy has been bedded down in the last 5 years... (DC037/038) The interviewees believe it has to be done properly and not just pay lip service to dealing with whistle-blowers … …. The oversight committee works well and with Human Resources…the key is to provide independence... (DC037/038).

Their whistleblowing policy states that…we encourage our people across the xxx Group to take action if they have any concerns about unethical, illegal or improper behaviour. We have a whistleblowing policy and anonymous confidential whistleblowing service that provided appropriate protection for our people and members of the public to report their concern. Our process is supported by an independent service provider specialising in handling sensitive reports and disclosures. You can contact the independent service provided via email, by calling them on xxx or sending mail to xxx...
Private sector example 2

The interviewee (DC022) is head of risk management and security services for a large national manufacturing corporation. He handles whistle-blowers reports directly if they come to him internally through the general complaints line (also available to the public). It is also possible for whistle-blowers to go external directly to the independent hotline. He noted that in other companies, whistle-blowers might go to Human Resources but he said they are not independent, which is problematic. It helps that the whistle-blower remains anonymous; but you need to be able to prove what they said was true. The interviewee believed that the whistle-blower should be able to go to the audit or governance officer committee which is more independent than the line manager or human Resources. Complaints can be about improper conduct and range from theft or fraud to bullying and harassment. The company has a combined policy that includes whistle blowing and misconduct; what to do, when and what the process is, and explain how the company deals with it. He gave two examples to illustrate how the process operates.

Example A - Misconduct was reported by a whistle-blower in keeping the accounts; the fraud was substantial and the company was able to substantiate what the whistle-blower had discovered by going into the accounts electronically, locating where the issue was without having to reveal the identity of the whistle-blower. It was confirmed what the whistle-blower had alleged was correct and corrective action was taken.

Example B – ‘Time theft’ was reported by a whistle-blower whereby employees were paid for work when they were not there. This was done by using someone else’s swipe identity card to clock in and out. It was important for the whistle-blower to remain anonymous; otherwise the whistle-blower would have been subject to threats for having revealed the scam. He himself had been bullied into taking part. Upon investigation the allegation was found to be substantiated; those involved were dismissed but the whistle-blower was given immunity and remained with the company. The company learned from this and made changes to its system for clocking employees in/out, now replaced by a digital scanning system.
Private sector example 3

The person interviewed was based in NSW and was group Risk and Security manager of a large national corporation. He said he would handle about 13-16 whistle-blower matters per year with most internal but some external, such as from suppliers. There are three ways in which whistle-blowers are handled in his company; they can go directly to the independent hotline and remain anonymous to the company; they can come directly to a company’s designated disclosure coordinator if it is obviously a Human Resources matter, and it can also go to him as the risk and security manager who would coordinate an investigation if it involves dishonest conduct. The range of misconduct alleged by whistle-blowers includes sexual harassment, bullying, fraud and dishonesty as well as misuse of the company’s resources. The initial task upon receipt of a whistle-blower complaint is to assess it, which can then lead to a formal external investigation or else, Human Resources is allocated to investigate, although it is separate from the Human Resources unit the employee deals with.

The strength of this company’s approach to whistle blowing is the capacity for the whistle-blower to remain anonymous. The approach is driven by senior levels in the company and they have a role in the investigation. The complaint is treated seriously and the focus is not on trying to find out who the whistle-blower is ...they are not interested in the identity of the whistle-blower making the complaint but more in the process of assessing the allegations, and if corrective action is required...it is very much a process driven issue...there has been the odd case where the response is to find the source of the allegations...but in those cases, staff are reminded that if such action occurs...[disciplinary action will follow]...efforts are made to minimise the victimisation of the whistle-blowers...and [in his experience] there have not been any detrimental actions...(DC024).

He noted that the company had made recent changes to the approach adopted to whistle-blower...between 2009-2012 there had been little activity in the program...there were questions about how effective the program in place was...there was not much advertising to staff...after that there was a cultural change and the company started to roll out a more proactive approach...and started to see an increased use of the program and getting more whistle-blowers coming forward; it was supported by management...(DC024). He said that as a result of the new approach, with posters up in the workplace, increasing awareness, there are better responses now. He noted that many of the concerns raised are work place related and a lot are unsubstantiated. He added that the approach would not happen without top-level support. He said the use of the independent hotline was helpful if the whistle-blowers wanted to remain anonymous. They were also in a position to give feedback to the whistle-blower from the company thereby protecting anonymity. The key according to the interviewee is that the whistle-blower is provided with support within the resources available. He said senior management is learning from the program...it is seen as good public policy. It is not good business if there is misconduct in the organisation...not good for the company... (DC024)
Private sector example 4

The person interviewed was a senior manager of group investigations and security in a major Australian major retail company. His area is part of the finance division with a link to internal audit and he reports to the audit committee. He has had to deal with more than 100 retail whistle-blower matters in his time there. Most complaints come to him from the independent hotline of which his company is a client (they act as a go-between) or else are referred to him by company executives. The main areas of misconduct reported to him include theft, fraud and corruption; most retail whistle-blowers are internal. He noted that if it is a workplace grievance he would handle it in conjunction with Human Resources, otherwise he and his staff would handle it directly. Annually, a report is prepared for senior management about whistle-blowers and is drawn off the database information provided by the hotline. Sometimes actions are taken as a result of whistle-blower concerns but …if the claims are not substantiated, it gets very complex and at what point can we say we are finished with the investigation? ... (DC023).

When he has whistle-blowers who come to him and say they want to report something…in his experience… they are usually well intentioned; some will say ‘I have done my bit, now over to you’ …..but he noted…the whistle-blowers can’t see the whole picture…He gave the example of an employee new to the area coming to him about seeing a truck make a delivery … he was doing it in good faith…once investigated you find that there was a legitimate explanation for the delivery and the whistle-blower was given feedback that all is fine. About whistle-blower victimisation, he could not comment although he noted that you need to ensure the whistle-blower is not adversely impacted…they might be moved in the workplace by mutual consent…there is scope to move people around. This can be done so as to protect the whistle-blowers anonymity during an investigation. In general, whistle-blowers can be equally male or female, usually older than 40 years and have been with the company for some time; …they are more mature and have longer to understand the organisation…they are also more likely to come from management than non-management staff… (DC023)

About the term whistle-blower when he conducts an assessment of the allegations, in his view...when does someone become a whistle-blower? At what point is that to become formalised? Some people decide they want to be called a whistle-blower...we need better clarity on the definition... Some whistle-blowers concerns are at the lower end of the scale...some of the disputes between staff, where one party has an ongoing discrimination action against another...it is not so much the fact that the person is a whistle-blower but because there is an underlying matter, such as sex discrimination...Generally, investigations are handled internally, unless external expertise is required. Sometimes, the whistle-blower simply reports the misconduct and wants no further involvement. He uses the whistle-blower information as intelligence…in some cases you get results...sometimes you can’t find enough information...sometimes it can be frustrating...you can go no further but I would keep an eye on things... (DC023)
Perspective of a Whistle-blower Support Group

A number of the whistle-blowers spoken to had themselves set up groups to assist other whistle-blowers. Their experience was particularly valuable in that they had come through the experience of whistle blowing and had learned much over a number of years which they then were willing to share with others. Two members of the Whistle Blowing Association (WBA) were contacted about the research and the role of the Whistle Blowing Association in respect of whistle-blowers. The national volunteer organisation was established in 1991 and provides advocacy, advice and support for whistle-blowers; in addition, the Whistle Blowers Association provides links to other online contacts for whistle-blowers, such as the Whistle-blower’s Handbook (Martin 1999); the Women’s whistle-blowers website (www.womenwhistleblowers) and also a website for teachers who are/want to be whistle-blowers (www.bullies.com.au). A newsletter is published regularly and meetings are held in NSW. They receive more than 100 calls a year from whistle-blowers with about half from the public sector and half from the private sector. Some calls are just for information. The volunteer interviewed has been a whistle-blower herself and she found, that if people can speak to someone who had been in that situation before that would be helpful. She acknowledged that there have been many changes in recent years, there is now a greater understanding of what it is like to be a whistle-blower, and slowly people are starting to think well of whistle-blowers. It was noted that many whistle-blowers were alone, had no legal representation and numerous examples were provided of where the whistle-blowers had been badly treated after reporting wrongdoing.

According to the frontline interviewee similar proportions of male and female whistle-blowers contact WBA; the issues raised range from small to the significant. Previously there were no avenues for whistle-blowers, now there are hotlines for big organisations. She helps whistle-blowers... navigate through the system and advocate; sometimes will accompany a whistle-blower to meet with the organisation on the whistle-blowers behalf... (DC021). Some of the points emphasised by the WBA’s representative is that whistle-blowers... need to band together, such as the Australian Medical Association when public health is at risk. Whistle-blowers won’t be gagged... have to try and prevent their victimisation... but it needs leadership from the top. The best way forward is to solve the problem but often investigations are not done.....we should support whistle-blowers; they should be given an apology... (DC021).

The interviewee described her experience as a whistle-blower some years ago when she contacted the Independent Commission against Corruption; they wrote and replied ‘thank you (it) will not be investigated but will make inquiries; her barrister said for her to be patient. She acknowledged that there have been many good changes for whistle-blowers. In the early days it was a struggle; it was a big thing being a whistle-blower....now there is greater understanding and slowly people are starting to think well of whistle-blowers. The laws too are a good thing...with their recognised processes and education... (DC021), although she expressed her reservations.

She noted that if there was sufficient substance to the allegations for the Ombudsman, then the whistle-blower would be protected, and that should be practical and upfront. The Ombudsman would notify the organisation about the allegations and then would be watching the conduct of the organisation, and reminding the organisation regarding the protection of the whistle-blower. She suspects that that has now changed, as there is a greater emphasis on confidentiality and privacy.

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32 One was interviewed and the other provided extensive written material and references about Whistle-blowers.
33 Whistleblowers Australia (WBA)
The interviewee believed that with greater confidentiality... it doesn’t work. Too often the confidentiality has implications...you are put on the pain of death...there is no support... (DC021). In her views about whistle-blowers she said that... there can be vexatious allegations but that is not a realistic concern. The whistle-blower wants to do the right thing.... the whistle-blower does want the allegations to be investigated. The public understands and thanks the whistle-blower. The whistle-blower has the information they need, and if they are right and it is substantiated, whether it can be established or not....sometimes there is no way of knowing, but the whistle-blower wants to see the matter come to a conclusion... (DC021)

Asked if whistle-blowers she has spoken to would they do it again next time? …Yes mostly. Also doing it in a group is better than doing it alone... was her advice, and whistle-blowers need names and evidence, dates and times and when they speak out. …The big fundamental issues for whistle-blowers....it means publicly taking a stand, finally getting the courage to say and do something, but whistle-blowing is sanctioned...that is wrong....one should be penalised for doing the wrong thing, but it is the whistle-blowers who are. She also commented on the culture in Australia. It has a language problem... ‘dobber’...not good, universally done, close ranks...why does the mob isolate and punish? If the whistle-blower is supported that helps...often it can be very upsetting, weeping...She states that... it is also important for the whistle-blower to see that people responsible for the misconduct are dealt with and disciplined, moved for causing grief....[but] often it is the whistle-blower who is contained, controlled, punished and ill managed.... The need to encourage whistle-blowers to come forward was stressed by her as disclosures about wrong doing are … a red flag for management...it takes them out of their comfort zones...and generally they appreciate...so that they can get the work back on track... (DC021).

The Whistle-blowers and their Experiences

For the qualitative narratives of whistle-blowers obtained in this study, it would be wrong to impose a classification and attempt to quantify what whistle-blowers have described. While many themes do emerge from analysing these narratives, much is irreducible and to do so would not reveal the richness of whistle-blower experiences, in the context of what happened to them after they reported misconduct. While a number of headings are used below to group whistle-blowers’ experiences, every effort is made to respect individual perspectives; and hence, quotations are frequently used to enable this to happen. In the Discussion section, other issues raised by WBs are considered in the context of how whistle-blowers and those who have dealt with them can be protected and to prevent victimisation.

Each of the whistle-blowers interviewed in this study provided highly personal and unique accounts of their experiences – of reporting the wrongdoing they had observed in the organisation they were employed by (or the regulating body for some whistle-blowers), and of the consequences once they had reported the wrongdoing. While these accounts provided rich material it created a complex analytical task to extract key themes without doing injustice to the insights provided by whistle-blowers.

Initial analysis of the material indicated that the two groups of whistle-blowers – from the independent hotline and, the support line from, whistle-blowers were differed in several ways and should be examined separately.

For the 24 whistle-blowers from the WBA; (their experiences were not recent, – some had blown the whistle more than 10 years ago (n=12)), while others had reported the misconduct between 5 - 10 years ago (n=11), (for one whistle-blower no information was available). Asking about dates was also problematic, as often in the WB narrative, the misconduct may have started in the 1990’s, but the
reporting, the consequences, and later developments continued well into the 2000’s. While for some whistle-blowers clear cut dates could be identified when they first raised the misconduct informally and then formally, for others there was no clear cut date as to when the matter may have been raised. It could also be raised multiple times with the same person or with other persons/bodies. The distinction between ‘recent’ and ‘older’ WBs however is important as the WB landscape has changed considerably in Australia over the last 20 years, with WB protection legislation introduced, specific WB policies developed and implemented in the public sector, and there is a growing public awareness and acceptance of the role that WBs play in ensuring that misconduct is reported and, more generally, how WBs contribute to greater accountability and good governance in organisations.

This section enables identification of the 4 experiences by themes emerging from whistle-blowers interviewed. The examples below (2 from the hotline and 2 from WBA), show the complexity and unfolding of what happens to a whistle-blower to be followed (or traced like ‘beads on a string’), and illustrate different narratives and settings.

**Hotline example (WB 13)** - The whistle-blower was female in her 50s; she liked her job as a contractor testing soil samples on site in the outback for a mining company. The workplace according to her had a bullying culture, even though they had policies in place for whistle-blowers …*but people kept their mouths shut…have seen men cry.* The misconduct involved falsification of blood alcohol level testing by the manager; at the site everyone was tested for drug and alcohol but the manager had a drinking problem…and was avoiding the breath analyser…other staff saw too that there was something wrong with the readings; they were too low…but it was swept under the carpet. The whistle-blower went to her manager and also the manager was told; the matter was investigated but it was not anonymous. The whistle-blower’s manager started intimidating and bullying the whistle-blower; others in management joined in, *there were some nasty incidents…she was told … she was no longer needed.* The whistle-blower spoke to the Work Safe representative who told the whistle-blower she did not…*have a leg to stand on.* Subsequently the whistle-blower was given menial jobs, no one supported her; she received nasty emails, and was not offered re-deployment. She went to the independent hotline but was disappointed in the response and would not call them again. She also contacted the union and the ombudsman but to no avail. Her life was made intolerable; she was told she was not welcome at the site and then was transferred to administrative tasks in a warehouse. She said she does not see why she had to lose her job; she is now unemployed. However, she said she was glad she did it; she had had enough, and felt very strongly that…someone had to do something…

**Hotline example (WB06)** – The whistle-blower, a male in his 40s, was a skilled tradesman employed on contract in a national large transport and heavy equipment company. He described how in 2014… *suddenly he and his four co-workers were sent out without the right equipment, without the right ‘ticket’ as you need a special license to be sent out to do the work, then if there was an accident and not having the license …we would be in trouble…there were a lot of safety issues…*[I]* made a number of complaints to the branch manager also responsible for training, about the lack of safety equipment and tools that we needed…they were all aware of the situation…but they all tried to keep quiet and point the finger at those on the bottom of the line,…He had checked a few times about an internal investigation into the matter but had heard nothing back. Previously there had been an accident but according to the whistle-blower, that …*had been swept under the carpet. Then there was also an incident about the safety of the tools handling massive trucks, very risky… a more senior manager wanted me and the other workers to sign a paper to say it was our fault, that we were not competent… The whistle-blower and the others refused to sign, but he added that the other co-workers … *had no choice but to keep their mouths shut…they have children, families…they had to put up with it, if they don’t it makes their lives miserable…with bullying and harassment…was not worth it for them. …The manager walked through the warehouse and started picking on me…to get a rise out of me; he
became verbally aggressive, he chucked a tantrum...swore at me and came up very close to me...[I] said not to speak to him like that... The WB was sacked on the spot with his three co-workers, but the next day, he wrote a grievance statement to tell his side of the story and had it documented as he had five witnesses as to what had happened. He said that ...you can’t do this to people...there is the workplace policy and the handbook. He then called the independent hotline (the company was a client organisation and made the hotline number available to employees). The WB took the case to court for unfair dismissal, and with a lawyer’s help, it was settled out of court by compensation payment...under the circumstances ...it was better than nothing. After that he was unemployed, he was very upset......very stressed...had been unjustly treated...you can’t do this to people...He found out later that others in the company had subsequently resigned...so nothing had changed there. And yes, when asked he would do it again...make the report...I could not live with myself if I didn’t report it...but perhaps it would have been better not to have done so. He believed an improvement to prevent victimisation of WBs would be to conduct an investigation externally and as soon as possible after the incident.

Support line Example (WB28)

The female whistle-blower, aged in her 60s had been working as a nursing educator at a regional university in the early 2000’s. Students were in their final year when the incident of wrongdoing occurred and brought matters to a head. She said it has to be embedded in the wider culture context of the university...

Incident itself involved a large cohort of students; where the issue was whether they should meet the standard. If they don’t then they should fail if they were not up to scratch...most would pass the mastery learning; then there were the assignments involving case studies. The university policy is really about not letting too many students fail. The whistle-blower had set the exam and had external markers for the assignments. She found that around 50 percent were failing. So the whistle-blower went to the Head of School to say failing that proportion was unacceptable.

The whistle-blower noted that students would feel ‘unsafe’ and were not suitable to graduate...they could re-sit the exam for the assignments; she re-marked and pushed some just over the pass mark but many students were still failing...there was a big kerfuffle...Then the assessment committee met...there was not an opportunity to talk...this led to a letter of complaint from the Head of School about the whistle-blower to the Dean, then they took the assignments from students and re-marked them and passed almost all of them...I was dismayed...it was unprofessional...nothing happened after the letter of complaint. Some students contacted the whistle-blower to say they did not want to graduate without having passed the assignments...the students failing were frightened...reflected badly on them...

There was a related issue of performance management; the whistle-blower was not on probation but the letter she received was ambiguous; and for the performance assessment she did not meet the targets...I had been busy responding to all the calls about the course, so little time for research or publications. I went to the union about this; they were very supportive...also went to HR who let me see the file...it clearly said I was not on probation...The Head of school was putting the whistle-blower down, no witnesses...she was a pathological bully...very hard to stop. The whistle-blower had gone to the state’s corruption commission about her concerns; they wrote back and recommended the Ombudsman but she didn’t take it there ...they only take it on if you have a big problem and also to the union, but they didn’t understand the culture...they were unhelpful, they didn’t get it....

The whistle-blower retired in 2008 but stayed on as a casual employee at the university; she was still subject coordinator but she found memories are long. Whistle-blowers, according to the interviewee
...stick their neck out... they try and do the right thing... older staff try and do the right thing... other staff watch but no one will do anything... so whistle-blowers led a rebellion; the whole school got a petition going, taken to the Vice Chancellor and the Head of School... that changed everything... had it said to me 'we know what you did... was a marked woman... but I had done the right thing... there were repercussions from the University; was replaced as course coordinator.

Support line WB example (WB50)

The female whistle-blower in her 50’s had a doctorate in social science; and had been working in the state public sector for 15 years in the bio security sector. At the time she blew the whistle she was working on a program to eradicate the biological threat of fire ants first detected in 2001. The ants were affecting business and were a risk to humans. The Federal government had given funding to deal with the ants; half of the funding came also from the state government. The program consisted of 3 aspects, find the ants, kill them and stop them from spreading and there should have been evidence supporting each of these 3 aspects. She said that they ants were spreading faster than predicted; in travelling loads of soils; baiting them was not working but the program was still continuing. She noted that in the reports to funding agencies important issues were left out about the implementation and effectiveness of the program. The reports according to the whistle-blower were misrepresenting what was happening. The whistle-blower went to the Director General to report her concerns and also to the state’s Misconduct Commission (CMC) and to the Premier. After blowing the whistle, the whistle-blower asked to be moved from the department, because as a whistle-blower she needed to be protected; serious matters about the security, her options were ‘to pull her head in’ or ‘put her head on the block’... she had no axe to grind.... At that time there was no whistle-blower protected disclosure legislation, although there was a public sector Code of Conduct. The disclosure by the whistle-blower was that the program was using the money for job creation by the state government over many years; (she noted advice from US scientists which had given a quick, effective and cheap solution to the problem). Some $400m had been spent so far; ...500 jobs within the state were created, the program was going for 14 years, but she said...it depends on what you want to achieve...getting $$$ for the state from the Federal government or fixing the problem. The whistle-blower went back to the CMC but as the legislation stipulates, the complaint needs to be referred back to the agency ...this is your department’s problem they said. Her boss was misrepresenting to his boss and the DG was on a contract, and ...no way he could stand up to the Minister... So the public interest disclosure was all irrelevant...she left the department in 2005. The reprisals started 2 and half year after the initial complaint; ...there were the standard ways....she was inconvenient to the Department and they had no interest in investigating her complaint. Efforts at mediation did not work, the Premier would not act....I was given little work, others were told not to work with her...‘muddies the water’ they made sure [I] had no job; was not retrenched but [I] ‘jumped before being pushed’... after that [I] obtained a contract with private company. During this time she received no formal support. The union could do very little. She went to the Ombudsman twice in 2007 and again in 2011 but they could not do anything. She had also spoken to Shadow Minister, who asked questions in Parliament but the Minister refused to answer. She noted the ‘sword and the shield’ policy...The whistle-blower can’t be protected; glib policy...so [instead] I went with the action group for whistle-blowers... and also set up a group to advocate for whistle-blowers in her state. She believes it is a politicised system; and the function is to keep whistle-blowers heads down.... But that is dysfunctional. The whistle-blower believed that what happened to her... is a classic case of the Minister ignoring the information; having incompetent management and a culture of covering up...the inevitable consequences are not good for the public interest.

It had been a very stressful time for her; she went to the GP was on sick leave until she left the department. The whistle-blower spoke of the trade-offs you have to make between activism and being obsessed. She believes ‘victimisation’ is not the best word to describe what happens to whistle-blowers; they are not victims; she did not see herself as a victim. And yes the whistle-blower said she would do it again......even though ‘you know you are going to get shot’. She reflected further that whistle-blowers have a bad reputation, so perhaps it is better to keep quiet... keep it private... but whistle-blowers are still standing up. I am a fairly cautious person; and did not realise how bad it could be. Although the media covered aspects of her experiences (The Courier Mail, 27 July 2013), the legislation prevented public sector whistle-blowers from going to the media.
Characteristics of Whistle-blowers

As previously indicated a total of 36 whistle-blowers were interviewed and/or provided written material; 12 from the independent hotline (8 females and 4 males) of whom 6 came from public sector organisations (including an NGO) and 6 from private the sector. The 24 whistle-blowers that came via the WBA (10 females and 14 males) were all employed in public sector organisations, or else were self-employed professionals. For the whistle-blowers from the hotline, their experience was relatively recent, that is, within the last 5-6 years, whereas for the WBA group, many had blown the whistle a long time ago, and meant that the latter group were in the main, older and often retired from the work force.

The types of organisational settings where whistle-blowers had worked in the public sector included state governments, schools, tertiary institutions such as universities, as well as hospitals, health/care services and community welfare services. In respect of the private sector, work places of whistle-blowers included the hospitality industry, mining sites, and transport companies as well in the health/related sector, telecommunications and in sporting areas; many were employed in large national companies. While a number of the whistle-blowers were employed on contract or were employed on casual/interim basis, many others were public servants and more likely had security of tenure. Most of the whistle-blowers had been in their place of work for long periods of time, although others for less than 5 years (and several less than one year). Overall, the general level of education of whistle-blowers was high; most had been tertiary educated and with professional/post graduate qualifications.

Nature of the Misconduct Observed by Whistle-blowers

The misconduct reported by whistle-blowers fell into two broad categories, those relating to fraud, dishonesty and deception types of misconduct, and those which related more to workplace grievances.

For the hotline whistle-blowers there were 4 in the former group and 8 in the latter. The type of fraudulent misconduct included the whistle-blower discovering cheating by a colleague in relation to annual leave entitlement, sick leave and over time...would have involved hundreds of dollars...was not really stealing but was dishonest...the payroll forms were approved by the manager who may have been colluding...something was going on for a long time... (WB12). Other examples of fraud were given in relation to the sporting sector with dishonesty and deception in how sporting events were run. Another example was in relation to the falsification of blood and alcohol testing at a mine site, while in another example; a whistle-blower at a tertiary institution had uncovered access to child pornography on the computer she shared with a colleague.

For the WBA whistle-blowers, there was also a range of dishonesty concerns reported. Misconduct relating to fraud and deception had been uncovered by two whistle-blowers who had been employed by a large private sector telecommunications company, where their role was to assess potential revenue raising proposals for the company’s new products. The whistle-blowers were highly qualified business analysts who alleged that there was deceptive reporting and exaggerating returns on investment, in order to support projects of no or little benefit to the company but which would impact on share values. After reporting their concerns internally to line managers, they were subsequently bullied and harassed. However these whistle-blowers took their employment issue to court and obtained significant compensation from the company.

An academic in a tertiary institution had become a whistle-blower when he had observed misconduct involving using public money for private purposes, while another whistle-blower made a public interest disclosure about maladministration at the hospital where he was employed. Another whistle-

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35 One of whom said that the definition used in the study of whistle-blower was important to him as he did not see himself in that role, rather he saw himself as a person that wanted to right a wrong (WB08).
blower reported about conditions in a health service which was short staffed and where a child almost died. Yet again another whistle-blower raised concerns about poor patient care in an emergency department of a hospital. The mistreatment of elderly residents in nursing homes led one interviewee to become a whistle-blower …I could have turned a blind eye…but would not have been able to sleep at night, so she spoke up; but as this whistle-blower found out the wrongdoer was protected and management turned a blind eye to what she was doing. She further said that other staff who had observed the misconduct…were decent…but they were afraid to speak up, they kept quiet…some staff were cruel and they flourished… (WB41). Another whistle-blower reporting on his ‘battle’ against the use of prepared commercial pet food for cats and dogs which could lead to unnecessary diseases and unwanted effects; he had identified many vested interests in continuing and promoting the use of prepared food in veterinary schools, hence incurring the wrath of his profession (WB32).

One whistle-blower based in a state run school had reported dishonest and deceptive conduct by the Principal involving money. For another whistle-blower, her role at a tertiary institution involved conducting an audit into off shore teaching providers in Asian countries. What she found was dishonest practices that had been going on for a long time….basically a lot of corruption…students could not work with those qualifications…there were loopholes, higher up in the organisation applicants were accepted for admission but often there were no details about their English ability or whether they had passed English tests... (WB13).

In relation to workplace grievances, many whistle-blowers from the hotline reported conduct which was contrary to workplace policies and procedures. One involved unsafe work practices in relation to heavy earth moving equipment. Another whistle-blower complaint related to the inappropriate appointment of a senior clinician in a health service, bypassing standard procedures and demonstrating favouritism without going through due processes.

One example well illustrated the unfolding of events: Unprofessional behaviour by the whistle-blower’s manager in relation to patients in a hospital was reported by a whistle-blower who was nurse manager of a ward. Junior staff came to her complaining about the unprofessional behaviour towards a patient by the senior nurse manager, asking her, the whistle-blower, to do something about it. In this instance, the whistle-blower did not go to the union but wanted it dealt with internally; she went and spoke to the HR manager who said they would handle it. Afterwards the whistle-blower said she was …picked on by the senior nurse…was left out to dry and humiliated…and when she went to complain to the Director of Nursing, there was a backlash against the whistle-blower as the senior nurse had allies in the hospital; which also had a culture rife with bullying, harassment and poor leadership……I could not stay in the job, I was moved sideways ...I loved that job and was working well …but she has since left. It seemed so simple for this whistle-blower…when you see something bad, you go and report it…do something about it... (WB15).

An older whistle-blower since retired complained about poor management practices in a community health setting which had negative impact on both staff and patients/clients, on behalf of co-workers. There were frequent instances of bullying and harassment by the manager and staff did not feel supported in their roles. There was a lack of trust and a focus on staff time sheet and movements, and a general cultivation of fear through the manager’s punitive approach, leading to avoidance of raising matters directly with the manager at team meetings. Again, there was dismay that work place polices regarding bullying/harassment were not being followed in practice. The impact of this was resignations from the unit by staff at a cost to the organisation and a lack of continuity of care and poor outcomes for clients/patients.
While these examples above would not meet the legislative criteria of serious misconduct, they demonstrated well that the organisational culture set by management can provide a context in which more serious misconduct could occur and not be reported. It also creates dissonance between the laudable employment policies in place for organisations and what happens in practice, as other examples (below) illustrate.

Example (WB03) - The female whistle-blower was employed in the private sector and had been working in the mining industry. She worked in the outback as a geologist with about 6 months to go with her contract. The incidents involved bullying and sexual harassment which was widespread in the organisation. She had been part of a team since 2013…some were getting preferential treatment…nothing happened, so with more bullying in January 2014 she went to her direct supervisor, then to the next supervisor, and then in July 2014 she put in an official complaint. She said that….HR was sent to talk to me……but it never happened; then the bully complained about the whistleblower…it was investigated but there was no evidence…HR had been doing the investigation…there were problems in the whole team….., then another complaint but no evidence…then there was a meeting. I was verbally told and given a warning to improve my behaviour. The allegation of bullying again…this went on for 5 weeks…not taking insubordinate behaviour…I was told to shut my mouth. Months later another meeting was organised between the whistleblower and the person…right of reply discussed the allegations…smart arse comments to the supervisor, copying the next manager into emails. The official complaint was on a form…but HR had not investigated the complaint properly, had the dates wrong on the form…I was happy to have management investigate it…but HR was not the right avenue, so asked for the next level…I was not happy to stay.

The new HR manager was caught out…the company had to understand the legal ramification of what they are doing…The whistleblower finally went to lawyers…there had been no records of the meeting;…it took ages - was all done properly but there was no agreement. She went to the industry Fair Work Commission for unfair dismissal and in any event, they were all retrenched in November 2014 and that was the end of the contract.

Example (WB11) - The whistle-blower was female in her 30s and had been tutoring in a large university in the behavioural and social sciences. She contacted the STOP line (her employer was a client organisation and made available the hotline) for advice and to report the incident, which initially involved an administrator who had a very violent altercation with her; there was subsequent abuse and bullying by management against her. She went to the legal officer and also to a counsellor as well as Health and Safety and the pro vice chancellor…they have an obligation to assist. She later mentioned that the person against whom she made the complaint had travelled to Asia and taken photos of children and wondered whether she should have gone to the police; she mentioned that the university needed to limit its exposure to risk. Afterwards her contract was not renewed.

The university has bullying policies but they were not being enforced. For this whistleblower it was not about her work performance but about getting rid of her…it was swept under the mat…. [but] ‘flies in the face of the law’. At the university it was the conduct of the whistleblower that was focussed on…there was a small group of people who were not happy [with her], there was a high level of anxiety…and people lashed out…Her supervisor handled the matter but then there was another incident…..regarding inappropriate child care by another colleague. She formalised her complaint in writing but then the person accused her about misconduct and that the whistleblower had been ‘horrible’ to her. She came back and…the next day there were emails to her supervisor…head of school had invited her to come and discuss her contract…but she had an independent witness….she had been bullied and harassed. The whistleblower wrote back but was
ignored it; there was a focus on her work performance and she was found guilty of misconduct and then dismissed; it was also alleged that she marked people unfairly although there had been no evidence presented...there was no natural justice; no procedural fairness. The independent witness had no complaints but the whistle-blower was 'guilty'...it was dealt with by the HR manager and who conducted the investigation....the whistle-blower then took the head of school to the Fair Work Commission. Although I had no legal advice...there was the code of misconduct. She lodged a complaint for bullying against the head of the faculty. As a result of her experiences, the whistle-blower said she would never work in higher education again

In general it was found that the public sector whistle-blowers interviewed, more frequently raised workplace grievance concerns involving bullying and harassment and which violated policies in place than in the private sector. Inappropriate and ineffectual management was also alleged and which could lead to poor services and even place patients or clients in the health and welfare sectors at risk or students in the educational institutions at a disadvantage because of teaching issues.

**What Reporting Processes did Whistle-blowers Use?**

Whistle-blowers working in organisations that were clients of the independent hotline were able to use the independent hotline, often after informally reporting it internally. Whistle-blowers indicated that often they had deliberated for a long time about what to do...as one said ...I found this such a very hard decision to make...I realised I did not feel safe enough to take this further until shortly before leaving [her place of employment for unrelated reasons] due to a fear of reprisals... (WB14). The decision was not necessarily clear cut; and many whistle-blowers hesitated and tried to consider the implications of what might happen and the extent to which they might be protected before speaking up.

It was noted in many instances that the misconduct observed by the whistle-blowers may have been ongoing for some time, even years before a whistle-blower comes forward and reports it. Sometimes it is only after several incidents or a ‘last straw trigger’ that pushed the whistle-blower to report the matter.

When finally the decision was made to report misconduct. When the whistle-blower then went to discuss what had been perceived as wrongdoing to their immediate manager that in so many instances led to responses which whistle-blowers saw as retaliation.

Hotline whistle-blowers in the private sector said they spoke to colleagues first but they said they did not want to become involved...and reported that they were concerned about repercussions on their families if they did anything. Frequently the co-workers were said to be sympathetic but kept their distance; some had mortgages, families and did not want to risk negative consequences. The question then becomes those whistle-blowers who did speak up, were they less vulnerable, and had less to lose than others who don’t or won’t speak up?

The use of work cover and workers’ compensation was mentioned by a number of whistle-blowers; it seemed that it could be used to overcome untenable work situations and, when whistle-blowers lost their job could lead to unfair dismissal claims.

There were many instances where the whistle-blowers sought advice from the unions as to what to do. However, numerous whistle-blowers said the unions were not helpful, and in some cases were perceived to be in league with management. In one example, a whistle-blower in a clinical service was told by the union...it is usual for staff that raise such an issue to experience attacks on their professional credibility... (DC013).
The role of the police was rarely mentioned. In one case police were criticised for not pursuing the fraud allegations...it was going to cost too much to defend so they dropped the case...before speaking to me even though I had witnesses and evidence to prove...(WB16).

The lack of knowledge and understanding about what the proper processes were for whistle-blowers strongly emerged in some of the narratives, and could lead to a frustrating time wasting ‘merry-go-round’ with repeated referrals to different agencies or bodies. One whistle-blower said she did not know where to go...saw the union delegate...they advised to complain to the HR manager...subsequently an investigation was conducted but that was not independent... (WB12) and the whistle-blower said there were no answers for two years. When asked, the whistle-blower was told the report had been completed but no documents were provided to her; it was also reported that no action had been taken to address the matter.

Many whistle-blowers become frustrated when they receive no answers to their queries ...I am sick and tired of complaining to Ministers and Ombudsman without answers...The option then for some whistle-blowers is to turn to the media.

The genuine belief of whistle-blowers in reporting misconduct was that management sought feedback; yet to their surprise the reality was the opposite. One whistle-blower who had worked in a health service said that the CEO wanted negative feedback, which is like ‘diamonds on the soles of our shoes’, indicating that employee information even if it was negative would be welcomed in the drive to improve performance in the organisation.

While some whistle-blowers wondered about the fairness of the reporting process, as one whistle-blower said...it was difficult to do anything about it...the person was well connected; but it was the right thing to do, to report it (WB55) other whistle-blowers decisively made reports about misconduct, despite the advice of colleagues not to do it......they self-censor themselves and keep their head in the sand.

By reporting the misconduct internally at least initially, whistle-blowers were simply following what the policies said they should do. A majority of whistle-blowers did this within their work organisation, usually to their line manager. However, that approach meant that anonymity was lost and could and did lead to victimisation.

Whistle-blowers from the public sector often mentioned that they had approached MPs, and even Ministers about their complaint after many attempts to have their concerns listened to by other bodies. In many instances they reported that these avenues...were not helpful...were ignored and the offices of local politicians...have all been unhelpful (WB33) and were in a sense, a last resort.

A highly qualified whistle-blower who had been in job for 15 years, reported major discrepancies in the management of a Federally funded program, was told when she went to the corruption body that it should first be dealt with by the Department; but she was not protected, and the integrity body according to her encouraged her to withdraw the allegation. She also said she received no formal support; the union could do very little and she had contacted the Ombudsman’s office but they could not do anything. However, this whistle-blower said that knowledge of the mismanagement went right up to the head of the Department.

A whistle-blower working in a state health sector had reported conduct where children were being placed at risk. He indicated that while he reported it with a witness present to the relevant health authority, it was not taken seriously and there was no response...it is just a joke...they assume you are guilty...they are desperate to find you guilty... (WB45). One whistle-blower teaching in a state school;
saw misconduct involving deception/dishonesty by the principal which he reported to the Education Department…\textit{but they were not helpful, not interested}…\textit{therefore there was pressure on us to drop the complaint}. The whistle-blower said they had taken the principal to court; although \textit{…but [he] lost his job, and free housing}… (WB38). He had wanted to remain anonymous but that was not possible.

When a whistle-blower from a tertiary institution reported about corrupt practices in relation to off-shore service providers and exam regulators not adhering to quality standards to the head of compliance, she was advised to write to the pro-vice chancellor. She was called to a meeting where the head of business said that her report was not accurate. Subsequently, the head of compliance took…\textit{all work off her... ostensibly for health reasons} [she had been diagnosed with a serious illness]. \textit{[I] was put off line and that continued for 4 months}… (WB46). The whistle-blower was aware of the protected disclosure legislation and had also approached the Ombudsman, the Department of Education and the Minister. When she spoke to her manager about the public interest disclosure she was told: don’t do it. After that she believed she could no longer do her job; the bullying had started (about which she had made a formal complaint to the corruption commission) and, after a period of sick leave, had decided to leave.

As part of the reporting and handling process of whistle-blowers complaints, internal channels were often persisted with for some time. In one instance, where the whistle-blower had observed the appointment of a senior male clinician in the health sector to a very senior position without the post being open for internal or external competitive recruitment in her area, she believed it was best to raise her concerns in an open manner. She noted that the appointment was in breach of formal recruitment policies of the organisation, in particular equal opportunity policies, there to avoid nepotism and discrimination and to ensure the best candidates are recruited in the interest of patient care and clinical governance. In response, the senior manager advised her that it was important for him/the organisation to have the flexibility to be able to appoint the right people to senior appointments and that it was common practice in big companies.

The whistle-blower was \textit{flabbergasted that the senior manager defended the process in spite of the lack of compliance with approved employment policies and practices}. The whistle-blower immediately documented the conversation to keep a record and raised it with union representative and with other staff – some of whom shared her concerns but others responded with \textit{… resigned acceptance... with an air of ‘that’s just the way things are done around here’}. Not one of her colleagues however was prepared to raise their concerns because…\textit{they had no future plans to leave} (the whistle-blower was leaving for family reasons to another location) \textit{and feared the consequences for their future at work}…Shortly before she left, she emailed a detailed letter of her concerns to the CEO from her new location in another country as she felt uncomfortable about this potential misconduct and the negative consequences for her profession. She believed it made a mockery of the formal recruitment processes and equal opportunity policies, and encouraged appointment by patronage and favouritism, perpetuating a lack of change and diversity within the profession and was disadvantageous to service users. This example illustrates how the process of reporting can be countered and not lead to any changes in the organisation. It also illustrates how the whistle-blower may have avoided negative treatment by speaking out at the moment when she was leaving the organisation any way.

Often the process between reporting the misconduct and obtaining an outcome was long and protracted. At times it took lengthy periods and multiple attempts to obtain relevant files or FOI requests and required patience and persistence. The blockages that whistle-blowers experienced to have their complaints treated seriously was a frequent occurrence. As one registered nurse said, \textit{…if only someone along the way had said, yes...there are problems, and you have been treated...}
unfairly…let’s try and sort it out (WB56); instead she received a 65 page copy of a report against her WorkCover claim and she wondered …whether management wanted me to be shut up (WB56).

Whistle-blowers according to the interviewees tried to go through the right channels…but from that moment …there are great lengths taken to shut them up…those in higher position don’t want to know…so the only thing to do is to go public (WB41).

So many whistle-blowers reported that they had tried numerous avenues to have attention paid to their concerns and to have them dealt with – these included Ministers and MPs, various regulatory and watchdog bodies set up to oversight particular sectors, ombudsman offices and corruption/integrity commissions, only to be ‘fobbed off’ as one said (many examples of letters were provided to demonstrate) or not even to receive a response. Often it was the media that was approached as a last resort to have the misconduct exposed so that something would be done about the misconduct.

**Consequences for Whistle-blowers after Reporting Misconduct – Retaliation and Reprisals**

There was a general pervading sense across all whistle-blowers narratives that there was ineffectual protection when they wanted to report wrongdoing, although this appeared to be less for those whistle-blowers using the independent hotline. In spite of this and the convoluted nature of the reporting mechanisms and the victimisation they were subjected to, an estimated half of all whistle-blowers interviewed said they would report again, although some wanted more support in doing so.

Frequently identified in the narratives of the whistle-blowers was that in reporting misconduct, they in turn were accused and retaliated against. Some self-employed whistle-blowers reported being questioned about their professional role and ostracised by their professional colleagues, who were perceived to be protective of each other and defensive against any threat to their professional standing and their incomes. As one whistle-blower said of his profession, they are ‘mercenaries’, and the regulatory boards according to the whistle-blowers from the health. Allied health professions lacked impartiality and a capacity to independently investigate concerns.

In a complex case of reported misconduct involving accessing child pornographic material, the whistle-blower had reported it to the Pro Vice-Chancellor, who was able to confirm that the wrongdoer has access to this material. While her anonymity was protected to a degree and the staff member alleged of the wrongdoing had left the university, she was not given any support and other issues emerged. One of these was discovering inadvertently when accessing a lawyer’s computer that millions of dollars had been moved off shore to avoid paying tax in Australia. She reported this to the Federal Police who protected her identity and enabled one of the wrongdoers who still lived in Australia to negotiate settlement to be made after being ordered to pay a substantial sum for tax avoidance. However, the lawyer took the whistle-blower to court and issued an intervention order against the whistle-blower, who defended the matter at considerable cost. The outcome was that the matter would be dropped if the whistle-blower left the state.

Experiencing bullying was very frequently mentioned by many whistle-blowers which they perceived was as a direct result of reporting misconduct. Associated with the bullying was criticism of work practices and performance. An example came from whistle-blowers in the private sector, who had disclosed concerns about potential fraud in the company. The whistle-blowers’ concerns were not believed; then they were abused and shouted at…the manager was not happy about the report [the whistle-blowers had done] and the matter escalated. Several meetings were held where the whistle-blowers said they were being set up; and with a new manager, were being bullied. A formal grievance complaint process was started but the whistle-blowers bullying complaint was transformed into issues
about the whistle-blowers’ work performance…the whole process was very slow, supposed to be 3 weeks process but turned out to be 8 months…was delayed, dragged out and almost made it worse. (WB34/bis). While the bullying investigation was not substantiated, the whistle-blowers with the help of a lawyer were able to take it to court and received compensation.

A frequent theme emerging from whistle-blowers accounts is that they were not wanted in the work place after having reported wrongdoing. Thus a whistle-blower from the hotline reported that …they wanted to get rid of me…made an issue over performance measures…said they were poor, but I asked, why now…I liked my job…devoted my life to the work, all done for them and had been recognised as a good competent employee before…but it seemed as if I was being punished…This whistle-blower felt it was unfair…the union delegate and the HR manager were on the same side…Her job was terminated in 2014 and at the time of the interview was unemployed, applying for jobs at a lower level. She said, all she wanted to do was reveal the truth…I did nothing wrong…I would do it again if she had time over… (WB12).

Often whistle-blowers report that they were overlooked for promotion, pushed down and ‘gagged’. When a whistle-blower from the hotline tried to report concerns about misconduct in relation to particular sporting events, involving nepotism and falsifying documents, and queried the legality of the governing body’s actions, he was then treated in a vindictive manner and humiliated; and there was bullying and harassment. The whistle-blower himself was further charged with misconduct, fined by the regulators who were supposed to be independent and was disqualified from the sport for 6 months (WB11).

Similarly for other whistle-blowers it was having the tables turned on them; the misconduct reported against wrongdoers could then lead to disciplinary actions or complaints about the whistle-blowers themselves, and in some instances, efforts were made to ensure their dismissal.

Being treated unfairly or terminated in the job for some whistle-blowers could then lead to another option – dealing with lawyers, courts and tribunals. Some whistle-blowers, who did that, sometimes had successful outcomes in the sense that they received compensation. But the involvement of lawyers in taking on whistle-blower complaints to the Fair Work commission or to the courts could be fraught with complications, starting with the considerable cost involved. An example was given where a whistle-blower attended an unfair conciliation meeting but which… got nowhere, the lawyer was hopeless at negotiating a settlement and theirs [the wrongdoing manager/organisation] was being run by their uncompromising insurer…which then meant a public hearing. The whistle-blower was given a ‘reality’ check by his lawyer who said…employers always have a strong case…breaches of policy in disciplinary and investigative processes don’t matter much , and he advised not to push the whistle-blower complaint because an unfair dismissal is the only thing that will really influence [the courts]. Due to the large volume of reading matter, preparing witness statements…the cost of the hearing would be about $15,000…and further if we are to win at the hearing or be made a better offer…the amount that [the whistle-blower is] awarded may not cover costs…(WB19).

Whistle-blowers at times fight back and do win in the courts. In an example, the whistle-blower said that while the whistle-blower protection legislation has no teeth…even though the Education department was responsible; they can’t see the wrong if everybody is doing …it is not an excuse but a really good defence…and that was how he obtained compensation through the courts (WB38).

**Impact of the Whistle-blower Experience**

There were many impacts on whistle-blowers and they varied over time after the report of misconduct was made.
Stress and ill health was frequently associated with whistle blowing experience. The sense of frustration and mounting despair of a number of whistle-blowers was strongly expressed in some of the written material provided by whistle-blowers. What was remarkable was that whistle-blowers, who had reported wrongdoing more than 10 years ago, could recall much detail about what had happened to them. There was bitterness and a sense of injustice for a number of whistle-blowers and which lingered over many years.

However, the ability to let go was evident in some of the narratives of whistle-blowers. Thus one nurse from the public sector (WB20) said …she had moved on…and now works in the private sector…[she] has got on with her life…[but] she could have sued them…taken them to the Supreme Court to clear her reputation…but she did not do that and …she has settled down emotionally now…(WB15). She did find out later that the person victimising her was accused by another of stalking, which was investigated and was later dismissed.

One whistle-blower said that with his …‘dogged determination’…he kept going [but] it has cost him a lot of money and has had an impact on his health but it was his raison d’être. The financial impacts were identified by a number of whistle-blowers, in particular when they used lawyers and taken their organisation to court. As one said, if she had lost the case (she won it) she would have lost her house. Others have said that the cost of legal proceedings was significant. The economic impacts were also considerable when whistle-blowers lost their jobs or their business; their contracts were not renewed or they became unemployed. In terms of their career, some mentioned that they were also not promoted, or that they received poor performance assessments.

Other impacts reported included those on whistle-blowers health and wellbeing, with significant emotional and psychological effects. Being under enormous pressure, not being able to sleep was often reported by whistle-blowers. One said the advice of her psychologist was that the whistle-blower needed to find a way to ‘put it all in a box’ and put it away so that they can move on (WB56). Another reported that it was like a post-traumatic stress syndrome. Many whistle-blowers reported suffering from depression, anxiety, and had sought psychiatric help. Numerous whistle-blowers visited GPs and went frequently on sick leave, sometimes for months at a time. A number reported that they had had mental breakdowns, requiring them to take leave and see specialists; many whistle-blowers reported that they had been on medication and were receiving counselling.

**The Aftermath – Changed Lives**

Being a whistle-blower had long term consequences for many of those spoken to and involved complex issues. As one said... *you need to retain a balance and to have that, it helps to have a supportive person. In the meantime they have to take the consequences, lose friends and connections, people don’t want to be seen with the whistle-blower, but it is the right thing to do, and as many whistle-blowers said empathically, yes, they would do it again…* (WB55). Many whistle-blowers reported that the experience has significantly affected their lives. Across all the whistle-blowers none had remained in their original job, they had lost their contracts and employment was not renewed. One whistle-blower involved in the teaching profession said now she is no longer teaching; she misses it but is now doing volunteer work in pathology clinics.

The impact on one whistle-blower who had not been employed since she cut short her contract after reporting misconduct and then was victimised said…. *I trust no one…I have a psychologist who helps me cope…am now a totally different person from before…it has affected me psychologically* (WB46)

A surprising number of whistle-blowers had written or were writing books about their experiences (and were made available to this study). As one whistle-blower said that even *…when he has been*
feeling down, he has started writing about it...and can laugh about it... (WB40). Other whistle-blowers have set up their own whistle-blower support groups.

Another, who was suing a government department in respect of allegations made against him, said that being a whistle-blower...it just destroys you...horrible people lie about you...get their cronies to write about you...don’t do it...the worst thing I ever did...best is just to leave, resign ...it changes your personality...(WB45).

Whistle-blowers frequently said that it would be hard for them to obtain another job...often they were in their 50s and 60s. As one said... I had all my confidence knocked out of me...suffered badly...was very damaged...my wellbeing was affected...exhausted by the whole process (WB34/bis)

One male teacher said that he had...learnt so much from having been involved in the court case, he is studying law; especially employment law end in sight he has to pay for it... But could have the knowledge.....he said he would come back and come to get the guys; he would get his revenge in a fair fight.....it makes him angrier and more determined. I feel I have no choice; I have seen and heard ... lost his teachers’ registration...I can’t look the other way...it makes me worse than the people doing the misconduct; it is just innate... (WB38).

A different reaction from one whistle-blower was that the experience had made him fearless and he said now...would put his name to everything... (WB06).

One interviewee who blew the whistle many years ago said that...to survive the whistle-blower process, to survive the pain and suffering...you need humour, spirituality and support and find solace in writing, and added that being a whistle-blower has been very good for me...it has turned me into a totally different person... (WB55).

Finally accepting the practical advice given to whistle-blowers, when they reported misconduct to an Ombudsman’s office and where there was nothing more that could be achieved; they were told to have to look to the future, not the past. Accepting that for many whistle-blowers was not easy.
Discussion and Concluding Remarks

Victimisation and Impact of Whistle-blowing

This study into the experiences of whistle-blowers aimed at understanding what happened after they reported misconduct and to fill gaps in the knowledge of what had become of the whistle-blowers, by both interviewing the whistle-blowers themselves, and those who dealt with them in various professional capacities.

The study found that all whistle-blowers from the public and private sectors interviewed said that they had been poorly treated and in a variety of ways, after they had observed and reported the wrongdoing. Given the self-selected nature of the whistle-blowers participating in the study and the bias towards those who believed that they had been subject to victimisation, this was to be expected.

It also meant that the extent of victimisation of whistle-blowers was not able to be assessed; all those participating perceived that they had been subject to some form of victimisation – retaliation, reprisals, detrimental action or various forms of negative treatment. However, of particular interest was the finding that many persons who dealt with whistle-blowers professionally, said they had little or no knowledge of the negative treatment WBs had been subjected to, with the exception of some of the investigators interviewed or hotline operators.

Generally, the findings showed that the victimisation could continue over time and could escalate, depending on what action the whistle-blowers took in response; especially for those who were able to take matters to court, retaliatory actions could continue for some time. Often in the unfolding narrative of what happened to the whistle-blower, there were persistent attempts by the whistle-blowers to have their concerns addressed; repeating their allegations over and over again, and, if there was no initial satisfactory response, to various other avenues. The nature of the response when whistle-blowers reported misconduct was often perceived to be part of the negative treatment of the whistle-blower.

The nature of the victimisation was most often described under the broad terms of bullying and harassment; being badly treated in the workplace, ostracised and isolated; poorly assessed in terms of performance, and which could lead to being transferred, dismissed or not having contracts renewed. There were examples where whistle-blowers themselves were charged or disciplined. In the majority of cases, it was reported that retaliation was by management rather than colleagues, who in many cases watched as silent by-standers36; too fearful, according to the whistle-blowers, to report the misconduct themselves.

The impact on the whistle-blowers after reporting misconduct was profound. In their narratives, it was found that they had experienced significant emotional and physical impacts as well as financial consequences (especially when it involved loss of employment or legal expenses). Many had suffered from stress related conditions, anxiety and depression and had sought treatment from medical/mental health professionals; others had been on sick leave, sometimes for long periods. However, once they left their place of employment (forced to resign or dismissed), it was for many the end of the negative treatment and there was a degree of closure. As some said they had….moved on…were looking to the future not the past…. Yet for others the impact of the experience remained, they did not let go and the hurt they had suffered was not forgotten and could continue to fester. Especially for those who were able to take matters to court, retaliatory actions could continue for some time.

36 Reference was made by some whistle-blowers to the research by Zimbardo and others such as Milgrom, showing factors influencing bystanders’ responses when they observed negative experiences.
For many whistle-blowers, even years after the whistleblowing event, there was a lingering sense of distress and feelings of frustration and injustice at the way they had been treated. Some continued to fight to have their allegations of wrongdoing properly addressed and would not let go; and did so over many years. One person (WB26) had responded to the invitation to participate in the study by emailing details of his case against a government department which had charged him with a number of wildlife offences in 2006 and when after many years he had won the case, having taken it the Court of Appeal, he was cleared of the alleged offences in 2015, and demonstrated in his view the attacks that whistle-blowers could be subjected to. In this case the whistle-blower was vindicated.

Whistle-blowers in their majority believed, some strongly so, that they were right to have reported the misconduct even after having been victimised. Although a few expressed ambivalence and indicated doubts about their decision in hindsight after the mistreatment they had been subjected to. As one said…so it’s better to keep quiet, keep it private… [Although] whistle-blowers are still standing up… (WB50). In contrast another whistle-blower said…it destroys you… [But added fatalistically]… so be it….. Most whistle-blowers said emphatically that they would do it again if they were confronted with the situation of misconduct.

There was a strong sense among whistle-blowers of being morally justified in their actions and genuine in their belief that they were right to report, in spite of the consequences. At times however, there were suggestions in interviews with the persons who dealt with whistle-blowers, that they might be considered perhaps ‘naive’, too trusting, just ‘difficult’ to deal with or seen as ‘trouble’, and that by implication the whistle-blowers should not have been surprised by the reactions they provoked; or even that they might have been to blame for what had occurred. Whistle-blowers, it was admitted by a number of interviewees did not necessarily have a good reputation, and that reputation emerged during the interviews with some of the persons who dealt with whistle-blowers. Whistle-blowers were often passionate about reporting the wrongdoing, but then if nothing happened, they were not taken seriously or were not satisfied with the outcome, as one investigator said: ‘that could be a tricky space’.

Overall there was little identification with the term ‘victim’ or indeed ‘victimisation’, even though all whistle-blowers had been poorly treated after speaking out. Indeed one whistle-blower firmly believed that…’Victimisation is not the best word to describe what happens to whistle-blowers …they are not victims… [I] am not a victim… (WB50).

**Whistle-blowing Reporting Processes**

It was recognised across the interviews how difficult it could be for whistle-blowers to raise concerns, because, inextricably such reporting was linked to whether their identity could remain anonymous or not and to subsequent retaliation experiences. Although not often mentioned by whistle-blowers, the connection between remaining anonymous and retaliation and reprisals or simply receiving unwanted attention, was well understood by several whistle-blowers and certainly by person who dealt with whistle-blowers.

When whistle-blowers had observed the wrongdoing and had decided to report it because they wanted something done about it; they expected action, and an investigation. Thus on the face of it, it appeared to be relatively simple – they would usually report it informally to the manager or supervisor in the organisation (this was often the case in public sector organisations), or, in the case of self-employed professionals to their professional/regulatory boards.

However, doing the reporting internally this way for the whistle-blower it would usually mean that their identity became known and thus potentially becoming a target for victimisation. In public sector organisations, it is a requirement that whistle-blowers first report their concerns internally, only after
which oversight/integrity bodies with powers to initiate an investigation would consider taking the matter further if the formal criteria for the nature of the misconduct were met.

When the internal reporting process became formalised it was fraught with complications. In many instances it involved Human Resources, whose role was not perceived to be independent from management. Persons who dealt with whistle-blowers also identified the problematic nature of having whistle-blowers report their concerns through Human Resources; they were not trusted; their perceived lack of impartiality in the advice they offered, was often associated with the whistle-blowers being subject to bullying and harassment after having reported misconduct.

Generally, it appeared that the independent hotlines were perceived as a more useful channel for reporting the misconduct, particularly for those employed in the private sector organisations (clients of the hotline service), because of their ability to keep the identity of the whistle-blowers confidential although their inability to investigate was criticised. Anonymity was also strictly maintained when Ombudsman investigations were undertaken into whistle-blowers’ allegations of misconduct and hence was perceived as minimising retaliation. Nevertheless, as expressed by some private sector interviewees, in order to check out and investigate what the whistle-blower had alleged, it was often necessary to ask for more information, which could then reveal the identity of the whistle-blowers. It presented a ‘catch 22’ situation: keeping the identity anonymous might prevent retaliation but without further information from the whistle-blower would restrict or prevent action on the allegations.

The process for reporting misconduct was for many whistle-blowers problematic. They often were unsure or did not know which reporting mechanism or channel was appropriate to use. In approaching one avenue, there could be referrals to others; and again more re-referrals. Depending on the misconduct allegations (either because of their nature or level of seriousness), they might not fit the various criteria used by agencies. Much time and effort was expended by whistle-blowers in finding the ‘right’ avenue. They were in the main critical of the way they had been treated when they reported misconduct; either because they could not be assisted, or not have the matter handled in the way that would satisfy the whistle-blower.

Misconceptions and lack of understanding were also common among whistle-blowers about the role, scope and powers of the agency, and hence what they could do about the allegations about wrongdoing. For example, when whistle-blowers approached various state corruption commissions, or ombudsman bodies, they were often met with unresponsiveness and a lack of interest in what misconduct the whistle-blowers wanted to reveal. This suggests that these bodies may need to clarify better and do so publicly, what their role and scope are for dealing with reports of misconduct and communicate that widely to improve understanding of their role; this would avoid misunderstanding and prevent waste of time and resources.

There were a number of examples where the regulation of a profession or sector, through professional boards or authorities, was critically perceived by whistle-blowers. One found a regulatory body to be ‘…corrupt, incompetent’ while others believed them to be self-serving and protective of the profession, not objective and biased against the whistle-blowers

Indeed the reporting process for the whistle-blowers was described as being as traumatising as the retaliation experiences. Many whistle-blowers found the reporting processes challenging and highly frustrating; official letters rejecting their concerns, refusing to investigate or lack of action or no response to the WBs who had reported their allegations in good faith. The sense of powerlessness against bureaucratic obfuscation, like ‘insoluble mazes’, was expressed by some whistle-blowers who felt intensely their lack of power …the whistle-blower has nothing…defenceless.
Whistle-blowers’ perceptions of the responsiveness and effectiveness of the reporting mechanism were thus generally negative. The disappointment and frustration expressed by whistle-blowers when the matters they had raised were met by the lack of action or interest by external bodies would impel many to approach other avenues, such as unions, lawyers, and the media.

The role of unions was frequently mentioned by whistle-blowers from both the public and private sectors, and many had gone to seek their advice and support. Some said that unions were not really interested in whistle-blower matters, although the unions sometimes helped to refer the whistle-blower to lawyers in court cases involving defamation and unfair dismissal proceedings (often mentioned were two law firms well-known in relation to employment/labour law). More often than not, the unions were not much help in advising the whistle-blowers; and were seen as generally ineffectual and with no authority to assist them. One whistle-blower asserted that the union had high up links within management; possibly colluding against the whistle-blowers … they were against us… were not safe… they played tricks and had done a deal with management and had lied to the whistle-blowers …(WB34/bis); others found that they were not independent from management.

Many whistle-blowers interviewed had contacted lawyers in particular in relation to their employment conditions. A number had been to court or tribunals regarding the unfair dismissal as retaliatory outcomes of having blown the whistle. As one said the value of a court win is… that it is all out in the open; needs to be shared…and that feels good… he was not doing it for personal reasons but the misconduct had to be stopped… (WB38). Fighting matters in the courts as a number of whistle-blowers had done however, was often time consuming. Although lawyers were not always on the side of the whistle-blowers, as one whistle-blowers reported… lawyers for the government are there to minimise the damage and protect the department… (WB38). Whistle-blowers at times seek the services of lawyers, especially those experienced in employment law. As one whistle-blower reported…it took two years… it was settled out of court… (WB41) and she was awarded compensation. The financial cost of using lawyers was a significant impact on whistle-blowers.

Whistle-blowers frequently commented on the role of the media – both in terms of the contact they had made with them and also in the role they can play in respect of revealing misconduct through whistleblowing. One said that the media can… help to publish stories… helps with empowerment of the whistle-blower, but in the state where he lived, the media is notorious about fish and chips, crocodiles and the hall of fame… (WB38). Some expressed frustration when after initial contact; nothing came of it, while others said the media was not interested in printing the story. It was acknowledged that the legislation prevents whistle-blowers from going to the media, although many still do. The media was often identified as a last resort, when whistle-blowers failed in their efforts to have their concerns heard through official channels. When little or no response was forthcoming from formal complaint bodies, then as one whistle-blower said… I decided to go to the media… was sick of the delays and incompetence of the investigators… (WB41) and several whistle-blowers had spoken on investigative programs on television (for example, on the Science program, Australian Story on ABC and 60 Minutes on Channel 7).

**Depends on What the Misconduct is – Criminal Conduct or Work Place Grievances.**

Throughout the narratives of the whistle-blowers and also in the interviews with persons who dealt with whistle-blowers, it became apparent that there was a mixing up of categories of wrongdoing – workplace grievances, such as bullying and harassment, involving individual conduct which was wrong and/or contrary/non-compliant to the employment policies of the organisation, and dishonest conduct involving deception and fraudulent practices and where there was a ‘public interest’. There are boundary issues between these broad categories of misconduct which make the whistle-blower
landscape, according to Martin (2015)\(^{37}\), more confusing and less clear cut. He noted that there are people who have been bullied, people who are in dispute with others, and other workplace grievances which do not fit the 'conventional definitions' or legalistic definition of whistle-blower, although there can be commonalities.

The term ‘whistle-blower’ has increased its usage and in the public awareness, its meaning has expanded in what it cover in terms of what the whistle is blown about, so that its use appears more as a catch-all to cover a wide range of categories of wrongdoing, much wider than the narrow definition contained in the legislation. There was also perceived to be some kudos to be labelled a whistle-blower and some of those interviewed appeared to hold onto the label of whistle-blower; as it conferred status, public recognition and in some cases notoriety. The legalistic narrow definition of whistle-blower, as in the sense of public interest disclosure (PID), requires a set of strict criteria to be met regarding the seriousness of the misconduct\(^ {38}\) and for which there is legislative protection. However, that would exclude most of the instances of misconduct reported by whistle-blowers in this study.

As a number of the persons who dealt with whistle-blowers, in particular from the public sector indicated that most of the whistle-blower complaints and allegations they had received would not meet the legal criteria. They were below the legal threshold for being considered after having been assessed. In addition, when there was retaliation against the whistle-blower for raising misconduct, this can often take the form of bullying and harassment representing grievances; which were often hard to prove and investigating them was often not clear cut but more of a grey area according to several interviewees.

It has been said that this ‘entanglement between grievance and whistleblowing is unavoidable’\(^ {39}\). Regardless of whether this is a misuse of the whistle-blower legislation is irrelevant; as what matters is that the legislative protection for whistle-blowers is highly restricted, and according to many of those interviewed, would not be applicable to the whistle-blowers participating in this study.

The question then becomes if the whistle-blower protection legislation does not cover what whistle-blowers in this study have revealed, how can they be protected from retaliation and other negative treatment? The answer is they are not protected through this avenue; rather, as whistle-blowers in this study have reported, they have to seek redress through other channels – often through the courts but which is not under the whistleblowing process.

### Legislation for Protecting the Whistle-blowers

There was little said by the whistle-blowers interviewed, about legislative provision for their protection from retaliation but more by those who dealt with whistle-blowers.

Previously in Victoria the Whistle-blower Protection Act 2001 (Vic)\(^ {40}\) provided for the reporting of disclosures about improper conduct in the Victorian public sector and also provided protection to persons making disclosures. These disclosures were principally handled by the Victorian Ombudsman. In February 2013 that Act was replaced by the Protected Disclosure Act 2012 (Vic)\(^ {41}\) which significantly changed the process for how protected discloses were received, assessed and investigated. Importantly in the new Act public bodies can be vicariously held liable for detrimental

\(^{37}\) Martin, Personal Communication; ibid., p. 20


\(^{40}\) Victorian Government Whistleblower Protection Act 2001

\(^{41}\) Victorian Government Protected Disclosure Act 2012 (Vic)
action by a person during their employment, in reprisal for making a protected disclosure and includes causing injury, disadvantage or adverse treatment, in relation to the discloser’s employment, career, trade or business and includes taking disciplinary action.

The changed legislation in respect of whistle-blower moved the onus for handling whistle-blowers away from the Victorian Ombudsman’s office to IBAC. As one person interviewed noted …there were problems with the old legislation…then the Ombudsman’s Office had no power to take legal action; it could only make recommendations or refer matters to the police. Now IBAC has those powers and can take matters to court…that is a good thing; there are now stronger powers and the investigation by IBAC is independent of departments. It was worse before because it was dependent on departments taking charge of the processes… (WB034).

In practical terms however, the new legislation has the same threshold for accepting whistle-blowers’ allegations about misconduct; it has to be about serious corrupt misconduct as defined by the legislation. So if the complaint is about bullying, the question is: is it a matter for the whistle-blower legislation? An experienced investigator interviewed believed not, but that it is a matter of judgement, and there can be a difference as to how the matter is judged, depending on who makes it, the whistle-blower or the investigator... (WB034).

In terms of the new legislation, in Victoria at least, there is protection for the whistle-blower but their disclosure has to be formally classified as a ‘protected disclosure’ and this is where the crux of the problem lies. While that protection is there in the legislation, the barriers to having a report of misconduct accepted as a protected disclosure are considerable. As found in this study, much of what are called whistle-blowers reports do not meet the criteria as defined by the legislation and hence persons making such reports are not able to avail themselves to that formal protection.

Persons interviewed who deal with whistle-blowers in this study had a range of comments about the new whistle-blowers legislation which only applies to the public sector. Thus it was stated by an interviewee that, you can’t make people believe that the protection of whistle-blowers will happen; the legislation has a degree of unnecessary complexity. IBAC and the Ombudsman have set the boundaries very high; for minor complaints it is below the threshold as not it is not really corruption or serious misconduct… (DC011).

More strongly expressed was the view of a disclosure coordinator…the PIDs [public interest disclosures] are a complete joke, useless… said one whistle-blower who had found out about the process…it is too long, too involved and complex…(WB46), and because she came under Commonwealth legislation, even though she lived in NSW it meant that there were interjurisdictional complexities.

It was noted significantly by one interviewee, that in principle the Act is there to protect the whistle-blower but in practice he knew of no cases where it had been used, although it is a criminal offence to conduct detrimental action. Another disclosure coordinator said …the reality is that the remedies are only operative when something happens. So there is protection but not in the way that people expect. The current Act has the final say…..can still take the matter to court for detrimental action but that has never happened in her experience.

When asked about whistle-blower protection, another person said that..., the legislation does not really protect anybody but what it is does is provide a remedy after something has happened...so it serves as a deterrent. Disclosure coordinators who receive the complaints come into action and try and do something to protect the whistle-blower; what many do in the first instance is shift the whistle-
blower, so that they can’t be identified as the source of the whistle-blower report, but in doing so whistle-blower can see that move as being punished. (DC019).

In Victoria the aim of the new act …does not make it easy; very complicated processes are involved…if the whistle-blower is ex-agency there is no ability to fix the matter... (DC014). While IBAC was specifically set up to include the whistle-blower regime and to ensure that all organisations understand and followed the processes; IBAC has a very narrow definition of whistleblowing …that leads to many practical issues… (WB011). As one disclosure coordinator with a council said…the legislation is now very confusing…you need to assess the complaint to see if it is a protected disclosure... (WB012). A number of disclosure coordinators from local government noted that many of the whistle-blowers complaints do not go onto IBAC as there is a checklist to determine if they meet the criteria, and the complaints he had had …don’t even come close… (WB036). Another public sector interviewee said …the new legislation makes it more difficult…the criteria [for protected disclosure] are now much higher and harder to meet…it is very confusing. Some interviewees also referred to the ‘merry go round’ where whistle-blower complaints are referred to IBAC then to the Ombudsman and back again, or vice versa…The new Disclosure Act needs to be improved according to another person interviewed…the disclosure coordinator needs to be higher in the organisation; needs to have the ear of the CEO, get into their confidence……. She noted that not all disclosure coordinators can be lumped together….often they have varying roles and at different levels in the organisation… (DC030). In her view whistle-blowers …need a dedicated person to whom whistle-blowers can go to….and they need to be kept in the loop about what is done to look into the allegations……Most of the matters she deals with are below the threshold of the IBAC criteria….in that case, it is then treated as a complaint…it may then fall into the HR area; it may also be appropriate for the Victorian Ombudsman to handle… (DC030).

The role of policies and procedures in respect of whistleblowing was an important issue for many whistle-blowers interviewed. A frequent point made was, why have these policies if they are not followed? Codes of professional and ethical conducts are important but should be implemented and monitored for compliance. The poor implementation of whistleblowing polices was identified by many of those interviewed – the lack of response or inadequate action, the failure to act on their own polices, lack of independence, transparency and openness in the handling of whistle-blower reports was also identified, often in breach policies of the organisation. In one example cited by a whistle-blower, the British Psychological Society, a professional body, has a policy that the professional …must consider bringing allegations of misconduct to the attention of those charged with the responsibility to investigate them… (WB14) yet her experience showed that by doing some it would attract retaliation responses from management.

One of the difficulties is that organisations in the public sector and many in the private sector do have policies in respect of whistle-blowers (often as part of a larger array of policies dealing with proper conduct in the organisation and setting the norm to guide conduct); but in practice they were not being followed or adhered to. Some of those interviewed said that there was often a lack of understanding and knowledge about the policies, or they were simply ignored. Also information available on the website about the policies was not updated. Another difficulty identified was that in the public sector many organisations, such as universities have branches in different states, so that there is no consistency in the whistleblowing legislation, policies and processes across the country which can be problematic. Above all there was a perception among whistle-blowers that policies and procedures were ignored and non-compliance was common.
Organisational Approaches
The term ‘toxic’ workplaces was mentioned by a number of whistle-blowers interviewed; and it is the culture and the values that permeate the organisation that will impact on the way whistle-blowers are perceived and treated, and whether in the first place whistle-blowers are prepared to come forward and report their concerns. In Australia workplace health and safety legislation effectively hold employers responsible for ensuring the emotional, psychological and physical wellbeing of employees. It has been reported that mental stress claims have increased by 25 per cent from 2001 to 2011 (Safe Work Australia 2013)\(^{42}\), often associated with absenteeism and sick leave, imposes a direct and significant cost on organisations. A recent study cited by Webster and Brough (2015)\(^{43}\) found the impact of ‘toxic’ leadership to have a significant impact on the wellbeing of employees; coping strategies were also identified as being considered helpful or unhelpful for employees.

It has been argued that …\textit{reported failures in organisations due to cover ups, employee silence and unquestioning group compliance}… Wilde (2014)\(^{44}\) showed the need for greater openness and transparency in organisations; psychological research strongly indicates that the degree of openness in an organisation that can be built and sustained is directly linked to the degree of psychological safety; low predictors of psychological safety are deficiencies in work design, role ambiguity, compromised sense of social identity, high demands, deficiencies in leadership behaviour and tolerance for bullying. The research on psychological safety at work indicates a direction for the prevention of retaliation against whistle-blowers that has been demonstrated in this study. The narratives of the whistle-blowers in reviewed in this study touched on the nature of the workplace organisation, and in particular, the intolerance of any questioning because the workplace setting was not psychologically safe to do so. The notion of psychological safety in the workplace is about safeguarding the psychological health of employees; ensuring they feel respected and accepted and is reported to enable organisations to ensure innovation processes to be successful, enhances learning from mistakes and in terms of leadership promotes participatory and inclusive management.

Public/Private Sector – Was there a Difference in the Way Whistle-Blowers were Treated?
In general, the whistle-blowers from the private sector also reported being victimised, bullied and harassed after reporting misconduct; there too were reports of some avenues that whistle-blowers would turn to, such as unions and Human Resources, as being seen as not independent. There were also the significant impacts of the experience — often harrowing, exhausting and having effects on emotional and psychological wellbeing. However, what stood out was the ability in the private sector organisations to report misconduct through the independent hotline which acted as a go between and which was able to provide information in both directions, and to do so without necessarily revealing the identity of the whistle-blower.

The private sector in the examples described above was also concerned about the bottom line and whether the reports from whistle-blowers could reveal problems within the organisation and which had to be resolved; ensuring concerns reported by whistle-blowers were fixed and that improvements were implemented for the organisation’s benefit as a result; there was also less of a culture of defensiveness and a greater sense of leadership which sought a broad engaging approach less concerned whether the misconduct reported fitted strict categories and more with what could impact on the organisation, regardless of the nature or severity of the misconduct. That approach was much less evident in the public sector and the whistle-blower there appeared to be less appreciated and of

\(^{42}\) Safe Work Australia 2013
\(^{43}\) Webster and Brough 2015
\(^{44}\) Wilde, J. Whistleblowing and Psychological Safety
less value; there was greater concern about determining whether or not the whistle-blower’s allegations fitted precis categories determined by legislation (a ‘gate keeper’ approach) and much effort was expended to assess, and refer as required the whistle-blower concerns; much less on how the whistle-blower reports could assist the organisation to improve or address the concerns revealed.

**Improvements for Preventing Victimisation - What Would Help Whistle-Blowers?**

When asked for good advice for whistle-blowers to support them and prevent retaliation, a number of suggestions were made. One disclosure coordinator from a council said that many complaints arrive by telephone and when he asks to have it put in writing with the ‘how and the why’… and are never heard from again… many then just ‘evaporate’… (DC036). He said that it is one thing to make verbal allegations but they need to be documented, but he needs facts and evidence of wrongdoing. Often when this disclosure coordinator made some initial enquiries he found there is no substance; and if the whistle-blower was not happy, he said they can take it further to the Ombudsman, the MPs or the Minister.

Another disclosure coordinator in similar vein said that it is important for the whistle-blower that they keep a diary of the date and time of the events; documenting what is observed is essential so they have a record and by documenting the concerns, a pattern may emerge. Whistle-blowers were advised not to let the misconduct observed or experienced go on for too long but to report it promptly. The problem however as shown earlier, who do whistle-blowers report it to initially, could they risk being victimised if they don’t go to the ‘right’ person? If the employee is junior in the organisation and they need the job, it can be particularly hard for them as they may have seen the impact of whistle-blower on others, although there is also the impact on the organisation and colleagues if they do nothing.

Whistle-blowers must be vigilant, according to an investigator who offered this advice…everyday they have to remain objective and not let the complaint consume them…they must remember the whole world is not corrupt…we must encourage whistle-blowers to think that…but it can be devastating to their whole lives…they must ask themselves, is it worth losing a family for or worse? Whistle-blowers must also not try and own the process and outcome of the investigation…they should be treated as normal witnesses as in a court…what happens to the perpetrators is not their concern. In this context he stressed that the whistle-blowers’ expectations need to be managed and make sure that the whistle-blower remains objective…they must be constantly told that…they do not own the process [of investigations into the misconduct]…they have no role to play once the allegations are reported…. (DC027).

Suggestions were also made regarding the way organisations could better handle whistle-blowers and hence prevent or minimise retaliation and the impact of reporting. Many of those who dealt with whistle-blowers identified the need for support services within the organisation; the availability of counselling services to which whistle-blowers could be referred, as exist in several organisations where access for whistle-blowers was provided anonymously.

Much more could be done to promote whistleblowing policies and procedures in organisations, as illustrated by the private sector examples above and some council which are obliged to have these available on their websites45. As part of that organisations can demonstrate that it, as one interviewee said that it…takes the whistle-blower seriously…not subject to any unpleasantness; not have them criticised for coming forward…and to visibly try and stop the misconduct that the whistle-blower

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45 IBAC 2014 Review of Protected disclosure procedures.
There was general concern expressed about the welfare of whistle-blowers and the visible impact of the whistle-blowing experience. Even after whistle-blowers had left the organisation as many had done, it was important that there is an ongoing relationship with the whistle-blower which is there for support and their welfare, according to another investigator.

The need for training in whistle-blower policies and procedures was also emphasised; as some said, not only for those receiving whistle-blower reports but also for those higher in management, so that the value of whistle-blower could be appreciated. Specifically, the need to have the support of senior management in handling whistle-blowers was of paramount importance. The need to encourage whistle-blower should be welcomed by senior managers; it is a ‘red flag’ although it takes them out of their comfort zones, they should appreciate hearing about what is not working so that it can be fixed. This was found in the private sector examples, but much less frequently in the public sector examples, where turnover of senior managers could be quick, and as one disclosure coordinator from a council said…they are not across the new whistle-blower legislation. It is one thing for the coordinators to attend training sessions at IBAC but senior management need to be trained too… (DC033). A council coordinator indicated that …the CEO did not really understand the process of protected disclosure…but it is very important that they should deal with the [reports of misconduct] more effectively… (DC015).

In numerous instances, the whistle-blowers mentioned the role of management, and that reports of misconduct were often badly handled…you need good management. Management in the view of many whistle-blowers was problematic; on the one hand managers said they welcomed feedback to help improve the organisation, and as one CEO in the public sector wrote…the best of cultures is where everyone speaks openly and freely about concerns and knows that their views will be respected, heard and acted upon by colleagues and managers. It is my ambition that we should be an organisation where all staff speaks with confidence to voice their opinions on improvements… (WB14). Fine sentiments in principle but as whistle-blowers discovered when the consequences of reporting misconduct were examined; the reality was far from this ideal.

Some thoughtful suggestions were proposed by whistle-blowers themselves and included:

- Establish an annual citation or award for corporate governance where whistle-blowers are recognised and thanked
- Provide compensation to the whistle-blowers (as in the US)
- Prosecute those who retaliate against whistle-blowers (has anyone been charged in Australia? asked one whistle-blower)
- Changing the workplace culture was emphasised; the workplace brings together all sorts of people, with different values and ethical standards, increasing the risk of conflict and cultural clashes; ethical competency was identified as needing to be cultivated
- Investigations need to be done independently, not by Human Resources and that the whistle-blower should be given feedback and a copy of the report
- In some sectors such as some sports, there appears to be no grievance process and there is a lack of transparency and independence, especially if there are complains about conduct
- While colleagues and peer groups are supportive, they often do not have the information or knowledge to advise effectively or strategically; more appropriate sources are available

complained about….make sure the CEO is on side... have the support at the highest level ...(DC018).
• Support should be provided to whistle-blowers, particularly those who may be vulnerable to reprisals and victimisation; for example has an independent counsellor or psychologist to guide the whistle-blower through the reporting process.

The role and value of the whistle-blower support groups such as WBA was stressed by many whistle-blowers …they were very helpful...amazing...well-meaning... but one whistle-blower wondered whether they have any idea where the whistle-blower fits into society …(WB32); although several whistle-blowers found the meetings depressing and stopped attending.

Another suggestion was that there should be two separate agencies, one for protecting the whistle-blower and the other for taking the disclosure... (WB50). The access to the internet and the web has also greatly increased the availability of information about what happens to whistle-blowers, as well as strategies for handing retaliation and other negative experiences. It also allows interactions with other whistle-blowers and also has led to the setting up of whistle-blower hotlines and advice/support groups. What helped some whistle-blowers was the support of family in giving courage to whistle-blowers and in providing a sounding board for the frustrating and negative experiences they have gone through; others were without such support.

**Cultural Change**

Several whistle-blowers with experience from the UK commented on the Australian culture how it can victimise the whistle-blower in the workplace, whereas in the UK there was according to these whistle-blowers more directness in handling misconduct. One said as a result of his negative experiences that he… hated this country, hated this nasty place ... (WB45). As another whistle-blower said, there is a culture of not dobbling people in...was it about protecting the mates and about mateship? Australian culture it was said by another interviewee…may condone some forms of misconduct and not treat it seriously; there is need to determine what sort of tolerance organisations have for misconduct...it can start small and will grow unless it is cut out...like a virus... (WB55).

Has the label of whistle-blower become more respectable? Some of the interviewees thought so and that it was a ‘badge of honour’ and conferred status. In the past people who wanted to report misconduct may not have wanted to be called whistle-blowers as it had pejorative connotations and in the Australian vernacular could be labelled a ‘dobber’.

Throughout the narratives with whistle-blowers what has emerged is that the experiences after reporting misconduct are real and they have had an impact of the lives of whistle-blowers, often confirmed by the persons who dealt with whistle-blowers, there was the strong negative impact that the experiences have left on the whistle-blowers’ lives, and the frustrating encounters and reactions that they have had to put up with from those to whom they reported the wrongdoings, and which in the majority of cases did not meet the whistle-blowers needs.

What then do whistle-blowers want? According to Martin (2015), whistle-blowers want protection and justice…their stories and available research suggest that this is a forlorn hope; very few whistle-blowers who have suffered serious reprisals receive formal vindication and fewer still are restored to their previous jobs and career... whistle-blowers know what they want but what they want is often not achievable, and hence what they really need, in the face of an unyielding reality is something else... (p502).
References


CONSENT FORM FOR PARTICIPANTS INVOLVED IN RESEARCH

INFORMATION TO PARTICIPANTS:

We would like to invite you to be a part of a study into the Victimisation of whistle-blowers.

The aim is to fill major gaps in the knowledge about the extent and nature of victimisation experiences and ways in which whistle-blower complaints are handled so that whistle-blowers are protected from retaliation.

CERTIFICATION BY SUBJECT

I…………………………………of ……………………………………
certify that I am at least 18 years old* and that I am voluntarily giving my consent to participate in the study:

Victimisation of whistleblowers by Dr Inez Dussuyer Chief Investigator, Dr Kumi Heenetigala, Dr Russell Smith and Professor Anona Armstrong.

I certify that I have been given a copy of the Information Sheet about this research project, and have read it, and that the objectives of the study, together with any risks and safeguards associated with the procedures listed hereunder to be carried out in the research, have been fully explained to me by the Chief Investigator Dr Inez Dussuyer,

and that I freely consent to participation involving the below mentioned procedures:

- 60 minute interview and/or survey of up to 20 questions

I certify that I have had the opportunity to have any questions answered, that I understand what taking part in this research means for me and that I can withdraw from this study at any time and that this withdrawal will not jeopardise me in any way.

I have been informed that the information I provide will be kept confidential.

Signed:

Date:

Any queries about your participation in this project may be directed to the researchers

Dr Inez Dussuyer Chief Investigator Inez.dussuyer@vu.edu.vu or Dr Kumi Heenetigala
Kumi.heenetigala@vu.edu.au

Tel. 9919 6157

If you have any queries or complaints about the way you have been treated, you may contact the Ethics Secretary, Victoria University Human Research Ethics Committee, Office for Research, Victoria University, PO Box 14428, Melbourne, VIC, 8001, email Researchethics@vu.edu.au or phone (03) 9919 4781 or 4461.
INFORMATION TO PARTICIPANTS INVOLVED IN RESEARCH

You are invited to participate

This is an Information Sheet for a research project you are being invited to participate in entitled ‘Victimisation of whistle-blowers’. The Participant Information Sheet has been written to help you decide if you would like to take part in this research. You have responded to an invitation to (a) people who have ‘blown the whistle’ on misconduct through an investigative agency STOP line or (b) Disclosure coordinators/whistle-blower complaints officers. Participation is voluntary.

The project is being conducted by Professor Anona Armstrong, Dr Inez Dussuyer, Dr Kumi Heenetigala from College of Law and Justice at Victoria University (Melbourne), and Dr Russell Smith from the Australian Institute of Criminology (Canberra).

Project explanation

The project aims: (1) to identify the nature of victimisation experiences of whistle-blowers/persons who have reported wrongdoing in their workplace (2) to determine what factors are associated with victimisation and (3) to identify what elements are protective against victimisation when ‘blowing the whistle’. The research addresses a knowledge gap in understanding victimisation against whistle-blowers and ways in which they can be better protected. Whistle-blowers are essential in uncovering wrongdoing and provide an important complement to accountability mechanisms. The research will help identify improvements in policies and procedures designed to protect and prevent victimisation of whistle-blowers and ways in which wrongdoing can be safely reported and addressed.

What will I be asked to do?

If you are a whistle-blower/complainant/discloser:

(a) You are invited to participate in the research by agreeing to an interview (about one hour) during which you will be asked a series of questions about your experience as a whistle-blower regarding misconduct at your place of work; describing what led up to you ‘blowing the whistle’; what happened when you first attempted to report the misconduct, how the matter was handled in your work place and then what happened subsequently. You will also be asked for ways in which the responses to a whistle-blower’s report could be changed for the better. The interview may be taped with your permission; otherwise, notes will be taken. The tapes will be securely stored at the University and the notes will be destroyed when the analysis is complete.

(b) If you are a disclosure co-ordinator/whistle-blower complaints officer:

(c) You are invited to participate in the research as a disclosure coordinator in your organisation regarding reports of misconduct to you, what relevant policies and processes are in place for whistleblowing, how whistleblowing reports are usually made and handled, what actions you/your organisation takes in response and what considerations are taken into account in relation to whistle-blowers. You will also be asked about what changes could be made to the reporting process and in responding afterwards to the whistle-blower.
What will I gain from participating?

By participating in this research you will be making an important contribution to prevent the victimisation of whistle-blowers and help better understand how victimisation can occur so that better ways of handling whistle-blowers who report and make complaints about misconduct can be identified. Your participation in the research is voluntary and you may withdraw at any time.

How will the information I give be used?

The information from provided in the interviews and surveys will be kept confidential by the researchers and stored in a locked cabinet in a locked office and password secured computer files at the University. The information obtained will be analysed only by the researchers to identify general themes and factors which contribute to or protect against victimisation. No information which might identify an individual, their colleagues or place of work will be used. The information obtained will be reported on at a general level for a report to the Australian Institute of Criminology.

What are the potential risks of participating in this project?

No information that identifies you is required, such as your name, date of birth and address and your anonymity will be protected. In the unlikely event of you feeling distressed, you can be referred to a registered counsellor.

How will this project be conducted?

The research will involve two groups. One group involves inviting people who have been whistle-blowers to contact the researchers if they wish to participate; the second group involves disclosure coordinators in various public and private organisations. The invitations will be sent to the first group (whistle-blowers) as part of a newsletter and to the second group (disclosure coordinators/whistle-blower complaints officers) via a letter from Stop line and from the Victorian Ombudsman’s office. Persons, who respond to the invitations and want to participate, will then be contacted by the researchers for the:

- Whistle-blowers - to organise an interview at a convenient time and date; the location of the interview will be in a secure interview room (Room QF 109) at Victoria University, Queen Street (if this location is not convenient, another mutually suitable venue will be identified or the interview will be conducted by telephone
- Disclosure coordinators - to organise sending out a survey (return, franked envelope provided) and/or organise an interview

The anonymity of persons agreeing to take part in the research will be ensured by using a coded reference number. The list of participant names and contact details will be kept separate from the data collected, in a secure cabinet in a locked office (room QF 109) at the College of Law and Justice, VU (1/256 Queen Street, Melbourne) with only the researchers having access.

Who is conducting the study?

Governance Research Program, College of Law and Justice, Victoria University

Australian Institute of Criminology, in association with STOP line, Riversdale Road, Hawthorn and the Victorian Ombudsman, 456 Collins Street, Melbourne,

Chief Investigator Professor Anona Armstrong and Chief investigator: Dr Inez Dussuyer, Senior Research Fellow, Dr Kumi Heenetigala from College of Law and Justice at Victoria University (Melbourne), and Dr Russell Smith from the Australian Institute of Criminology (Canberra).
Any queries about your participation in this project may be directed to the Chief Investigators listed above and can be contacted on Tel: (03) 9919 6157, email: inez.dussuyer@vu.edu.au, kumi.heenigalaQ@vu.edu.au

If you have any queries or complaints about the way you have been treated, you may contact the Ethics Secretary, Victoria University Human Research Ethics Committee, Office for Research, Victoria University, PO Box 14428, Melbourne, VIC, 8001, email researchethics@vu.edu.au or phone (03) 9919 4781 or 4461.