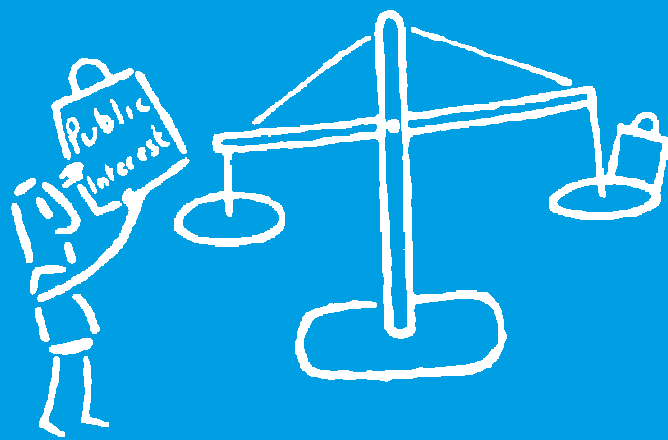


Public Interest Disclosure Act



Public Interest **Disclosure Act**

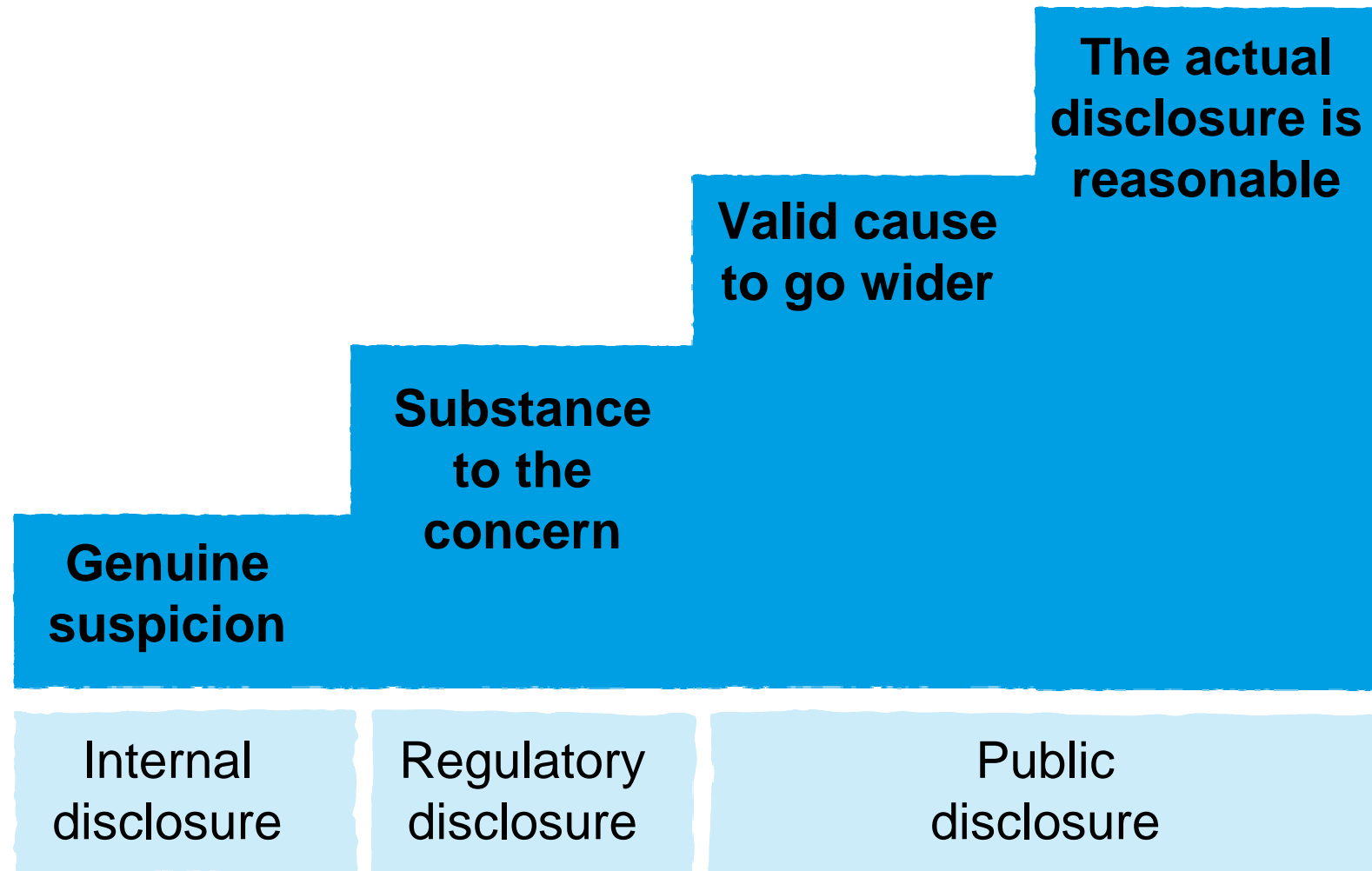
Promotes and protects **open** whistleblowing

Tiered disclosure regime, which emphasises **internal whistleblowing**, regulatory oversight and recognises **wider accountability**

Signals a **change in the culture**

International **benchmark**

The stepped disclosure regime



Lord Nolan's praise for 'so skilfully achieving the essential but delicate balance between the public interest and the interest of the employers'.

The scope of **PIDA**

Applies to almost **every worker**

Wide definition of **wrongdoing**

Application **overseas**

Burden of **proof** reversal

Full **compensation**

Impacts on **gagging clauses** and secrecy offences

PIDA Statistics

Over 9,000 tribunal claims to date

The number of claims has increased from 157 in 1999/2000 to 1,700 in 2008/9

70% of PIDA claims settle

Of the remainder 78% were lost and 22% were won

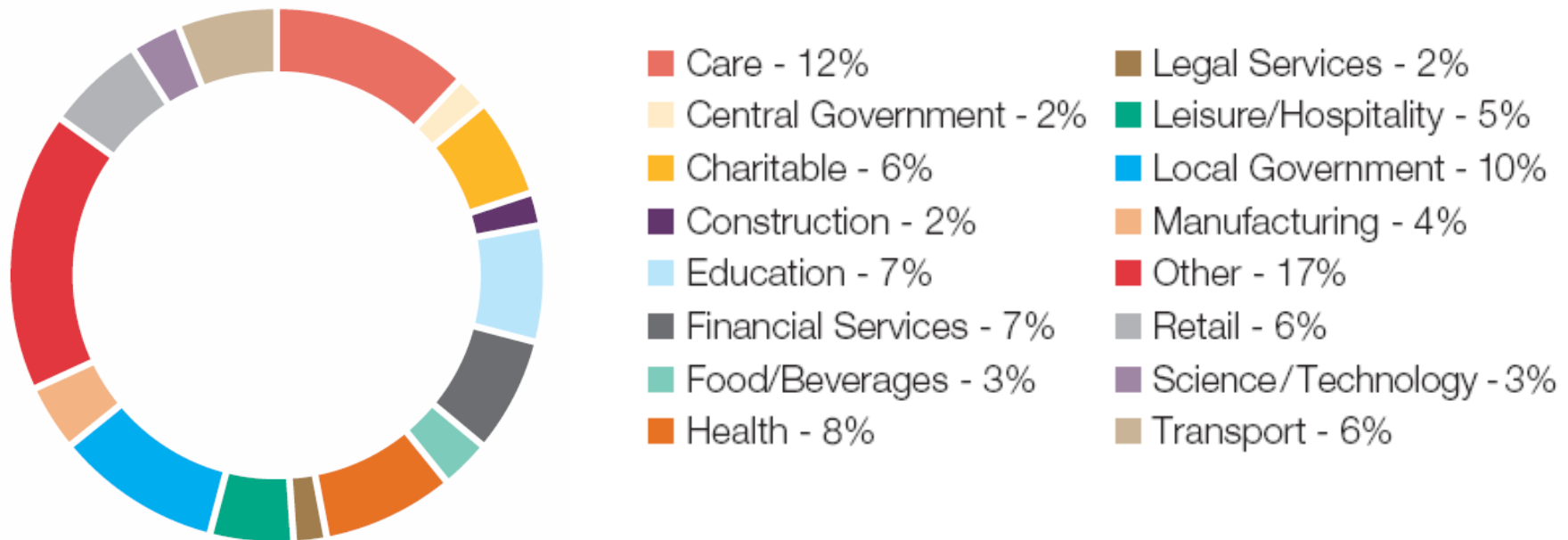
Highest tribunal award is £5 million

PIDA retains support of business, union and regulatory interests

PIDA Statistics

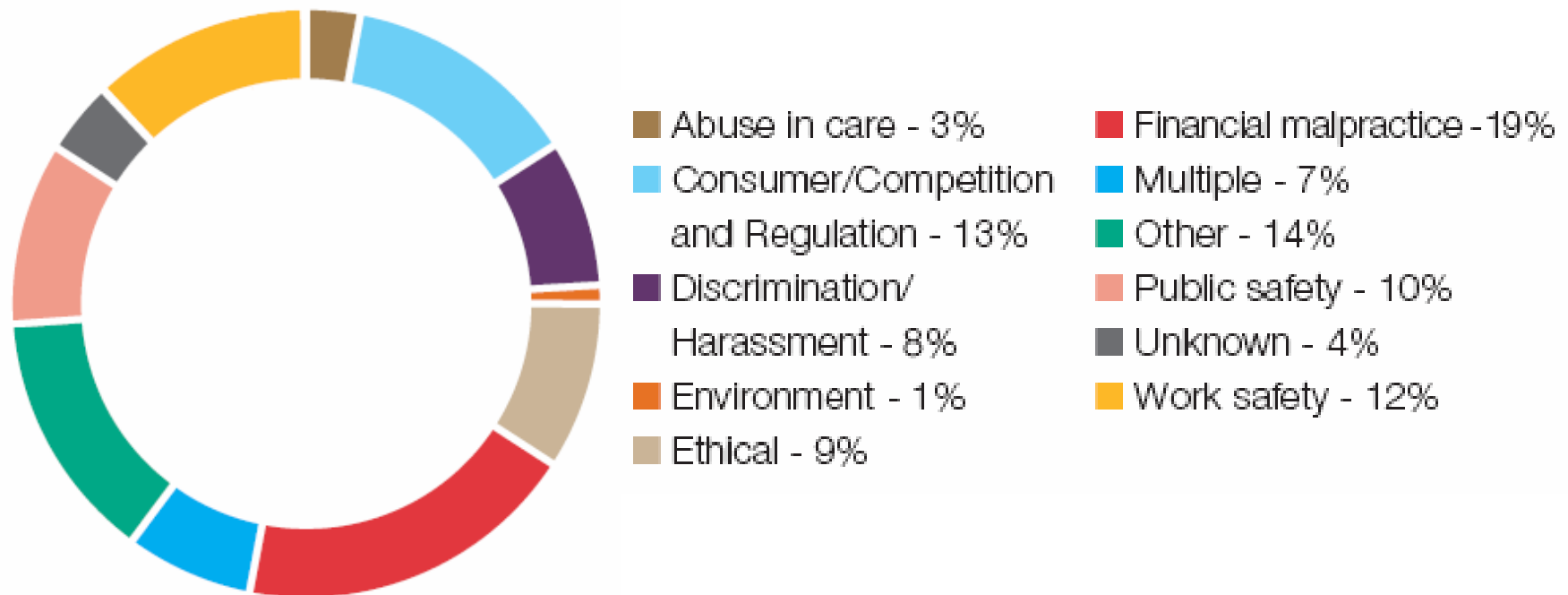
Analysis of judgments from the employment tribunals –
3,000 to date

Where do the cases come from?



PIDA Statistics

Types of wrongdoing in PIDA judgments



Is PIDA working?

What the surveys say

86% of UK employees believe that people in their company feel free to report a case of suspected fraud, bribery or corruption. In Europe this figure is 57%¹

Negative media portrayal of whistleblowers is virtually nil now compared to 1997²

The term “whistleblowing” is increasingly seen in a neutral to positive frame³

1. Ernst & Young – Survey into Fraud Risk Mitigation – UK Report

2. Karin Wahl-Jorgenson, Cardiff School of Journalism, Media and Cultural Studies – study commissioned by Public Concern at Work, *Where’s whistleblowing now? 10 years of legal protection for whistleblowers*

3. YouGuv survey 2007 & 2009, commissioned by Public Concern at Work, *Where’s whistleblowing now? 10 years of legal protection for whistleblowers*

Is PIDA **working?**

Recent developments

Regulatory referral – in force April 2010

A compromise on open justice

Individual consent required

The Bribery Act

“adequate procedures”

Consultation on guidance out now

The **Bribery** Act 2010

The Bribery Act: the six principles

Risk assessment

Top level commitment

Due diligence

Clear, practical and accessible policies and procedures

Effective implementation

Monitoring and review

Is PIDA **working?**

What next?

Promotion of the law

Public interest test

Non-Executive Directors

PIDA outside of the Employment Tribunals – professional bodies

Pre-employment/blacklisting

whistleblowing

some key issues



Key elements of **good whistleblowing arrangements**

A **lead** from the top

Safety valve communication channel outside the line

Default is open reporting but respect **confidentiality**

Provide **internal** and **external** options

Avoid defensive **legalistic** terms

Distinguish whistleblowing from **grievances** and **bullying**

Access to **independent advice**

Promote policy effectively

Grievances and Concerns

Grievances

risk is to self

need to prove case

rigid process

legal determination

private redress

Concerns

risk is to others

tip off or witness

pragmatic approach

accountability

public interest

Remember

whistleblowing demonstrates

who is accountable

for what to whom



Whistleblowing arrangements
Practice and audit

Key issues

Internal audit and review:

Concerns - **volume**

Concerns – **substance**

Adverse incidents?

Assessing **trust** and **confidence**

Other information?

Key issues

Audit Commission whistleblowing performance audits:

Minimal – Policy has been communicated to staff and parties contracting with the body

Good – Policy is publicised within the body and demonstrates the body's commitment to providing support to whistleblowers

Excellent – Track record of effective action in response to whistleblowing disclosures. Periodic reviews of the effectiveness of the arrangements and also effective arrangements for receiving and acting upon information from members of the public

BSI code of practice checklist

Policy conforms to good practice

Buy-in (those in charge)

The right start (practical implementation)

Communication & confidence (staff)

Briefing / Training (design. officers & managers)

Logging concerns (formal)

Reviewing the arrangements