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Ireland is not welcoming to whistleblowers. Why?

One whistleblower's experience of official Ireland does not bode well for protected disclosures generally



Mark MacGann was a lobbyist for Uber before blowing the whistle on the company. Photograph David Levene/The Guardian



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Does Ireland have a problem with whistleblowers?

The long and painful saga of the McCabe Tribunals suggests so, offering disturbing evidence of the antagonism whistleblowers may suffer for stepping forward. So does the more recent, if different experience of Mark MacGann, the Irish-born “Uber Files” whistleblower, who leaked company records in 2022.

In 124,000 documents, the company’s former senior lobbyist exposed how Uber had engaged in a network of tax dodging, evaded regulators and schmoozed international leaders. In Ireland, with MacGann’s guidance, Uber sought to push the Government and regulators towards opening the Irish market to the ride-hailing “gig economy” service through various approaches, including contacts undeclared on the lobby register and direct interactions with politicians and ministers.

Over a year later, MacGann says Irish policymakers and regulatory bodies have shown “no expression of interest, whatsoever” in talking to him or delving into his extensive revelations, which were reported in detail in a series of 2022 articles by my colleagues Arthur Beesley and Simon Carswell.

“At the time, we were lobbying at the very top of the Irish Government,” MacGann tells me. Yet, “subsequent to the revelations in the Uber Files, there was no initiative by the Irish Government or regulators to learn more.” This blanket lack of proactive initiative at best, indicates an extraordinarily passive approach to following up on whistleblower allegations making global headlines and investigated by the International Consortium of Investigative Journalists (ICIJ). MacGann also agrees that lobbying in general needs to be regulated more tightly at EU level.

[Uber Files: Lobbying regulator says it has no power to investigate or prosecute pre-2017 eventsOpens in new window]

At worst, it raises concerns about how serious Ireland is about rocking the foreign direct investment boat, or sending signals that it is willing to investigate powerful technology companies embedded here. Even if it was found that Irish law and regulation would not apply to (some) Uber Files disclosures, as the lobbying regulator here stated, it’s astonishing that no regulator, politician or Government body has spoken with this whistleblower 16 months later.

“You can look at the Irish Government, then and now. And you could say, well, is it the Government abdicating its responsibility towards the policing of big tech?” asks MacGann.

He’s concerned the lack of action creates frustration and a potential chilling effect for whistleblowers, organisations wanting to report allegations and smaller enterprises. “What sort of message does that send through public bodies and through private enterprise in Ireland, as regards the balance of power between the big guys and who government’s going to go to bat for and the fact that all these state (support and regulatory) agencies in any case, as within the UK, as within the US, are under-resourced and underfunded compared to these big firms?”

Since 2014, Ireland’s Protected Disclosures Act has provided support to whistleblowers. The 2014 law was hailed as good practice internationally and served as a model for a 2019 EU whistle-blowing Directive, which goes into broad effect in Ireland by the end of this year as a 2022 Amendment to the 2014 law. But the amended law weakened Ireland’s 2014 protections, as a report published Wednesday by watchdog Transparency International, assessing the Directive’s implementation in 20 EU states, makes clear.

While the Irish transposition is praised for its broad spectrum of protected disclosures and for allowing injured third parties to take legal actions, it offers only qualified compensation for whistleblowers and is “regressive” in weakening previous 2014 protections. Still, it is among the strongest in the EU.

[[Where does entrepreneurship end and fraud begin?](#)Opens in new window]

Overall, the report finds that 19 out of 20 EU states reviewed, including Ireland, “do not comply with the directive” and that none “fully meets best practice.” The latter is the inevitable outcome of the directive not mandating best practice but only encouraging it. This doesn’t surprise MacGann, who says that EU bodies with “very few exceptions” treated him and his disclosures as if “passing around a hot potato.” For him, the strongest support and care came from ICIF, its journalists and some civil society whistleblower organisations.

‘Ireland’s whistle-blowing law is considered to be among the strongest in the world, but a law can only go so far in offering protection to whistleblowers. I once described our protected disclosures act as a stab-proof, rather than a bulletproof vest. If someone wants to make life difficult for a whistleblower, then they can,” cautions John Devitt, chief executive, Transparency International Ireland. The organisation has been running a

whistleblower training event for employers this week, which concludes tonight with a “fireside chat” with MacGann, moderated by me.

“The best protection employers and regulators can offer a whistleblower is by taking their concern seriously and taking action where there is reliable evidence of wrongdoing,” says Devitt. Like MacGann, he would like to see more proactive steps taken when disclosures are made.

MacGann says: “I now believe that whistle-blowing is essential because we cannot rely on the corporate sector to police itself.” But he also wants to remind companies that strong whistleblower support is ultimately beneficial to the bottom line. “It’s good for your profitability if people have the courage to stand up and speak out and draw attention to wrongdoing, because it’s always going to come out at some point. It’s always going to nip you in the back at some point.”