

**WHISTLEBLOWING,  
SANCTIONS &  
LAUNCHING A DIGITAL  
CURRENCY  
FINANCIAL SERVICES  
UPDATE**

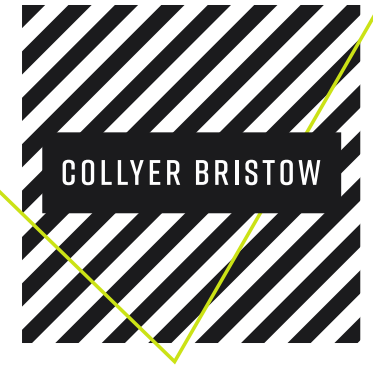
7 JULY 2021

# AGENDA

COLLYER BRISTOW

## RECENT DEVELOPMENTS IN FINANCIAL SERVICES

- **Andrew Granger, Collyer Bristow:**  
**Whistleblowing - a new approach?**
- **Maya Lester QC, Brick Court Chambers:**  
**UK, EU & US Sanctions**
- **Temple Melville, Scotcoin & Nigel Brahams, Collyer Bristow:**  
**The Scotcoin Project**
- **Q & A** – Moderated by **Nigel Brahams**



# WHISTLEBLOWING A NEW APPROACH?

ANDREW GRANGER, PARTNER  
EMPLOYMENT

# WHAT IS WHISTLEBLOWING?

GOLLYER BRISTOW

- A qualifying disclosure of information about a wrongdoing
- By employee or worker
- Protection offered under **Public Interest Disclosure Act 2008** as a result



# WHAT IS A QUALIFYING DISCLOSURE?

GOLLYER BRISTOW

- Disclosure of information
- Wrongdoing e.g. criminality or breach of legal obligation
- Reasonable belief that the information shows wrongdoing
- In the public interest



# SUBJECT MATTER OF DISCLOSURE

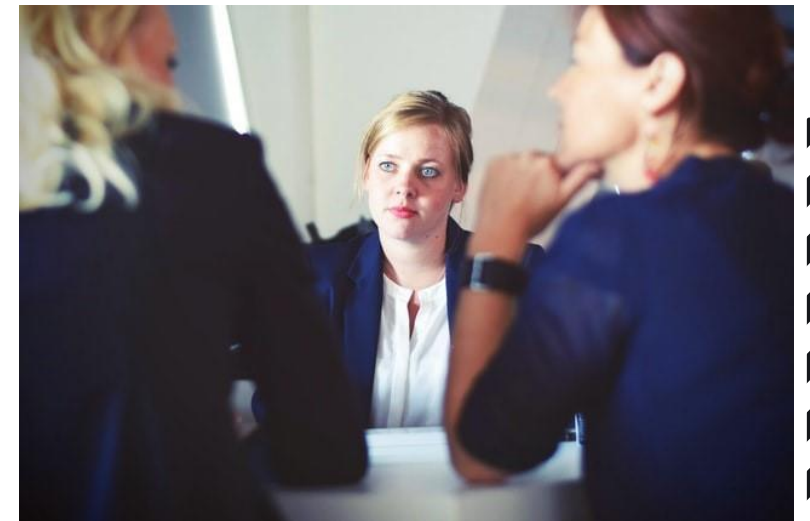
GOLLYER BRISTOW

- Six categories of wrongdoing e.g. criminality, breach of legal obligation, danger to health and safety
- Some breaches of professional conduct could be considered breaches of legal obligation
- Wrongdoing can be past, present perspective or merely alleged
- Conduct of employer, employees or third parties
- In UK or internationally
- Subjective belief that the relevant failure has occurred or is likely to and that belief is reasonable – does not matter if belief turns out to be incorrect

# IS THE DISCLOSURE A PROTECTED DISCLOSURE?

GOLLYER BRISTOW

- Disclosure must be made to person identified in **Employment Rights Act 1996** e.g. employer
- Whistleblowing procedure of employer authorising disclosure to third party – the disclosure will be treated as though made to the employer
- Regulator could be a relevant person for the purposes of disclosure e.g. in relation to money laundering/financial crime



# COULD CONFIDENTIALITY BE BREACHED?

GOLLYER BRISTOW

- Confidentiality clause in employment contract or staff handbook
- Implied duty of confidentiality
- Contractual terms purporting to preclude the making of a protected disclosure void





# WHAT ARE THE PROTECTIONS OFFERED?

GOLLYER BRISTOW

- Right not to be subjected to detriment
- Claims for unfair dismissal and/or detriment
- Vicarious liability on part of employer
- No need for 2 years' service for unfair dismissal
- No cap on compensation



# OBLIGATIONS ON EMPLOYERS/EMPLOYEES?

GOLLYER BRISTOW

- No legal duty to disclose wrongdoing – although implied term of fidelity?
- No general duty for employee to disclose own wrongdoing
- Whistleblowing legislation does not impose positive obligation on employer to encourage whistleblowing

**BUT...**

# OBLIGATIONS ON EMPLOYERS/EMPLOYEES?

GOLLYER BRISTOW

- Firms regulated by PRA or FCA caught by regulator rules on whistleblowing
  - Whistleblowers' champion
  - Training and development
  - Internal processes/systems
  - Confidentiality/anonymity
  - Reasonable measures to curb victimisation
  - Reports directly to regulator

# FCA INITIATIVE

GOLLYER BRISTOW

MARCH 2021

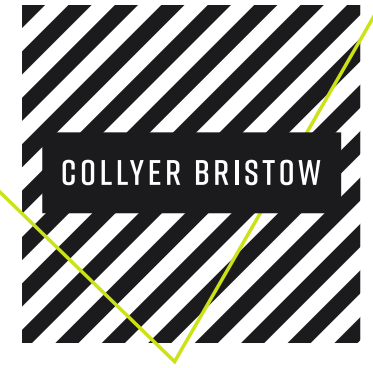
- Campaign to encourage individuals to report wrongdoing
- Reminder of confidentiality/anonymity processes in place
- Increased resourcing for whistleblower interaction
- Culture and governance remain a key priority





Department  
of Health &  
Social Care

**WAS IT WHISTLEBLOWING?**



# UK, EU & US SANCTIONS

**MAYA LESTER QC**  
BRICK COURT CHAMBERS



**TEMPLE MELVILLE**

SCOTCOIN

**&**

**NIGEL BRAHAMS**

COLLYER BRISTOW

FINANCIAL SERVICES UPDATE // 07/07/2021



## NIGEL BRAHAMS

PARTNER - COLLYER BRISTOW

[NIGEL.BRAHAMS@COLLYERBRISTOW.COM](mailto:NIGEL.BRAHAMS@COLLYERBRISTOW.COM)



## MAYA LESTER QC

BRICK COURT CHAMBERS

[MAYA.LESTER@BRICKCOURT.CO.UK](mailto:MAYA.LESTER@BRICKCOURT.CO.UK)

[europeansanctions.com](http://europeansanctions.com)



## ANDREW GRANGER

PARTNER - COLLYER BRISTOW

[ANDREW.GRANGER@COLLYERBRISTOW.COM](mailto:ANDREW.GRANGER@COLLYERBRISTOW.COM)



## TEMPLE MELVILLE

DIRECTOR - SCOTCOIN

[TEMPLE@SCOTCOINPROJECT.COM](mailto:TEMPLE@SCOTCOINPROJECT.COM)

[scotcoinproject.com](http://scotcoinproject.com)



# COLLYER BRISTOW

[COLLYERBRISTOW.COM](https://COLLYERBRISTOW.COM)



[@COLLYER\\_BRISTOW](https://twitter.com/@COLLYER_BRISTOW)



[@COLLYER-BRISTOW-LLP](https://www.linkedin.com/company/@COLLYER-BRISTOW-LLP)

The information and opinions contained in this webinar are for general interest and information purposes only and are not intended to constitute specific legal, commercial or other professional advice and should not be relied on or treated as a substitute for specific advice relevant to particular circumstances. While we seek to ensure that the contents are not misleading or outdated, users should obtain specific legal advice before making or refraining from making any business or personal decisions.

Collyer Bristow and its partners and staff accept no responsibility for any loss or damage arising from any content in this webinar.