

Whistleblowing

The Public Interest Disclosure Act 1998 ("The Act") introduced protection from dismissal and victimisation for public employees who report wrongdoing that they believe, in good faith, to be true.

The Act protects employees, most consultants, trainees, agency staff, home workers and every professional in the NHS from dismissal or some other detriment as a result of making a 'protected disclosure'.

Protected disclosures include the disclosure of information relating to:

- A criminal offence
- A failure to comply with a legal obligation
- A miscarriage of justice
- The endangering of an individual's health and safety
- Damage to the environment
- Deliberate concealment of information tending to show any of the above.

Protection is most readily available where the disclosure is made to the individual's employer in accordance with any whistleblowing procedure or if the disclosure relates to a matter for which the employer does not have legal responsibility, to the person who does have such responsibility.

Alternatively, a disclosure may be made to the organisation which the government had designated for this purpose in relation to a particular type of disclosure. Designated organisations include the Comptroller & Auditor General, Accounts Commission for Scotland, Audit Scotland, the Auditor General for Wales, the Auditor General for Scotland, the Comptroller & Auditor General for Northern Ireland, the Charity Commission for England and Wales and the Health and Safety Executive.

As a last resort, a disclosure may be made to some other person (e.g. to the police, or to an MP) if, in addition to the tests for regulatory disclosures, they are reasonable in all the circumstances and they are not made for person gain. Such disclosures must also satisfy one of four preconditions to trigger protection. These are that:

- a) the whistleblower reasonably believed he would be victimised if he had raised the matter internally or with a prescribed regulator
- b) there was no prescribed regulator and he reasonably believed the evidence was likely to be concealed or destroyed
- c) the concern had already been raised with the employer or a prescribed regulator
- d) the concern was of an exceptionally serious nature.

Anyone considering making a protected disclosure will obviously be concerned about the consequences such as dismissal from employment and subsequently costly legal proceedings. It is generally advisable to obtain legal advice prior to making a protected disclosure. Disclosure in the course of obtaining legal advice is also protected by the Act.

The helplines of the national Audit bodies can be found at:

National Audit Office/the Comptroller & Auditor General

<http://www.nao.org.uk/contact-us/whistleblowing-disclosures/>

Audit Scotland/ Accounts Commission for Scotland

<http://www.audit-scotland.gov.uk/utilities/whistleblowing.php>

Wales Audit Office/the Auditor General for Wales

<http://www.wao.gov.uk/whistleblowers-hotline>

Northern Ireland Audit Office/ the Comptroller and Auditor General for Northern Ireland

http://www.niauditoffice.gov.uk/a-to-z.htm/whistleblowing_disclosures