

Whistle blowing procedure

Employees and workers who make public disclosures, about wrongdoings in the workplace are commonly referred to as “whistleblowers”. In the past, employees were sometimes dismissed or victimised by their employers, which discouraged ‘whistle blowing’. However, ‘whistleblowers’ now have legal protection under certain circumstances.

Not all ‘whistle blowing’ is protected. The legal protection is only for ‘qualifying disclosures’, which must relate to:

- Committing a criminal offence.
- Failing to comply with a legal obligation.
- A miscarriage of justice.
- Endangering the health and safety of an individual.
- Environmental damage.
- Concealing any information relating to the above.

Endeavour is committed to good practice and high standards and to being supportive to staff who raise genuine concerns, even if they turn out to be mistaken. However, to ensure the protection of all our staff, those who raise a concern frivolously, maliciously and/or for personal gain and/or make an allegation they do not reasonably believe to be true will also be liable to disciplinary action.

Protected disclosures

Employees are protected if they make a qualifying disclosure to a person or body specified in the legislation and under these circumstances a qualifying disclosure becomes a ‘protected disclosure’.

Employer or responsible person

Employees are protected if they make a qualifying disclosure to their employer.

Alternatively, if an employee makes any qualifying disclosure to Protect, an independent whistleblowing charity (0203 117 2520), the disclosure also becomes a protected disclosure.

If an employee makes a qualifying disclosure about a person who is not the employer (e.g. a supplier), or if it is about something for which a person other than the employer is responsible (e.g. a contractor), this is also a protected disclosure if it is made to that person.

Legal advisor

A qualifying disclosure is a protected disclosure if it is made in the course of obtaining legal advice.

Prescribed persons

A qualifying disclosure also becomes a protected disclosure if it is made directly to a person or body prescribed for that purpose. For example, a qualifying disclosure made to the Environmental Agency is only a protected disclosure if it is made in connection with acts or omissions that have an actual or potential effect on the environment. If the same disclosure was made to the Civil Aviation Authority, for example, it would not be a protected disclosure.

Disclosure in other cases

If an employee reasonably believes that:

- they will suffer a detriment if they make a disclosure in accordance with one of the above procedures, or
- there is no prescribed person and their employer may conceal or destroy evidence, or
- they have already made a disclosure to the employer or a prescribed person or body,

then a disclosure made in some other way may be a qualifying disclosure if the employee believes the information to be true, the disclosure is not made for personal gain and it is reasonable to make the disclosure.

In determining reasonableness, the following will be taken into account:

- the identity of the person to whom the disclosure was made,
- the seriousness of the failure,
- whether the failure is continuing or is likely to occur in the future,
- any action already taken by the employer or prescribed person,
- whether or not the employee made use of the employer's nominated person.

Disclosure of exceptionally serious failures

In the case of exceptionally serious failures a disclosure may be a qualifying disclosure if the employee believes the information to be true, it is not for personal gain and it is reasonable for the employee to make the disclosure.

Speed of action will often be of prime importance when there is an exceptionally serious failure. When determining reasonableness in this situation, the prime focus of attention will be on the identity of the person to whom the disclosure was made.