Whistleblowing

Whistleblowing: an introduction

Whistleblowing is the act of disclosing information about wrongdoing in the workplace. This could mean highlighting possible unlawful activities in the organisation, failures to comply with legal obligations, miscarriages of justice or reporting on risks to the health and safety of individuals or to the environment.

Such activities could be a violation of a law, rule or regulation, or a threat to public interest, such as fraud, health and safety violations or corruption.

By "blowing the whistle", you may highlight illegal activity in the workplace, and you may protect others in future.

What are the first steps in reporting an issue?

It is vital to follow certain steps if you are going to make a claim about an issue concerning you at work, because making such a disclosure is a serious matter.

Normally you would first report the issue internally to your employers before making any disclosure externally. External disclosure is only...
protected in certain limited circumstances – you should consult your UNISON rep before making such a disclosure.

If you are going to blow the whistle, it is vital that you consider the following points carefully.

- What hard evidence do you have to support any claim?
- Are you sure that your concerns could not be raised informally or through the usual grievance procedure? Find out more about grievance procedures.
- Take advice from your UNISON rep and if you cannot find any, alert your branch secretary or UNISON regional organiser. How to contact UNISON.
- If none of this works within a reasonable time, you may consider raising the issues publicly. In this case, it is crucial you take advice from your UNISON rep. It would be unusual to raise the issue publicly before raising them with your employer and it is only in certain very limited circumstances that you will be protected if you raise the issue publicly.

**Will you be legally protected if you blow the whistle about an issue at work?**

Workers are protected as whistleblowers if they fulfil certain criteria.

“Worker” in this case is widely defined and includes not only employees, but also certain agency workers or people who are not employed, but who are in training with the employer.

Some self-employed people are protected if the work is done in a place not under their control or management.

A whistleblower is legally protected if a disclosure made is about:

- a criminal act;
- a failure to comply with a legal obligation;
- a miscarriage of justice;
- a danger to health and safety;
- damage to the environment;
- an attempt to cover up any of these.

To be protected, you must have a reasonable belief that the information tends to show that one of more of the above has happened, is happening or is likely to happen. You must also have a reasonable belief that the information that you are disclosing is true. If these conditions are met, the disclosure may be a “qualifying disclosures” in terms of the relevant legislation.

For your disclosure to be protected by the law you should make it to the right person, in the right way. If an employment tribunal considers that your disclosure was made in bad faith, it has the power to reduce any compensation award by up to 25%.

You will generally be protected if you make your claim to your employer or to another person if you reasonably believe that the relevant failure relates solely or mainly to that person, or is a matter for which that person other than your employer has responsibility.

Employees appointed by a minister of the crown may make disclosures to such a minister.

Disclosures about certain types of matters may also be made to specific bodies, such as the relevant regulatory body.

There may be protection for disclosing the issue to another person in exceptional circumstances – such as where the employee reasonably believes that making the disclosure to their employer means that they will be subject to a detriment or that evidence will be concealed or destroyed; the employee has already made the disclosure to their employer; or where the relevant failure is of an exceptionally serious nature. In such cases the disclosure must not be made for the purposes of personal gain.

It is important that you seek advice from your UNISON rep before making such a disclosure, as strict criteria apply in order for you to be protected.

**How to contact UNISON.**

**Whistleblowing and the law**

The Public Interest Disclosure Act 1998 provides legal protection for individuals who disclose information to expose acts such as criminal acts. The equivalent legislation in Northern Ireland is the Public Interest Disclosure (Northern Ireland) Order 1998.


In some cases, the employee may bring a case before an employment tribunal, which can award compensation.

Find out more about employment tribunals.

As a result of the legislation, some employers have developed internal whistleblowing procedures, although the legislation does not enforce this.

**Action for UNISON representatives**

If your employer does not already have a whistleblowing policy in place, negotiate to create a policy which encourage workers to feel confident in raising concerns and establish a fair investigative process. If an employee reveals to you that they have discovered unlawful activities at work, discuss the next steps with your UNISON regional office or regional organiser.
Key facts

- If you suspect unlawful activity at work, you may want to inform someone about it.
- Workers should only blow the whistle when they have sufficient hard evidence and they cannot use the usual grievance procedure.
- Workers are protected if they blow the whistle from detriment and unfair dismissal.
- For disclosures to be protected by law, workers must make them to the right person, in the right way and not for personal gain.

FAQs

**Whistleblowing**

Am I legally protected even if I make a claim about unlawful acts happening in another country?

No-one’s listening to my concerns at work: what next?

I am being treated unfairly for reporting unlawful acts at work. Is there anything I can do?

I’ve been dismissed for reporting unlawful acts at work. Is there anything I can do?

Resources

- **Whistleblowing Factsheet**
  28 June 2017
  Factsheet – advice on how to negotiate agreements and procedures on whistleblowing for branch officers and stewards.

- **The law and you – a UNISON guide to key employment rights (2012 edition)**
  4 June 2013
  An in-depth look at key employment rights giving information and guidance to members’ representatives when they need to pursue issues at work. Updated April 2012.

Legal disclaimer

The information contained within this article is not a complete or final statement of the law and is based on the laws of England, Wales, Scotland and Northern Ireland.

While UNISON has sought to ensure that the information is accurate and up to date, it is not responsible and will not be held liable for any inaccuracies and their consequences, including any loss arising from relying on this information. If you are a UNISON member with a legal problem, please contact your branch or region as soon as possible for advice.
Getting help as a member of UNISON

Can't find the answer you're looking for here? Get help by:

- Talking to your representative
- Using our online enquiry form
- Calling the UNISONdirect call centre

Not a member? Join now

Want to do something more?

Help your colleagues and other members becoming a UNISON rep or workplace contact. Being a UNISON workplace rep gives you the opportunity to:

- make a positive difference to people’s work lives
- learn new skills and meet new people
- help create a fairer society

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Related links

Public Interest Disclosure Act
Public Interest Disclosure (Northern Ireland) Order
Parliament: guide to Public Interest Disclosure Act (PDF)
Gov.uk: information on whistleblowing
NI Direct on whistleblowing
Regulators prescribed in Public Interest Disclosure Act (PDF)

Latest news

UNISON comments on Francis report into whistleblowing in the NHS
Posted on 11 February 2015

UNISON calls for change to hospital whistleblowing laws
Posted on 6 November 2013

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