

Whistleblowing at work

The law

Whistleblowing is the action someone takes to report wrongdoing at work that affects others. For example, it could affect the general public.

Legally this is known as 'making a disclosure in the public interest'.

The action of whistleblowing is sometimes called 'blowing the whistle'.

Who is protected by law

By law, most people are protected if they make a qualifying disclosure. This includes:

- workers
- employees
- agency workers
- apprentices
- NHS practitioners
- student nurses
- student midwives
- police
- office holders
- self-employed doctors, dentists, ophthalmologists and pharmacists working in the NHS

Protection starts from the beginning of employment.

People are still protected even if they no longer work for the employer they're making a disclosure about.

For example, you would still be protected if you believe your previous employer gave an inaccurate job reference because you made a disclosure when working for them.

Who is not protected by law

People are not usually protected in law if they're:

- genuinely self-employed
- a volunteer with no enforceable employment contract
- a non-executive director
- a member of the armed forces
- a solicitor or barrister learning about an issue covered by professional privilege

- a crown employee dealing with national security – for example, people who work for MI5, MI6 or GCHQ

An employer might have a policy that says someone who is not protected by law can still make a disclosure to them. This is usually because the employer wants to try and resolve problems directly. In these circumstances the person must follow the process in that policy to make a disclosure.

What the law protects whistleblowers from

By law (the Public Interest Disclosure Act 1998), whistleblowers are protected from:

- unfair dismissal – if someone is dismissed for whistleblowing, it will be treated as an automatic unfair dismissal
- detriment

Detriment means someone experiences one or both of the following because they made a disclosure:

- being treated worse than before
- having their situation made worse

Examples of detriment could be:

- their employer reduces their hours
- they experience bullying
- they experience harassment
- their employer turns down their training requests without good reason

If you're legally classed as a worker you cannot claim unfair dismissal. However, you might be able to argue that you being dismissed was a detriment. This is a complicated area of employment law. If you want to take further action you should get legal advice.

How whistleblowers can claim protection

To claim protection, whistleblowers must show they:

- made a qualifying disclosure
- were dismissed or suffered a detriment as a result of making the disclosure

Find out:

- what someone can make a disclosure about
- how to make a whistleblowing disclosure

Employment tribunal time limit

You would usually have 3 months from the date of the unfair dismissal or detriment to make a claim to an employment tribunal.

Find out more about making a claim to an employment tribunal