



BRIEFING PAPER
WHISTLEBLOWER PROTECTION IN THE EU

Whistleblower Protection in the UK

Introduction

In 1998 the UK became the first country in Europe to pass a dedicated law designed to protect whistleblowers from retaliation. At the time, the Public Interest Disclosure Act (PIDA) was considered a forward-thinking law containing many provisions that would become international standards.

Largely unamended for nearly 20 years, PIDA no longer meets most international standards, nor has it kept pace with new forms of retaliation and threats faced by employees who report crime and corruption. The result is that a surprisingly high number of whistleblowers in the UK have been fired, harassed, blacklisted and otherwise victimized – without adequate protections and without penalties for retaliators.

A recent independent study found that PIDA not only fails to adequately protect whistleblowers but it may invite retaliation due to its loopholes and shortcomings.

Laws, Institutions and Procedures

PIDA created a process for employees in all sectors to report or disclose information on crimes, failure to comply with a legal obligation, miscarriages of justice, and dangers to public health, safety or the environment. The law spells out three levels of reporting – to managers in the workplace, to regulators, and to the public – each with higher thresholds for whistleblowers to meet.

Victimized employees may apply for financial compensation by filing a civil action with an Employment Tribunal in their area. Employers must prove any actions taken against a whistleblower were not linked to the person having made a report or disclosure under the law.

Recent or Ongoing Initiatives and Trends

PIDA was amended in 2013 to replace a “good faith” test with a requirement for workers to have a reasonable belief that disclosing information is in the “public interest.” This was seen as a significant improvement, as the good faith test allowed employers and judges to question whistleblowers’ motives. The amendment also made employers liable for bullying, harassment and other actions by employees.

A change in 2014 made it easier for whistleblowers to disclose information to members of Parliament.

A 2016 study by Blueprint for Free Speech and the Thomson Reuters Foundation raised serious questions about PIDA’s effectiveness. “Protecting Whistleblowers in the UK: A New Blueprint” found PIDA contains only 37 percent of international standards – and that 13 of 26 standards are missing completely. Whistleblowers must wait an average of 20 months for their Tribunal case to be resolved, and their average compensation is £17,500.

Whistleblower Cases

Dozens if not hundreds of whistleblowers in many industries – in particular health care, specialty care, banking and finance – have gone public with their disclosures and retaliation complaints. These cases have had a strong impact on political and social debates on whistleblower rights in a country known for its high rule of law standards.

Employees of the National Health Service (NHS) have been instrumental in exposing poor care, corruption and a culture of looking the other way within the health care industry and its bureaucracy. In 2007-08 whistleblowers helped expose wretched conditions and high mortality rates at Stafford Hospital. The scandal, sparked by the death of Bella Bailey, set off a nationwide debate on care standards and the treatment of whistleblowers.

Data and Statistics

According to the whistleblower support NGO Public Concern at Work, 22,073 applications under PIDA were made to Employment Tribunals from 1999 to 2015. Of these, 15,899 cases were resolved through rulings, mediation, settlement and other means. About 20 percent of PIDA claimants took their cases to a final Tribunal hearing, of which 24 percent won their case.

Public Perception of Whistleblowing

A 2012 survey by the University of Greenwich found that four of out five people in the UK think whistleblowers should be supported. However, slightly less than half think whistleblowing is acceptable in society – meaning that people think society is less supportive of whistleblowing than it should be.

Three-fourths of employees and members of organisations said they would feel personally obliged to report wrongdoing to someone internally. However, a smaller portion (6 in 10) were confident their organization would stop the wrongdoing, and less than half thought managers were serious about protecting whistleblowers.

Capacities and Knowledge Centers

No single government agency in the UK is responsible for receiving and investigating whistleblower reports and retaliation complaints. Under PIDA, “prescribed persons” in various agencies accept reports. Retaliation complaints must be filed with Employment Tribunals. The Department for Business, Energy & Industrial Strategy provides whistleblower information on its website.

Public Concern at Work, which helped develop PIDA, provides advice to whistleblowers through its hotline and website. Many NGOs are active in the field, including Patients First, *SpeakOut SpeakUp* (founded by whistleblower Wendy Addison) and Whistleblowers UK (founded by whistleblowers Ian Foxley and Peter Gardiner).

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