

Whistleblowers

Visual Interiors & Partitions Ltd are committed to conducting our business with honesty and integrity and we expect all staff to maintain high standards. We encourage staff to report suspected wrongdoing as soon as possible.

This policy does not form part of any employee's contract of employment and we may amend it at any time.

This policy applies to all individuals working at all levels of the organisation, including senior managers, officers, directors, employees, consultants, contractors, trainees, homeworkers, part-time and fixed-term workers, casual and agency staff and volunteers

Workers who make public disclosures, generally to the media about wrongdoings in the workplace, are commonly referred to as “whistleblowers”. In the past, these workers were often dismissed or victimised by their employers, which discouraged many workers from ‘whistleblowing’. With the introduction of whistleblowing legislation, ‘whistleblowers’ are now protected under certain circumstances.

Qualifying disclosures

Not all ‘whistle blowing’ is protected. The legal protection is only for ‘qualifying disclosures’ which, in the reasonable belief of the worker, are made in the public interest and tend to show one of the following:

- 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.

Protected disclosures

Workers 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’.

The persons and bodies specified are detailed below.

Employer or responsible person

Workers are protected if they make a qualifying disclosure to their employer. In addition, if an employer establishes a procedure for its workers to make qualifying disclosures to another person or body, these disclosures also become protected disclosures.

A couple of such independent bodies, are charity **Public Concern at Work** (Tele: 0207 404



6609, whistle@pcaw.co.uk, www.pcaw.org.uk) or **Protect** (Tele: 0203 117 2520, <https://protect-advice.org.uk/>).

If a worker 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.

Legal advisor

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

Minister of the Crown

A qualifying disclosure by a worker whose employer is either an individual appointed by a Minister of the Crown or a body, any of whose members are appointed by a Minister of the Crown, becomes a protected disclosure if it is made to a Minister of the Crown.

Prescribed persons.

A prescribed person is a person 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.

There are currently 33 prescribed persons or bodies in England and Wales, from the Audit Commission to the Treasury, each with a prescribed purpose. Of these, in addition to the Environment Agency noted above, the following are likely to be of most relevance to employers and workers: the Commissioners for Revenue & Customs (income tax, national insurance, SSP and SMP irregularities, etc., plus VAT irregularities, import or export of prohibited or restricted goods, etc.), the Health and Safety Executive and local authorities responsible for the enforcement of health and safety legislation (matters affecting health and safety of individuals at work or members of the public, etc.) and the Secretary of State for Business, Innovation and Skills (fraud or misconduct in relation to companies, etc.).

A complete list of prescribed persons and purposes is available from Citation.

Disclosure in other cases

If a worker reasonably believes that:

- he will suffer a detriment if he makes a disclosure in accordance with one of the above procedures, or
- there is no prescribed person and his employer may conceal or destroy evidence, or
- he has 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 worker 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 worker 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 it is made in the public interest, the worker believes the information to be true, it is not for personal gain and it is reasonable for the worker 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.

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