

Whistleblowers

How the Protected Disclosures Bill 2013 will impact on the workplace

It is expected that this Bill will be enacted before the end of the year.

The Bill provides a requirement that all public sector employers must put a whistleblowing policy in place, but given the potential legal exposures imposed by the Bill, it is advisable for any private sector employers to follow suit.

Any policy should ensure that employees are ensured that they can raise concerns to their employer and that these will be fully addressed, while at the same time protecting their identity and ensuring that they do not suffer any detrimental treatment as a result.

The Bill does not protect disclosures in relation to breaches of individual terms and conditions of employment as this would only have consequences for the individual whistleblower.

An individual may not be penalised and motivation is irrelevant as long as the individual has reasonable belief that the disclosure is true and falls into one of the below categories:

- The commission of an offence;
- Non-compliance with a legal obligation;
- A miscarriage of justice;
- Non-compliance with health and safety;
- Damage to the environment;
- Misuse of public funds;
- Mismanagement by a public body;
- Concealing or destroying information relating to any of the above.

Unlike the UK, there is currently no requirement that a disclosure is made in the public interest. However, the bill may be amended prior to its enactment.