

Whistleblowing

Do the right thing

Overview

Whistleblowing is the reporting of suspected or actual wrongdoing.

Whistleblowers are given protection against unfavourable treatment at work. The relevant provisions are found in the Employment Rights Act 1996 and apply to workers including police officers. A worker is protected against dismissal or unfavourable treatment for making a “protected disclosure”.

It is unlawful for the force to treat you unfavourably or dismiss you because you have made a protected disclosure. If you are dismissed for this reason, you can bring a claim for unfair dismissal. If your claim is successful, there is no limit to the compensation you can be awarded. This is one of the very limited circumstances in which a police officer can bring an unfair dismissal claim.



Protected disclosure

There are several requirements for a disclosure to be protected. The main requirements are:

- There must be a reasonable belief that it shows wrongdoing, in that there has been:
 - A criminal offence
 - A failure to carry out a legal obligation
 - A miscarriage of justice
 - A health and safety risk
 - Environmental damage
 - Concealing any of the above
- It must be made to an appropriate person
- It must be made in the public interest.

Making a disclosure

While wider disclosures can sometimes be protected, the most common and easiest route is for the disclosure to be made to the force.

Most forces have a whistleblowing policy which may provide guidance as to how a disclosure can be made. If you are thinking about passing information about wrongdoing outside the force, you should seek advice first.

Issues in practice

In order to succeed with a claim it is necessary:

- To show that there was a protected disclosure
- That this was the reason for the treatment or dismissal
- In most cases the main issue is showing that the disclosure was the reason for the treatment.

Making a complaint and Time Limits

If you think you are a victim of unfavourable treatment as a result of whistleblowing, you can complain to the Employment Tribunal. There is no minimum service requirement for bringing a claim. You must file your claim with the employment tribunal within three months less one day of the unfavourable treatment complained of. This time limit applies even if you are going through the force’s internal grievance procedure.

Mandatory ACAS Early Conciliation

If you are thinking about making an employment tribunal claim, you will first need to notify details of your claim to ACAS, who will then offer early conciliation to try to resolve the dispute. The conciliation period can be up to one month. If the claim does not settle, ACAS will issue a certificate confirming that the mandatory conciliation process has concluded.

There are changes to time periods within which to lodge claims to allow for the period during which a claim is with ACAS. The period within which a claim is with ACAS will not count for calculation of time limits; and if the time limit would usually expire during that period, or within the month after the certificate is issued, then you will have up to one month following receipt of the conciliation certificate in which to lodge a claim.

The process makes the calculation of time limits in employment tribunal cases more complicated. Claimants are advised to be aware of limitation issues and seek legal advice promptly. For further information on the ACAS early conciliation process visit: www.acas.org.uk.

Continue overleaf >

Employment Tribunal Fees

You have to pay a fee when you file your claim in the employment tribunal. Fees are payable when you issue your claim and prior to a final hearing. A fee remission scheme is in place- see the employment tribunal website at www.employmenttribunals.service.gov.uk for further details. The booklet on the website "EX160A Court and Tribunal fees – do I have to pay them?" Provides details for claiming a remission of fees.

If you need further assistance, in the first instance please contact your local Joint Branch Board.

W: www.slatergordon.co.uk/policelaw

Slater & Gordon is one of the UK's leading and largest legal practices with offices throughout England, Wales and Scotland.

Slater & Gordon (UK) LLP is authorised and regulated by the Solicitors Regulation Authority. The information in this factsheet was correct at the time of going to press May 2015.