

Speaking up: whistleblowing policy

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This policy is for anybody who works through HIRINGUK LTD, on any assignment, and for anybody who works with us. It is published rather than handed out on request, because a protection nobody knows about protects nobody.

First, the word itself

"Whistleblowing" means telling somebody that something at work is wrong. That is all it means. It comes from a referee blowing a whistle to stop play.

It is a strange word and plenty of people who have worked their whole lives in this country have never heard it used, let alone somebody who learned English on a building site or in a warehouse. So this page is called speaking up, and if the word on the form ever confuses anybody, ignore the word and read the next line.

It is not telling tales and it is not disloyalty. Parliament passed an Act in 1998 specifically to protect people who do it, because the alternative had been proved over and over: things go wrong, somebody knew, and nobody felt safe saying so. In warehouses and on the road that costs people fingers, backs and occasionally lives.

The three things people get wrong, first, because they are the reasons somebody stays quiet.

- You do not have to be right. The law protects a reasonable belief. If you honestly and reasonably believed something was wrong, you are protected even if it turns out you were mistaken.
- You do not have to come to us first. You may go straight to a regulator. The list of who is on the next section, and you need nobody's permission.
- No agreement can stop you. Section 43J makes any clause in any contract void insofar as it tries to stop a protected disclosure. That includes a settlement agreement, a confidentiality clause and anything a client asks you to sign on site.

1. What the law actually says

Part IVA of the Employment Rights Act 1996, put there by the Public Interest Disclosure Act 1998, protects what it calls a protected disclosure. Section 43B says a disclosure qualifies if you reasonably believe it is in the public interest and that it tends to show one or more of six things:

- a criminal offence has been, is being or is likely to be committed
- somebody has failed, is failing or is likely to fail to comply with a legal obligation
- a miscarriage of justice has occurred, is occurring or is likely to occur
- the health or safety of any individual has been, is being or is likely to be endangered
- the environment has been, is being or is likely to be damaged
- information tending to show any of the above is being, or is likely to be, deliberately concealed

Note the last one. Covering something up is itself a qualifying disclosure, separately from the thing being covered up.

2. What it protects you from

- Detriment. Section 47B: you must not be subjected to any detriment because you made a protected disclosure. On agency work, detriment usually looks like losing shifts, being moved to a worse rota, being taken off a site, or simply not being rung again.
- Dismissal. Section 103A: a dismissal is automatically unfair if the reason is a protected disclosure. There is no qualifying period of service, so it protects somebody on their first week.

- And the compensation is uncapped. Unlike an ordinary unfair dismissal, an award for whistleblowing dismissal has no statutory ceiling. That fact exists to make it expensive to punish somebody for telling the truth.

A worker supplied by an agency is covered. Section 43K extends the definition of worker specifically to include somebody introduced or supplied to do work by a third party, which is exactly the position of a temporary worker on a client's site. If a client's manager punishes you for speaking up, the law still reaches it.

3. Who you may go to, directly, without telling us

Section 43F lets you make a disclosure to a prescribed person, and you are protected for it just as if you had come to us, provided you reasonably believe the matter falls within their remit and the information is substantially true. These are the ones that matter in our work. You do not need our agreement and we will never ask you to come to us first.

If it is about | Go to

Health and safety at work, dangerous machinery, unsafe racking, no training | Health and Safety Executive, 0300 003 1647

Pay below the minimum wage, unpaid holiday, unlawful deductions | HMRC national minimum wage enquiries, 0300 123 1100 (the Acas helpline routes it)

How an employment agency or employment business behaves | The Fair Work Agency, which took over the Employment Agency Standards Inspectorate and the GLAA

Labour exploitation, forced labour, someone controlling a worker's pay or documents | Modern Slavery Helpline, 08000 121 700, free and confidential, 24 hours

Drivers' hours, tachograph falsification, an unroadworthy vehicle | DVSA, and in an emergency the police

Personal data being misused, a CV being sold, a breach covered up | Information Commissioner's Office, 0303 123 1113

Tax evasion, false self-employment, wages paid off the books | HMRC fraud reporting

A job advert that is a scam, or unfair working practices | JobsAware, free, non-profit, set up with the Metropolitan Police

A crime in progress, or anybody in danger | 999. Nothing on this page comes before that.

Independent advice, free and confidential, from Protect on 020 3117 2520, the national whistleblowing charity. They are not us, they do not report to us, and we would rather you rang them than stayed quiet.

4. Telling us, and the difference between confidential and anonymous

These two words get used as though they mean the same thing. They do not, and the difference decides what we can do for you.

- Confidential means we know who you are and we do not pass your name on. It is the stronger option, because we can come back to you with questions, and because a report we can develop is a report we can act on.
- Anonymous means we do not know either. You are welcome to do it, and our form does not ask for a name. Be aware of the limit, honestly stated: an anonymous report we cannot ask a single question about is sometimes impossible to investigate, and we would rather tell you that now than pretend otherwise.

Either way, you get a reference number. Keep it. An anonymous report with a reference is still a report you can come back and ask about, which is the thing that usually makes anonymity useless everywhere else.

Tell us, with or without your name

5. What we do when one arrives

- Somebody reads it the same working day. A person, not a queue.
- We acknowledge it within two working days if there is any way to reach you, with the reference number.
- If anybody is in immediate danger we act first and investigate afterwards. That may mean pulling workers off a site the same shift, and we will do it without waiting to be sure.

- We tell you what we decided. Not "it has been dealt with": what we found and what changed. There are limits on what we can say about another person, and we will say when a limit is the reason rather than leaving you to guess.
- If it is criminal, we preserve the records and report it to the police, Action Fraud or the Fair Work Agency as appropriate, and we tell you we have.

6. What we will not do

- We will not ask who told us, and we will not tell a client who told us. If a client asks, the answer is no, and that answer is in our terms of business rather than in our good intentions.
- We will not stop offering you work because you spoke up. If your shifts change after a report, say so and we will account for it. Section 47B makes that our problem to answer, not yours to prove alone.
- We will not ask you to sign anything that limits this. If anybody ever does, it is void under section 43J, and we would rather you knew that than trusted us.
- We will not treat a mistaken report as a bad one. The only thing that forfeits protection is a report made in bad faith, and being wrong is not bad faith.

7. If it is about us

Then it is more important, not less. Report it in exactly the same way, or go straight to the Fair Work Agency, who regulate employment businesses and who do not need our permission or our cooperation to look at us. A company that only wants to hear about other people's problems is telling you what it will do with yours.

8. This is not the complaints procedure, and the difference matters

If something has gone wrong for you, about your pay, your shifts or how you were treated, that is a complaint and it has its own route with its own timescales. This page is for wrongdoing that affects other people or the public, whether or not it affects you. If you are not sure which one it is, use either. We will route it correctly and we will never send you away to start again somewhere else.