



*cutting through complexity*

# Protected Disclosures Act 2014

Whistleblowing:  
practical steps for employers

March 2015



## Consider the 'Six R' approach to whistleblowing

### Protected Disclosures Act 2014 – Practical steps for an employer to take to ease the worry of facing potentially high profile, high cost cases under this Act.

Employers cannot afford to ignore the Protected Disclosures Act 2014 (the 'Act'). While the redress provisions for employees who have been penalised are significant with the possibility of compensation of up to five times an employee's pay, penalties under this Act are avoidable if employers take practical steps to manage communications regarding wrongdoing in the workplace and react appropriately to workers who make disclosures which are deemed to be protected under the Act.

#### An example of how a claim under the Act can arise:

- > An employee discloses a relevant wrongdoing
- > Employer feels aggrieved and penalises the employee for having blown the whistle by dismissing them
- > Employee files for unfair dismissal
- > An adjudicator finds that the disclosure was protected and that but for the protected disclosure, the employee would not have been dismissed
- > An award of compensation is made (up to five years' remuneration), reinstatement or re-engagement.

Employers need to formulate steps to reduce the likelihood of claims. Employers should ensure that no matter what information is disclosed or allegations made, that there is no link between that disclosure and any adverse treatment of workers such as demotion, transfer of duties, unfair treatment, or the threat of reprisal.

 <h3>Rules</h3> <p>Put a written policy in place to deal with the reporting of wrongdoing within the workplace. This should be separate to your grievance procedure and can be the responsibility of your compliance or internal audit function rather than HR.</p> <p>The policy should be a simple document focusing on: what matters can be disclosed; how and to whom disclosures should be made; and, the protections offered to the worker for making protected disclosures including confidentiality.</p>	 <h3>Raise</h3> <p>You need to encourage workers to raise concerns of wrongdoing within the workplace and you need to consider making multiple disclosure options available to workers. Make it easy for a worker to report a wrongdoing within the workplace by engaging KPMG's 24 hotline service. This service is an expedient and inexpensive tool in your risk management strategy.</p> <p>The service includes a 24 hour phone service, a confidential and anonymous web reporting system and a unique Irish email address to facilitate disclosures of wrongdoing.</p>	 <h3>React</h3> <p>Formulate a reaction plan to disclosures of wrongdoing. Once you are put on notice of potential wrongdoing, you need to react in an effective and appropriate way.</p> <p>KPMG's hotline service will alert you to matters disclosed to prompt you into investigating the matter.</p> <p>Your policy can outline the investigation procedure but as with all workplace investigations, it should be done to a high standard and without delay.</p>
 <h3>Refrain</h3> <p>Refrain from knee jerk personal reactions that could be interpreted as penalisation.</p> <p>Take an objective approach to the individual disclosing the information or making the allegation.</p> <p>Focus on the alleged wrongdoing rather than the whistleblower.</p>	 <h3>Rectify</h3> <p>Use the findings of the investigation to assist in rectifying the matter appropriately and without delay.</p> <p>Take action against the wrongdoer if required.</p> <p>Assure the whistleblower worker that appropriate action has been taken and encourage their vigilance.</p>	 <h3>Review</h3> <p>Public body employers need to conduct a review of whistleblowing matters to produce an annual report.</p> <p>Review your policies and procedures regarding the communications of wrongdoing in the workplace.</p> <p>Review any matters that escalated beyond the workplace whereby external protected disclosures were made to statutory bodies, the media or other third parties.</p>

## Contact us

Contact **Aoife Newton**, Employment Law Solicitor KPMG to discuss your policy and approach or **Deirdre Carwood**, Director Forensics to discuss KPMG's whistleblowing hotline services.



## Contact us



**Aoife Newton**

Employment Law Solicitor

**T:** + 353 1 700 4285

**E:** aoife.newton@kpmg.ie



**Deirdre Carwood**

Director Forensics

**T:** + 353 21 425 4508

**E:** deirdre.carwood@kpmg.ie

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