

# Recognising a whistleblowing statement

## Personal grievance or protected disclosure?

A grievance is a matter of personal interest – usually made by a disgruntled employee – whilst a whistleblowing statement, or protected disclosure, will recognise serious concerns likely to impact the wider public, including a group of staff. The distinction between the two is usually clear; but sometimes, what appears to be a personal grievance could still amount to whistleblowing. Outlined below are some key considerations and conditions that can help to determine the difference.

### There are six types of wrongdoing or “qualifying disclosures” that are protected under whistleblowing law:

1. Criminal offence
2. Failure to comply with a legal obligation
3. Miscarriage of justice
4. Endangering the health or safety of any individual
5. Damage to the environment
6. Deliberate concealment of any of the above

### What situations can result in whistleblowing?\*

- Fraud
- Money laundering
- Mis-selling
- Environmental contamination
- Non-compliance with regulatory requirements
- Tax evasion
- Embezzlement
- Price fixing
- Human rights abuses
- Hate speech
- Breach of working time or minimum wage regulations

\*This is not an exhaustive list

### Other conditions that must be met:

The information reported:

- Must be information that the whistleblower reasonably believes is in the public interest.
- Must convey sufficient facts and specificity.
- Can have already taken place, be happening currently or likely to happen in the future.

### What is a personal grievance?

A grievance is a concern, problem or complaint that an employee has about their work, the workplace or someone they work with. Complaints may concern:

- Terms and conditions
- Promotion or selection procedures
- Working conditions
- Harassment, bullying and discrimination (unless in the public interest)
- Personal views or beliefs that conflict with those of the organisation

### Employment Tribunals

There are four factors an ET may consider to determine if a protected disclosure has been made:

1. The number of people whose interests are affected by the disclosure.
2. The nature of the interests affected and the extent to which they are affected by the wrongdoing disclosed.
3. The nature of the alleged wrongdoing disclosed. If the wrongdoing is deliberate, it is more likely to be in the public interest.
4. The person who is accused of the wrongdoing. The larger or more prominent the wrongdoer, the more likely the disclosure about their activities will engage the public interest.

# Key contacts

Our Employment team advises corporates, partnerships, LLPs and senior executives on all aspects of employment and discrimination law. We work with business owners, boards and HR directors to help them get the best out of their workforce. Find out more [here](#).



## Jane Amphlett

Partner, Head of Employment

T +44 (0)20 3755 5360

E [jane.amphlett@howardkennedy.com](mailto:jane.amphlett@howardkennedy.com)



## Sam Murray-Hinde

Partner

T +44 (0)20 3755 5619

E [sam.murray-hinde@howardkennedy.com](mailto:sam.murray-hinde@howardkennedy.com)



## Alexandra Mizzi

Legal Director

T +44 (0)20 3755 5614

E [alexandra.mizzi@howardkennedy.com](mailto:alexandra.mizzi@howardkennedy.com)



## Lydia Christie

Legal Director

T +44 (0)20 3755 5402

E [lydia.christie@howardkennedy.com](mailto:lydia.christie@howardkennedy.com)