

## UnionLine clients benefit from wider whistleblowing provisions

**UnionLine Scotland has been able to use the wider scope of whistleblowing legislation to successfully pursue two cases, winning significant compensation, over the past year.**

Under the previous provisions contained in the Employment Rights Act 1996, action could only be taken against employers. Now, under legislation passed in 2013, the net has been widened to include complaints against individual co-workers, managers and/or directors.

The change in the law gave whistleblowers the same protection as workers who pursued discrimination cases, where individuals are liable for acts of harassment and victimisation.

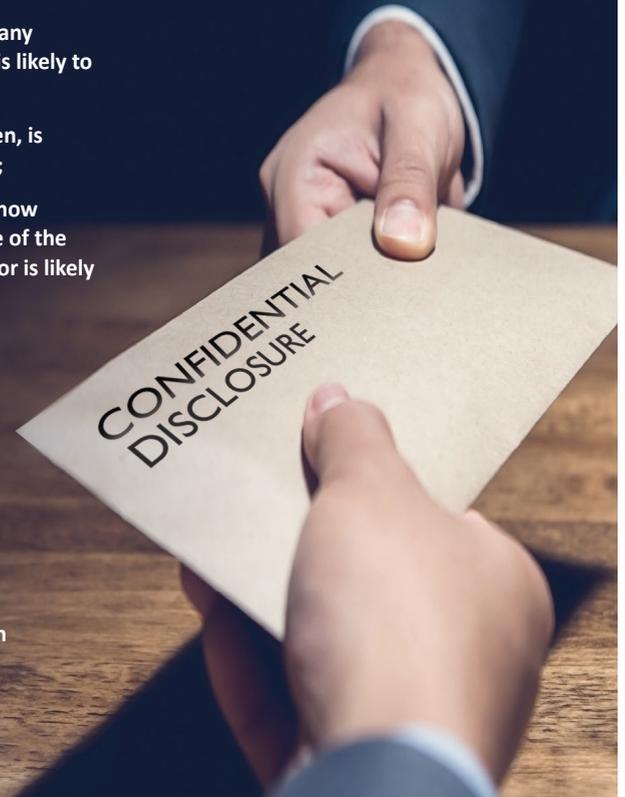
The change came about due to the case of *Fecitt v NHS Manchester* [2012] ICR 372, where nurses were subject to bullying due to whistleblowing activities.

A whistle-blower can, though, only be protected if he/she has a reasonable belief that making the disclosure is in the public interest. The wrongdoing they suspect has to relate to very specific categories;

- (a) That a criminal offence has been committed, is being committed or is likely to be committed,
- (b) that a person has failed, is failing or is likely to fail to comply with any legal obligation to which he is subject,
- (c) that a miscarriage of justice has occurred, is occurring, or is likely to occur,
- (d) that the health and safety of any individual has been, is being, or is likely to be endangered,
- (e) that the environment has been, is being, or is likely to be damaged;
- (f) That information tending to show any matter falling within any one of the preceding paragraphs has been, or is likely to be deliberately concealed.

The revised legislation makes those found guilty of victimising or engineering the dismissal of a whistleblower personally liable. The law was seen in action, with the recent case of *Timis and Sage v Osipov* [2018] EWCA Cave 2321, where two directors were ordered to pay £1.7 million compensation to Osipov, whose dismissal they helped orchestrate.

*"This case should serve as a warning to anyone in the workplace whatever their position. If such individuals take it upon themselves to subject a whistleblower to victimization or engineer a dismissal of the whistle-blower they may have to personally pay compensation out of their own pocket,"* said a spokesperson for UnionLine Scotland.



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## The government's starting date for whiplash reforms has been called into question after it emerged that vital work to amend the rules has stalled.

The government's starting date for whiplash reforms has been called into question after it emerged that vital work to amend the rules has stalled. Reforms to increase the small claims limit to £5,000 for RTA claims require the development of a new pre-action protocol for the new portal, due to go live in April 2020. But the Civil Procedure Rule Committee (CPRC) has yet even to discuss proposals for new rules and a protocol - and no talks can take place until after the general election.

The Ministry of Justice, which passed the Civil Liability Act almost a year ago, continues to insist it is working to next April's implementation date. But ministers have

accepted in the past that rule amendments are a necessary part of the new system, and there are now major question marks about the timeframe for meeting the deadline.

Minutes from the CPRC meeting in July showed that detailed proposals for the portal would be provided by the MoJ by mid-September to allow a sub-committee to comment ahead of the committee's October meeting. But according to minutes for the October meeting, the portal was not even brought up as an item, let alone any proposals discussed. The only mention of whiplash in the whole meeting was to note that credit hire needed to be considered as part of the RTA reforms.

UnionLine News understands rules for the portal were not even ready for consideration

at the CPRC meeting this month, and the committee is now waiting for any subsequent referral by the new government after 12 December. The July minutes did give a sense of rule-makers' reservations about the portal, with committee chair Lord Justice Coulson urging 'caution in devising a system which was so radical that it generated a potential need for two sets of rules' for unrepresented and represented parties.

Brett Dixon, president of the Association of Personal Injury Lawyers, said the election purdah means stakeholders are 'completely in the dark' about what progress is being made, even as the government continues to commit to April 2020.



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