

Causeway Coast & Glens

Borough Council

To: Corporate Policy & Resources Committee

Date: 21st April 2015

Consultation report

1. Employment Relations Policy and Legislation Branch – Public Interest Disclosure – Annual Duty to Report

In July 2013 the Department for Business, Innovation and Skills (BIS) in Great Britain consulted on the law governing whistleblowing by issuing a Call for Evidence on the existing legal framework for the protection of whistleblowers.

Analysis of the responses showed a lack of confidence from whistleblowers that their concerns were being investigated. Previous legislation had no requirement for a prescribed body to act on any disclosures received. As a result, The Small Business, Enterprise and Employment Act (section 148) has now introduced a duty on prescribed persons, in Great Britain, to report annually on the whistleblowing disclosures they receive.

The purpose of the annual reporting requirement is to:

- ensure more systematic processes across all prescribed bodies in the way public interest disclosures are handled, thereby working towards a consistent standard of best practice for handling disclosures; and
- provide greater assurance to the whistleblower that action is being taken by the prescribed person thereby increasing the confidence in the role of the prescribed person.

The reports will not provide detail that would enable the identification of the worker making the disclosure or of the employer to which the disclosure relates. BIS proposes to introduce Regulations that will provide that the reports should cover more generic information such as:

- the number of disclosures that qualify as protected public interest disclosures,
- the number of these that did not require any further action,
- the number of these that were referred to an alternative body,
- the number of disclosures that required further research,
- the number of investigations that led to action being taken,
- the number of cases where the issue was resolved after first contact with the employer: and
- the number of organisations investigated that had whistleblowing policies in place.

Position in Northern Ireland

In light of the changes in Great Britain, the Department for Employment and Learning would like to hear your views on similar changes to the Employment Rights (Northern Ireland) Order 1996. Any changes identified would be taken forward through the Employment Bill, currently being considered by the Department. I would therefore be grateful for your views on the following questions.

Question 1. Do you believe that providing information in an annual report will:
1.1 increase confidence that reports of wrongdoing are handled correctly?
1.2 dispel the belief that the whistleblowing framework is failing whistleblowers?
1.3 improve the consistency of information across prescribed persons?

Question 2. If Northern Ireland was to replicate the duty on prescribed persons to report annually on whistleblowing disclosures they receive, how should this reporting requirement be implemented in practice?
2.1 What information should be included in the annual report?
2.2 Where the report should be published – on each organisation’s website, within existing annual reports or to the Northern Ireland Assembly for example?
2.3 When should the report be published – at the end of the financial year for example?
2.4 Will this duty to report create additional burdens on your organisation?

Inclusion of Student Nurses

The Call for Evidence also identified a number of groups who were not included in the definition of worker under section 43K of the Employment Rights Act 1996 (Extension of meaning of “worker” etc. relating to Protected Disclosures) in Great Britain. Due to the employment-like relationship and the nature of the detriment suffered, BIS is to legislate to include one of those groups, student nurses, in this definition. Northern Ireland has similar legislation in article 67K of the Employment Rights (Northern Ireland) Order 1996, which extends the definition of ‘worker’ for reasons relating to protected disclosures.

The Department would welcome your views on introducing legislation to include student nurses in article 67K of the Employment Rights (Northern Ireland) Order.

Question 3. Should the current definition of worker be amended to include student nurses for Public Interest Disclosure purposes? Please provide any evidence to support your view.

The closing date for responses is 4th May 2015.