



Speaking

In 2016, over half the callers who rang a whistleblowing advice line said safety concerns they had raised with their employer had been ignored or denied.

Sam Berket from Public Concern at Work reports.

Lee Packman was employed as a driver for a transport company that collects recyclable waste. He became concerned that his vehicle was being loaded with excessive weight. Lee texted his manager several times informing him of the situation, asking for advice and stating he was taking a safety risk and breaking the law.

His manager told him to “stop moaning” or to just quit if he wasn’t happy. When Lee continued to express concerns about losing his licence, his manager sent him a text telling him he was dismissed and would not receive any more work, as “no driver dictates what they will and won’t do”.

Lee Packman took his case to an Employment Tribunal and won¹.

Public Concern at Work (PCaW), the whistleblowing charity, aims to protect society by encouraging workplace whistleblowing. Since 1993, the charity has run a whistleblowing advice line which has received thousands of calls about work-related safety issues. Calls to our advice line show that Lee Packman’s experience is far from uncommon among UK workers; work safety has consistently been one of the top three concerns raised by those calling the advice line.

In 2016, 13 per cent of the calls PCaW received were about work-related safety². These calls concerned safety issues across all industries, however, certain sectors keep topping the list. Perhaps unsurprisingly, the majority of calls from workers in the

construction sector were about a work safety concern (56 per cent). The manufacturing sector, the transport sector and the retail sector also score highly for workers raising safety concerns (55%, 40% and 22% respectively). Worryingly, statistics collected from advice line calls show that, when raised, these safety concerns are more likely to be ignored or denied than other work-related concerns.

In 2016, 59 per cent of callers who had reported their safety concern said that it had been ignored or denied by their employer, while 19% of callers said that their work safety concern was being investigated or had been resolved. PCaW has also found that workers who raised a work safety issue were more likely to be dismissed or to resign. In 2016, 37% of those who called and raised a work safety concern were subsequently dismissed or resigned.

These alarming figures show that two decades on from the landmark whistleblowing law, the *Public Interest Disclosure Act 1998* (PIDA)³, coming into force, raising a work safety concern is too often a futile exercise with potentially serious consequences for those who raise concerns. However, it is not just those who speak up who potentially have something to lose in these circumstances, the consequences for organisations that fail to listen to concerns raised by their workers can also be disastrous.

PCaW chief executive, Cathy James OBE comments: “Workers are the eyes and ears of an organisation and are often the first to notice something going wrong. Those organi-

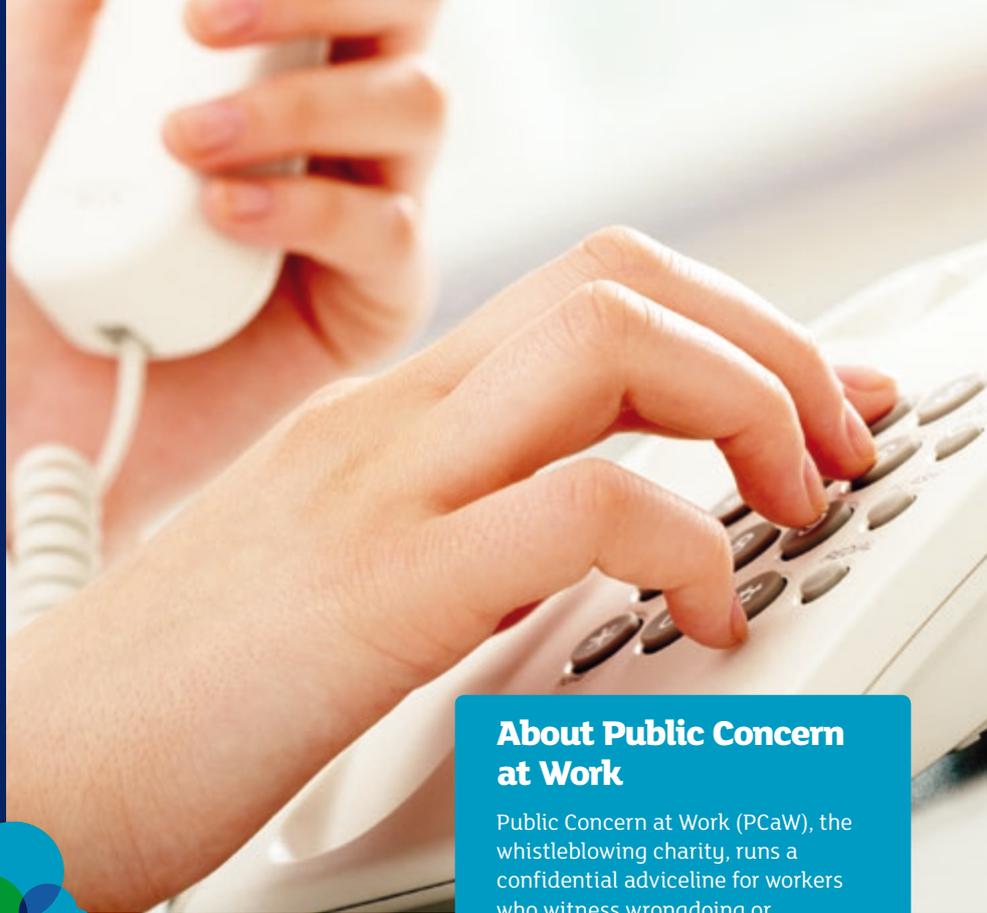
sations that do not encourage staff to speak up risk missing vital safety critical information. Concerns that could and should have been listened to are often found to have been ignored when lessons are learned from major public disasters.”

The British Standards Institution’s *Code of Practice on Whistleblowing Arrangements*⁴ (produced by a broad working group including PCaW) states that organisations that overcome a culture of silence by encouraging their staff to speak up will be “better able to deter wrongdoing; pick up problems early; demonstrate ... that they are accountable and well managed; reduce the risk of anonymous and malicious leaks; minimise costs ... from accidents, investigations, litigation and ... inspections; and maintain and enhance its reputation.”

Encouragingly, at first glance, a survey into UK business practice which was conducted by PCaW and professional services company EY in 2013 found that 93 per cent of the surveyed organisations had formal whistleblowing arrangements in place. Less promisingly, 1 in 3 of those surveyed said that their whistleblowing arrangements are ineffective and over half said they do not train key members of staff designated to receive concerns. Moreover, 1 in 10 participants said their arrangements are not clearly endorsed by senior management

In recognition of the need to improve matters, in 2013 PCaW established the Whistleblowing Commission – an independent group of industry and academic experts – to examine the effectiveness of whistleblowing

out



in the UK and to make recommendations for change. The Commission published its report on the effectiveness of existing arrangements for UK workplace whistleblowing in November 2013. One of the most important recommendations made was the creation of a code of practice on whistleblowing arrangements, which provides practical guidance to employers, workers and their representatives and sets out principles for raising, handling, training and reviewing whistleblowing in the workplace.

The Commission recommended that this code should be written into statute so that it could be taken into account by courts and tribunals considering whistleblowing issues as well as by regulators, such as the Health and Safety Executive, as part of their inspection and assessment regimes.

Since then, steps have been taken in certain sectors to formalise good practice whistleblowing. In health, these changes came about after the publication of the *Freedom to Speak Up* review, which was conducted by Sir Robert Francis QC. As is unfortunately often the case, this much-needed review into whistleblowing in the NHS happened after a tragedy – in this case, the hundreds of avoidable patient deaths in Mid Staffordshire NHS Foundation Trust.

The *Freedom to Speak Up* review made many recommendations, not least the introduction of a national 'Freedom to Speak Up Guardian' and a network of similar 'guardians' to be appointed in NHS Trusts in England to improve the treatment of whistleblowers

and the handling of concerns. The review called for a move away from defensive attitudes and a climate of fear within the NHS, towards a culture where raising and addressing concerns and challenging poor practice becomes the norm.

The City watchdog, the Financial Conduct Authority (FCA), has also published a new set of whistleblowing rules. This follows the recommendations of the Parliamentary Commission on Banking Standards, which was set up in the wake of scandals such as the rigging of the Libor rate.

The FCA's rules, which took full effect in September 2016, 'aim to encourage a culture where individuals feel able to raise concerns and challenge poor practice and behaviour'⁵. The new rules on whistleblowing require firms, among other things, to appoint a senior manager as their whistleblowers' champion; put in place internal whistleblowing arrangements able to handle all types of disclosure from all types of person, and tell UK-based employees about the FCA and PRA whistleblowing services.

PCaW wants to see similar guidance introduced across all industry sectors to ensure work safety concerns are no longer ignored and denied. A comprehensive code of practice on effective whistleblowing arrangements, which enjoys legal backing, can help organisations get whistleblowing right. Such guidance is all the more significant bearing in mind the increasingly precarious situation of UK workers. The introduction of Employment Tribunal fees, weaker employment rights and the

About Public Concern at Work

Public Concern at Work (PCaW), the whistleblowing charity, runs a confidential advice line for workers who witness wrongdoing or malpractice in the workplace. Since 1993, the charity has advised over 21,000 whistleblowers. PCaW also works with organisations and campaigns on public policy to encourage workplace whistleblowing.

For further information, visit www.pcaw.org.uk

general fragility of the post-2007/8 financial crisis and post-Brexit UK economy mean that job security is becoming a real concern for UK workers. This insecurity may well make workers feel less willing to raise work safety concerns, so organisations need to ensure their whistleblowing arrangements encourage workers to raise concerns and that they successfully capture and deal with these concerns. Advice and information for both employers and employees is available from our website – www.pcaw.org.uk

References

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4. *PAS 1998:2008 Whistleblowing Arrangements Code of Practice* <http://shop.bsigroup.com/forms/PASs/PAS-1998/>
5. Financial Conduct Authority www.fca.org.uk/publication/policy/ps-15-24.pdf