



WHISTLEBLOWING UPDATE

OCTOBER 2015

The war stories emerging from the 2007/2008 financial crisis predominantly blame the bankers for its creation, in tandem with allegations of weak regulation. Since the mid noughties the UK financial services regulatory regime has undergone a significant overhaul, resulting in a far tougher regulator with a keen eye on individual accountability. The UK's new whistleblowing rules will bolster that position.

On 6 October, following recommendations by the Parliamentary Commission on Banking Standards in 2013, the UK financial regulators (the Prudential Regulation Authority and the Financial Conduct Authority) introduced new whistleblowing rules. In practice, what this means is that by 7 March 2016 relevant firms must have appointed a sufficiently senior 'whistle-blowers' champion' who must have the firm sufficiently prepared for the new whistleblowing regime by September 2016. The new rules will require a firm to:

- implement internal policies and procedures to handle disclosures
- draft settlement agreements to give workers a legal right to whistleblow
- tell UK employees about the FCA / PRA whistleblowing services
- report to the board at least annually on whistleblowing
- have a mechanism to inform the regulator if it loses an employment tribunal with a whistleblower
- require its appointed representatives and agents to tell their UK based employees about the whistleblowing service

Why is this interesting to financial services businesses in Guernsey? It will come as no surprise that in Guernsey whistle-blowing is most certainly on the financial services regulator's agenda. In 2013, no doubt following the UK Parliamentary Commission's recommendations, the Guernsey Financial Services Commission announced the introduction of a designated whistleblowing line that made available a direct line to its enforcement division, with anonymity / confidentiality preserved (if so desired).

However, unlike the UK that already has legal protections for whistle-blowers (protected disclosure), Guernsey has no such protections for breaches of confidence by employees. However, that is likely to change for financial services businesses (at least) in the near future if the changes proposed in the revision of the Guernsey financial regulatory laws, as consulted upon at the beginning of this year, proceed as planned (and given the Guernsey regulator keeps a keen eye on regulatory developments in the UK).

In so far as whistleblowing is done for genuine reasons we are broadly in support of the proposed protections being drafted into the new laws, but this comes with a caution that there must also be appropriate deterrents to prevent malice.

We are hoping to hear more on Guernsey's regulatory law revisions early next year.

Click [here](#) to read the FCA Policy Statement: Whistleblowing in deposit-takers, PRA-designated investment firms and insurers.

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