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For immediate release

Information Commissioner decision will allow long-awaited and necessary scrutiny of employment claims in the public interest

The whistleblowing charity, Public Concern at Work, has welcomed a decision by the Information Commissioner to require the Department for Business, Enterprise and Regulatory Reform (“BERR”) to make public the names and addresses of respondent employers to all claims to the Employment Tribunal.

The Commissioner found that BERR was not justified in its decision to withhold the information on the grounds that publication would be prejudicial to the effective conduct of public affairs. The decision will apply to information gathered and held by BERR since 1 October 2004.

The Director of Public Concern at Work, Catherine Wolthuizen hailed the decision as “an important step towards ensuring proper transparency and accountability in the administration of employment claims, in accordance with the principles of open justice.”

“This decision restores the transparency which existed from 1965 to 2001, when such information was made public. There was never any justification for its suppression, which obscured the necessary and legitimate scrutiny of many of these matters in the broader public interest.

“Since 2000, Public Concern at Work has managed to obtain details of several thousand judgments issued by the Employment Tribunal in relation to claims under the Public Interest Disclosure Act (“PIDA”) – the legislation which protects whistleblowing in the public interest.

“Scrutiny of these cases revealed that many were founded on matters of public interest - where whistleblowers had suffered reprisals for alerting their employers to health and safety, fraud, security or other serious risks.

“We know that many claims are settled before they reach judgment, and without a public register, the concern which led the employee to blow the whistle in the first place never came to light. There has been no obligation on the employer to address the concern, and no regulator would be made aware of it, leaving employees and the public potentially at ongoing risk.

“We hope that this will open the door to the release of the full information which was previously available in order to identify those matters where a public concern should be subject to further investigation rather than be buried in an employment settlement,” concluded Ms Wolthuizen.

For comment, contact Catherine Wolthuizen on 07846 472 923

See below, and www.pcaw.co.uk for details of public concerns arising out of employment claims

Millani v Medirest (2005/06)

M worked for Medirest, a cleaning contractor, and was in charge of laundry for Charing Cross Hospital. In mid-2005, her bosses ordered new mops and cloths which were to be disinfected by thermal washing (i.e. without detergent) in the machines M used for the patients' laundry. As it turned out, the mops were washed at 60 degrees and not the 90 degrees needed because they had been wrongly labelled. M feared these new arrangements risked infecting the patients' clothes and padlocked her machines. When her employers threatened her with a charge of gross misconduct, M removed the padlocks and then wrote to the hospital's CEO. He was most concerned and launched an investigation. M was then dismissed. An employment tribunal held that M's concerns were well-founded and, entirely unpersuaded by the reasons Medirest claimed for M's dismissal, found her letter to the CEO was the real reason. She was reinstated in her job and awarded £7,000 in compensation.

Collins v The National Trust (2005)

C was a National Trust warden in charge of a stretch of north-east coastline, which included the site of a former quarry. Coastal erosion had created a real risk that chemicals and waste from the quarry would leak onto the beach. The National Trust and the local council had long been in dispute about what should be done and by whom. C was shown in confidence by the National Trust a report the council had obtained which highlighted the risks of further erosion. As the report was already a year old, C thought the site should be closed. Two weeks later he passed the report to the local media, who wrote it up and quoted C. As a result, he was dismissed. He made a successful PIDA claim. The Tribunal found that the disclosure was protected as an 'exceptionally serious' concern because children played on the beach and the public, relying on the National Trust's reputation, would think it safe.

NOTE TO EDITORS

Public Concern at Work is an independent, self-funding whistleblowing charity. Set up in 1993, it helped devise and promote the Public Interest Disclosure Act 1998. It runs a free confidential helpline on 020 7404 6609 for people with whistleblowing concerns; promotes the public interest through its policy work; and advises public bodies, business, regulators and unions on how to create more open and accountable cultures. The charity's work has been commended by ministers, the Court of Appeal, leading newspapers, the Committee on Standards in Public Life and various public inquiries.