

KEEPING IN TOUCH

THE NEWSLETTER OF RICHARD GROGAN & ASSOCIATES SOLICITORS

Whistle-Blowing Policy

A new European Union Directive on the protection of persons reporting on breaches of Union Law will result in a change in the law here in Ireland. The Irish legislation is one of the strongest in Europe as it is. The Protected Disclosures Act provided that a workers motivation for making any protected Disclosure is irrelevant. An amendment to the Act in 2018, being the EU (Protection of Trade Secrets) Regulations 2018 provides that where a whistle – blower wants to reveal a trade secret as defined by that Act they have a duty to demonstrate that they are doing so in the public interest.

In relation to the Directive, most of the Directive will not need to be implemented here in Ireland as it is already applicable.

There are some changes proposed however;

1. The Directive will expand the definition of relevant wrong doings to include breaches of EU Law, Money Laundering, Corporate Tax Laws, Food product and Transport safety along with Environmental protection, public procurement, Data Protection, Consumer Protection, nuclear safety and public health.

The definition of whistle-blower will now encompass what is termed legal persons as well as natural persons or individuals. The following workers will be included to include self-employed, company shareholders, non-executive directors, volunteers and unpaid trainees and interns.

The legislation in Ireland requires public sector employers to have a whistleblowing policy. This does not apply to the private sector. The Directive will extend the requirement for having a policy to all entities operating a financial services or vulnerable to money laundering, private entities with more than 50 employees and private entities with an annual turnover or balance sheet of €10 million or more.

They will also be required to have reporting channels to ensure the confidentiality of the whistle-blowers identity and ensure that reports are followed up within three months.

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The issue of whistleblowing is an important issue in many organisations and it is important to have proper policies in place where there are no proper policies in place, employers have a difficulty in restricting disclosures within the organisation. By having a policy in place it means that disclosures can firstly be dealt with in organisations.