

IMPACT OF THE REGULATIONS ON THE COURTS

1. The impact on the public sector is expected to be minimal. We estimate that there may be around 20 cases per year which may bring a claim before the Employment Tribunal or court. An initial estimate of the impact to HMCTS is around £60,000 per annum. This is based on the following information.
2. In 2012/13 there were 23,805 total employment claims heard by Employment Tribunals in the UK, of which 2516 claims related to a protected disclosure.
3. The precise number of individuals who will be affected by Regulations made under these Regulations is unknown, although the available information suggests the number is likely to be small. The UK Whistleblowing report published by the charity, Public Concern at Work, reported that of the 1910 individuals who contacted them for advice in 2013, 18% of these about the health sector. If this figure is applied to the 2516 UK wide claims that related to a public interest disclosure, this gives us a figure of 452 claims for the health sector. As the NHS is the largest health employer in England (and the world), it seems reasonable to conclude that these 452 claims would largely be from NHS employees. However, it is not clear what percentage of these 452 claims would relate to any sort of discrimination against a job applicant by an NHS employer (as defined).
4. 19,764 staff responded to the surveys issued by Sir Robert Francis' "Freedom to Speak Up" review. Out of these responses, only 20 submissions (0.1% of respondents) were received where the respondents specifically alluded to 'blacklisting' or similar barriers to employment as a result of their whistleblowing. However, the report does not provide a timescale over which these instances of "blacklisting" were alleged to have occurred and this does not represent any annual figure.
5. If the 20 'blacklisting' responses referred to above all occurred within a 12 month timeframe (which has not been confirmed), there could be an estimated additional 20 claims brought before the Employment Tribunal on an annual basis, an increase of 0.8% .
6. Of the estimated 20 possible cases which could bring a claim before the Employment Tribunal, we estimate that 27% of these to be settled or withdrawn following the ACAS early conciliation scheme
7. We do not have any data to suggest how many might seek to bring a claim before the civil Court for a breach of statutory duty. Individuals seeking to bring such a claim would be those making a substantial claim and also seeking to limit the actions of an NHS employer in a specific way. We estimate that this would happen in only 1 or 2 cases per year.
8. The initial estimated impact to HMCTS is around £60,000 per annum.