EAT clarifies the “public interest test” for whistleblowing claims

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A disclosure does not need to be in the interest of the public at large in order to satisfy the “public interest test” as set

out in whistleblowing legislation, and can concern only a small group of people.

The Claimant, Mr Nurmohamed, was employed by Chestertons as a senior manager. He made disclosures regarding manipulation of the company's accounts, which were modified in order to overstate costs and liabilities resulting in lower commission payments for around 100 employees (including himself). Mr Nurmohamed was subsequently dismissed and brought a claim for unfair dismissal against Chestertons.

It was submitted by Chestertons that, as the disclosure only concerned a class of its employees, it did not satisfy the 'public interest' requirement. The EAT considered the meaning of 'in the public interest' and held that a disclosure is not required to be of interest to the public at large. As such, although Mr Nurmohamed's disclosure was only of interest to a small group of persons, i.e. the 100 senior managers affected by lowered commission payments, it still qualified as a protected disclosure for the purposes of whistleblowing legislation.

The EAT took a broad view of the 'public interest' test, thus setting out a lower threshold for who a whistleblower is than many had anticipated. It should be noted that the EAT reached this conclusion despite the fact that Mr Nurmohamed's principal concern was for his own income, rather than that of other affected employees.

Chesterton Global Ltd and another v Nurmohamed UKEAT/0335/14

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