

# Job protection for NHS staff who blow whistle over unsafe hospitals

**Chris Smyth** Health Editor

NHS whistleblowers will be able to take hospitals to court for discrimination under rules that give them specific legal protection for the first time.

Those who speak out about unsafe care will enjoy protection similar to that extended on the basis of a person's race or gender under plans to make it easier for them to find new jobs in the health service. They will be able to go to an employment tribunal or the courts if they believe they have been refused a post because of whistleblowing.

Jeremy Hunt, the health secretary, said the changes were "another step closer to creating a culture of openness

in the NHS, where people who have the courage to speak up about patient safety concerns are listened to, not vilified. These welcome changes will prohibit whistleblowers being discriminated against when they seek re-employment in the NHS, ultimately ensuring staff feel they are protected."

Whistleblowers gave a tepid response, saying that the changes relied too heavily on victimised staff bringing expensive cases against employers.

Two years ago a review by Sir Robert Francis, QC, condemned the "truly shocking" treatment by the NHS of those who raised safety concerns. Staff faced "horrific" bullying for pointing out unsafe care, which had scared

others off speaking out, Sir Robert said.

A legal ban on discriminating against whistleblowers was one of his recommendations and Mr Hunt promised to implement the changes. Since then, whistleblowers have repeatedly claimed that new jobs in the NHS have not been forthcoming.

Mr Hunt is using a provision of the Small Business and Employment Act 2015 to give NHS staff a right to complain to an employment tribunal, a county court or the High Court about such discrimination. An Appeal Court hearing is due this week on whether junior doctors are covered by whistleblowing protection. Chris Day, who raised concerns about staffing, wants

the court to clarify whether the training body Health Education England must protect junior doctors who speak up.

Kim Holt, of the whistleblowers' group Patients First, said the proposals "fundamentally still depend on the whistleblower being able, financially and emotionally, to bring a private suit against the NHS. [The plans] say nothing about ensuring one of the whistleblower's best protections: investigations that are prompt, transparent and credibly independent."

However, Professor Jane Dacre, of the Royal College of Physicians, welcomed the move, saying: "We hope that these plans will encourage clinicians to raise concerns about patient safety."