

Office of the Whistleblower Bill [HL]

AMENDMENTS TO BE MOVED IN COMMITTEE OF THE WHOLE HOUSE

Clause 3

LORD HUNT OF KINGS HEATH

Page 2, line 2, at end insert –

- “(h) ensure the duties on employers and relevant bodies prescribed under sections (*Prescribed persons’ duty to enable reporting and to act on disclosures of information*) and (*Employers’ duty to enable reporting and to act on disclosures of information*) are upheld;
- (i) administer civil penalties where they judge appropriate against employers or relevant bodies prescribed for breaches of their responsibilities under this Act;
- (j) issue warning notices and redress orders to ensure that employers and prescribed persons fulfil their responsibilities under this Act;
- (k) issue civil penalties where warning notices and redress orders are not complied with.”

Member’s explanatory statement

This amendment gives the Office of the Whistleblower powers to sanction an employer or prescribed person that has failed to adhere to the requirements under this Bill.

After Clause 3

LORD HUNT OF KINGS HEATH

Insert the following new Clause –

“Prescribed persons’ duty to enable reporting and to act on disclosures of information

- (1) The Office of the Whistleblower may require all relevant bodies prescribed, excluding members of Parliament, to –
 - (a) establish reporting channels, which are secure and ensure confidentiality, for receiving and handling information provided by the person making a protected disclosure;
 - (b) keep confidential records of all protected disclosures made to them;

After Clause 3 - continued

- (c) give feedback to the person making a protected disclosure about the follow-up of the disclosure within a reasonable timeframe not exceeding three months or six months in duly justified cases;
 - (d) follow up on disclosures by taking the necessary measures to investigate, as appropriate, the subject-matter of the concerns;
 - (e) where the prescribed person receives a disclosure from another body under paragraph (d), take the necessary measures and investigate, as appropriate, the subject matter of the concerns; and
 - (f) act to preserve the confidentiality of the whistleblower.
- (2) In cases under subsection (1)(c), the Office of the Whistleblower may require the prescribed person to issue the person making the disclosure with a reasonable explanation as to why the timeframe will be exceeded, three months after the disclosure.
- (3) The explanation under subsection (2) may be reviewed by the Office of the Whistleblower in cases of dispute or query.
- (4) Where the body prescribed is not competent to investigate the protected disclosure under subsection (1)(d), the Office of the Whistleblower may require them to inform the person making the protected disclosure.
- (5) The Office of the Whistleblower may require a relevant body prescribed to publish on their websites in a separate, easily identifiable and accessible section at least the following information—
- (a) the conditions under which persons making a protected disclosure qualify for protection under the Public Interest Disclosure Act 1998;
 - (b) the communication channels for receiving and following-up disclosures;
 - (c) the confidentiality regime applicable to disclosures;
 - (d) the nature of the follow-up to be given to reported concerns;
 - (e) the remedies and procedures available against retaliation and possibilities to receive confidential advice for persons contemplating making a disclosure; and
 - (f) a statement clearly explaining that persons making information available to the competent authority in accordance with this Part are not considered to be infringing any restriction on disclosure of information imposed by contract or by any legislative, regulatory or administrative provision, and are not to be involved in liability of any kind related to such disclosure.”

Member’s explanatory statement

This new Clause gives the Office of the Whistleblower powers to set minimum legal standards that all prescribed persons must follow with regards to whistleblowing disclosures.

Insert the following new Clause—

“Consulting on the Public Interest Disclosure Act 1998: particular offences

For the purposes of section 3(b), the Office of the Whistleblower must have regard in particular to offences that do not have a public interest defence to the disclosure of information which, but for the lack of a public interest defence, would be a qualifying disclosure.”

Member’s explanatory statement

This amendment requires the Office of the Whistleblower, in conducting its review of whistleblowing law, to have particular regard to those offences that criminalise the disclosure of information that do not have a public interest defence.

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21 July 2021
