

Office of the Whistleblower Bill [HL]

AMENDMENT

TO BE MOVED

IN COMMITTEE OF THE WHOLE HOUSE

After Clause 3

LORD HUNT OF KINGS HEATH

Insert the following new Clause—

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

- (1) The Office of the Whistleblower may require employers which—
 - (a) have 50 or more employees;
 - (b) have an annual business turnover or annual balance sheet total of £10 million or more; or
 - (c) operate in the area of financial services or are vulnerable to money laundering or terrorist financing;to establish internal channels and procedures for reporting and managing qualifying disclosures.
- (2) The number of employees under subsection (1)(a) includes employees of all franchises, subsidiaries and associated employers as defined under section 231 of the Employment Rights Act 1996 (associated employers).
- (3) Employers’ procedures required by the Office of the Whistleblower may include—
 - (a) channels for receiving the disclosures which are designed, set up and operated in a manner that ensures the confidentiality of the identity of the person making the disclosure and prevents access to non-authorised persons;
 - (b) the designation of a senior person who has responsibility for the effectiveness of reporting channels and following up on disclosures, whose name and contact details are clearly communicated and accessible;
 - (c) the designation of a person or department competent for following up on the disclosures;
 - (d) diligent follow up to the disclosures by the designated person or department;

After Clause 3 - continued

- (e) clear and easily accessible information regarding the procedures and information on how and under what conditions disclosures can be made externally to competent authorities including relevant bodies prescribed;
 - (f) a comprehensive procedure for documenting whistleblowing concerns, and the actions taken as a result of each concern disclosed, including outcomes;
 - (g) a system for recording the information in paragraph (f) which enables employers to identify patterns and enables assessment of effectiveness;
 - (h) signposting to sources of help for the person making the disclosure, including any staff or trade-union representative in place and external sources of advice; and
 - (i) training for all staff on how to make a disclosure.
- (4) Notwithstanding any duty to third parties, unless a risk assessment identifies a serious risk of harm to any person, the Office of the Whistleblower must require employers –
- (a) to inform the person making the disclosure that the report has been received, within seven days;
 - (b) to inform the person making the disclosure of all progress taken in response, including any action taken by a prescribed person, and where there has been no action, to explain in writing the reasons every 14 days until the matter is resolved; and
 - (c) within a reasonable timeframe, not exceeding three months following the disclosure, to provide substantive feedback about the follow-up to the disclosure and the impact of the disclosure.
- (5) The Office of the Whistleblower must require employers to establish protective measures as soon after the disclosure as possible, to prevent detrimental treatment by the employer, the employer's officer or agent, or any third party of someone who has made, is believed to have made, or is believed to have the intention of making a protected disclosure.
- (6) Measures under subsection (5) include, but are not limited to –
- (a) undertaking a risk assessment to identify and mitigate any risks of detrimental treatment to the person making the disclosure; and
 - (b) providing the person making the disclosure with a designated contact within the organisation, for the purpose of reporting any detrimental treatment.”

Member's explanatory statement

This new Clause gives the Office of the Whistleblower powers to set minimum legal standards that employers must follow with regards to whistleblowing disclosures. The Office of the Whistleblower may specify the minimum legal standards employers must implement to facilitate whistleblowing. The Office of the Whistleblower must oblige employers to provide feedback on action they take in response to the disclosure, and introduce duties on employers to take reasonable steps with regard to detrimental treatment.

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22 July 2021
