

Sir Roger Gale MP and Peter Dowd MP  
Chairs of the Public Office (Accountability) Bill Committee  
House of Commons  
London  
SW1A 0AA

28 November 2025

Dear Sir Roger and Mr Dowd,

**Public Office (Accountability) Bill — amendments**

I am writing to you as the chairs of the bill committee for the Public Office (Accountability) Bill. Along with Flora Page KC, I gave evidence to your committee on Thurs 27 Nov on behalf of WhistleblowersUK. I write to clarify points we made in that brief session and to highlight where we might assist your committee further.

**Vulnerable duty holders**

The bill's provisions place everyone who works in a particular organisation under the duty of candour with threat of criminal sanction if they do not exercise it properly. We are concerned that the vast majority of duty holders will be what we term, 'vulnerable duty holders', in that they will have few if any options if they find themselves subjected to pressure by corrupt leaders to not exercise their duty.

WhistleblowersUK's experience is that most people want to do the right thing – as a society, we do not need to 'push' them to come forward. The Bill, rightly, seeks to address the minority of corrupt people such as those involved with Hillsborough, who wish to cover-up wrongdoing or accidental malpractice. Our experience is that those who are corrupt seek to prevent right-minded people coming forward. Recognising these two groups of people exist, our concern is that right-minded people lower in an organisation (in the NHS and care homes for example most duty holders will be on or close to minimum wage) will be placed in the impossible position of either losing their jobs or a potential criminal sanction. The Bill does nothing to protect those who would exercise their duty of candour but for the threat of retaliation from corrupt leaders in their organisations.

**Too little, too late**

Although the Bill adds to the important framework for making wrongdoers accountable through inquests and public inquiries, as a society we are spending far too much on after-the-event inquiries because our institutions do not tell the truth in real time. We need to support whistleblowers to come forward *before* wrongdoing has become so embedded that we need a multi-year public inquiry to unpick it. Furthermore, the Bill is restricted to public institutions, and many scandals which affect the public arise from wrongdoing in the private sector.

The Post office scandal is a good example: both Post Office and Fujitsu became embedded in wrongdoing over nearly two decades. Hundreds if not thousands of potential whistleblowers did not come forward. The duty of candour would have had very limited effect, because most of them would not qualify as "public officials", and there would be considerable argument as to whether any of the relevant people had a "relevant public responsibility". Likewise, the investigations which pre-dated the Post Office Horizon IT Inquiry were not public inquiries, and it is highly questionable whether anyone would have taken the step of specifying them under Part 6 of the envisaged Bill.

Perhaps more importantly, by 2010, when the sub-postmasters' campaign began to get some traction with the media and MPs, to the extent that the Second Sight investigation began in 2012, hundreds if not thousands of people within Post Office and Fujitsu must have been aware of wrongdoing, going back to 2000.

We need a legal framework to support whistleblowers to come forward when problems begin. This will cost less and do more for society than a law which obliges people to tell the truth after the event.

## **Employment Tribunal**

If duty holders are retaliated against by corrupt leaders for exercising their duty, or otherwise speaking up, their only recourse is the Employment Tribunal. My colleague Flora Page KC spoke about this point at the committee – and it is a generally accepted position across all parties that the Employment Tribunal, and employment law in general, is a poor place for examination of these concerns.

The general point is that whistleblowers speak up in the public interest. Once they have done so, the focus should be on finding out whether their suspicions are correct, and it should move away from the whistleblower altogether – who should be able to go back to doing their job, without fear of reprisals. Unfortunately, in the present system, if the employer does not choose to investigate the whistleblower's disclosure, there is no legal mechanism to instigate an investigation. If the whistleblower believes they have suffered detriment as a result of speaking up, they can attempt to enforce the right not to suffer detriment in the Employment Tribunal, but the ET has no locus to investigate the disclosure. Therefore, the public interest is completely unprotected. Meanwhile, the whistleblower is inadequately protected, for the reasons we go on to explain below.

In the context of the duty of candour, for the vulnerable duty holder who speaks up and then suffers detriment, there would be no legal aid if they brought a claim in the Employment Tribunal. Often claimants are litigants-in-person without legal representation whereas organisations are represented by well resourced legal teams; it is almost impossible to prove that any retaliation was a direct result of any concerns raised by the claimant, especially as a claimant is reliant on the organisation disclosing this evidence through the discovery process; and the tribunal process makes a claimant who has suffered retaliation face their abusers directly in a public adversarial judicial process. Where there has been success in this process, it has often been at the end of appeals, or even hearings in front of the UK Supreme Court – the effect of this 'success' on any bystanders is to send the message that the process is in itself a punishment. Whistleblowers going through this process have usually lost their job and their career prospects, they may lose their homes, their financial stability, and sometimes their spouses. Under the law as it stands, they will have brought this upon themselves by voluntarily speaking up in the public interest. Under the provisions of this Bill, they face criminal sanction if they do not speak up. It is already hard to recruit to low-paid public sector roles, so it is important to think of the unintended consequences of these provisions.

## **Our proposals**

I. The creation of a criminal offence of "interfering with another's duty of candour". This would do the following: it would influence the culture of 'bad' organisations by creating tangible consequences for leadership if they do not support transparency and candour. Where retaliation does occur, the State would support the duty holder with a criminal investigation, during which the duty holder would become a witness rather than a claimant. Corrupt leaders of an organisation would no longer be able to use their leadership of the organisation to obfuscate the chain-of-causation, because they would become a suspect, and therefore a person with a recognised personal interest, separate from that of the organisation. This would increase the chances of successfully proving causation and therefore increase the deterrent effect, and most importantly, focus attention on whether there has been wrongdoing, instead of reducing serious public interest concerns to a private industrial dispute.

II. Create a statutory *Office of the Whistleblower* which would have the power to formally identify a duty holder as a whistleblower, temporarily granting them protection from any employment-related measure (eg. dismissal, reassignment, salary reduction) without the consent of the office. The office would also have the power to sanction employers who retaliated against an identified individual with fines, with all decisions subject to judicial review. Such an office is not novel, with similar offices functioning in Slovakia (see Whistleblower Protection Office, created by Act No. 54/2019 Coll.), with the cost of the office paid for by the fines levied against organisations retaliating against duty holders and whistleblowers (see the case of the Commodity Futures Trading Commission in the USA, which returned its operating and start-up costs to the US Treasury within 18 months). WhistleblowersUK has worked on a Bill which we attach, and we commend it for consideration by this Committee. As Ms Page KC discussed in the oral session, the Office would provide for cheaper, nimbler investigations to take place *before* wrongdoing becomes so embedded it needs a public inquiry to unpick it. The Office would be well-equipped to identify those complaints which really do spring from an industrial dispute or personal grievance, and they would be referred back to the parties for resolution through the Employment Tribunal in the usual way. However, where an employer has failed to respond adequately to a genuine public interest disclosure, the Office will be equally well-equipped to find out whether there is wrongdoing afoot.

### **Concluding remarks**

This Public Office (Accountability) Bill addresses the problem of corrupt officials lying to inquiries, seeks to protect the public from the effects of cover-up, and provides parity-of-arms – aims we wholeheartedly support. However, it does nothing to prevent those corrupt officials applying undue and unlawful pressure on more junior duty holders to hide the truth. We believe this fatally undermines the purpose of the Bill.

If a junior duty holder is brave enough, they may speak out anyway. However, if they face retaliation for doing so, the State will leave them to effectively self-fund their own investigation and prosecution in an Employment Tribunal where it is virtually impossible for them as a private individual to demonstrate causation and be successful. Not only does this often have profound life changing consequences for the individual, it demonstrates to other duty holders the repercussions of doing the right thing and leaves the original wrongdoing hidden.

A great deal was said in the sessions on Thursday about the need to improve culture, which everyone agreed is an issue of leadership. This Bill does nothing to address the lack of consequences for corrupt leaders who seek to coerce those below them. Our proposed amendments seek to address these gaps.

If it would assist your committee we would be pleased to attend a further oral session or provide written evidence.

I have the honour to be,  
Sirs,  
Your obedient Servant,

**JJ Killen**

Director of Policy and Research  
WhistleblowersUK

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Encl.

- Bill 152 – Office of the Whistleblower Bill

# **The Office of the Whistleblower Bill**

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A Bill to establish an independent Office of the Whistleblower to protect whistleblowers and whistleblowing; to make provision for the Office of the Whistleblower to set, monitor and enforce standards for the management of whistleblowing cases, to provide disclosure and advice services, to direct whistleblowing investigations and to order redress of detriment suffered by whistleblowers; and for connected purposes.

BE IT ENACTED by the King's most Excellent Majesty, by and with the advice and consent of the lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows: -

## PART 1

### PROTECTED DISCLOSURES, WHISTLEBLOWER AND RELEVANT PERSONS

#### **1 Protected disclosures**

- (1) In this Act, a "protected disclosure" means any disclosure of information which is made in the public interest to persons specified in subsection (3), which relates to one or more of the matters in subsection (2) and which relates to a circumstance which -
- (a) has occurred,
  - (b) is occurring, or
  - (c) may occur.
  - (d) or which the person making the disclosure suspects has occurred, is occurring or may occur.
- (2) Those matters are -
- (a) a criminal offence or a regulatory breach;
  - (b) the failure of any persons including a relevant person to comply with a legal obligation;
  - (c) a miscarriage of justice
  - (d) the endangering of the health or safety of any person;

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- (e) damage to the environment;
  - (f) mismanagement of public funds;
  - (g) misuse or abuse of authority;
  - (h) such other matter as may be prescribed in regulations made by the Secretary of State;
  - (i) concealment of information or removal or deletion or destruction of any documents relating to any of the above matters.

(3) Those persons are –

- (a) The Office of the Whistleblower;
- (b) a relevant person;
- (c) a person who, in the reasonable belief of the person making the disclosure is a relevant person;
- (d) a person whom it is reasonable for the person making the disclosure to make that disclosure.

## **2 Whistleblowers**

In this Act, a person is a “Whistleblower” if that person has made, makes or is intending to make a protected disclosure or is perceived by a relevant person to have made, be making or intend to make a protected disclosure.

## **3 Duties of a relevant person**

(1) In this Act, a “relevant person” means –

- (a) an employer;
- (b) a body acting on behalf of a group of employers;
- (c) a regulator;
- (d) a public authority;
- (e) any organisation with a statutory obligation to safeguard; or
- (f) such person as may be prescribed by regulations made by the Secretary of State for the purposes of this section.

(2) A relevant person must not subject, or cause, permit or encourage others to subject, a person to detriment as a consequence of that person –

- (a) being or being perceived to be a Whistleblower;
- (b) being or being perceived to be a person associated with a Whistleblower or with a person perceived as a Whistleblower;
- (c) making an allegation (whether or not express) that a person has contravened this Act;
- (d) bringing proceedings or giving evidence or information in connection with this Act;
- (e) doing any other thing for the purposes of or in connection with this Act; or
- (f) facilitating the making by another of a protected disclosure.

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- (3) For the purposes of section (3)(1)(a), a protected disclosure is made to a relevant person if it is made by a Whistleblower to any person who, in the reasonable belief of the Whistleblower, is a person who is in a position –
- (a) To address the matters raised in it; or
  - (b) To refer it to a person who is in a position to address the matters raised in it.
- (4) A detriment is that which causes disadvantage, loss or harm to a person.
- (5) A relevant person must respond in writing truthfully, completely, candidly, timeously and in a co-operative manner to any request made of that person by the Office of the Whistleblower, and must do so within such time as the Office may require.
- (6) A relevant person to whom a protected disclosure has been made must deal with that disclosure in accordance with such standards as may be laid down from time to time by Office of the Whistleblower.

## **PART 2**

### **OFFICE OF THE WHISTLEBLOWER**

#### **4 Principal duty and objectives**

- (1) The Secretary of State must by regulations made by statutory instrument within one year after the passing of this Act establish a body corporate called the office of the Whistleblower (in this Act referred to as “the Office”).
- (2) The principal duty of the Office is to protect Whistleblowers and have oversight of the process of whistleblowing.
- (3) The Office must carry out all its work in accordance with the principal duty.
- (4) The objectives of the Office are to–
- (a) encourage and support Whistleblowers to refer concerns to the appropriate authorities;
  - (b) support effective and fair whistleblowing process;
  - (c) protect the public purse and ensure that wrongdoers bear the cost of wrongdoing revealed by the whistleblowing;
  - (d) promote good governance through the normalisation of whistleblowing;
  - (e) ensure that concerns raised by Whistleblowers are acted upon;
  - (f) monitor and review the operation of this Act.
- (5) The Office must seek to achieve those objectives consistently with its principal duty.
- (6) The functions of the Office are to –
- (a) set minimum standards for whistleblowing policies, procedures and reporting structures;
  - (b) monitor the compliance of the organisation with those standards;
  - (c) enforce compliance with those standards;

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- (d) bring prosecutions for the offences specified in Part 3;
  - (e) provide an independent disclosure and reporting service;
  - (f) provide information and advice on whistleblowing;
  - (g) provide support for Whistleblowers;
  - (h) share information with relevant regulatory and other bodies in the United Kingdom and abroad so far it may judge this necessary or desirable to enable it to achieve its objectives or perform its other functions;
  - (i) promote public awareness of the importance of whistleblowing and the protections provided to Whistleblowers.

## **5 Governance**

- (1) The Office is to be led by a person to be appointed by the Secretary of State who is to be known as the “Commissioner for Whistleblowing” (“the Commissioner”)
- (2) The work of the Office and of the Commissioner are to be overseen by a board of directors to be appointed from time to time by the Secretary of State.
- (3) The Office must report, at least annually, on the exercise of its duties, objectives and functions.
- (4) Reports under subsection (3) must be made to –
  - (a) Senedd Cymru in relation to matters within its legislative competence;
  - (b) The Scottish Parliament in relation to matters within its legislative competence;
  - (c) each House of Parliament in relation to all other matters, including the overall approach of the Office.
- (5) The Secretary of State may by regulations make further provision for the functions and the governance of the Office.

## **6 Standards for handling protected disclosures**

- (1) The Office must set minimum standards for relevant persons in carrying out their duties under section 3.
- (2) Standards for handling protected disclosures must include requirements for –
  - (a) preserving the confidentiality and anonymity of the Whistleblower;
  - (b) screening, assessment and investigation methods;
  - (c) referrals to other relevant regulatory or other bodies, both in the United Kingdom and elsewhere
  - (d) information to be provided to the Whistleblower;
  - (e) information to be reported to the Office; and
  - (f) any other matters that seem appropriate to the Office.
- (3) The Office may make such provision as may appear appropriate to it for the accreditation of whistleblowing schemes operated by relevant persons as meeting the standards referred to under this section (“accredited schemes”).



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## **7 Independent investigation, disclosure and reporting service**

- (1) The Office has such powers in relation to whistleblowing complaints (including powers to establish schemes for the recognition of Whistleblowers, and powers of investigation in relation to whistleblowing complaints, and in relation to the handling of complaints by relevant persons) and such other matters falling within its powers and duties as may be prescribed in regulations made from time to time by the Secretary of State.
- (2) In particular, such regulations must include –
  - (a) provision for the Office to assess disclosures made to it by the Whistleblowers, to process such disclosures (other than those it determines to be frivolous, malicious or vexatious) and to refer such disclosures to the relevant regulator, as well also as to conduct its own investigation into a protected disclosure made by a Whistleblower. Subject to section hereof, provision for:
    - (i) the setting of a time limit for the making of a complaint by a Whistleblower, which time limit shall not be less than six months beginning with the date of the act or failure to act to which the complaint relates or, where that act or failure is part of a series of similar acts or failures, the last of them; and,
    - (ii) enabling the Office in respect of an individual complaint or complaints to extend the period for the making of such complaint to such longer periods as may appear to the Office to be reasonable;
  - (b) provision for the Office to assess and where appropriate investigate a report that a protected disclosure has not been handled in accordance with standards specified in section 6;
  - (c) provision for the exercise by the Office of powers of entry and inspection.

## **8 Information notice**

- (1) The Office may issue a written notice (an “information notice”) requiring any person –
  - (a) to provide such information as the Office reasonably requires for the purposes of carrying out the Office’s functions, or
  - (b) to provide the Office with such information as the Office may require for the purposes of investigating any of the offices specified in Part 3 of this Act.
- (2) An information notice must state –
  - (a) whether it is given under subsection (1)(a) or (1)(b); and,
  - (b) the reason why the Office requires the information.
- (3) An information notice may specify –
  - (a) particular information or a category of information;
  - (b) the form in which the information must be provided;
  - (c) the time at which, or the period within which, the information must be provided;
  - (d) the place at which or the manner in which the information must be provided.

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- (4) An information notice must specify –
- (a) the consequences of failure to comply with it, and
  - (b) rights of appeal under section 13.
- (5) An information notice may not require a person to provide information before the end of the period within which an appeal can be brought against the notice.
- (6) If an appeal is brought against an information notice, the information need not be provided pending the determination or withdrawal of the appeal.
- (7) If an information notice –
- (a) states that, in the Office’s opinion, the information is required urgently and
  - (b) gives the Office’s reasons for that opinion (“an urgency statement”), subsections (5) and (6) do not apply but the notice must not require the information to be provided before the end of the period of 24 hours beginning when the notice is given.
- (8) The Office may withdraw an information notice by written notice to the person to whom it was given.
- (9) An information notice must not require a person to give the Office information to the extent that requiring the person to do so would involve an infringement of the privileges of either House of Parliament.
- (10) An information notice must not require a person to give the Office information in respect of a communication which is made subject to legal professional privilege.
- (11) Save as provided in subsection (12), an information notice must not require a person to provide the Office with information if doing so would, by revealing evidence of an offence, expose the person to criminal proceedings in respect of that offence.
- (12) The reference to an offence in subsection (11) does not include an offence under –
- (a) this Act;
  - (b) section 5 of the Perjury Act 1911 (false statements made otherwise than on oath);
  - (c) section 44(2) of the Criminal Law (Consolidation) (Scotland) Act 1995 (false statements made otherwise than on oath);
  - (d) Article 10 of the Perjury (Northern Ireland) Order 1979 (S.I. 1979/1714 (N.I. 19)) (false statutory declarations and other false unsworn statements).
- (13) An oral or written statement provided by a person in response to an information notice may not be used in evidence against that person in criminal proceedings in respect of an offence under this Act (other than an offence under section 21) unless those proceedings –
- (a) in giving evidence, the person makes a statement inconsistent with the written statement, or
  - (b) evidence relating to the written statement is adduced, or a question relating to it is asked, by that person or on that person’s behalf.

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- (14) If, on an application by the Office to the Tribunal, the Tribunal is satisfied that a person has failed to comply with a requirement of an information notice, it may make an order requiring the person to provide to the Office –
- (a) Information referred to in the information notice;
  - (b) Other information which the Tribunal is satisfied that the Office requires, having regard to the statement included in the notice in accordance with section 8(2)(b).
- (15) An order pursuant to section 8(14) –
- (a) must specify the time by which, or the period within which, the information is required to be provided,
  - (b) may specify the form in which the information is required to be provided, and;
  - (c) may specify the place at which the information is required to be provided.
- (16) In the event of a person failing to comply with an order pursuant to section 8(14), the Office may draw an adverse inference from such failure.
- (17) Any person who fails to take all reasonable steps to comply with the requirements of an information notice is subject to a civil penalty under section 21.

## **9 Action notices**

- (1) If the Office is of the opinion that a person –
- (a) is contravening one or more standards specified in section 6; or,
  - (b) has contravened one or more of those standards in circumstances which make it likely that the contravention will continue or be repeated,
- it may issue a written notice (an “action notice”) which requires the person to take, or refrain from taking, such steps as are specified in the notice.
- (2) An action notice given in reliance on subsection (1) may impose only such requirements as the Office may consider appropriate having regard to the failure, whether or not for the purpose of remedying the failure.
- (3) An action notice must provide information concerning –
- (a) the consequences of failure to comply with it, and
  - (b) the rights of appeal under section 13.
- (4) An action notice may specify the time or times at which or period or periods within which a requirement imposed by the notice must be complied with.
- (5) The period in subsection (4) must not fall before the end of the period within which an appeal can be brought against the notice.
- (6) If an appeal is brought against an action notice, any requirement in the notice need not be complied with pending determination or withdrawal of the appeal.

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(7) If an action notice –

- (a) states that in the Office’s opinion it is necessary for a requirement to be complied with urgently; and,
- (b) states reasons for that opinion (“an urgency statement”);

subsection (5) does not apply but the notice must not itself require the requirement to be complied with before the end of the period of 24 hours beginning when the notice is given.

(8) Section 19 (civil penalties) applies to any person who fails to take all reasonable steps to comply with an action notice.

(9) The Office may cancel an action notice by written notice to the person to whom it was given.

(10) A person to whom an action notice is given may apply in writing to the Office for the cancellation or variation of the notice.

(11) An application under subsection (10) may be made at any time, but, if made after the period within which an appeal can be brought against the notice, may be brought only on the ground that, by reason of a change of circumstances, one or more of the provisions of that notice need not be complied with in order to remedy the failure identified in the notice.

(12) On consideration of an application under subsection (10), the Office may cancel or vary an information notice.

(13) Any person who fails to take all reasonable steps to comply with the requirements of an action notice shall be subject to a civil penalty under section 19.

## **10 Redress orders**

(1) In the event that the Office is of the opinion that a relevant person has subjected a person to detriment contrary to section 3(2), it may issue an order (a “redress order”) to the relevant person directing the relevant person to take, or refrain from taking, such steps as may be specified in the order so as to provide to the person such redress as the Office may determine

(2) A redress order must include an order for financial redress where loss or damage has been incurred.

(3) An order under subsection (2) is not subject to any cap.

(4) For the purposes of determining whether to issue a redress order, the Office must assume that a person who has been subject to detriment was subject to that detriment for the reasons in section 3(2) unless the relevant person can on the balance of probabilities prove otherwise.

(5) The Office may issue a redress order whether the detriment was caused –

- (a) deliberately;

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- (b) recklessly;
  - (c) negligently; or
  - (d) otherwise in breach of a statutory or other legal duty owed by the relevant person to the Whistleblower.
- (6) The Office may cancel or vary a redress order by giving written notice to the person to whom the order was addressed.
- (7) Any person who fails to take all reasonable steps to comply with a redress order is subject to a civil penalty under section 18.

## **11 Interim relief orders**

- (1) The Office may issue an interim relief order in the event that it considers it reasonably necessary to do so in order to protect the interests of a whistleblower pending the completion of investigations concerning a complaint from that whistleblower or into the content of a protected disclosure.
- (2) Such order must specify such interim relief as the office may consider appropriate.
- (3) Any person who fails to take all reasonable steps to comply with an interim relief order is subject to a civil penalty under section 18.

## **12 Publication of guidance**

- (1) The Office must publish from time-to-time guidance concerning the manner in which the Office exercises or proposes to exercise its functions and powers in connection with the issuing of –
- (a) information notices;
  - (b) action notices;
  - (c) redress orders;
  - (d) interim relief orders; and
  - (e) civil penalties.

# **PART 3**

## **UPPER TRIBUNAL**

## **13 Appeals: general**

- (1) In this Act, “the Tribunal” means the Upper Tribunal.
- (2) An appeal may be brought to the Tribunal against any decision, direction order, notice, penalty or other determination of the Office.
- (3) Such an appeal may be brought by –

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- (a) any persons to whom the Office may have issued –
    - (i) an information notice;
    - (ii) an action notice;
    - (iii) a redress order;
    - (iv) an interim relief order;
    - (v) a civil penalty;
    - (vi) a finding under section 7(2)(a) that a complaint is frivolous, malicious or vexatious.
  - (b) a whistleblower or any other person specified in section 3(2) in whose favour the Office has granted or decided not to grant –
    - (i) a redress order;
    - (ii) an interim relief order; or
    - (iii) any other determination;
  - (c) any other person whom the Secretary of State may by regulations prescribe.
- (4) Such an appeal may be on a matter of law, a matter of fact or a matter of fact and law, and to that end, the Tribunal may review any determination of fact on which the decision, direction, order, notice, penalty or other determination of the Office being appealed was based.
- (5) In determining such an appeal, the Tribunal may uphold, recall or vary such order, notice or penalty as may have been made by the Office or may in any case substitute such order as it considers appropriate, and may do so also in the event of a change of circumstances since the original order or notice may have been made.

#### **14 Appeals: order under s.8 (1)**

- (1) Section 13(5) and (6)(a) do not apply in relation to an appeal against an order made under section 8(1) (information notices).
- (2) On such an appeal the Tribunal must consider whether the information or document in question is relevant to the discharge of the functions of the Office.
- (3) The Tribunal may allow such an appeal only if it is satisfied that the information or document in question does not fall within subsection (2).

#### **15 Appeals: urgency statements**

- (1) Where an information notice or action notice contains an urgency statement, the person upon whom the notice was served may apply to the Tribunal for either or both of the following—
  - (a) the disapplication of the urgency statement in relation to some or all of the requirements of the notice;
  - (b) a change to the time at which, or the period within which, a requirement of the notice must be complied with.

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- (2) On determining an application, the Tribunal may do any of the following –
- (a) direct that the notice is to have effect as if it did not contain the urgency statement;
  - (b) direct that the inclusion of the urgency statement is not to have effect in relation to a requirement of the notice;
  - (c) vary the notice by changing the time at which, or the period within which, a requirement of the notice must be complied with;
  - (d) vary the notice by making such other changes as may be required to give effect to a direction under subsection (a) or (b) or in consequence of a variation under subsection (c).
- (3) The decision of the Tribunal on an application under subsection (1) is final and not subject to appeal to the Upper Tribunal.

## **16 Conduct of hearings**

- (1) A person may appear before the Tribunal in person or be represented by –
- (a) counsel or a solicitor,
  - (b) a representative of a trade union or an employers' association, or
  - (c) any other person whom he or she desires to represent him or her.

## **17 Tribunal procedure regulations**

- (1) The Secretary of State must by regulations make such provision as appears to him or her to be necessary or expedient with respect to proceedings before the Tribunal.
- (2) Tribunal procedure regulations must, in particular, include provision for –
- (a) requiring persons to attend to give evidence and produce documents and for authorising the administration of oaths to witnesses,
  - (b) enabling the Tribunal, on the application of any party to the proceedings before it or of its own motion, to order –
    - (i) in England and Wales, such discovery or inspection of documents, or the furnishing of such further particulars, as might be ordered by the county court on application by a party to proceedings before it, or
    - (ii) in Scotland such recovery or inspection of documents as might be ordered by a sheriff,
  - (c) prescribing the procedure to be followed in any proceedings before the Tribunal, including provision for enabling the Tribunal to review its decisions, and revoke or vary its orders and awards, in such circumstances as may be determined in accordance with the regulations,
  - (d) prescribing the procedure to be followed in proceedings involving questions of national security,
  - (e) prescribing a time limit of not less than 12 weeks for appeals and applications to the Tribunal,

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- (f) providing extensions of time in which to appeal or submit applications to the Tribunal in circumstances in which it is just and equitable to do so,
  - (g) providing for circumstances in which the Tribunal must refer a matter to the appropriate prosecuting authority,
  - (h) providing for an uplift in any damages awarded in the event that there has occurred such conduct as is referred to in section 1(2)(g).

## **PART 4**

### **CIVIL PENALTIES**

#### **18 Civil penalties**

- (1) Where the Office is satisfied that by reason of any person's failure to comply with that person's obligations under sections 8, 9, 10 or 11, the Office may by notice in writing require that person to pay, within a prescribed period, a penalty in respect of that failure not exceeding the maximum amount.
- (2) In this section "the maximum amount" means –
  - (a) in the case of an individual, 10% of that individual's gross annual income, not to exceed £50,000;
  - (b) in any other case, 10% of annual global turnover, not to exceed £18,000,000; or
  - (c) such higher maximum amounts as the Secretary of State may from time to time prescribe by regulations.
- (3) In the event of a penalty being imposed under this section, the amount of that penalty is payable directly to the Office.
- (4) In the event of such penalty not being paid, the Office is entitled to seek to recover it by such means of civil enforcement or diligence as may be available to it in England and Wales, Scotland or Northern Ireland as may be appropriate.

## **PART 5**

### **CRIMINAL OFFENCES**

#### **19 Offence of subjecting a Whistleblower to detriment**

- (1) A person who intentionally or recklessly submits a person to detriment contrary to section 3(2) is guilty of an offence.
- (2) A person guilty of an offence under subsection (1) is liable –
  - (a) on summary conviction in England and Wales, to a fine;



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- (b) on summary conviction in Scotland, to a fine not exceeding the statutory maximum;
  - (c) on conviction on indictment, to imprisonment for a term not exceeding 18 months or a fine, or both.

## **20 Other Offences**

- (1) It is an offence for a person, in response to an information notice
  - (a) to make a statement which that person knows to be false in any material respect; or
  - (b) recklessly to make a statement which is false in any material respect.
- (2) Where a person has been served with an information notice, it is an offence for the person –
  - (a) to destroy or otherwise dispose of, conceal, block or (where relevant) falsify or otherwise modify all or any part of the information, document, equipment or material, or
  - (b) to cause or permit the destruction, disposal, concealment, blocking, falsification or modification of all or part of, the information, document, equipment or material, with the intention of preventing the Office from being provided with or directed to, or examining all or any part of the information, document, equipment or material.
- (3) It is a defence for a person charged with an offence under subsection (2) to prove that the destruction, disposal, concealment, blocking, falsification or modification would have occurred in the absence of the person to whom the notice was given.

## **PART 6**

### **ADDITIONAL RIGHTS OF WHISTLEBLOWERS**

## **21 Employment Rights**

- (1) Subject to subsection (2) the provisions of this Act are without prejudice to the right of any Whistleblower who is a worker within the meaning of section 43K of the Employment Rights Act 1996 and who is making or has made a qualifying disclosure under and in terms of section 43C of that Act, to bring a Complaint before an Employment Tribunal under section 48(1A) of that Act.
- (2) In the event that such a complaint as is specified in subsection (1) is brought before an Employment Tribunal, that Tribunal shall notify the Office of that Complaint, and the Office may take such action upon that Complaint as it may consider appropriate, irrespective of any proceedings before the Employment Tribunal.

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- (3) In the event that the Employment Tribunal determines to award compensation to the worker who has made such a Complaint as is specified in subsection (1), the Office may take account of that award in any Redress Order which it may make.
  - (4) Section 48 of the Employment Rights Act shall be amended by deleting “(1A)” where it occurs in subsection (2) and by inserting a new subsection (2XA) in the following terms:
    - (a) “(2XA) On a complaint under subsection (1A), there shall be a rebuttable presumption of fact that, where a worker has made a protected disclosure and has subsequently suffered a detriment, the worker was subjected to that detriment in contravention of section 47B.”

## PART 7

### SUPPLEMENTARY PROVISIONS

#### **22 Prohibition of agreements containing confidentiality and equivalent clauses**

- (1) Any agreement between a relevant person and any other person is void in so far as it purports to prevent or restrict that other person from making a protected disclosure.
- (2) Any agreement between a relevant person and any other person shall be voidable at the instance of that other person on application to the Office or any Court of competent jurisdiction insofar as it purports to prevent or restrict that other person from disclosing that such person had made a protected disclosure or require that other person to pay or repay any sum to the relevant person.
- (3) Agreements void or voidable under this section include –
  - (a) agreements containing confidentiality and equivalent clauses;
  - (b) other contractual duties of confidentiality; insofar as they relate to protected disclosures.
- (4) If the Office reasonably determines that any such agreement as is specified in subsection (1) (including any proposed agreement) has the effect of preventing or restricting a person from making a protected disclosure, the Office may issue an order declaring its invalidity and take such further or other steps in that regard as it may consider appropriate.
- (5) In relation to any such agreement as is specified in subsection (2), the Court or the Office may make an order setting aside or reducing that agreement if –
  - (a) such agreement, if enforceable, would or would tend to conceal such conduct as is specified in section 1(2) and;
  - (b) it is just and reasonable in all the circumstances that such agreement be set aside and reduced.

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**23 Protection of whistleblowers against criminal or civil action**

- (1) In the event that any person is prosecuted for any offence consisting of the disclosure of information in circumstances where such disclosure is prohibited or restricted, it is a defence for that person to show that, at the time of the alleged offence, the disclosure was, or was reasonably believed by that person to be, a protected disclosure.
- (2) No cause of action in civil proceedings lies against a person in respect of the making of a protected disclosure.

**24 Reporting of Wrongdoing**

- (1) Without prejudice to section 21 (2) and subject to subsection (2) in the event that a Court or Tribunal in the course of any proceedings before it has before it credible evidence, or determines that –
  - (a) any of the matters specified in section 1(2) has occurred, is occurring or may occur;
  - (b) the occurrence of such matter is a matter of public importance,that Court or Tribunal shall report such matter to the Office, and the Office may take such action concerning that matter as it may consider necessary
- (2) In the event that the condition in subsection 1(a) is satisfied, but the condition in subsection 1(b) is not, the Court or Tribunal may report such matter to the Office, and the Office may take such action concerning that matter as it may consider appropriate.

**PART 8**

REMAINING PROVISIONS

**25 Standards: procedure**

- (1) In proposing standards under section 6, the Office must consult with –
  - (a) ACAS, the British Standards Institute, and the Secretary of State, and, additionally,
  - (b) with the Welsh Ministers regarding any proposed standard relating to a matter within the legislative competence of Senedd Cymru; and
  - (c) the Scottish Ministers regarding any proposed standard relating to a matter within the legislative competence of the Scottish Parliament.
- (2) Thereafter, the Office must communicate the proposed standard to the Secretary of State, Senedd Cymru and the Scottish Ministers as may be appropriate
- (3) The Secretary of State must, on receipt of the proposed standard under subsection (2), lay a draft of a statutory instrument containing that standard before both Houses of Parliament.

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- (4) That standard may not be made unless the draft statutory instrument laid under subsection (3) has been approved by resolution of each House of Parliament.
  - (5) The Welsh Ministers must, on receipt of the proposed standard under subsection (2), lay a draft of a statutory instrument containing that standard before Senedd Cymru.
  - (6) That standard may not be made unless the draft statutory instrument laid under subsection (5) has been approved by a resolution of the Senedd Cymru.
  - (7) The Scottish Ministers must, on receipt of the proposed standard under subsection (2), lay a draft of a Scottish statutory instrument containing that standard before the Scottish Parliament.
  - (8) A standard under subsection (6) is subject to the affirmative procedure.

## **26 Regulations**

- (1) A power to make regulations under sections 5, 7, 13, 17 and 19 is exercisable by statutory instrument.
- (2) Regulations made under those sections –
  - (a) may make supplementary, incidental, transitional or saving provision;
  - (b) may make different provision for different purposes or areas or for issues involving matters of national security; and
  - (c) may not be made unless a draft of the statutory instrument containing them has been laid before, and approved by, each House of Parliament.
- (3) Before laying any such draft statutory instrument the Secretary of State must consult
  - (a) the Welsh Ministers; and
  - (b) the Scottish Ministers.

## **27 Financial provisions**

- (1) There is to be paid out of money provided by Parliament
  - (a) any expenditure incurred under or by virtue of this Act by the Secretary of State; and
  - (b) any increase attributable to this Act in the sums payable under any other Act out of money so provided.

## **28 Extent, commencement and short title**

- (1) This Act extends to England and Wales and Scotland.
- (2) This section comes into force on the day on which this Act is passed
- (3) The rest of this Act comes into force on such day or days as the Secretary of State may by regulations made by statutory instrument appoint.

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- (4) Regulations under subsection (3) may make transitional, transitory or saving provision.
  - (5) This Act may be cited as the Whistleblowing (Reporting and Disruption of Fraud and Wrongdoing) Act 2024.