

Insights

TUNING THE WHISTLE - UK GOVERNMENT CONSULTS ON REFORMING WHISTLEBLOWING

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The Government has launched a consultation considering proposals to change the whistleblowing protections framework and create new compliance duties for employers.

The [Government's consultation](#), led by the Department for Business, Innovation, Science and Trade (DBIST) and open from 12 October 2026 to 8 January 2027, asks whether the whistleblowing framework in the Employment Rights Act 1996 (ERA) is fit for purpose or whether it should be reformed. It is clear that the Government has grand plans for bolstering whistleblowing protections, which it sees as a key component for tackling corporate malpractices and serious economic crimes. The proposals come not only through a strengthening of employee protections but also through a new financial rewards system designed to incentivize people to speak up about financial crimes. The latter sits outside of the sphere of employment law (and therefore outside the scope of this article) but gives a flavor of the current impetus for change in the world of whistleblowing.

As we know, currently under the ERA 1996, any employee whistleblower who suffers a detriment, e.g. harassment, demotion or disciplinary action, or is dismissed, may enforce their rights through the Employment Tribunal, and claim compensation for automatic unfair dismissal and/or detriment, as well as seeking interim relief (more on this below). The current regime primarily serves to protect employees, workers and a number of other individuals who are economically dependent on the Employer. The consultation paper is exploring whether additional individuals such as non-executive directors, volunteers and charity trustees should get protection in the same way.

The consultation also focuses on how employers should handle disclosures in practice. In particular, the proposal suggests the possibility of a mandatory requirement for employers of a modest size to implement whistleblowing policies and procedures, which adequately protects the identity of any whistleblowers. Evidence cited in the consultation document suggests that more than a third of employees believe that their employer's whistleblowing policy is not suitably confidential and 17% say that their employer has no policy at all (this is certainly not the case with our wonderful clients!). The consultation presents two potential options, Option 1 being a revision of the current non-statutory guidance to help employers handle disclosures, and Option 2 being the

introduction of new legislation to require appropriate and effective procedures. The consultation also invites views, in the context of Option 2, as to whether to impose civil penalties for non-compliance, and what scope any statutory duty should have.

As noted in our [recent article](#), interim relief applications have recently surged, though the short timeframe for employees to bring a claim (7 days from date of dismissal), often means that workers miss their chance. The consultation proposes to double that period to 14 days, which will likely compound the upward trend of IR applications. The legal test for IR remains high but, as we recently commented, the mere process of defending an IR application can itself be a costly process which employers are unable to recover, even if they successfully defend it.

The consultation also looks at whether to provide greater clarity and guidance on determining when a worker reasonably believes that their disclosure is “in the public interest”, whether the existing categories of reportable wrongdoings (of which sexual harassment was recently added) should be expanded (e.g. to include new corruption and AI-related risks), and whether to lower the threshold for employees to make external disclosures (e.g. to a regulator) by removing the need for reasonable belief in the truth of their disclosure.

So what can or should employers be doing now?

1. Firstly (and this may seem like stating the obvious), by ensuring that your policies and procedures for whistleblowing are adequate in terms of confidentiality and anonymity for whistleblowers, clarity and ease of reporting, and do they reflect modern-day malpractices (e.g. AI risk);
2. Ensure that your policies and procedures are well publicized to staff and they are trained on how to use it;
3. Follow the practical steps set out in our previous article on interim relief ([link above](#)); and
4. Financial services firms, already subject to the FCA’s whistleblowing rules, will be well placed to benchmark their existing policies and practices against any changes in the standards required under the current ERA regime and/or any new statutory duties introduced. Incidentally, the FCA is currently reviewing its own whistleblowing policies and practices, following the tragic death of a whistleblower it had been communicating with for several years. It is considering whether there are areas for improvement, particularly in how it deals with vulnerable whistleblowers. This may include, for example, providing whistleblowers with more detailed information about actions being taken on the back of their disclosures. It has agreed to share its proposals for change in early 2027 and regulated firms would be well advised to follow suit on any proposed areas for change.

If you have any questions about this development or its implications for your business, please contact [Paul Sands](#), Counsel, or another member of [BCLP's UK Employment team](#).

The authors would like to thank Trainee Solicitor Edward Jenkinson for his contribution to this article.

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Meet the team



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