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GOVERNMENT TO PROTECT NHS WHISTLEBLOWERS SEEKING EMPLOYMENT

NHS whistleblowers who speak up about potential risks to patient safety and other concerns in the public interest will be protected from discrimination if they want a job in the health service, under draft Regulations introduced by the Government today.

The proposed powers mean NHS employers won't lawfully be able to discriminate against job applicants who have blown the whistle in the past. Any applicants who face discrimination will get legal protection and NHS employers will face tough penalties if applicants' complaints are upheld.

This forms part of the Government's wider drive to develop a culture of openness and transparency within the NHS. The draft Regulations will empower staff to speak up and ensure that whistleblowers are not penalised for doing the right thing - all with the ambition of making the NHS the safest healthcare system in the world.

Minister of State for Care, Caroline Dinenage said:

“These important measures should ensure staff can raise concerns knowing they are protected by the law and that their

career in the NHS will not be damaged as a result of wanting to do the right thing.”

“For too long we have failed to protect those who are brave enough to speak out when others won’t. We want to make the NHS the safest healthcare system in the world so we must build a culture of openness and transparency among our staff.

The changes were a key recommendation in Sir Robert Francis' Freedom to Speak Up Review, which found a number of people struggled to find employment in the NHS after making protected disclosures about patient safety.

The measures sit alongside existing initiatives to promote transparency and openness in the NHS - including creating a Freedom to Speak Up Guardian role within every NHS organisation and appointing a National Guardian, as well as nationwide pilots to support NHS whistleblowers and help them back into work.

The draft legislation includes a range of legal protections that aim to:

- Give the applicant a right to complain to an employment tribunal if they have been discriminated against because it appears they have previously spoken out.
- Set out the timeframe in which a complaint to the employment tribunal must be lodged.
- Set out the remedies which the employment tribunal may or must award if a complaint is upheld.

- Enable compensation to be awarded and make provision as to its amount.
- Give the applicant a right to bring a claim, which would be in the civil courts, for breach of statutory duty in order to, amongst other things, restrain or prevent discriminatory conduct.
- Treat discrimination of an applicant by a worker or agent of the prospective NHS employer as if it was discrimination by the NHS employer itself.

Notes to editors

- NHS England launched the Employee Support Scheme, a nationwide pilot to help NHS whistleblowers in primary care back into employment in March 2017. A similar pilot, the Whistleblowers Support Scheme was launched in September by NHS Improvement for workers in secondary care.
- The Regulations are being laid in draft in Parliament on Monday 19th March for affirmative resolution, subject to the Parliamentary timetable.
- The draft Regulations will, subject to parliamentary approval, prohibit certain NHS employers from discriminating against an applicant because it appears to them that the applicant has previously made a protected disclosure within the meaning of the Employment Rights Act 1996.