



The Campaign for Freedom of Information

Press Release issued by Public Concern at Work

on Mr Richard Shepherd MP's

Public Interest Disclosure Bill

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WHISTLEBLOWERS SET FOR PROTECTION

The shift to a more open Britain received another boost today, when the Public Interest Disclosure Bill was given a Second Reading. Mr Richard Shepherd's Bill will give legal protection to employees who blow the whistle on serious malpractice and deliberate cover-ups.

"I am absolutely delighted that the Bill is now going to Committee," said Mr Shepherd. "I know from my constituency work how much we need to blow the whistle to signal a shift in the culture so that it is both safe and accepted for employees to sound the alarm when they come across malpractice which threatens the safety of the public, the health of a patient, public funds or the savings of investors."

"The Bill will mean that the good and decent people in business and public bodies up and down the country can more easily ensure that where malpractice

is reported, the response deals with the message and not the messenger. While I am confident we have a good Bill, I hope people will now take the chance to make representations on the detail and also on the proposals for compensation."

The Government and Mr Shepherd are consulting interested parties on how bona fide whistleblowers should be compensated where they are sacked. The choices are whether they should

- be compensated for their actual losses (without minimum or maximum); or
- receive penalty awards of between £16,500 and £33,800 on top of unfair dismissal compensation (which is currently capped at £11,300).

How the Bill will work

The Bill's purpose is to make it more likely that where there is malpractice which threatens the public interest, a worker will - rather than turn a blind eye - raise the concern and do so in a responsible way. The Bill seeks to achieve this by offering workers protection against victimisation if they raise their concern in the ways specified in the legislation. It covers workers in the public, private and voluntary sectors.

The Bill directs the worker toward raising the matter internally in the first instance and where an internal whistleblowing procedure exists, it seeks to encourage workers to use this. Where it is not reasonable to raise the matter internally (because the worker reasonably believes he will be victimised or that his employer will cover-up the malpractice) or where the matter is not properly addressed internally, the Bill also protects the worker where he makes an external disclosure in a specified way. Under the Bill, external disclosures of malpractice to regulators which are expressly authorised for this purpose will be more likely to attract protection.

If a worker chooses to disclose information in a way not covered by the Bill, he will lose its protection. As the worker will need to demonstrate his good faith to invoke the Bill's protection, its provisions will not encourage anonymous leaks.

The Bill covers most individuals in the workplace. Described as 'workers', these are:

employees, quasi-employees (those who are not genuinely self-employed e.g. construction workers on a building site), agency contract staff, prison officers, crown servants, mariners, homeworkers, trainees, and NHS doctors, dentists, ophthalmists and pharmacists.

The Bill covers a wide range of malpractice:

- crime or breach of regulatory, administrative or common law;
 - miscarriage of justice;
 - danger to health and safety;
 - damage to the environment; or
 - the cover-up of one of the above.
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Comments on the Public Interest Disclosure Bill

"We welcome the Bill as it means that at the end of the day an employee faced with serious wrongdoing or a deliberate cover-up cannot be forced to remain silent. This is built into the Bill's structure and emphasised in the important new controls on gagging clauses."

Maurice Frankel, Campaign for Freedom of Information

"The CBI is broadly supportive of the aims of the Public Interest Disclosure Bill. We believe that good management practice should encourage an open culture and good governance and that the law should protect an employee who is penalised for acting in good faith to rectify wrongdoing. The CBI are therefore pleased that the Bill identifies the public interest issues, and specifies that employees, acting in good faith, will be required to use internal procedures for raising such concerns, save in exceptional and specified circumstances."

Confederation of British Industry

"Workers who disclose wrongdoing at work should be protected from victimisation by their employer. The Government therefore fully supports Mr Shepherd's Public Interest Disclosure Bill".

Ian McCartney MP, DTI Minister of State, HM Government

"The IoD recognises the need for an individual to draw the company's

attention to illegality and malpractice without fear of reprisal and for the company to have an opportunity to put right these problems. Such action could potentially preserve life and limb, not to mention the future of the company. For these reasons we have historically supported the idea of whistleblower protection and we now support the approach in Mr Shepherd's Bill."

Ruth Lea, Institute of Directors

"We warmly welcome this Bill. It will give employees the assurance to sound the alarm on abuse in care, fraud and other serious malpractice and it will provide employers an incentive to handle such concerns responsibly. As it will ensure that employees and employers are less likely to turn a blind eye to the wider public interest, it will improve both accountability and public confidence in the workplace."

Michael Brindle QC, Public Concern at Work

"The TUC greatly welcomes this Bill as it will provide vital protection for workers who do find themselves genuinely impelled to 'blow the whistle' on dangerous and / or illegal practices occurring in the workplace. We are particularly pleased that the Bill applies to a wider group of workers than in traditional employment law."

Sarah Veale, Trades Union Congress
