STATUTORY INSTRUMENTS

2019 No. 1341

TERMS AND CONDITIONS OF EMPLOYMENT

The Public Interest Disclosure (Prescribed Persons) (Amendment) Order 2019

Made - - - -	*11th October 2019*
Laid before Parliament	*15th October 2019*
Coming into force - -	*5th November 2019*

The Secretary of State makes the following Order in exercise of the powers conferred by section 43F of the Employment Rights Act 1996(**a**):

Citation and Commencement

1. This Order may be cited as the Public Interest Disclosure (Prescribed Persons) (Amendment) Order 2019 and comes into force on 5th November 2019.

Amendments to the Public Interest Disclosure (Prescribed Persons) Order 2014

2. In the Schedule to the Public Interest Disclosure (Prescribed Persons) Order 2014(**b**)—

(a) omit the entry relating to the Care Inspectorate and, at the appropriate place, insert—

"Social Care and Social Work Improvement Scotland(**c**).	Matters relating to the provision of care services, as defined in the Public Services Reform (Scotland) Act 2010(**d**).";

(b) at the appropriate place insert—

"Commission for Equality and Human Rights(**e**).	Compliance with the requirements of legislation relating to equality and human rights.";

(c) in the entry relating to the European Securities and Markets Authority, in the second column, substitute—

"(a) Matters relating to compliance with Directive

(**a**) 1996 c.18. Section 43F was inserted by section 1 of the Public Interest Disclosure Act 1998 (c.23). Section 43F(1)(a) was amended by section 18(1)(c) of the Enterprise and Regulatory Reform Act 2013 (c.24).
(**b**) S.I. 2014/2418, amended by S.I. 2014/3294, 2015/1407, 2015/1682, 2015/1981, 2016/225, 2016/992, 2017/516, 2017/692, 2017/701, 2017/880, 2017/960, 2017/1064, 2017/1127, 2018/378, 2018/795, 2018/1237, and 2018/1288.
(**c**) Social Care and Social Work Improvement Scotland was established by the Public Services Reform (Scotland) Act 2010 (asp 8), section 44.
(**d**) 2010 asp 8.
(**e**) The Commission for Equality and Human Rights was established by section 1 of the Equality Act 2006 (c.3).

2009/65/EC of the European Parliament and of the Council of 13th July 2009 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS)(**a**) as amended by Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories(**b**);

(b) The conduct of trade repositories regulated by Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories as last amended by Regulation (EU) No 2019/834 of the European Parliament and of the Council of 20 May 2019 as regards the clearing obligation, the suspension of the clearing obligation, the reporting requirements, the risk-mitigation techniques for OTC derivative contracts not cleared by a central counterparty, the registration and supervision of trade repositories and the requirements for trade repositories(**c**); and

(c) Matters relating to the conduct of persons who are credit ratings agencies registered under Chapter 1 of Title 3 of Regulation (EC) No 1060/2009 of the European Parliament and of the Council of 16 September 2009 on credit rating

(**a**) OJ No. L 302, 17.11.2009, p. 32.
(**b**) OJ No. L 201, 27.7.2012, p. 1.
(**c**) OJ No. L 141, 28.5.2019, p. 42.

agencies(**a**) or who are certified in accordance with Article 5(2) of that regulation.";

(d) in the entry relating to the Financial Conduct Authority, in the second column, after sub-paragraph (o), insert—

"(p) the conduct of self-regulatory organisations in relation to compliance with their supervision requirements as defined in regulation 2 of the Oversight of Professional Body Anti-Money Laundering and Counter Terrorist Financing Supervision Regulations 2017(**b**) or the requirements imposed on self-regulatory organisations by or under those Regulations;

(q) the conduct of persons who are supervised contributors within the meaning of Article 3(1)(10) of Regulation (EU) no. 2016/1011 of the European Parliament and of the Council of 8 June 2016 on indices used as benchmarks in financial instruments and financial contracts or to measure the performance of investment funds and amending Directives 2008/48/EC and 2014/17/EU and Regulation (EU) No 596/2014(**c**);

(r) the conduct of persons who are Miscellaneous BM persons within the meaning of regulation 5(2) of the Financial Services and Markets Act 2000 (Benchmarks) Regulations 2018(**d**) in relation to relevant requirements as

(**a**) OJ No. L 302, 17.11.2009, p. 1.
(**b**) S.I. 2017/1301.
(**c**) OJ No. L 171, 29.6.2016, p. 1.
(**d**) S.I. 2018/135.

defined in regulation 2(1) of those Regulations;

(s) the conduct of persons subject to functions conferred on the Financial Conduct Authority under Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4th July 2012 on OTC derivatives, central counterparties and trade repositories(**a**).";

(e) omit the entry relating to the Homes and Communities Agency and, at the appropriate place, insert—

"Regulator of Social Housing(**b**).	Matters relating to the regulation of registered providers of social housing in accordance with Part 2 of the Housing and Regeneration Act 2008(**c**).";

(f) in the entry relating to the Independent Police Complaints Commission, in the first column, substitute "Independent Office for Police Conduct(**d**)."; and

(g) in the entry relating to the Welsh Ministers, in the second column, after the final sentence, insert—

"Matters relating to the provision of services regulated under Part 2 of the Care Standards Act 2000(**e**) by:

(a) establishments and agencies for which the Welsh Ministers are the registration authority under section 5 of that Act(**f**); or

(b) private dental practices prescribed in regulation 3 of the Care Standards Act 2000 (Extension of the Application of Part 2 to Private Dental Practices) (Wales) Regulations

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(**a**) OJ No. L 201, 27.7.2012, p. 1.

(**b**) The Regulator of Social Housing was established by section 80A of the Housing and Regeneration Act 2008 (c.17). Section 80A was inserted by S.I. 2018/1040, which also transferred functions of the Regulation Committee of the Homes and Communities Agency to the Regulator of Social Housing.

(**c**) 2008 c.17.

(**d**) The Independent Police Complaints Commission was renamed the Independent Office for Police Conduct by section 33 of the Policing and Crime Act 2017 (c.3).

(**e**) 2000 c.14.

(**f**) Section 5 was amended by the Health and Social Care Act 2008 (c.14) Schedule 5, paragraph 6; the Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2) Schedule 3, Part 1, paragraph 5 and S.I. 2019/772 (W.146). There are other amendments none of which are relevant.

2017(**a**).

Matters for which the Welsh Ministers have responsibility relating to the use and application of the Mental Health Act 1983(**b**).”

Kelly Tolhurst
Parliamentary Under Secretary of State
Department for Business, Energy and Industrial Strategy

11th October 2019

(**a**) S.I. 2017/200 (W.55).
(**b**) 1983 c.20.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Schedule to the Public Interest Disclosure (Prescribed Persons) Order 2014.

The Employment Rights Act 1996 (the "1996 Act") provides protection for workers who suffer a detriment or are dismissed as a result of blowing the whistle by making a qualifying disclosure within the meaning of section 43B of the 1996 Act in accordance with any of sections 43C to 43H of that Act. Section 43F of the 1996 Act provides that a qualifying disclosure will be protected if it is made to a prescribed person and relates to matters in respect of which that person is prescribed. The Schedule to the 2014 Order lists the prescribed persons and the matters in respect of which they are prescribed for the purposes of section 43F.

This Order amends the Schedule to the 2014 Order to amend the description of some matters for which certain persons are prescribed, and in particular to substitute Social Care and Social Work Improvement Scotland for the Care Inspectorate, to include the Commission for Equalities and Human Rights, to substitute the Regulator of Social Housing for the Homes and Communities Agency, and to change the name of the Independent Police Complaints Commission to the Independent Office for Police Conduct in the list of prescribed persons.

A full impact assessment has not been produced for this instrument as no significant impact on the private, voluntary or public sectors is foreseen.

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