

Briefing for the Public Petitions Committee

Petition Number: [PE 1832](#)

Main Petitioner: Jacqueline Shaw

Subject: Repeal the Public Information Disclosure Act 1998 (PIDA)

Calls on the Scottish Parliament to urge the Scottish Government to request that the UK Government repeal the Public Information Disclosure Act 1998 (PIDA).

Introduction

The petitioner is looking for the Scottish Government to urge the UK Government to repeal the Public Interest Disclosure Act 1998 (commonly referred to as PIDA).

PIDA amended the Employment Rights Act 1996 to establish protections for people who disclose information in the public interest, commonly known as 'whistleblowers'. It is a reserved matter under the Scotland Act 1998.

Background

The legislation is supposed to protect employees who voice concerns about misconduct or malpractice from being subjected to any detriment by their employer. Such detriment may include dismissal, victimisation or denial of opportunities such as promotion and training.

However, there have been concerns expressed about whether staff who whistleblow are appropriately protected. This has been raised frequently in relation to the NHS.

Sir Robert Francis QC chaired a review group into 'creating an open and honest culture in the NHS'. This was established on the back of the public inquiry into failings at Mid-Staffordshire NHS Foundation Trust.

Although the subsequent report¹ was aimed at NHS England, the Scottish Government also considered its findings for Scotland.

Within the report, Sir Francis wrote the following in relation to PIDA:

¹ Sir Robert Francis QC (11 February 2015) [Freedom to speak up: An independent review into creating an open and honest reporting culture in the NHS](#)

“For a number of reasons this legislation is limited in its effectiveness. At best the legislation provides a series of remedies after detriment, including loss of employment, has been suffered. Even these are hard to achieve, and too often by the time a remedy is obtained it is too late to be meaningful.”

Since the publication of the report, several changes have been made in the NHS but there has been no significant change to the legislation.

UK Action

In 2014, the UK Government conducted a [call for evidence on the whistleblowing framework](#) which resulted in some minor legislative changes.

Since then, calls for reform have continued. This has included a report from the [All Party Parliamentary Group on Whistleblowing](#) and a [subsequent draft bill](#). There is also a [Member’s bill from Dr Phillipa Whitford MP](#) on repealing and replacing PIDA. Both bills are still progressing through Parliament.

The Whistleblowing charity Protect has also [created a draft bill on whistleblowing](#).

Scottish Government Action

The Scottish Government cannot amend the principal legislation in this area, but it has implemented a number of initiatives aimed at bolstering confidence in the NHS’s approach to whistleblowing. This has included:

- The implementation of the National Confidential Alert Line.
- The creation of whistleblowing champions within each NHS board.
- The creation of the Independent National Whistleblowing Officer for NHS Scotland.
- The creation of the National Whistleblowing Standards.

Scottish Parliament Action

In 2018, the Health and Sport Committee of the Scottish Parliament conducted an inquiry into NHS Governance. This touched upon whistleblowing. Concerns expressed in the course of the evidence included;

- the independence of whistleblowing investigations
- allegations of mistreatment of whistleblowers
- the independence of whistleblowing champions as non-executive directors of NHS boards.

The [final report](#) included some recommendations around whistleblowing, including supporting a [petition which called for the creation of a national](#)

[investigative telephone line](#) for NHS staff. This was subsequently rejected by the Scottish Government. There were no recommendations around repealing the 1998 Act.

The Public Petitions Committee has also dealt with other petitions on whistleblowing in the past including [PE01488](#) – Whistleblowing in Local Government.

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3 November 2020

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Published by the Scottish Parliament Information Centre (SPICe), The Scottish Parliament, Edinburgh, EH99 1SP www.scottish.parliament.uk