



PUMP COURT

CHAMBERS

**Proposed changes to
the whistleblowing regime**

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1. Current law on whistleblowing

- Lens of employment law
- ERA 1996: Right not to be subjected to detriment (s.47B) or to be unfairly dismissed (s.103A), if they make a protected disclosure
- Problems with the current system
 - Complicated and high threshold for succeeding
 - Arduous tribunal process
 - Focus is solely on work-related loss
 - Reactive

2. The Office of the Whistleblower Bill: Origins

- First debated in the House of Lords in January 2020, then put forward as a Private Members' Bill under the Ten Minute Rule in December 2024.
- *“A Bill to establish an independent Office of the Whistleblower to protect whistleblowers and whistleblowing; to make provision for the Office of the Whistleblower to set, monitor and enforce standards for the management of whistleblowing cases, to provide disclosure and advice services, to direct whistleblowing investigations and to order redress of detriment suffered by whistleblowers.”*

3. The Office of the Whistleblower Bill: Functions

- Set, monitor and enforce compliance with minimum standards for whistleblowing policies, procedures and reporting structures
- Provide an independent disclosure and reporting service
- Provide support, advice and financial redress for whistleblowers
- Prevent the exercise of Confidentiality Agreements and NDAs except where non-disclosure is for purposes of commercial confidentiality or to provide whistleblower anonymity

4. Interplay with the Employment Rights Bill (A)

- The proposed amendments to the ERB published on 7 July 2025 introduced several amendments which relate to the Office of the Whistleblower:
 - Within one year of the Employment Rights Act 2025 being passed, the Office of the Whistleblower must be established by regulations.
 - Any whistleblower who is dismissed from their employment may refer their case to the Office of the Whistleblower, regardless of whether whistleblowing is cited as a cause of their dismissal.
 - A person who intentionally or recklessly submits a whistleblower to detriment is guilty of an offence and may be subject to a fine.
 - The Secretary of State must, by regulations, make provisions relevant to certain employers, to (a) extend the circumstances in which an employee is considered unfairly dismissed after making a protected disclosure, and (b) require employers to take reasonable steps to investigate any disclosure made to them under s.43C of the Employment Rights Act 1996.

4. Interplay with the Employment Rights Bill (B)

- Overlap between the two bills:
 - Expansion of whistleblower protections: The ERB also includes amendments to whistleblowing law, e.g. adding sexual harassment as a type of wrongdoing
 - NDAs: Void or limit NDAs / confidentiality clauses regarding harassment or discrimination and whistleblowing

5. Next stage & How businesses can prepare

- Second reading in the House of Commons in May 2026
- Develop clear policies/procedures, and audit existing frameworks
- Document internal processes
- HR / line manager training on handling disclosures
- Assess potential exposure to claims or compliance breaches
- Review confidentiality provisions and NDAs