

2015 No. 1981

TERMS AND CONDITIONS OF EMPLOYMENT

**The Public Interest Disclosure (Prescribed Persons)
(Amendment) (No. 2) Order 2015**

<i>Made</i>	- - - -	<i>7th December 2015</i>
<i>Laid before Parliament</i>		<i>9th December 2015</i>
<i>Coming into force</i>	- -	<i>1st February 2016</i>

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) (No. 2) Order 2015 and comes into force on 1st February 2016.

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 Audit Commission for Local Authorities and the National Health Service in England;
 - (b) in the entry relating to auditors appointed by the Audit Commission for Local Authorities and the National Health Service in England, for the words in the first column substitute “Auditors appointed to audit the accounts of bodies listed in Schedule 2 to the Local Audit and Accountability Act 2014(c).”;
 - (c) in the second column of the entry relating to the Care Quality Commission, omit paragraph (b) and insert—
 - “(b) the functions exercised by the Healthwatch England committee(d), including any functions of the Care Quality Commission exercised by that committee on its behalf(e); or

(a) 1996 c.18. Section 43F was inserted by section 1 of the Public Interest Disclosure Act 1998 (c.23).
(b) S.I. 2014/2418, amended by S.I. 2014/3294, 2015/1407 and 2015/1682.
(c) 2014 c.2. Schedule 2 was amended by paragraph 6 of Schedule 13 to the Deregulation Act 2015 (c. 20) and S.I. 2015/975, and should be read in conjunction with paragraph 3 of Schedule 13 to the 2014 Act in relation to NHS trusts and trustees for NHS trusts. A new audit regime was introduced by the 2014 Act from 1st April 2015. Transitional and savings provisions (contained in S.I. 2015/841) govern the audit framework (including the appointment of auditors) from 1st April 2015 until the new audit regime is fully implemented.
(d) The Healthwatch England committee is a committee of the Care Quality Commission appointed under paragraph 6(1A) of Schedule 1 to the Health and Social Care Act 2008 (c.14) in accordance with the Care Quality Commission (Healthwatch England Committee) Regulations (S.I. 2012/1640).
(e) Section 45(A)(2) to (5) of the Health and Social Care Act 2008 set out functions of the Care Quality Commission which it must arrange for the Healthwatch England committee to exercise on its behalf pursuant to section 45A(1) of that Act.

- (c) any activities not covered by (a) or (b) in relation to which the Care Quality Commission exercises its functions.”
- (d) in the entry relating to the Health and Safety Executive, for the words in the second column substitute “Matters relating to those industries and work activities for which the Health and Safety Executive is the enforcing authority under the Health and Safety (Enforcing Authority) Regulations 1998(a) and which are about the health and safety of individuals at work, or the health and safety of the public arising out of or in connection with the activities of persons at work.”;
- (e) in the entry relating to the Homes and Communities Agency, for the words in the second column substitute “Matters relating to the proper conduct of the business of registered providers of social housing.”;
- (f) in the second column of the entry relating to the Pensions Regulator, omit the word “other”;
- (g) in the second column of the entry relating to the Prudential Regulation Authority, after the words “within the meaning” insert “of the”;
- (h) omit the entry relating to the Standards Commission for Scotland and the Chief Investigating Officer;
- (i) in the second column of the entry relating to the Welsh Ministers, at the end insert “Matters relating to the environment and natural resources as set out in the Natural Resources Body for Wales (Establishment) Order 2012(b).”; and
- (j) at the appropriate places, insert the entries set out in the Schedule to this Order.

7th December 2015

Nick Boles
Minister of State for Skills
Department for Business, Innovation and Skills

(a) S.I. 1998/494; relevant amending instruments are S.I. 1999/2024, S.I. 1999/3232, S.I. 2002/2675, S.I. 2006/1541, S.I. 2006/557, S.I. 2007/320, S.I. 2011/3058, S.I. 2012/632, S.I. 2014/469, S.I. 2014/1638, S.I. 2014/1639 and S.I. 2015/51.
(b) S.I. 2012/1903 (W. 230), amended by S.I. 2013/755 (W. 90).

SCHEDULE

Article 2(j)

<i>First Column</i>	<i>Second Column</i>
<i>Persons and descriptions of persons</i>	<i>Description of matters</i>
Commissioner for Ethical Standards in Public Life in Scotland(a)	Breaches by a councillor or a member of a devolved public body (as defined in section 28 of the Ethical Standards in Public Life etc (Scotland) Act 2000(b)) of the code of conduct applicable to that councillor or member under that Act.
Health Education England(c)	Matters relating to— (a) Health Education England’s functions under sections 97(1) and 98(1) of the Care Act 2014 (which relate to planning and delivering education and training for health care workers(d) and to ensuring sufficient skilled and trained health care workers are available for the health service throughout England); (b) the functions exercised by Local Education and Training Boards(e), including any functions of Health Education England exercised by Local Education and Training Boards on its behalf(f); or (c) any activities not covered by (a) or (b) in relation to which Health Education England exercises its functions.
National Health Service Commissioning Board(g)	Matters relating to the provision of services pursuant to a contract, agreement or arrangement under Part 4 (which relates to primary medical services), Part 5 (which relates to primary dental services), Part 6 (which relates to primary ophthalmic services) or Part 7 (pharmaceutical services and local pharmaceutical services) of the National Health Service Act 2006(h).

(a) The Commissioner for Ethical Standards in Public Life in Scotland was established by section 1 of the Scottish Parliamentary Commissions and Commissioners etc. Act 2010 (asp 11). Section 1 of that Act was substituted by Article 3 of the Public Services Reform (Commissioner for Ethical Standards in Public Life in Scotland etc.) Order 2013 (S.S.I. 2013/197).

(b) 2000 asp. 7.

(c) Health Education England was established by section 96 of the Care Act 2014 (c.23), which also abolished the former Special Health Authority called Health Education England.

(d) “Health care workers” has the meaning given by section 97(9) of the Care Act 2014.

(e) A Local Education and Training Board is a committee of Health Education England, appointed for an area in England under section 103(1) of, and paragraph 9 of Schedule 5 to, the Care Act 2014.

(f) Section 103(2) of the Care Act 2014 provides that the main function of a Local Education and Training Board is to exercise on Health Education England’s behalf its functions under sections 97(1) and 98(1) of that Act, so far as they are exercisable in or in relation to the area for which the Local Education and Training Board is appointed.

(g) The National Health Service Commissioning Board was established by section 1H of the National Health Service Act 2006 (c.41), and is also known as “NHS England”.

(h) 2006 c. 41.

NHS Business Services Authority(a)

Matters relating to—

- (a) fraud, corruption or other unlawful activity in relation to the health service in England; or
- (b) security management in the health service in England;

in relation to which the Counter Fraud and Security Management Service Division(b) (also known as “NHS Protect”) exercises the functions of the NHS Business Services Authority.

Secretary of State for Health

Matters relating to—

- (a) protecting the public in England from disease or other dangers to health under section 2A(c) of the National Health Service Act 2006;
- (b) improving the health of the people of England under section 2B(d) of the National Health Service Act 2006; or
- (c) any other public health functions exercised by or on behalf of the Secretary of State for Health in relation to the people of England and not covered by (a) or (b), including those exercised by Public Health England(e).

The Single Source Regulations Office(f)

Matters relating to single source defence procurement, including the application of and compliance with Part 2 of the Defence Reform Act 2014(g) and the Single Source Contract Regulations 2014(h).

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- (a) The NHS Business Services Authority is a Special Health Authority established by article 2 of the NHS Business Services Authority (Awdurdod Gwasanaethau Busnes y GIG) (Establishment and Constitution) Order (S.I. 2005/2414).
 - (b) The NHS Business Services Authority (Awdurdod Gwasanaethau Busnes y GIG) Directions 2013 direct the NHS Business Services Authority to maintain a division called the “Counter Fraud and Security Management Service Division” to discharge its functions in relation to counter fraud and security management (as defined in paragraph 1 of those Directions). Paragraph 12 and Schedule 1 of the Directions specify these functions.
 - (c) Section 2A was inserted into the National Health Service Act 2006 and amended by Health and Social Care Act 2012 (c. 7), Part 1, section 11 and amended by the Energy Act 2013 (c. 32) Schedule 12, paragraph 91.
 - (d) Section 2B was inserted into the National Health Service Act 2006.
 - (e) Public Health England is an executive agency of the Department of Health. It exercises certain of the Secretary of State’s public health functions, which include those specified in sections 2A and 2B of, and in paragraphs 7C, 8 and 12 of Schedule 1 to, the National Health Service Act 2006 (c.41).
 - (f) The Single Source Regulations Office was established by section 13 of the Defence Reform Act 2014 (c. 20).
 - (g) 2014 c.20.
 - (h) S.I. 2014/3337.

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 (“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 include some persons not previously included, delete others and to amend the description of matters for which certain persons are prescribed.

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

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