

2022 No. 1249

TERMS AND CONDITIONS OF EMPLOYMENT

**The Public Interest Disclosure (Prescribed Persons) (Amendment)
(No. 2) Order 2022**

<i>Made</i> - - - -	<i>28th November 2022</i>
<i>Laid before Parliament</i>	<i>30th November 2022</i>
<i>Coming into force</i> - -	<i>4th January 2023</i>

The Secretary of State makes this 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 2022 and comes into force on 4th January 2023.

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

2. In the Schedule to the Public Interest Disclosure (Prescribed Persons) Order 2014(b), in the entry relating to the Office of Communications, in the second column—

- (a) in paragraph (c) at the end omit “and”;
- (b) in paragraph (d) for “markets.” substitute “markets.”;
- (c) after paragraph (d) insert—
 - “(e) postal services regulation; and
 - (f) the regulation of video-sharing platform services under Part 4B of the Communications Act 2003(c).”.

28th November 2022

Paul Scully
Parliamentary Under Secretary of State
Department for Digital, Culture, Media and Sport

(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, to which there are amendments not relevant to this Order.
(c) 2003 c. 21; Part 4B (comprising sections 368S to 368Z13) was inserted by regulation 47 of the Audiovisual Media Services Regulations 2020 (S.I. 2020/1062). Section 368S was amended by S.I. 2020/1536.

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 “2014 Order”).

The Employment Rights Act 1996 (the “1996 Act”) provides protection for workers who suffer a detriment or are dismissed as a result of whistleblowing 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 prescribe additional matters in respect of which the Office of Communications (Ofcom) is a prescribed person. Following the amendments made by this Order, qualifying disclosures made to Ofcom which the worker reasonably believes are about matters relating to Ofcom’s regulatory regime for postal services and video-sharing platform services (VSPs) and are substantially true will be made in accordance with section 43F of the 1996 Act and will therefore be a protected disclosure. Disclosures on other matters related to postal services and VSPs should be made to the persons prescribed for those matters. For example, disclosures relating to their compliance with data protection legislation should be made to the Information Commissioner.

A full impact assessment has not been produced for this Order as no significant impact on the private or voluntary sectors or community bodies is foreseen.

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