



Homes
England

Date: 4 September 2020

Our Ref: RFI3074

Tel: 0300 1234 500

Email: infogov@homesengland.gov.uk

Making homes happen

██████████
By Email Only

Windsor House
Homes England – 6th Floor
50 Victoria Street
London
SW1H 0TL

Dear ██████████

RE: Request for Information – RFI3074

Thank you for your recent email, which was processed under the Freedom of Information Act 2000 (FOIA). You requested the following information:

The subject of this request is 'whistleblowers'.

These are workers who have the reasonable belief that one or more of the criteria described in Section 43 B. Public Interest Disclosure Act 1998 (which amended Part IVA of the Employment Rights Act 1996) has arisen. The worker then raises the issue with a Prescribed Person; a list of whom is set out in the Public Interest Disclosure (Prescribed Persons) Order 2014 (and the Scotland and Northern Ireland equivalents). I believe that your Organisation is a Prescribed Person for the purposes of the Order(s).

To be very clear, I am not referring to disclosures made by your employees/workers or other persons connected with your Organisation. I am only referring to workers in other organisations who make reports to you about alleged wrongdoing within their organisations, not yours. I refer to the workers in these other organisations as 'external whistleblowers' as distinct from internal whistleblowers within your Organisation or persons making disclosures about your Organisation.

I set out below requests for information under the Freedom of Information Act 2000/Freedom of Information (Scotland) Act 2002:

Q1 Does your Organisation take action to protect external whistleblowers from unjustified treatment by their employers or others?

Please select one of the below answers if possible -

- i. Yes (please explain what action is taken)*
- ii. No*
- iii. Not known*

Q2 Does any protection against unjustified treatment provided by your organisation extend to persons reporting on behalf of external whistleblowers?

- i. Yes (please explain what action is taken)*
- ii. No*
- iii. Not known*

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Q3 Does any protection extend to proposed or intended unjustified action against an external whistleblower contemplated by his/her employer or another in respect of the disclosure?

- i. Yes (please explain what action is taken)*
- ii. No*
- iii. Not known*

Q4 Does your organisation offer any reward or bounty for information received from an external whistleblower in respect of information about which you are the prescribed body or person?

- i. Yes*
- ii. No*
- iii. Not known*

Q5 Does your organisation publish for the public a step by step guide on how it follows up on external whistleblower information?

- i. Yes*
- ii. No*
- iii. Not known*

Q6 Where your organisation does not feel itself to be legally competent to engage with a disclosure made by an external whistleblower, do you have a policy and process to refer that disclosure to another prescribed body/person/regulator or other agency better placed to deal with it?

- i. Yes (please provide a copy of the policy, where written)*
- ii. No*
- iii. Not known*

Q7 Where in the circumstances described in Q6 above, your organisation passes information to another prescribed body etc., do you have a policy and process to advise the external whistleblower that the disclosure has been passed to another body etc?

- i. Yes (please provide a copy of the policy, where written)*
- ii. No*
- iii. Not known*

Q8 Where an external whistleblower may be dissatisfied with his/her dealings with your organisation, is there an appeals policy and process which engage someone who is independent of the investigating department?

- i. Yes (please provide a copy of the policy, where written)*
- ii. No*
- iii. Not known*

Q9 Does your organisation publish FAQ to advise and assist external whistleblowers considering making a disclosure to you?

- i. Yes (please provide the FAQ or direct me to it)*
- ii. No*
- iii. Not known*

Q10 Does all your staff which communicates with or otherwise manages external whistleblowers receive specialist and on-going training for that purpose?



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i. Yes

ii. No

iii. Not known

Q11 Where, following a disclosure to your organisation by an external whistleblower about a matter for which you are prescribed, an alleged act of retaliation occurs against the external whistleblower by the employer or another person, does your organisation investigate the alleged act of retaliation?

i. Yes

ii. No

iii. It would depend on the facts

iv. Not known

Q12 Please describe what criteria you consider in deciding whether to investigate information received from an external whistleblower about a matter in respect of which you are prescribed?

Q13 Does your organisation distinguish between public complaints and disclosures from external whistleblowers?

i. Yes (please describe the essential differences in your approach between managing public complaints and external whistleblower disclosures)

ii. No

iii. Not known

Q14 Apart from any information on your website, does your organisation undertake any public awareness programme(s) regarding whistleblowing?

i. Yes (if so please provide details)

ii. No

iii. Not known

Q15 In respect of Article 5(c)(ii), Prescribed Persons (Reports on Disclosures of Information) Regulations 2017, please disclose any and all reports (suitably redacted, where appropriate) which describe how disclosures from workers in other organisations (not your Organisation) have impacted on your Organisation's ability to perform its functions and meet its objectives during the reporting periods 2017 – 18, 2018 – 19, 2019 – 20.

Response

I am able to confirm that Homes England does not hold the information detailed in your request. This is because there is no legal or business reason for Homes England to do so.

In order to conclude that the information is not held, we have searched with our Human Resources and Legal teams who would have the requested information if held.

The FOIA does not oblige a public authority to create information to answer a request if the requested information is not held. The duty under section 1(1) is only to provide the recorded information held.

The full text of section 1 in the legislation can be found here:

<https://www.legislation.gov.uk/ukpga/2000/36/section/1>



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Advice and Assistance

We have a duty to provide advice and assistance in accordance with Section 16 of the FOIA. As such we can advise that our whistleblowing policies and procedures only apply to Homes England employees.

Homes England is no longer a prescribed person under the legislation you cite in your request. The Public Interest Disclosure (Prescribed Persons) Order 2014, which did include Homes and Communities Agency (the legal entity which has adopted Homes England as its trading name) was amended in 2019 by the Public Interest Disclosure (Prescribed Persons) (Amendment) Order 2019. We are attaching a copy of the 2019 Order for your information.

You will see that the 2019 Order substitutes “the Regulator of Social Housing” (RSH) in place of Homes England.

The RSH can be contacted via the following:

<https://www.gov.uk/government/organisations/regulator-of-social-housing>

enquiries@rsh.gov.uk

Referrals and Regulatory Enquiries team - FOI request

1st Floor – Lateral

8 City Walk

Leeds

LS11 9AT

Right to Appeal

If you are not happy with the information that has been provided or the way in which your request has been handled you may request an internal review by writing to;

The Information Governance Team

Homes England – 6th Floor

Windsor House

50 Victoria Street

London

SW1H 0TL

Or by email to infogov@homesengland.gov.uk

You may also complain to the Information Commissioner however, the Information Commissioner does usually expect the internal review procedure to be exhausted in the first instance.

The Information Commissioner's details can be found via the following link

<https://ico.org.uk/>

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Please note that the contents of your request and this response are also subject to the Freedom of Information Act 2000. Homes England may be required to disclose your request and our response accordingly.

Yours sincerely,

The Information Governance Team

For Homes England

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UK Parliament SIs 2010-Present/2019/1301-1350/Public Interest Disclosure (Prescribed Persons) (Amendment) Order 2019 (SI 2019/1341)

2019 No 1341

TERMS AND CONDITIONS OF EMPLOYMENT

**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:

[1 Citation and Commencement](#)

[2 Amendments to the Public Interest Disclosure \(Prescribed Persons\) Order 2014](#)

[Signature\(s\)](#)

[EXPLANATORY NOTE](#)

Document information

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

Date made

Made 11th October 2019

UK Parliament SIs 2010-Present/2019/1301-1350/Public Interest Disclosure (Prescribed Persons) (Amendment) Order 2019 (SI 2019/1341)/1 Citation and Commencement

1 Citation and Commencement

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

Document information

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

Date made

11/10/2019

UK Parliament SIs 2010-Present/2019/1301-1350/Public Interest Disclosure (Prescribed Persons) (Amendment) Order 2019 (SI 2019/1341)/2 Amendments to the Public Interest Disclosure (Prescribed Persons) Order 2014

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

In the Schedule to the Public Interest Disclosure (Prescribed Persons) Order 2014—

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

“Social Care and Social Work Improvement Scotland.	Matters relating to the provision of care services, as defined in the Public Services Reform (Scotland) Act 2010 .”
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- (b) at the appropriate place insert—

“Commission for Equality and Human Rights.	Compliance with the requirements of legislation relating to equality and human rights.”
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- (c) in the entry relating to the European Securities and Markets Authority, in the second column, substitute—

“(a) Matters relating to compliance with [Directive 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) 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) 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; 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 agencies 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 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](#);

(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 in relation to relevant requirements as 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.””

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

“Regulator of Social Housing.	Matters relating to the regulation of registered providers of social housing in accordance with Part 2 of the Housing and Regeneration Act 2008.”
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(f) in the entry relating to the Independent Police Complaints Commission, in the first column, substitute “Independent Office for Police Conduct.”; 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 by:

- (a) establishments and agencies for which the Welsh Ministers are the registration authority under section 5 of that Act; 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 2017.
- Matters for which the Welsh Ministers have responsibility relating to the use and application of the [Mental Health Act 1983](#).”

Document information

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

Date made
11/10/2019

UK Parliament SIs 2010-Present/2019/1301-1350/Public Interest Disclosure (Prescribed Persons) (Amendment) Order 2019 (SI 2019/1341)/Signature(s)

Kelly Tolhurst

Parliamentary Under Secretary of State

Department for Business, Energy and Industrial Strategy

11th October 2019

Document information

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

Date made
11/10/2019

UK Parliament SIs 2010-Present/2019/1301-1350/Public Interest Disclosure (Prescribed Persons) (Amendment) Order 2019 (SI 2019/1341)/EXPLANATORY NOTE

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.

Document information

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

Date made
11/10/2019