

**DOES UK WHISTLEBLOWING
LEGISLATION PROVIDE A SUITABLE
MODEL? SOME COMMENTS ON THE
FIRST 18 YEARS.**

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SOME POSITIVE FEATURES OF THE PUBLIC INTEREST DISCLOSURE ACT 1998 (PIDA)

- **COVERS BOTH PRIVATE AND PUBLIC SECTORS IRRESPECTIVE OF NUMBERS EMPLOYED.**
- **BROAD DEFINITION OF ‘WORKERS’ COVERED (BUT NO PROTECTION FOR VOLUNTEERS).**
- **PROTECTION NO LONGER DEPENDS ON DEMONSTRATING ‘GOOD FAITH’.**
- **EMPLOYERS ARE VICARIOUSLY LIABLE FOR REPRISALS TAKEN AGAINST WHISTLEBLOWERS BY THEIR STAFF.**

SOME NEGATIVE FEATURES OF PIDA

(1)

- **THE PUBLIC INTEREST TEST MAKES CASE OUTCOMES DIFFICULT TO PREDICT AND UNCERTAINTY WILL INHIBIT DISCLOSURES . [ADDITIONAL PROBLEM OF BURDEN OF PROOF.]**
- **TO BE PROTECTED, WORKERS WHO DISCLOSE TO A REGULATOR WILL NEED TO KNOW THE CORRECT ‘PRESCRIBED PERSON’ TO APPROACH. SUCH ‘PERSONS’ ARE NOT OBLIGED TO TRANSFER INFORMATION TO AN APPROPRIATE RECIPIENT.**
- **EMPLOYERS ARE NOT OBLIGED BY PIDA TO HAVE A WHISTLEBLOWING PROCEDURE, TO INVESTIGATE A CONCERN OR REQUIRED TO TAKE REMEDIAL ACTION IF WRONGDOING IS ESTABLISHED!**

SOME NEGATIVE FEATURES OF PIDA

(2)

- **THERE IS NO PROTECTION AGAINST DISCRIMINATION AT THE HIRING STAGE, FOR WORKERS ATTEMPTING TO MAKE A PROTECTED DISCLOSURE OR THOSE (RIGHTLY OR WRONGLY!) ASSOCIATED WITH A WHISTLEBLOWER.**
- **THERE IS NO CRIMINAL SANCTION FOR RETALIATING AGAINST WHISTLEBLOWERS.**
- **THERE IS NO PROVISION FOR MONITORING/ REVIEW OF THE LEGISLATION.**

SOME PRACTICAL CONSIDERATIONS

- **THE INTRODUCTION OF EMPLOYMENT TRIBUNAL FEES LIMITS ACCESS TO JUSTICE.**
- **LACK OF A SPECIALIST ADVISORY, ENFORCEMENT ETC AGENCY.**
- **LEGISLATION NOT WIDELY PUBLICISED.**