

The U.K. Public Interest Disclosures Act

Whistleblower protection laws have proliferated across Europe in recent years, but perhaps none are as old and well established as one of the primary whistleblower protection laws in the United Kingdom: the Public Interest Disclosures Act.

PIDA, as the law is known in shorthand, was enacted in 1996 to protect workers from retaliation when they blow the whistle on wrongdoing by their employer. One might almost call PIDA a bridge between older, more established whistleblower protection laws in the United States, and the new generation of whistleblower protection laws that have swept Europe since the European Union adopted the EU Whistleblower Protection Directive in 2019.

This paper will explore the scope of PIDA, how the law does or doesn't overlap with other whistleblower protection laws that apply to corporations, and the measures companies should take to avoid violating it.

The Scope of PIDA

The scope of PIDA is broad in numerous ways. Any company operating in the United Kingdom should assume it is covered by the law and take appropriate steps to assure compliance.

Workers. PIDA defines “workers” to include full- or part-time employees, temporary labor, freelance workers, trainees, remote workers, non-executive directors, and more. This is a broader definition than most other British employment laws use, and employers should be aware of that. Moreover, in a multi-employer arrangement – say, a temporary worker assigned by a staffing agency to work at one of the agency’s clients – PIDA will apply to both employers. That is, both the temp agency and the client company could be found liable for violating PIDA’s whistleblower protection rules against the temp employee.

Former employees are also covered if the misconduct they are trying to report happened while they were working at the business. For example, a former employee who believes they were fired for reporting misconduct would be able to seek protection under PIDA.

Issues that can be reported. PIDA allows workers to report a wide range of issues. Protected disclosures including reports of:

- A violation of criminal law
- Breach of a legal obligation
- Damage to the environment
- Danger to the health and safety of one or more individuals
- A “miscarriage of justice”

The worker making the report must make their disclosure in good faith, and reasonably believe the allegations are true. (Please note, the reporter only needs to **believe** their allegations are true; even if the worker is wrong, PIDA still protects their disclosure.) The incident itself can be something that happened in the past, is happening currently, or is likely to happen in the future.

The disclosure must be “in the public interest,” although PIDA defines that concept broadly: if the worker is making a report about wrongdoing that affects somebody other than the worker themselves, that passes the public interest test. (In many circumstances, even harm only to the worker – say, ordering the employee to work in highly dangerous conditions – would still qualify.)

Retaliatory acts. PIDA protects whistleblowers who suffer “detrimental acts” for speaking up about misconduct. Those detrimental acts can include actions from the company itself (termination, demotion, denial of expected promotions, denial of lucrative assignments, withholding expected pay, and so forth) or actions from the worker’s colleagues, such as ostracization from company events.

Criticisms of PIDA

Despite PIDA’s broad scope, the law has several shortcomings that leave it out of step with more modern whistleblower protection laws both in the European Union and the United States.

First, PIDA does not actually protect whistleblowers from retaliation. Rather, it gives whistleblowers the right to seek compensation in court for retaliation they suffer. That means the whistleblower first must file a complaint against the company, and then participate in a potentially long, arduous, and expensive proceeding in front of a U.K. Employment Tribunal – with no guarantee that the tribunal will rule in the whistleblower’s favor.

Second, PIDA does not require companies to adopt a whistleblowing policy or to implement internal reporting channels; it only states that whistleblowers can seek redress in court for retaliation they suffer. That does give companies a certain incentive to make internal reporting easier so that the company won’t be dragged into potentially costly court proceedings, but nevertheless, the statute itself does not include many of the compliance obligations seen in other whistleblower statutes.

These criticisms have led to calls for updated whistleblower protection laws in the United Kingdom. Most recently, in 2022 lawmakers [introduced legislation called the Whistleblowing Bill](#), which would supersede PIDA and bring U.K. whistleblower protections much more into alignment with the EU Whistleblower Protection Directive and U.S. whistleblower protections defined under the Sarbanes-Oxley and Dodd-Frank laws. As of this publication, the Whistleblowing Bill has not yet been enacted into law.

The British government has also [undertaken a review of PIDA](#) to see whether the law is still fit for modern whistleblower expectations.

Measures to assure compliance

Some employers might assume that because PIDA does not specify any specific steps such as adopting a whistleblower policy or establishing internal reporting channels, they can ignore compliance with PIDA –however, this is misguided.

As mentioned earlier, most large companies will be subject to other whistleblower protection laws anyway. For example, the U.K. Financial Conduct Authority (FCA) and the U.K. National Health Service both have their own regulations for whistleblower protection for companies under their jurisdiction. British companies operating in Europe or the United States will face whistleblower protection laws in those countries. Plus, a whistleblower can still file a claim under PIDA, and it will cost a company money to reply to those complaints.

A better way to think about whistleblowing, then, is that compliance with those other laws will also address a company's PIDA compliance needs as a matter of course. In that case, a company can stay on the right side of PIDA by implementing all the standard whistleblower protection measures we see for the EU Whistleblower Directive, the Dodd-Frank Act, FCA or NHS rules, and similar regulations:

- Adopt a clear, written policy that encourages internal reporting and protects whistleblowers from retaliation
- Implement one or more internal reporting channels employees can use to report allegations of misconduct
- Train employees and managers on how to report misconduct and to reinforce the message that retaliation is forbidden
- Assign a competent, independent person to investigate whistleblower reports and report findings to management (and, whenever possible, back to the whistleblower as well)