

Facilitator's Notes

Equalities issues case study for Confidential Contacts



Overview and preparation

This case study is designed to be used as an induction or skills refresh for a group of Confidential Contacts. There is an accompanying PowerPoint presentation for the session and two handouts that can be printed or distributed by email.

This session can be delivered by anyone with knowledge of the whistleblowing process – for example, this could include the Whistleblowing Lead or an experienced Confidential Contact.

You should allow 30 to 60 minutes to work through the case study with the group.

Please read the case study in full before facilitating the session. You will need to be familiar with the progression of the case in order to steer the discussion but it is important that members of the group have not seen the full case study before the session. The full case study can be found at [appendix one](#).

Use the checklist below to ensure you are ready to deliver the session:

- Do you have the mock up email handout ready to distribute?
- Have you read the facilitator's notes in full?
- Have you familiarised yourself with the case study and the questions?
- Do you have pens and paper if you are running the session in person?
- Do you have access to the [National Whistleblowing Standards](#) if the group wish to refer to them?
- Do you have the post-session handout ready to distribute?
- Do you have any relevant internal signposting information available to share with participants (e.g. details for HR, counselling services, links to policies etc.)?

During the session, the scenario will be delivered in three parts with an opportunity for discussion after each. The discussion will be focused around a set list of questions. This note includes guidance on the answers to the questions but these should be used to guide the discussion, rather than read aloud. This session is designed to be interactive with all participants actively discussing their thoughts on the scenario and the questions posed.



The aims of the case study discussion are for Confidential Contacts to:

- Explore and share their thoughts on the case study
- Think about how to prepare for and respond to contacts
- Consider what internal and external signposting options are available
- Increase their familiarity with the National Whistleblowing Standards

Running the session

The following section will take you through each of the slides of the PowerPoint presentation:

Slide 1: Confidential Contact case study session - intro slide.

Slide 2: you have mail - refer participants to the first handout and ask them to take a few minutes to read the email from the whistleblowers. This is the background to the email, which you can read or explain to the group:

You receive an email signed by five members of staff asking if it is possible to meet to discuss concerns about racist treatment of staff.

Slide 3: discussion part one – a list of questions is included on the slide and should be used to prompt discussion. Some answers to the questions are included below and can be used to guide and inform the discussion. The answers are not intended to be simply read to the group.

1. Do you need to consider any practical preparations for your conversation?

Think about what you need to prepare ahead of your conversation with the group. Will you meet in person, virtually or by phone? If you are meeting in person, do you have a quiet and private space for the conversation? Is it big enough for the number of people? If you are meeting in person, do you have a box of tissues? Will water be available?

There are a range of simple considerations when thinking about the first meeting – what are yours?



2. What are your first thoughts?

There isn't much to go on in the email but the group don't say anything about patient safety risks or wrongdoing. It sounds like there could be a particular manager who is behaving inappropriately and so your first thought might be that this is going to be a simple signposting case, suitable for the HR process. Members of the group who have witnessed the behaviour may be asked for input during the HR investigation.

3. What questions do you have?

Is there anything that you particularly need to find out from the group? These questions could help you determine what signposting you need to consider and gives you the opportunity to fully understand their concerns. You will have your own questions but some examples include:

- My role is to give advice and support related to the whistleblowing process. What led you to contact me?
- In your email you spoke about racist behaviour, can you tell me a bit more so that I can understand what's been going on?
- Are you familiar with the whistleblowing process?
- Are you familiar with the bullying and harassment process?
- Do you have any questions for me?

You might also have some general questions of your own about the process, for example, is it possible for a group to raise a whistleblowing concern under the Standards? How would this work?

4. What information do you think you might need to pass on to the group?

With the limited information available so far, you might want to prepare information on the bullying and harassment process and signposting to trade union reps or HR. Anything else?

Slide 4: what happened? – take the group through the next part of the scenario.

There is quite a lot to read, so you could read it out while the group take notes on the key information, as this may help with the next part of the discussion. The process of taking notes could be good practice for a call or meeting with a whistleblower, where you can often be presented with a lot of information:



[The facilitator reads the following text aloud:]

You arrange a meeting with the group for the following week, when everyone is available. You consider the potential that this could be an individual employment issue or a concern with a single manager and so, in advance of the meeting, you prepare signposting information relating to the Bullying and Harassment and Grievance procedures and information on how to contact HR and/or trade union reps. You also familiarise yourself with the sections in the Standards related to HR issues vs whistleblowing concerns.

At the meeting, you ask the group to expand on their concerns and they say that they are worried about racism in their department and the Board generally. They explain that they have been too scared to raise anything individually but felt safe coming forward as a group. They say that they have frequently either experienced or observed instances where Black and Asian colleagues have been treated less favourably than others. The group give examples such as being given less desirable shifts on a disproportionate basis, unreasonably being refused leave requests and being less likely to receive support to pursue development and training opportunities. Some members of the group have experienced this behaviour directly from more than one manager and others have witnessed a pattern of behaviour and want to support efforts to speak up about it.

Some members of the group have heard of similar issues experienced by staff from ethnic minorities in other departments and so they think there is a cultural issue that goes far wider than their own work area. They say that this is having a big impact on the morale of affected staff and will inevitably have wider impact on patient safety, partly because of how staff are treated but also the potential that racist behaviour also extends to how patients are treated.

You have not come across a whistleblowing concern about cultural issues before, or a concern raised by a group rather than an individual. You are initially unsure how to support or advise the group and so you thank them for raising the concerns and say that you would like to get some further advice before meeting them again. You reassure them that you will not identify them or share any details that might indicate who had raised the concerns. The group are happy to proceed on that basis and you agree to meet again the following week.

Slide 5: what have we learned? – this slide provides a recap of the main learning points from this scenario.

Slide 6: what do we know so far? – this slide outlines the main facts of the case so far.

Slide 7: discussion part two – further questions for discussion are outlined on the slide. As before, the questions and answers below should be used to prompt and guide discussion (rather than read aloud):



1. What are your first thoughts? Do these concerns meet the whistleblowing definition?

- **The definition is:**

"when a person who delivers services or used to deliver services on behalf of a health service body, family health service provider or independent provider (as defined in section 23 of the Scottish Public Services Ombudsman Act 2002) raises a concern that relates to speaking up, in the public interest, about an NHS service, where an act or omission has created, or may create, a risk of harm or wrong doing."

This includes an issue that:

- *has happened, is happening or is likely to happen*
- *affects the public, other staff or the NHS provider (the organisation) itself.*

- **Confidential Contact's are not responsible for deciding whether something should be accepted under the process, but it is good to be aware of the definition**

It is always a good start to think about the whistleblowing definition when you are discussing an issue with a whistleblower. It's important to remember that it is not the role of the Confidential Contact to make a decision on behalf of the Board about whether something should be accepted under the whistleblowing process but it can be a helpful place to start when thinking about signposting or managing expectations around what someone might expect when they submit the concern.

- **In this case, there seems to be a wider impact than just an individual HR issue or a problem with a single manager.**

There is a cultural issue being alleged which has an impact on staff. There is a risk of harm and wrongdoing if staff are being treated differently because of their race. This issues raised do not seem like they could be addressed by a single complaint under the grievance procedure because the group suggest they are widespread and none of the group wish to raise it on their own. Is there a patient safety risk or public interest to the concerns?



2. Do you think signposting to HR is appropriate?

Although the group have said they are unwilling to pursue this on their own, it is important to be aware that if any of the group have experienced individual issues and they want to pursue a complaint, then the HR process is always open to them. They could do this separately to the whistleblowing concern, which would consider risks more generally. Support and advice is available through HR and trade unions if they are a member.

3. Do you need to ask for advice or look for further information?

You may want to seek advice on whether a group can raise a concern under the Standards together. You might also want to check whether concerns about culture like this can be considered to be whistleblowing.

Slide 8: what happened? – take the group through the next part of the scenario.

As before, there is quite a lot to read, so you can give the group the option to take notes of the key information as you read it out if they like. This could be good practice for a call or meeting with a whistleblower, where you can often be presented with a lot of information:

[The facilitator reads the following text aloud]

You speak to a colleague who is also a Confidential Contact and you both agree to ask if any of the members of the Scottish Speak Up Network have come across anything similar. One member says that their Board has investigated a systemic cultural issue related to bullying and so it sounds like it would be eligible but they haven't had experience of a group raising something. They suggest calling the INWO advice line.

You call the advice line and speak to a call handler in very general terms. They say that it is possible under the Standards for a group to raise concerns if there is agreement from the group on the points they wish to raise and the outcome they are looking for. If there is disagreement between the group, they can raise separate concerns. The INWO point to the definition of whistleblowing and how it relates to harm or wrongdoing (which can impact on staff or patients). They suggest that it sounds like something that meets the definition but it will be for the Board to undertake an assessment and make a decision. The group have the right to raise it under the Standards if they wish.

You also speak to the Whistleblowing Lead at the Board and ask if there is any information you should pass on about the Board's approach to handling concerns from a group. You don't share information about the concerns at this stage or the identity of the whistleblowers. The Whistleblowing Lead advises you that the Board would normally ask for a lead person in the group to be a main point of contact and you agree to pass this on.



You meet the group again and explain how to raise their concerns internally, saying that you can support them to do that if they like. You pass on the advice from the INWO about linking the concerns to the whistleblowing definition and explain how the Board will assess the concerns for eligibility at the start of the process. You also pass on the information about the need for a shared agreement on the concerns and outcomes, and the importance of having a lead contact person. You talk them through the next steps and they agree to access the Standards. You explain that the Board will ultimately assess the concerns and determine whether or not the whistleblowing process is the correct route to raise the concerns. The group ask for contact details for the Whistleblowing Lead and say that they will email them directly to raise their concerns. The group thank you for your help.

Slide 9: what have we learned? – this slide provides a recap of the main learning points from this scenario.

Slide 10: what has been agreed? – this slide includes the main actions/next steps that have been agreed between the whistleblower and the Confidential Contact.

Slide 11: discussion part three – further questions for discussion are outlined on the slide. This section is an open discussion and opportunity for Confidential Contacts to reflect on what they have learned and what, if anything, they need to do next (e.g. find more information about support options):

- 1. Is there anything that you would have done differently?**
- 2. Did you know that you could contact the INWO or other Confidential Contacts for advice if needed?**

It is perfectly fine to contact the **INWO advice line** if you have any questions (0800 008 6112). They won't be able to give specific case handling advice but can talk you through what's expected under the Standards.

Are you a member of the **Scottish Speak Up Network**? This is a network of Confidential Contacts from Board's across Scotland. It can be a good way to access advice from peers. You can ask the INWO for contact details for the Chairs of the group if you'd like to join. Email INWO@spsso.gov.scot.

You can also contact the **Whistleblowing Lead** in the Board if you are unsure about anything to do with the internal process and want to make sure you have all the information you need before providing advice.

- 3. How did it feel to work through this example?**
- 4. Are there any takeaway actions for you?**



Slide 12: thank you – this slide thanks participants and prompts them to refer to a post-session handout with takeaway points and links to helpful information. The handout is available as a separate document for facilitators to distribute.



Appendix One

Equalities issues – full case study

Part one

You receive an email signed by five members of staff asking if it is possible to meet to discuss concerns about racist treatment of staff.

Part two

You arrange a meeting with the group for the following week, when everyone is available. You consider the potential that this could be an individual employment issue or a concern with a single manager and so, in advance of the meeting, you prepare signposting information relating to the Bullying and Harassment and Grievance procedures and information on how to contact HR and/or trade union reps. You also familiarise yourself with the sections in the Standards related to HR issues vs whistleblowing concerns.

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reassure them that you will not identify them or share any details that might indicate who had raised the concerns. The group are happy to proceed on that basis and you agree to meet again the following week.

Part three

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