

Facilitator's Notes

**Case study involving a claim of detriment
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 letter 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 whistleblower. This is the background to the email, which you can read or explain to the group:

You receive an email from a colleague asking for advice because they think they are being bullied. The email says that they work as a hospital cleaner but gives no other information about the circumstances surrounding the bullying behaviour.

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. What are your first thoughts?

There isn't much to go on in the email but the person does mention being bullied and doesn't say anything about patient safety risks or wrongdoing. Your first thought might be that this is going to be a simple signposting case, suitable for the HR process.

2. How do you respond initially?

Since there is very little information, it is best to speak to the person to find out more. Think about whether or not you have suitable time and private space for a



call at the times suggested by the whistleblower. If not, email to arrange another time. If so, email to confirm when you will call them.

3. What questions do you have for the person?

Is there anything that you particularly need to find out from the whistleblower? These questions could help you determine what signposting you need to consider and gives you the opportunity to fully understand their concerns and their preferences around confidentiality. 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 shared that you were being bullied, 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?

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

Again, on first reading, you might want to prepare information on the bullying and harassment process and signposting to trade union reps or HR. Anything else?

5. Do you know how to access any relevant signposting resources?

Use this case study to think about the signposting information you have access to already. Do you have what you need? Do you need to ask for more? Do you have easy, quick access to contact details for HR? The Whistleblowing Lead? The INWO advice line? If not, think about gathering that information after this session. If you do, share what you have with other Confidential Contacts.

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 initially think that this sounds like a case where you should signpost to HR and the Bullying and Harassment procedure. However, because the information is so limited you decide to speak to the emailer to find out more.

You acknowledge the email and arrange a suitable time to call them based on their availability. You call them at the agreed time and begin by explaining your role as Confidential Contact and ask them to take you through their concerns.

The whistleblower explains that they have received new cleaning chemicals that have come in without appropriate labels and are a different colour to the type that was used before. They have been told by their Manager to transfer this liquid into the containers in which the previous brand of cleaning solution was supplied. The whistleblower raised concerns about safety with their Manager and was told that they have every faith in the team to use the correct products as everyone has been appropriately trained.

The Whistleblower raised their concerns with a senior manager who referred them back to their line manager. Their line manager is now angry with them and has started talking about them behind their back and being critical of their work etc. They feel bullied and feel like this has only happened because they asked questions about the cleaning chemicals.

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. Do you understand the concerns raised? Do you need them in writing?

It is important that you and the whistleblower have a shared understanding of the concerns they want to raise, so that you can signpost where appropriate and explain where other process may be suitable (e.g. if it becomes clear that the issues are about an individual employment situation). If you have been asked to forward on the concerns to the relevant person in the Board, it is especially important that what is sent on is accurate and covers all of the issues raised. You can ask the whistleblower to set out their concerns in writing or you could agree what will be forwarded on during or after your discussion.



2. Do you have any follow up questions for the whistleblower?

If there's anything that you're still unclear about or would like to clarify, it's best to ask questions. Do you need to understand more about how the person has been treated? Do you want to ask if there is already an ongoing HR process? Has the person raised this with anyone else? Does the person want to raise this under the Standards or are they looking for advice? Would they benefit from further support and what might this entail?

3. Does this concern appear to 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 Contacts 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 are two issues – one meets the definition and one is HR.** The first issue is the problem with the way the cleaning chemicals are being handled and the second is the way the whistleblower has been treated after trying to raise a concern. The first meets the definition. Issue two is linked but involves the individual employment situation of the



whistleblower, so it is likely these aspects will need to be considered in line with HR policies. The Board will need to decide how to handle these but it would be helpful to explain to the whistleblower that they may use HR processes to consider the claims of detriment.

4. Do you know how to help them raise the concern?

Do you know who deals with whistleblowing concerns in your Board? Do you have the contact details of the person who you should contact if a concern is raised with you? If not, it would be helpful to make sure that you know this before you meet with the whistleblower. In gathering this information, you do not need to disclose the details of the whistleblower or the concern.

5. Do you need to signpost the whistleblower to any other resources or processes?

Do you know what support options are already available in your Board? This could include counselling services, occupational health services, chaplaincy, trade unions etc. If you are unsure – ask the Whistleblowing Lead or the HR department. It would be helpful to gather this information so that you are prepared to signpost but you can always follow up with information by email afterwards as well.

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 could read it out while the group take notes on the key information. Again, this provides good practice for a call or meeting with a whistleblower:

[The facilitator reads the following text aloud]

You talk through the concerns in more detail with the whistleblower and they give more information about how they have been treated. They say that their manager has been accusing them of causing trouble in the team and underperforming. They have also noticed that their manager has started to be very critical about the quality of their work when this had not been an issue previously.

You explain that there are potentially two elements – the safety concerns and the change in behaviour they have experienced from their manager. You ask what the person wishes to take forward and they confirm that they want to raise both issues.

You discuss the interaction between the whistleblowing process and HR process. You explain that the concerns about the cleaning solution relate to health and safety, so it would



be appropriate for the whistleblowing process, as there are potentially impacts on staff/patients. You explain that the concerns about the behaviour of the manager may need to be dealt with through HR processes but because they link to the whistleblowing concern, they could be submitted together under the Standards. You explain that the Standards offer protection from detriment and it would be useful to make the connection when raising the concerns formally. You explain that the Board would review the concerns and separate elements out for the HR process if appropriate.

You explain the role of the Confidential Contact and ask if they wish for some support if they decide to take this through the Whistleblowing Standards. The whistleblower confirms that they would like to proceed with your support.

You explain to the whistleblower that it would be helpful to receive their concerns in writing so that they can be sent on to the correct person. You advise them that you will also send them information explaining the Whistleblowing Standards, so that they have a chance to look through the details.

Once the whistleblower has emailed their concerns to you, you refer them on to the whistleblowing lead.

You tell the whistleblower that they should receive an acknowledgement from the Board.

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. How frequently will you check in with the Whistleblower?

If you are supporting the whistleblower, it can be really helpful to agree what this will look like and how often you will be in contact. There isn't a set standard for this kind of thing, so you have the freedom to work it out together so that both parties have a shared understanding of what will happen. In this case, it could be something to think about once the concern has been submitted to the Board.



2. Do you have a process for recording contacts? Do you know what this is?

When someone contacts you or other Confidential Contacts in the Board, do you record the contact anywhere to keep a record of the number of enquiries received? Do you keep notes of meetings or calls? Are they stored securely? If you do not know the answer to these questions, do you know how to find out?

3. Is there anything you would do differently if presented again with a similar case?

This is an opportunity to reflect on the case study together. How did it feel? Do you agree with what happened? Would you have done anything differently?

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

Involves claims of detriment – full case study

Part one

You receive an email from a colleague asking for advice because they think they are being bullied. The email says that they work as a hospital cleaner but gives no other information about the circumstances surrounding the bullying behaviour.

Part two

You initially think that this sounds like a case where you should signpost to HR and the Bullying and Harassment procedure. However, because the information is so limited you decide to speak to the emailer to find out more.

You acknowledge the email and arrange a suitable time to call them based on their availability. You call them at the agreed time and begin by explaining your role as Confidential Contact and ask them to take you through their concerns.

The whistleblower explains that they have received new cleaning chemicals that have come in without appropriate labels and are a different colour to the type that was used before. They have been told by their manager to transfer this liquid into the containers in which the previous brand of cleaning solution was supplied. The whistleblower raised concerns about safety with their manager and was told that they have every faith in the team to use the correct products as everyone has been appropriately trained.

The Whistleblower raised their concerns with a senior manager who referred them back to their line manager. Their line manager is now angry with them and has started talking about them behind their back and being critical of their work etc. They feel bullied and feel like this has only happened because they asked questions about the cleaning chemicals.

Part three

You talk through the concerns in more detail with the whistleblower and they give more information about how they have been treated. They say that their manager has been accusing them of causing trouble in the team and underperforming. They have also noticed that their manager has started to be very critical about the quality of their work when this had not been an issue previously



You explain that there are potentially two elements – the safety concerns and the change in behaviour they have experienced from their manager. You ask what the person wishes to take forward and they confirm that they want to raise both issues.

You discuss the interaction between the whistleblowing process and HR process. You explain that the concerns about the cleaning solution relate to health and safety, so it would be appropriate for the whistleblowing process, as there are potentially impacts on staff/patients. You explain that the concerns about the behaviour of the manager may need to be dealt with through HR processes but because they link to the whistleblowing concern, they could be submitted together under the Standards. You explain that the Standards offer protection from detriment and it would be useful to make the connection when raising the concerns formally. You explain that the Board would review the concerns and separate elements out for the HR process if appropriate.

You explain the role of the Confidential Contact and ask if they wish for some support if they decide to take this through the Whistleblowing Standards. The whistleblower confirms that they would like to proceed with your support.

You explain to the whistleblower that it would be helpful to receive their concerns in writing so that they can be sent on to the correct person. You advise them that you will also send them information explaining the Whistleblowing Standards, so that they have a chance to look through the details.

Once the whistleblower has emailed their concerns to you, you refer them on to the whistleblowing lead.

You tell the whistleblower that they should receive an acknowledgement from the Board.