

Opening the discussion on the need for a new whistleblowing standard

On July 2 BSI and Public Concern at Work jointly hosted a half-day event on whistleblowing. The intent was to air the issues and to understand better what BSI should be doing in this space. Over 80 invited stakeholders heard presentations covering current perspectives on the subject. In addition, much of the morning was dedicated to workshop discussions on the issues that organizations face and the solutions that might prove useful.

Opening remarks – ‘An effective speaking up policy leads to better outcomes’

Carol Sergeant, Chair of Public Concern at Work (PCaW) and of the BSI Standards Policy and Strategy Committee opened the meeting. Sergeant, who has held senior positions in the Bank of England and at the Financial Services Authority, explained the role of PCaW and stated: “Having an effective speaking up policy leads to better outcomes.” She also noted that recent PCaW research revealed that, above all, whistleblowers are most concerned about their colleagues’ reactions. 2013’s Whistleblowing Commission produced 25 recommendations to improve and clarify protection, while PCaW also has a Code of Practice. She concluded, “Organizations need clear policies and procedures, they need to provide the assurance of protection, and to do training at all levels. Meanwhile Boards and regulators need to raise their game.”

A case history of whistleblowing in the NHS

Gary Walker outlined his experience of being an NHS whistleblower. He described how, as an NHS Chief Executive, he alerted bosses that when emergency admissions rose, targets couldn’t be met. “This was not something anybody wanted to hear,” he said. Walker persisted and was put on gardening leave, investigated and then dismissed. He was subsequently exonerated, yet when he spoke to the media, the NHS threatened to sue him, action which in due course the Health Select Committee noted as ‘wrong’. “Clinicians,” said Walker, “are not being listened to and when they do raise concerns they’re sacked, forced to resign, or struck off.” He concluded, “I believe strongly that everybody should be able to raise concerns. The Government needs to change the law and tribunals need to use the Code of Practice.”

PAS 1998:2008 – The BSI Code of Practice

Anne Hayes, BSI’s Head of Market Development, explained that BSI works with stakeholders to develop standards, and in 2008 had produced PAS 1998 on whistleblowing arrangements with PCaW. This freely available Code of Practice had been successful, and is now out of date. “The challenge,” said Hayes, “is, ‘Where do we go next with the PAS?’” She noted it could in future become a UK standard, there could be a role for certification, or an international standard could be developed. Today’s meeting would go some way to help answer this, and she urged all attendees to let their views be known.

Workshop

Cathy James, Chief Executive of PCaW, then introduced the workshop portion of the event. Attendees were asked to discuss a particular aspect of whistleblowing arrangements in depth. They reported back on their discussions and brief summaries of this are as follows (the in depth report/White Paper together with recommendations for next steps will be published in Autumn 2014):

1. What should written procedures for whistleblowing include?

This group believed that written procedures should be open, transparent and shared, and should make all roles, including that of the whistleblower, clear. Policies, it was felt, should be aspirational, lay down clearly the steps to be taken, and name a responsible Board member. Organizations should maximize the number of ways that concerns can be raised and provide assurance that actions will be

transparent, as well as provide sources of independent advice and support. The organizational culture should be addressed so that ‘speaking out’ is seen as a positive.

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2. What questions should Boards ask?

Organizations should start by gauging culture with an employee survey on attitudes to whistleblowing. Boards need to participate in the survey and look at outcomes, asking about absence profiles, recurring themes, how many issues are raised anonymously, and what lessons are being learned. Information should be triangulated to identify any 'red flags'. Boards should also ask who is being trained and the cost of implementing a policy. It was noted that all this is harder for SMEs so any future PAS or standard should be written with SMEs and the voluntary sector in mind.

3. What should staff communications on whistleblowing look like?

Organizations need to identify all their stakeholders: including Boards, staff, regulators, HR, unions, staff councils, and outsourced and voluntary staff. Communications should start with induction packs and should be lively, accessible and regular to cut through the 'noise'. Boards need to be better educated; and staff need to clearly see that managers are taking arrangements seriously. Staff engagement surveys and exit interviews should close the communications loop, and feedback should be sought from whistleblowers on their experience of the arrangements.

4. Who and what should be trained?

Organizations need triage training; training for those doing investigations; and training for everyone on how to raise a concern. Triage, which will often fall to internal auditors, needs to cover how to distinguish between whistleblowers and those with a grievance. People also need training in how to communicate with whistleblowers; and on how to escalate issues. Investigators need investigation skills. And regulators need to be better trained to deal with whistleblowing.

5. How should investigations be designed?

This group echoed that investigators need to be well-trained and professional. Feedback timelines should be adhered to. Investigations should be held as locally as possible. Issues should be analysed case by case to understand the impact on the individual and the wider team, and to identify what support the whistleblower might need, such as a change of line manager or counselling. Above all policies need to be clear and actions reported to a responsible NED.

6. What should a best-practice whistleblowing process look like?

Two groups tackled this topic. Again the need to address culture was noted, with whistleblowing being something that should be celebrated. A way into this would be to start with a suggestions scheme. Also regulators should share learning, and alternative dispute resolution and mediation avenues should be explored. It was felt that whistleblowers shouldn't be actively incentivised but there should be a clear absence of disincentives, and they should be publically thanked.

The international dimension

Anna Myers from Whistleblowing International Network (WIN) concluded the workshop with an overview of the international scene. She noted that currently there is a lot of 'noise' in this arena, driven principally by anti-corruption legislation and human rights concerns, with the impact on reputation also weighing heavily. She reflected, "I think that what we're all talking about is accountability, and it's unfair to make whistleblowers do our work." She concluded that all countries need national solutions while WIN would continue to push at the international level.

Next steps

PCaW and BSI will now be reviewing, in detail, all feedback from the workshops so that they can evaluate what their role should be regarding the further development of whistleblowing guidance.

To learn more about PCaW's work on whistleblowing good practice please visit pcaw.org.uk
Find out more about PAS 1998 and download it for free at bsigroup.com/pas1998