



Blowing the whistle

Ahead of a national report on whistleblowing due to be published this month, *QW* speaks to Cathy James, Chief Executive of the whistleblowing charity Public Concern at Work, about the value of exposing wrongdoing at work

Most people are aware of high-profile cases of whistleblowing such as HBOS and Mid Staffs, but in terms of quality assurance, how can whistleblowing help organisations to improve?

Cathy James (CJ): There is hardly a sector that hasn't been touched by a scandal which staff already knew about beforehand. That's exactly why Public Concern at Work (PCaW) was set up, 20 years ago, because of a series of disasters and scandals where it was clear staff had known about the risk or danger, but either were too scared to speak up or had spoken up only to be ignored.

All organisations face the risk of unknowingly harbouring malpractice and so should understand that it is in their own best interests to know about risk, danger, and malpractice. Staff are the eyes and ears of an organisation and so it makes sense for them to think about how they encourage staff to speak up. At the same time, they need to recognise that it can sometimes be difficult to speak up, especially where it's about pointing out that someone has behaved badly and that can be an uncomfortable thing to do.

Why do people choose to remain silent?

CJ: There's a natural reticence; there is the herd mentality and simply doing what others do; there is a sense that if no one else is speaking about it, why should I? A focus on the short-term issue of raising the concern rather than the damage doing nothing can cause, a lack of trust in the whistleblowing system. There are all sorts of very powerful reasons why people stay silent and we should probably accept that there are

some who will never speak up because of these issues.

Organisational leaders should try to overcome these problems by making it very clear that they want to hear from their staff, that it is safe and acceptable to speak up and that they will not tolerate reprisal against those that do. They also need to practice what they preach.

Is that where the Public Interest Disclosure Act is designed to help?

CJ: While the law is an important backstop, it should not be the reason that organisations have whistleblowing or speak-up policies. The law is there to pick up the pieces when organisations get this wrong and sends a strong cultural message that we want to get whistleblowing right. The law does not, however, require or encourage organisations to do anything. And it doesn't look at the regulatory framework which might provide triggers to encourage best practice.

So what are the incentives for organisations to encourage whistleblowing?

CJ: You start from the premise that this is in your own best interests. Organisations ought to welcome the opportunity to address the concern early so the damage is prevented. This is about good governance and preventing damage, and should form part of the governance structures of all organisations. Also in today's internet age, if you are not looking at how you encourage people to speak up, not training people to deal with whistleblowers, and not ensuring your line managers know what to do when someone raises a concern, then your risks are higher now than



they were 20 years ago. Today it's much easier and faster for individuals to put information into the public sphere using the internet. This reality should be one of the triggers for organisations to say "we want to know" right at the start.

If a company has good, robust whistleblowing arrangements in place, how can that be of benefit to that company as opposed to an exercise in minimising damage or risk?

CJ: There's a paradox in whistleblowing: those organisations with open cultures, where staff do feel able to question things, where management do have genuine open-door policies, where problems are dealt with quickly, and professionally and fairly, where people can easily use whistleblowing arrangements to raise concerns, they actually have fewer cases. Therefore, a good culture will mean that the whistleblowing policy and the procedure for raising concerns that may form part of the arrangements are less needed.

However, organisations should recognise that their arrangements will cover all sorts of issues and so they need to be very broad in scope. You want to encourage people to raise issues with their line management, so you don't want anything in a policy that undermines that.

Do grievance or complaints procedures have a part to play?

CJ: Rather than a 'grievance' or 'complaint' whereby a member of staff is saying: "I've been treated badly and I want an outcome", whistleblowing is more about a risk to others. Of course, in some cases whistleblowing also includes a personal risk to the whistleblower

such as dangerous driving times for lorry drivers, but these also affect the safety of the general public. So it is important to distinguish whistleblowing from grievances or complaints.

Whistleblowing can be a kind of bellwether for how an organisation deals with staff, and how open and transparent it is, how prepared it is to listen to people who may sometimes be raising some very difficult issues. These issues will not go away if whistleblowing is not encouraged – they will fester and become worse and will often come out in the end. It's far better to encourage the debate and come to a conclusion than hope the problem will go away if it is ignored. The hope is that along the way damage is prevented, cultures improved and problems solved.

How can organisations establish what constitutes a significant problem that poses a risk to others and what is an individual's grievance?

CJ: We would suggest that first of all you think about what types of malpractice you want staff to speak up about. The broad definition would be malpractice, risk or danger that affects others (meaning the organisation, stakeholders, customers, the public, or the organisation itself). Then consider more specific risks (eg fraud, bribery and corruption, codes of conduct issues), things that you have policies on that you expect staff to follow and where you would want to know about a breach. Ask yourself, what would you want your staff to tell you about? Making it clear that if a member of staff has a complaint that is about their own position, that is about bullying and harassment for example, then this is likely to be better dealt with under the grievance process.

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THE INSIDE STORY ON WHISTLEBLOWERS

83%

of whistleblowers blow the whistle at least twice, usually internally.

74%

say nothing is done about the wrongdoing.

60%

receive no response from management, either negative or positive.

15%

of whistleblowers raise a concern externally.

15%

are dismissed.

Senior

whistleblowers are more likely to be dismissed.

Newer

employees are most likely to blow the whistle (39% have less than two years' service).

Most likely

response is formal action (disciplinary or demotion) (19%).

Source: Whistleblowing: The Inside Story, published by Public Concern at Work and the University of Greenwich (Work and Employment Relations Unit) which analysed the experiences of 1,000 whistleblowers.

“Three out of four individuals get no response at all to the concern they have raised”

How do we overcome the problem of managers who refuse to believe that anything is wrong?

CJ: An organisational denial about a problem can be just as damaging to the culture as anything else. Our latest research report, *Whistleblowing: The Inside Story* looked at 1,000 cases on our whistleblowing advice line. We produced this research in conjunction with the University of Greenwich and it involved a detailed analysis of the journey of those who raise concerns in the UK. The really worrying finding from this research is that three out of four individuals get no response at all to the concern they have raised. Organisations are missing a trick if they're not responding to whistleblowers. Even if there isn't agreement on what the individual is saying, a prompt, measured, fair, competent, and professional response can make all the difference between the whistleblower feeling that they're being silenced and a whistleblower feeling that they've been listened to. Even if the outcome isn't what the whistleblower wanted.

At what stage do people call your whistleblowing advice line?

CJ: The majority of our callers have already raised a concern and are calling for advice because they don't know what to do next. This is often the point at which individuals start to consider that they are 'whistleblowers'. Before that they will often feel that they have simply done the right thing and that the issue will be dealt with. But if they feel ignored, or that the information is not welcome, it's at this stage they will think about what to do next and perhaps be looking to escalate the matter or take it outside. Only 30%

of our calls are from individuals who haven't said anything about the concern yet and haven't already raised it.

Is there a process that you would advocate? For example, if a company has no procedures in place to deal with whistleblowing, where should it start?

CJ: A good starting place is the BSI code of practice on whistleblowing (BSI Whistleblowing Arrangements Code of Practice PAS1998:2008) that was developed with a broad working group of organisations. It explains what we mean by whistleblowing, why it's necessary, why it's good for the organisation, and why it can go wrong if you don't have good whistleblowing arrangements.

We also provide support and advice to organisations through a subscription service and this will often include access to our advice line for individuals within the subscribing organisation who are unsure whether or how to raise a concern. It operates as a safety net. We also provide policy guidance on whistleblowing; we'll do a review of the organisation's whistleblowing policy and its arrangements generally.

This has to be about more than just having a policy. It's about how you make sure that staff know about it, that they have confidence in it, that they actually trust the process, how it's being used and if so by whom and how many times. Are the concerns coming through minor in nature or serious? Have things come through incident reporting that you might have expected somebody to raise through the management line or through the whistleblowing policy? Looking at the way in which critical information comes into the company and whistleblowing is part of that review.



Should all organisations have a whistleblowing policy and are there difficulties for smaller enterprises?

CJ: I would say any size organisation should have thought about how staff can raise concerns about wrongdoing, risk or malpractice. PCaW is very small (we have 12 staff), plus the board of trustees, and whistleblowing is written into our contract of employment. We include a very simple statement asking staff to raise any concerns with one of the directors or chief executive. If that doesn't feel comfortable, they can raise it with the chair of the board or one of the trustees. And if that isn't possible, then they can consider external options and go to a regulator – these are set out in the statement. For small organisations there will necessarily have to be a very simple process – to do otherwise doesn't make sense.

When trying to create a culture that supports or encourages whistleblowing, how can you encourage or incentivise the workforce to report problems? For example, it might be an NHS nurse who is having to report systemic failures and that's a big step to take.

CJ: Yes, you have to recognise that there may be a power imbalance, but I don't think that's something you need to put into a policy. What the board of an organisation must say is: "We're absolutely committed to encouraging you to speak up; we recognise it can sometimes be difficult; we will not tolerate any victimisation of somebody who raises a concern using this policy."

Employers must recognise that sometimes people want to raise things in confidence, so be very clear about ensuring confidentiality. Too often the assurance in a policy will be "we'll protect your identity if we can, as far as possible". But that's not good enough, you have to say: "If you ask we will not disclose your identity unless we are required by law to do so."

This means that there are only very limited circumstances such as money laundering or safeguarding the vulnerable, for example, where in order to investigate the concern the identity of the person raising it will be disclosed. It would include circumstances where the public interest outweighs keeping the identity of the individual secret. This area is fraught with difficulty and does need some thought and training of staff. It is often where things can go wrong.

How do you ensure the process continues to work well?

CJ: Reviewing how the policy works in practice is important, as well as regularly communicating the policy messages. Not necessarily every six months, but perhaps every year or every couple of years, organisations should look at how the policy is working. It depends how big and disparate the workforce is, whether staff have access to computers and policies etc. Such an exercise is not expensive, but it requires a bit of time and energy, a bit of thought from the board, and I think sometimes that might be what's missing; a policy is issued and publicised and then left to gather dust in a drawer.

“Like David and Goliath, it's often the lone voice up against the big corporation”

BLOWING THE WHISTLE ON COLLABORATION

Public Concern at Work (PCaW) is campaigning to strengthen the protection for whistleblowers and recognise their value, and joins the CQI for an unmissable World Quality Day event ahead of the launch of the Whistleblowing Commission's report this winter.

In collaboration with Birmingham City University, the CQI is proud to bring you the Midlands region World Quality Day event entitled 'Blowing the whistle on collaboration'. In addition to a speech from PCaW's Chief Executive, Cathy James, the line-up features keynotes from Debbie

Simpson, Founder and Acting Chief Executive at the Institute for Continuous Improvement in the Public Sector, and BSI's Suzanne Fribbins, EMEA Product Marketing Manager – Risk Portfolio.

The event (at Millennium Point, Birmingham, on Wednesday 20 November) will also feature the prestigious Loxham Lecture, which will be delivered by the architect of BS 11000, David Hawkins, from the Institute of Collaborative Working.

To book your free place, visit www.thecqi.org and click on Community – World Quality Day – Events.



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What is the Whistleblowing Commission and what will its report cover? (due to be published November 2013)

CJ: This is one of our big policy initiatives this year and involves a thorough review of the whistleblowing framework in the UK. The Commission issued a public consultation and its report will look beyond the operation of the law, looking at attitudes to whistleblowing, the regulatory framework and the thorny question of whether whistleblowers should be rewarded.

It also considers the Public Interest Disclosure Act and ways in which this vital piece of legislation could be strengthened. And then looking at tribunals and whether there are some areas in which we can encourage government to provide more help for individuals through the process.

So whereas *The Inside Story* research was based upon individual experiences, the Whistleblowing Commission's report is about the system as a whole?

CJ: Yes, with the aim to improve the whole framework and so looking at attitudes and awareness, thinking about how we can encourage best practice. I think a code of practice may well be one the key recommendations of the panel.

We've also done a business survey that we've used as part of the evidence for the Commission; we've got the *Inside Story* findings for the individuals' experiences; we've done a survey of public attitudes that we'll draw upon for evidence and obviously there's been no end of public inquiries where whistleblowing has

featured. There is the Mid Staffordshire hospital public inquiry, the Leveson inquiry into phone hacking and the media, and the Parliamentary Commission on Banking Standards. The latter has made some very strong recommendations around whistleblowing for banks. Some of those should be mirrored in other sectors.

Looking further ahead, where would you like to get to?

CJ: I think having more official backing of individuals – by that I mean thinking about how they struggle with the legal process. We're dealing with an imbalance of power. Like David and Goliath, it's often the lone voice up against the big corporation. While not all organisations get it wrong all the time, too many do and it's the individual that is left to enforce an employment right as opposed to seeing this as having a public interest element that should be supported by government. In future I'd like to see something more from government and regulators that recognises the need to support the individual ■

Cathy James is Chief Executive of Public Concern at Work. For more information visit: www.pcaw.org.uk



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