

Newsletter

February 2013



WELCOME

Welcome to the first Whistleblowing Helpline newsletter!

Whistleblowing has been in the spotlight over the last few days, especially following the publication of the Francis final report into Stafford Hospital on 6th February. Whistleblowers enjoy popular support, with recent research by the [University of Greenwich](#) showing 4 out of 5 Britons think people should be supported for revealing wrongdoing, and the importance of safe, protected whistleblowing is becoming ever more apparent. How will the Government respond?



We are proud to announce the recent launch of our new campaign, “Bridging the Gap”, which promotes the value of speaking out to raise concerns at work. Find out more below.

WHISTLEBLOWING IN THE NEWS

On 6th February the [Francis Report](#) was laid before Parliament. This is the final report of the third inquiry into the situation at Stafford Hospital between the years 2005 and 2009, and tells a story of a catastrophic failure to put patient care and safety at the heart of what the NHS does. To find out more and see the Whistleblowing Helpline’s response to the Report, click here: <http://wbhelpline.org.uk/wp-content/uploads/2012/08/Francis-Report1.pdf>

Questions have been raised about the scope and enforceability of what are variously called ‘non-disparagement clauses’, confidentiality clauses or gagging clauses which are used when employees and their employers sign compromise agreements to end their employment relationship. Mr. Walker, the former Chief Executive at United Lincolnshire Hospitals Trust (one of the 14 hospitals currently being investigated because of high mortality rates) gave an interview to BBC News and Radio 4’s Today programme in which he claimed he had raised concerns about patient safety in relation to meeting Government targets prior to his dismissal. The Trust had issued Mr. Walker with a letter saying that if the interviews went ahead he would have to repay his severance payment and any costs incurred. The chairman of the House of Commons Health Committee Stephen Dorrell has written to Health Secretary Jeremy Hunt, urging him to stop the Trust from taking any action which would prevent Mr. Walker giving evidence to the committee about the reasons for his dismissal, since Mr. Walker claims this was related to patient safety. Mr. Hunt has now written to the Trust to establish the contents of the compromise agreement and told the BBC “I was very concerned that it appeared that someone was being leaned on not to speak out”. However, legal opinion sought by the Health Service Journal and [Personnel Today](#) states that compromise agreements are in any case void under the Employment Rights Act if they attempted to prevent the employee making a disclosure under the Public Interest Disclosure Act, provided an individual has first attempted to raise it within the organisation.



The NHS Employers’ Whistleblowing Charter initiative (launched last year) specifically asks Trusts to agree that compromise agreements containing clauses seeking to restrict the ability of an individual to raise issues about any risk to the safety of patients, staff or the public are not acceptable. The Whistleblowing Helpline offers help and advice to NHS and adult social care employers on embedding whistleblowing best practice – please contact us if you’d like our help.

The following links provide information on the latest whistleblowing stories:

[Daily Telegraph](#), [BBC News](#), [People Management](#), [Guardian 16 Feb](#), [Guardian 15 Feb](#)

BRIDGING THE GAP

In January, the Whistleblowing Helpline launched its own campaign to 'bridge the gap' between the proportion of staff who know about whistleblowing procedures and the considerably lower proportion who say they would feel safe to actually raise a concern. The campaign has a number of strands. We will be sending out surveys to Directors of Human Resources in spring, to capture data on existing whistleblowing arrangements and practices. We are also using a multidisciplinary survey to explore people's experience and thoughts on how to encourage staff to raise concerns at an early stage. We are doing work with organisations to promote a cultural environment that encourages staff to openly



discuss concerns and reflect on practice. As part of this, we have produced a series of professionally designed posters and fliers for use in the workplace. To find out more and order your free posters and fliers for staff and managers, click on: <http://wbhelpline.org.uk/about-us/campaigns/> or contact us at enquiries@wbhelpline.org.uk We'd love to hear from you!

LEGAL ROUND UP

In May 2012 the Department for Business Innovation and Skills (DBIS) introduced the [Enterprise and Regulatory Reform Bill](#) (ERRB), which is now progressing through Parliament. Amongst other proposals the Government has included an amendment that will affect the Public Interest Disclosure Act 1998 (PIDA). The amendment in Clause 15 is intended to remove a legal loophole whereby whistleblowing protection under PIDA could be given to someone who has raised concerns about their personal employment contract, by introducing a test that the disclosure must be made in the public interest. The requirement that a disclosure is made in [good faith](#) is to be removed, although if a Tribunal finds that the disclosure was not made in good faith it can reduce compensation at the remedy stage. It's pleasing to learn that on 21st February the government announced they had tabled an amendment containing proposals to introduce vicarious liability into the legal protections available for whistleblowers, making an employer [liable for bullying or harassment](#) of whistleblowers which is carried out by co-workers, unless they can show that they took all reasonable steps to prevent the detrimental treatment.



In correspondence with MPs and peers campaigning for the Public Interest Disclosure Act (PIDA) to be reviewed, the employment relations minister Jo Swinson has [promised a series of amendments](#), prior to a wider call for evidence on the working of PIDA. Amendments might extend the Act to some workers not currently covered by PIDA, and at a later stage there will be consultation on issues such as extending PIDA to cover the pre-employment stage, thus protecting job applicants who have suffered because they were 'blacklisted' for whistleblowing in their past employment. The Whistleblowing Helpline intends to offer its support to the review of the workings of the Act – why not tell us how you think PIDA could be improved?

You can view further details regarding the ERRB here: [Enterprise and Regulatory Reform Bill](#)

MORE NEWS

The regulator of health and social care in England, the Care Quality Commission (CQC) has been telling the Whistleblowing Helpline about improvements to the way whistleblowing enquiries are managed. Last year, the Whistleblowing Team was established within the National Customer Services Centre for the CQC, and is now part of the Safety Escalation Team which ensures that all high risk information received is triaged and processed efficiently, accurately, consistently and in a timely manner. The team are responsible for logging calls, emails and correspondence coming into the CQC. They also track and trace all whistleblowing information through the relevant region and follow each of these up to ensure they are being progressed to an end resolution.

A recent [report by the Health Select Committee](#) wants more done to support the most vulnerable workers to come forward and report their concerns, and recommends the CQC refuse to register providers who fail to support staff in raising concerns in order for those staff to satisfy their own professional duties. We'll keep a watching eye for developments.



The importance of helplines to provide confidential support and advice for staff who wish to raise concerns has long been recognised. In December, the General Medical Council (GMC) launched a confidential helpline for doctors to raise concerns about patient safety. To find out more, click on: <http://www.gmc-uk.org/news/14222.asp>

Last week the Royal College of Surgeons produced its own guidance on raising concerns, [Acting on Concerns](#), advising clinicians how to act if they consider patients are receiving poor care.

CONTACT US

We plan to issue newsletters on a quarterly basis in future. Feedback about our newsletter is most welcome, just email me if you have any suggestions for improving the newsletter or thoughts about what people want to read. For instance, we intend to provide far more coverage of raising concerns in social care in the next newsletter.

You can contact the Whistleblowing Helpline on 08000 724725, or email us at enquiries@wbhelpline.org.uk

If you do not wish to receive the newsletter in future, please email rosemary.crockett@mencap.org.uk and ask to be unsubscribed.

