

Whistle-blowing

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What is whistle-blowing

‘Whistle-blowing’ is where an employee, former employee or member of an organisation raises concerns to people who have the power and presumed willingness to take corrective action. This policy outlines how a whistle-blower may go about raising a concern with us and the legal protection they may receive as a result. An individual may want to raise a concern with us because they are concerned, they will suffer a detriment, or evidence will be destroyed, if they raise it locally or because they have raised the concern previously and no action was taken.

Who can raise whistle-blowing concerns with us?

Any worker can raise concerns about a current or former employer, or in certain circumstances somewhere they have or had a contractual arrangement to work or provide services. There is no need to raise the concern with their employer first, and we understand that sometimes people may be reluctant to do so due to a fear of reprisals.

Therapists have a duty to act when they believe service users safety is at risk, or that a service users care or dignity are being compromised. Whistle-blowing disclosures may be made to COSRT by therapists acting in accordance with their duty under the COSRT Code of Ethics.

Therapists in training may also raise concerns with COSRT about their place of training. However, only those with a working relationship with the organisation about which they are raising concerns will be protected from detriment or dismissal under whistle-blowing legislation.

What types of concern can whistle-blowers raise with us?

The concern must relate to one of our five key functions: membership, accreditation, medical annual licensing (including 5-year re-accreditation), education, standards of professionalism and fitness to practise. The disclosure must also involve specific information relating to any of the following six criteria: a criminal offence, a failure to comply with a legal obligation, a miscarriage of justice, a risk to the health and safety of any individual, environmental damage, or attempts to conceal or suppress any of the above. Examples of concerns which may be relevant to share with us include a therapist raising concerns that trainee therapists are not provided with adequate supervision or a therapist raising concerns about a colleagues clinical practice and clinical outcomes, which their employer has failed to investigate.

How are whistle-blowing concerns distinct from grievances?

A whistle-blower is an employee with a concern about danger or illegality that has a public interest aspect to it, usually because it threatens others (e.g., service users). A grievance or private complaint is by contrast, a dispute

about the employee's own employment position and has no public interest element.

What does the law say?

The Public Interest Disclosure Act 1998 came into force on 2 July 1999. The Act protects workers that disclose information about malpractice at their workplace, or former workplace, provided certain conditions are met. The conditions concern the nature of the information disclosed and the person to whom it is disclosed. COSRT is a Prescribed Person under the Public Interest Disclosure (Prescribed Persons) Order 2014 so those who make a whistle-blowing disclosure to us which is relevant to our statutory functions will receive legal protection provided they hold a reasonable belief that the information disclosed is true.

If these conditions are met, the Act protects the worker from suffering detriment as a result of having made the disclosure. If the conditions are not met a disclosure may constitute a breach of the worker's duty of confidence to his employer. For further information, please see:

www.parliament.uk/business/publications/research/briefingpapers/SN00248/whistleblowing-and-gagging-clauses-the-public-interest-disclosure-act-1998

Can whistle-blowing be anonymous?

Yes. It is possible to be an anonymous whistle-blower. However, where the whistle-blower does not provide their contact details this means we are unable to go back to them for further information, which can make investigating the concerns that were raised difficult. Where someone is happy to provide their contact details it is easier for COSRT to assess the information provided and consider how to investigate the matter.

A whistle-blower may choose to provide us with their personal details but ask that these are treated as confidential. In such cases we will inform the individual about the proposed use of their personal information and explain the safeguards that will be taken to protect them from identification. However, it is important to note that there may be times when COSRT is unable to resolve a concern without revealing a whistle-blower's identity, for example where personal evidence is essential. In these cases, COSRT will consider any concerns raised or specific requests made by the whistle-blower about the use of their personal information and take these into account before disclosing information that will, or may, reveal the whistle-blower's identity. However, because we have a legal duty under relevant legislation to consider serious concerns raised about

therapist we may still have to go ahead and use the whistle-blower's personal information in the interests of protecting the public. If that happens, we will tell the whistle-blower our decision.

How to raise a concern with COSRT as a whistle-blower?

The easiest way to raise a concern about a therapist is through the COSRT's Conduct Procedure which is available on COSRT's website. This document guides complainants through all the information we need to consider their concern. Other concerns can also be addressed to complaints@cosrt.org.uk.

The COSRT Office?

Some whistle-blowers may be more comfortable raising a concern via our office. Our office allows individuals to raise public safety concerns or ask for advice if they don't feel able to otherwise do so in other ways. The office will advise who to speak to and pass your information on to the correct person.

Support for whistle-blowers

Any whistle-blower may wish to contact the charity "Protect" for confidential advice specifically relating to whistleblowing on 0800 668 1681 or by email at whistle@protect-advice.org.uk. From 1 April 2017 COSRT is legally obliged to publish an anonymised annual report on the action we take because of whistle-blowing disclosures made to us.