

Whistleblowing

CIPFA

**NW Audit Risk and Governance Group
Autumn Seminar**

21 October 2016

Agenda

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Context



Why now?

- ▶ Feb 2015: Sir Robert Francis QC published the **Freedom to Speak Up Review**
- ▶ Oct 2015: **FCA/PRA confirmed new regulations** on whistleblowing for financial services firms, came into force in September 2016
- ▶ July 2016: **PCAW published their 5 year review** noting a 25% increase in whistleblowing cases since 2011.
 - ▶ 68% had tried to raise a concern internally before contacting PCAW.
 - ▶ The top sectors remain health, care, education, local government and financial services.
- ▶ Public and private sector are responding...

A tick in the compliance box or an effective internal control?

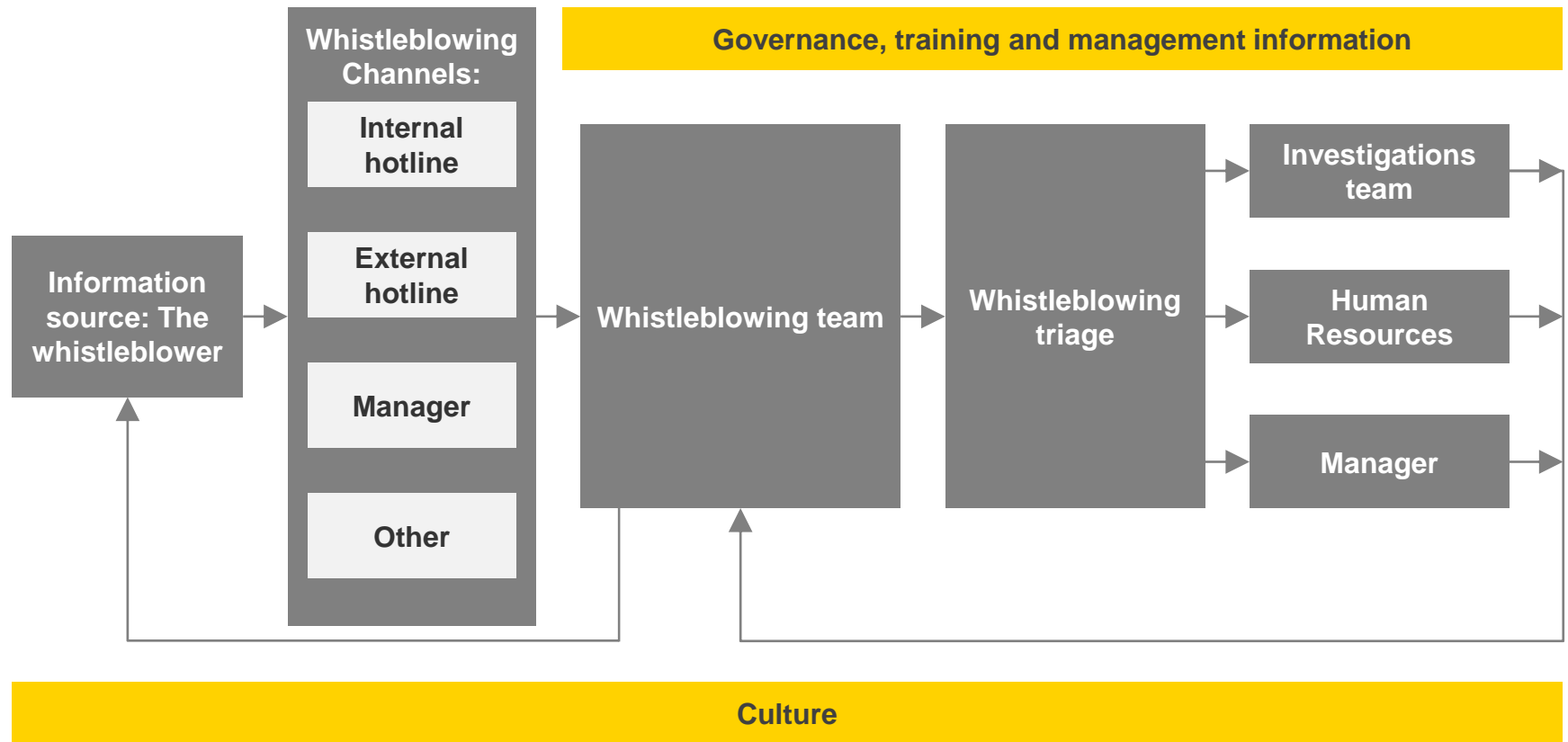
External pressure

- ▶ *“Honest behaviour counts for even more than the quality of a company’s products and services”* (Ipsos Mori survey)
- ▶ Public Interest Disclosure Act
- ▶ FCA regulations
- ▶ Health and Safety at Work Act
- ▶ Francis report (NHS)
- ▶ Bribery Act – adequate procedures
- ▶ Proposed new laws on “Failure to Prevent Economic Crime”
- ▶ Uncapped awards for whistleblowers at employment tribunals

Internal pressure

- ▶ Prevent/detect fraud and other compliance failures
- ▶ Identify opportunities to improve employee wellbeing and improve performance
- ▶ Without an effective means to report issues of concern staff have other options:
 - ▶ Do nothing – leaving the issue to become more serious
 - ▶ Contact law enforcement, the media or a regulator

What is a Whistleblowing framework?



Governance, oversight and culture



Oversight and structure

- ▶ Who owns whistleblowing? Where does it sit in the business?
- ▶ Is there a clear reporting line to the Board?
- ▶ How will you gauge whether its working effectively?

Positive whistleblowing culture

- ▶ The pinnacle of a good whistleblowing framework?
 - ▶ People have the confidence to report concerns to a manager
 - ▶ Can require a significant shift in culture
- ▶ Are your staff confident they would be listened to if they raised a concern, and that they be protected?

A good whistleblowing culture begins by getting people comfortable to report the small things.

Whistleblowing policy

- ▶ Should you prescribe what counts as whistleblowing?
- ▶ BAU or last resort?

Training and awareness

Leading practice

- ▶ Management routinely talk about whistleblowing
- ▶ They use a combination of online and face to face training
- ▶ Training is regularly refreshed
- ▶ There is a dedicated website for whistleblowing advice

Managers should know

- ▶ How to recognise a disclosure and respond appropriately
- ▶ How to protect a whistleblower and ensure confidentiality is protected.

Whistleblowing channels



Whistleblowing channels

Simplicity vs. choice

- ▶ A range of communication options is important
- ▶ But its also important to avoid confusion ...
- ▶ Some will prefer an independent third party line, some will prefer speaking to someone internally.

Engage with your third party provider to ensure that:

- ▶ They understand your business
- ▶ Calls are categorised/triaged effectively
- ▶ You receive meaningful management information
- ▶ Call-handlers have appropriate training to capture all relevant information and gain the whistleblower's trust

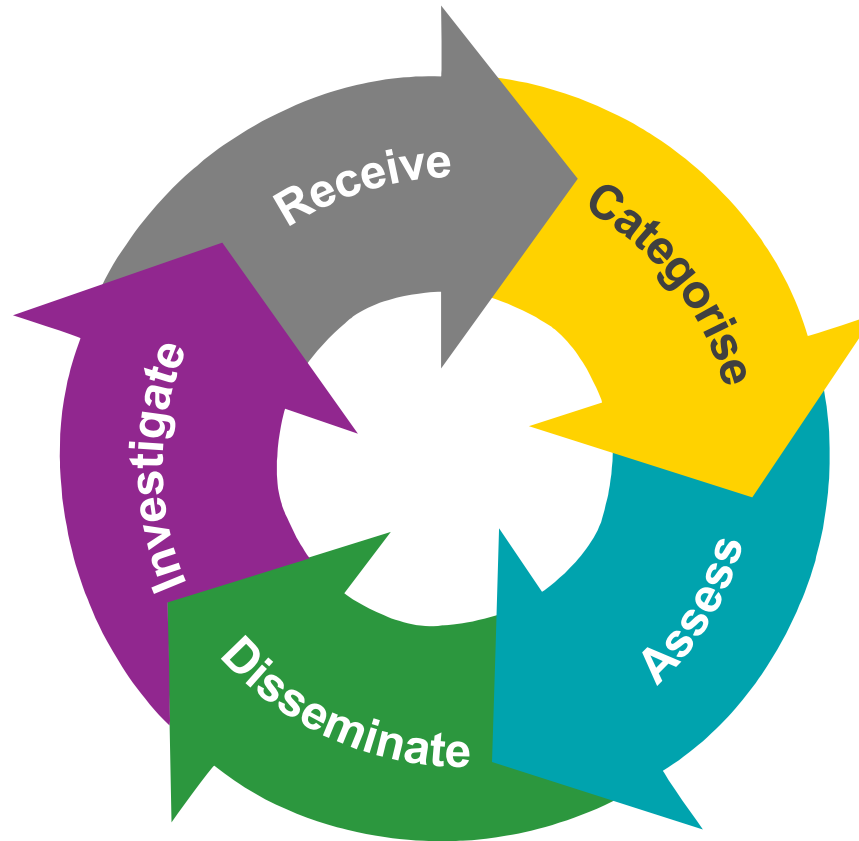
Management of disclosures



Capturing and recording concerns

- ▶ The goal is to capture all concerns from all sources centrally so that:
 - ▶ Investigations are consistent
 - ▶ Trends and underlying issues are identified
 - ▶ Management information is accurate
- ▶ Training and awareness is key
 - ▶ How to spot a whistleblowing concern
 - ▶ Where to report it
- ▶ What is whistleblowing intelligence?

Triage process



What about 'non-actionable' concerns?

Management Information

Taking the temperature of the organisation

- ▶ What is your ratio of calls to staff?
- ▶ Where are calls coming from? (geography/function/seniority)
- ▶ How are people getting in touch?
- ▶ Are you receiving a disproportionate number of anonymous calls?
- ▶ What are the common themes?
- ▶ How serious are the concerns?
- ▶ How quickly are they dealt with?

What do you report to the Board/Audit Committee?

Survey statistics

On average, across the companies we surveyed:

➤ There were **7** reports per 1000 employees per year

➤ **46%** of reports were anonymous



➤ **77%** of reports were considered serious and investigated



➤ **45%** of reports related to personnel matters



Whistleblower protection



Confidentiality and protection

Confidentiality

- ▶ Who actually needs to know?
- ▶ Anonymous vs. confidential

Managing the whistleblower's expectations

- ▶ Common complaint of whistleblowers – lack of feedback/progress update
- ▶ Inform the whistleblower up front what they can expect to hear
- ▶ Consider a whistleblower's charter
- ▶ Website dedicated to providing support and advice to the whistleblower?
- ▶ Individual appointed to each whistleblower as a 'whistleblower liaison officer'? Should be independent to the investigation/line management.

Whistleblower feedback

Sharing outcome of investigations

- ▶ Vital to protect whistleblower (and others') confidentiality
- ▶ Inform individual whistleblower on status of the investigation
- ▶ Share lessons learned with relevant parts of the business
- ▶ Use success stories as a valuable tool to promote the whistleblowing service
- ▶ Consult with HR/legal to ensure this is appropriate

Feedback from whistleblowers can be valuable

- ▶ It can identify weakness/improvements in the process

Summary and top tips



Top tips to avoid mistrust

Common reasons for mistrust include:

- ▶ Not understanding the system
- ▶ Lack of personalisation of concerns
- ▶ Lack of options
- ▶ Too much emphasis on 'credible' complaints
- ▶ Perceived lack of independence
- ▶ Negative experiences
- ▶ Inconsistent outcomes

You can address this through:

- ▶ Training and awareness
- ▶ Ongoing communication
- ▶ Accessibility
- ▶ Transparency
- ▶ Proficiency and objectivity
- ▶ Ongoing assessment
 - ▶ Test employees' awareness and level of trust in the whistleblowing service
 - ▶ Use management information to identify trends
 - ▶ Confirm your investigation process is working effectively

Final thoughts

The benefits of an effective whistleblowing framework go beyond compliance:

- ▶ What does your whistleblowing framework say about your organisation. Are we concerned about compliance or getting it right?
- ▶ Taking the organisation's pulse
- ▶ Identifying issues at an early stage
- ▶ The alternative may be going to the media, or leaving

Questions?



Contact information

Bernie Emslie

Assistant Director

Fraud Investigation & Dispute Services

Tel: + 44 207 951 3565

Email: bemslie@uk.ey.com

Linda Moore

Manager

Fraud Investigation & Dispute Services

Tel: + 44 161 333 2912

Email: lmoore@uk.ey.com

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Ernst & Young LLP, 1 More London Place, London, SE1 2AF.

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