

Case study: unwanted behaviour in the workplace

The story

Andrea works in a specialist scientific role within a high-end manufacturing company. The company has a global presence, although its UK operations – which Andrea is part of – are largely autonomous.

Six months' previous, one of Andrea's female colleagues left the company under acrimonious circumstances. Andrea understands that this individual had made a complaint about the Director of Sales' ("DoS") behaviour towards her.

This colleague left the organisation soon after and Andrea is unaware what, if any, conclusion there was to the grievance which they submitted. Andrea has heard from some of the colleague's friends that the person said they were unable to discuss what had happened. The DoS has a reputation amongst staff for making inappropriate comments although Andrea had never previously witnessed anything herself. DoS is otherwise highly thought of, though, and it is understood that he generates considerable income for the company and is a 'star' within his field.

In the last few weeks, the DoS has been making inappropriate comments to Andrea at times when only a few other staff are around. These comments have been sexually suggestive and have made Andrea feel uncomfortable at work, and at times humiliated.

On one occasion, Andrea tried to intimate informally to the DoS that these comments made her feel uncomfortable but was told that *"you have no sense of humour"*.

Andrea had been planning to submit a grievance about this behaviour before she was warned off by a friend at work. This person informed Andrea that there was a track record of DoS acting in this way towards staff, and that everyone who had previously complained about this treatment had been *"swiftly forced out of the company, gagged from saying anything, and the whole thing covered up"*.

Andrea has received advice from a free equality law service that she could bring a claim against the company under discrimination law, but Andrea is not sure that this will address the underlying problem of DoS's behaviour, given how the organisation has previously dealt with such complaints.

Andrea thinks that *"perhaps I should whistleblow instead"*.

What was advised

Andrea was advised that one approach to this situation would be to make use of her rights under Equality law and complain to the company. Andrea's concerns that this will not address the underlying problem may be well-founded though.

In such circumstances, approaching the situation from a whistleblowing perspective can be of benefit.

It was explained to Andrea what the key differences between raising issues private to oneself and raising concerns which have a broader impact ('whistleblowing concerns') were. In most circumstances, if you are looking for a specific outcome with respect to your own situation at work, this will be more effectively achieved through a grievance process. Conversely, a whistleblowing investigation will not be focused on the person, but on the alleged issue. Whilst this means that any investigation would not be concerned specifically with a remedy for Andrea, it also allows the investigation to take the initiative without overly placing Andrea in the spotlight.

It was suggested to Andrea that by using the global company's whistleblowing arrangements, she would likely be able to break outside of the individuals within UK operations who had been dealing with this issue up to now. This would allow for some independence in how the issue of DoS's behaviour was investigated.

It was highlighted to Andrea that if other colleagues (past or present) were also willing to speak about their experience, then this would lend added weight to Andrea's assertion that DoS's behaviour was a wider problem than just her own experience. Whilst ex-staff may believe that a Non-Disclosure Agreement would stop them from speaking up about the behaviour, Andrea was informed that, in certain circumstances, the law prevents these agreements from stopping people whistleblowing. Andrea can pass on Protect's details so that ex-staff can get their own advice on this.

What happened

Along with a number of ex-staff, who had also been the target of DoS's behaviour, Andrea raised her concerns with the global Director of Compliance, as was suggested in the company's whistleblowing policy.

Under the pretense of a company-wide initiative to consider the issue of discrimination in the workplace, the Director of Compliance contacted all of the UK office to ask for feedback about whether they had suffered from unwanted behaviour in the workplace. The results of this provided a sufficient factual basis for the company to take forward an investigation into DoS's behaviour, but without the need to rely specifically on the testimony of Andrea and the other whistleblowers. This meant that any risk that Andrea would be uncovered as 'the whistleblower' was removed, and her position at work was consequently protected.

The outcome of the investigation resulted in DoS leaving the company, along with the Head of HR – who was heavily implicated in how previous sexual harassment investigations had been handled.