

# Working in partnership to influence compassionate casework

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# Introduction

- This resource has been designed for NHS organisations – it will help Trade Union and management colleagues to understand the difference that managing employee relations case work in a *compassionate, just and learning way*, can make to individuals, staff and the organisation.
- It has been developed during 2019 by NHS Employers National Engagement Service, through facilitated partnership discussions at the three [Midlands and East regional Social Partnership Forums](#).
- The principals and ways of working are taken from the Merseycare NHS Trust approach, outlined in this [video](#).

# Exercise

## In pairs or small groups

Work through scenarios one and two asking the following questions:

- What steps/action would we take now?
- What steps/action would we take if we adopted the just and learning culture principles?
- What conditions would need to change to influence employee relations practice to adopt a just and learning principles approach?



# Positive working cultures

## Scenario 1

One day Tom, an estates team leader, arrived for work and colleagues raised concerns that they thought Tom was tipsy.

His line manager and the team leader took a look in Tom's work bag and found a half empty bottle of vodka.

When they confronted Tom about this he became angry and abusive.

# Positive working cultures

## Scenario 2

Karen, a registered nurse, did not follow the trust's controlled drug administration policy and has made a serious drug error.

# Outcome from scenario 1

Tom was a long standing good employee. He was the sole carer for his elderly mother. At the time of this incident his mother had become more ill and dependent, and Tom's partner of many years had recently ended their relationship. Tom was immediately suspended and an investigatory process started. During this time Tom reported that he was unwell and a period of sick leave commenced. Tom resigned and his employment with the trust ended.



## Outcome from scenario 2

Karen was an experienced registered nurse and had worked on the elderly care frailty unit for nearly three years. She was a well performing reliable employee. At the time of incident Karen was the only substantive member of staff on the unit and had been supporting a team colleague who had been assaulted by a patient's relative. Karen was suspended the following morning and after an internal investigatory and disciplinary process Karen was dismissed and the case reported to the NMC.



# Using a traditional employee relations approach

- Likely to be variation in approach depending on seniority or profession of the individual ‘typical of that department’ ‘but they’re a [insert profession] so we need to treat them differently from [insert another profession]’.
- Often proceeding without speaking to the individual – ‘let’s speak to the manager’.
- Likely to result in suspension ‘marching off premises’ and ‘removal of name badge’ with little follow up communications with individual afterwards to keep in touch about wellbeing.
- Likely to move to formal investigation process to ‘protect against future litigation’.
- Unlikely to review case from a learning perspective – ‘moving onto the next incident’.





# Using a just and learning culture approach

- Focus on the what is responsible and what happened, rather than the who is responsible.
- Establish what needs to be investigated (if a formal process is required).
- Seek to understand from the individual what led them to that incident for example, personal circumstances, work situation etc. Start by asking are you ok?
- Be understanding of the context around the incident taking into consideration, workplace, profession – what was going on that day at work? Supervision, rules, procedures etc.
- Immediately maintain patient and staff safety.
- Less likely to move to a formal process.
- Taking a learning approach so the organisation understands what factors led to that incident to prevent it happening again, what learning points can we take to prevent this happening again?
- Consideration of the health and wellbeing of the individual – ‘how can we support you?’ and agree preferred communications methods and frequency of contact with the individual to maintain contact throughout the process.

# What conditions would need to change to influence employee relations practice and adopt a just and learning principles approach?

- Collaboration and partnership working between Trade Unions and HR, operational managers and the affected staff.
- This is a journey and a different way of working for colleagues who've always done things a certain way but if you always do what you've always done - you'll always get what you've always got. Now is the time for change from a system focused on retribution to one based on building trust.
- The power of can I speak to you about this? rather than defaulting to a formal and potentially punitive process.
- Ensure managers know their staff and everyone in your organisation feels empowered to ask questions such as - why are we taking this approach? or have we spoken to the individual in question? or how are we supporting the individual's health and wellbeing? Treat others as people not HR cases.

Continued ...

# What conditions would need to change to influence employee relations practice to adopt a just and learning principles approach?

- Board buy in for this approach is key as behaviours and norms are led from the top of the organisation, this is about culture change rather than process change.
- Focus on how open, honest dialogue and understanding, learning from incidents means less harm to staff, less harm to patients.
- Focus on potential significant cost savings from not having to pay for suspension/sickness absence, costly investigation, hearing and legal processes.
- Understand that an individual does not feel suspension is a neutral act, nor is reduced duties or moving to another department - understand how such action impacts on their health and wellbeing and do everything possible to avoid it.
- There's no blueprint for how organisations can introduce this. It depends on organisational culture and context and how far they are on this journey.
- Culture, process, systems - organisations need to change all three to introduce this approach properly.