

Council, 7 December 2016

Whistleblowing policy for Partners, Council and Committee members

Executive summary

Introduction

The Professional Standards Authority (PSA) published its report into the GDC's handling of a whistleblowing disclosure in December 2015. The HCPC's response to this report was reviewed by Council in February 2016, along with an action plan which included a review of internal whistleblowing arrangements for HCPC partners. As a result a new whistleblowing policy for Partners, Council and committee members has been drafted.

This policy draws on best practice advice from the NAO, central government and the findings of the 2015 PSA report. In addition Whistleblowing arrangements were reviewed by the HCPC's auditors Grant Thornton over the summer, and the resulting audit recommendations have been incorporated into the attached draft policy.

Decision

The Council is invited to discuss and approve the new policy.

Financial implications

None

Appendices

Appendix 1 new Whistleblowing policy for Partners and Council members

Date of paper

17 November 2016

Whistleblowing Policy for HCPC Partners, Council and Committee members

1.0 Policy

- 1.1 This policy applies to all HCPC Partners, Council members and committee members. To avoid repetition the term 'Council member' in rest of this document is intended to cover both Council members and committee members..
- 1.2 The HCPC is committed to being open and accountable, and maintaining high ethical standards in all of its operations. HCPC Partners and Council members have an important role to play in helping us to achieve this goal. This Whistleblowing policy explains what to do if a Partner or Council member is concerned about serious malpractice that they believe should be reported in the public interest. It aims to reassure Partners and Council members that the reporting of serious malpractice using this policy is welcomed and will be treated seriously.

The HCPC will ensure that Partners and Council members who blow the whistle by reporting concerns of serious malpractice are protected from reprisals or any other detrimental treatment, provided that they act in accordance with the requirements of this policy.

A concern about any aspect of a Partner's or Council member's individual relationship or contract for services with the HCPC is likely to be a personal matter and would not normally include a public interest dimension. These concerns can usually be easily addressed by speaking with your usual contact in the relevant HCPC department.

- 1.3 The HCPC is fully committed to a culture of openness and accountability and to providing Partners and Council members with a mechanism by which they can raise concerns about suspected serious malpractice without fear of any detriment or reprisals.
- 1.3 Partners and Council members are encouraged to report any serious malpractice they become aware of under this policy. Suitable HCPC employees will be required to investigate this, supported by Human Resources (for Partners) or the Secretariat (for Council members)..

2.0 Definition of serious malpractice

- 2.1 The term "serious malpractice" means past, current or likely future wrongdoing that should be disclosed in the public interest and which falls into one of the following categories:

- Criminal offences (e.g. fraud)
- Failure to comply with an obligation set out in law (e.g. negligence)
- Miscarriages of justice
- Endangering someone's health and safety
- Damage to the environment
- Covering up wrongdoing in the above categories

3.0 Does the whistleblowing policy apply?

3.1 Partners and Council members who report serious malpractice under this policy should have a reasonable belief that they are acting in the public interest and that the serious malpractice falls into one of the six categories in section 2.2 above.

3.2 A complaint or dispute about Partner's or Council member's own individual relationship or contract for services with the HCPC is likely to be a personal matter and would not normally include a public interest dimension.

3.3 If your concern or complaint relates to your individual relationship with the HCPC, for example if you believe that your own Contract for Services (your Partner Agreement) has been breached or you are unhappy with the level of fees you have been paid, this whistleblowing policy would not apply. You should contact your usual contact in the relevant HCPC department in the first instance. If the matter cannot be resolved by your usual contact, you should contact the HR Manager (Partners) or, if you are a Council member, the Director of Council and Committee Services.

If you are a Partner and believe that you are being bullied or harassed by another Partner, HCPC employee, or someone else, you should contact the HR Manager (Partners). If you are a Council member and believe that you are being bullied and harassed you should contact the Director of Council and Committee Services, the Chair of Council or the Chief Executive and Registrar.

If you believe that someone's conduct or an HCPC practice is seriously compromising public protection and that the matter is being deliberately overlooked, ignored or covered up, you should use this Whistleblowing policy.

Examples of situations where you should use the Whistleblowing policy include;

- You suspect that another Partner or Council member is falsely claiming expenses
- You see a report about fire risks in HCPC buildings but are told to keep quiet about it
- You are aware that someone has been offered money to reach a certain decision in an HCPC process

If you are uncertain that this whistleblowing policy should apply, the HR Manager (Partners) or the Director of Council and Committee Services (for Council members) will be able to advise you.

4.0 Assurances and protections for Partners and Council members reporting malpractice

4.1 To support and protect Partners and Council members who report serious malpractice the HCPC will:

- take your report of malpractice seriously
- accept your report at face value
- accept you believe it is genuine

The HCPC will protect you by ensuring that:

- you do not suffer any criticism or disadvantage,
- you are protected from reprisals,
- your confidentiality is guaranteed as far as possible,
- you have access to impartial advice and assistance,
- you are informed of the outcome of any investigation

Provided that a Partner or Council member honestly believes that their information is true and that they reasonably believe that reporting it is in the public interest, they will not face any detriment irrespective of whether their concerns prove to be unfounded.

4.2 The HCPC considers that deterring Partners or Council members from raising concerns about serious malpractice or victimising them for doing so amounts to a serious breach of the Partner Code of Conduct or the Code of Conduct for Council and committee members.

5.0 Limits on protections

5.1 A Partner or Council member who makes a rash disclosure (for example to the media, where the matter could and should have been raised internally) will not be protected under this policy.

5.2 Submission of a complaint of serious malpractice that a Partner or Council member knows to be untrue will be regarded as a breach of the Partner Code of Conduct or the Code of Conduct for Council and committee members.

5.3 This Whistleblowing Policy cannot be used to reconsider any personal contractual matters that have been addressed through other procedures e.g. The Partner Complaints procedure.

6.0 How to report serious malpractice

6.1 There are a number of options for who to approach to report serious malpractice. Partners and Council members can choose who to contact, taking into account the nature of the serious malpractice and who they believe may be involved in it, as it may be difficult to approach someone believed to be involved. Serious malpractice can be reported to;

- A manager in the department which engages your services as a Partner
- The Secretariat (for Council members)
- The HR Manager (Partners)
- Any member of the Executive Management Team (EMT)
- The Chief Executive
- The Chair of Council

6.2 If a Partner or Council member reasonably believes that the Chair of Council may be involved in the serious malpractice or may not take action, then they should contact the Professional Standards Authority (PSA):

www.professionalstandards.org.uk/

6.3 Serious malpractice can be reported by talking to one of the people listed above, or by informing them in writing, providing as much detail as possible. The Partner or Council member is not required to prove their suspicions, but should provide as much information as possible to assist with any investigations.

6.4 Partners or Council members who are considering raising a concern about serious malpractice and would like specialist external advice can contact Public Concern at Work: www.pcaw.co.uk
Whistleblowing Advice line: 020 7404 6609, email whistle@pcaw.org.uk

7. Response to reports of serious malpractice

7.1 Whoever receives the report of serious malpractice is required to accept, on face value, that the partner or Council member reporting the serious malpractice genuinely believes that there is cause for concern.

7.2 Dependent on the nature of the concern, the Whistleblowing policy will be followed or it may be agreed with the Partner or Council member that another route for consideration is more appropriate.

7.3 If appropriate given the scale and nature of the matter, the person who received the report of serious malpractice will investigate. Following an appropriate investigation the investigator will provide a report of their findings to a more senior manager for consideration.

7.4 The investigation report will include the investigator(s)'s view on whether or not serious malpractice has or may have taken place, based on their investigation.

7.5 The investigation will be conducted as quickly as possible, but timescales may vary considerably depending on the nature and complexity of the matter.

7.6 The more senior manager will consider the matter based on the investigation report and will decide what if any action should be taken as a result. This may include action against those involved in the serious malpractice, or reporting the matter to an external agency, for example the Financial Conduct Authority or Serious Fraud Office.

- 7.7 As far as is reasonably practicable and without compromising another individual's right to privacy, any Partner or Council member raising a report of serious malpractice will be informed of the outcome of the investigation, what action is being taken and the reasons for this.
- 7.8 Where serious malpractice is not proven and the Partner or Council member feels this is the incorrect decision, or feels that the Partner Whistleblowing procedure has not been properly applied, the Partner or Council member should refer their concerns to the Chief Executive and Registrar or to the Chair of Council. If the Chair of Council has already been involved, the concerns should be referred to the PSA.
- 7.9 The Chief Executive, Chair of Council or the PSA will review the investigation and outcome in the light of the Partner or Council member's continuing concerns, and will consider and determine the matter.

8. Anonymous reports of serious malpractice

- 8.1 Partners and Council members are strongly encouraged to report serious malpractice in person rather than anonymously. This is because anonymous reports are more difficult to investigate, and make it more difficult to provide feedback and to protect an individual's identity.
- 8.2 Although open reporting is strongly encouraged, it is far better to report serious malpractice anonymously than not report it at all. If an individual feels that they have no choice but to report serious malpractice anonymously, then they should do so providing as much specific information, facts and evidence as possible to one of the individuals listed in section 6 above.
- 8.3 Anonymous reports of serious malpractice will be treated seriously and investigated as far as is reasonably practicable dependent on the specific information and evidence provided.

9. External reports of serious malpractice

- 9.1 Partners and Council members are strongly encouraged to follow this policy and report serious malpractice internally rather than to a person or body external to the HCPC. This is because concerns can be addressed most quickly and effectively by people who are familiar with HCPC processes and policies. If Partners or Council members rashly or unreasonably bypass the HCPC and report serious malpractice externally then the protections afforded by this policy will not apply.

10. Confidentiality for individuals reporting malpractice

- 10.1 The HCPC will ask for permission to disclose a whistleblower's identity to those involved in the investigation. If a Partner or Council member reporting serious malpractice asks for their identity to remain confidential, then the HCPC will take all reasonable steps to maintain their confidentiality. However it should be noted that other people involved in the investigation may speculate about who has raised the concern.

10.2 If the serious malpractice is potentially criminal in nature then the HCPC will need to fulfil its legal obligations and report the matter to the police. As a result it may not be possible to maintain the confidentiality of the individual who reported the matter.

11. Fair treatment of Partners or Council members who are the subject of reports of serious malpractice

11.1 The HCPC is fully committed to observing the principles of natural justice in its handling of reports of serious malpractice, and this applies equally to people against whom an allegation is made as well as those who make the allegation.

11.2 For this reason, there will come a point in an investigation of an allegation where the person(s) against whom it was made must be told of the allegation, shown the evidence supporting it and be allowed to comment.

11.3 This should be done before the investigation is completed and the report submitted to the decision maker.

11.4 It will be a matter of judgement at what point this is reached, but care must be taken to avoid giving the person who is the subject of the investigation any opportunity to thwart the enquiry in some way.

12. Data protection

12.1 All records relating to whistleblowing, any subsequent investigation and action taken will be managed in compliance with the Data Protection Act 1998 and the organisation's Retention and disposal policy.

13. Informing Council

13.1 Council will be informed of all cases of reports of serious malpractice, including the outcome of investigations and any subsequent action taken.