

Health Professions Council
Finance and Resources Committee Meeting 18th September 2006

Proposed Amendments to Employee Handbook
Section 5k – Public Interest Disclosure Act (Whistleblowing) Policy

Executive Summary and Recommendations

Introduction

The Audit Committee asked that they review HPC's employee Public Interest Disclosure Act (Whistleblowing) policy. Accordingly, the policy was discussed at the Audit Committee meeting of 28th June 2006, and the Audit Committee were informed that any changes they recommended should be taken to the Finance and Resources Committee for approval.

Overall the Audit Committee was satisfied with the existing policy and felt that no significant changes were required. However they did suggest several minor changes which are listed below.

These suggested changes have not yet been circulated to employees for consultation, as these are relatively minor changes and do not represent a major change to employee's terms and conditions. Should the Finance and Resources Committee approve the changes, it is suggested that these be incorporated into the overall annual review and update of minor changes to the Employee Handbook which will occur in March 2007, and be effective for the new financial year on 1st April 2007.

The Audit Committee recommended that the following changes be made to the policy:

1. Section 1.2 should state that the HPC encourages individuals to report serious *or suspected* Malpractice;
2. Section 1.3 should state that those who raised concerns were protected from dismissal, victimisation or any other detrimental treatment, *as provided for in law (the Public Interest Disclosure Act)*;
3. Section 4.1 should allow employees a second option, which is to meet the Human Resources Department about their concerns, instead of only having one option as they do currently, which is to arrange a meeting with the Chief Executive and Registrar. It was felt that some employees might feel unable to meet the Chief Executive (for example, if it is an issue which involves sexual discrimination and the person would like to discuss it with a woman);
4. Section 4.6 should provide more information about how individuals could refer any remaining concerns to the President;
5. Section 7.1 should state that anonymous report of malpractice should be supported by evidence where possible and that anonymous reports would be considered; and

6. The Committee suggested there should be contact details for an external agency for employees to talk to, as well as having internal contacts of the Chief Executive and Human Resources Department. The Committee suggested an agency called Public Concern at Work could offer this service.

It should be noted in relation to Point 6 that HPC's current Employee Assistance Program do provide a service where employees can contact them to raise concerns, which are then reported back to the Chief Executive and Human Resources Department.

This service can be provided for an additional fee of £1000 per annum to the £6000 per annum which HPC currently pays (please note this is an estimated figure at this stage and the exact figure may vary slightly). It is felt this agency should be utilised in preference to a new external agency which was suggested by the Audit Committee, because employees are very familiar with the current Employee Assistance Program and utilise their services already.

There was discussion at the Audit Committee about whether these changes would go to Council if the Finance and Resources Committee had approved them. It is recommended that this is unnecessary as it is usual practice for the Finance and Resources Committee only to take decisions about employee policy matters.

Decision

The Committee is asked to:

- discuss the proposed amendments to the Policy and agree whether or not the proposed changes are approved;
- agree whether these changes can be put on hold until 1st April 2007 when the overall annual review of minor changes to the Handbook is undertaken; and
- agree whether it is necessary or not to take any agreed changes to Council.

Background information

Employee Handbook Policy - Section 5k, Public Interest Disclosure Act (Whistleblowing Policy).

Resource implications

None.

Financial implications

An increase in cost to the amount HPC currently pays for the Employee Assistance Program services by an estimated £1000 per annum if the suggestion of an option for reporting concerns to an external agency is adopted.

Appendices

None.

Date of paper

30th August 2006.

Section 5k – Public Interest Disclosure Act (Whistleblowing)

1.0 Policy

- 1.1 The HPC is committed to being open and accountable. Being open is a key organisational value. The HPC works towards being transparent in all of its operations.
- 1.2 Occasionally, a serious problem can occur. The HPC encourages individuals (who act in good faith) to report serious malpractice in accordance with the procedures set out below.
- 1.3 The HPC will ensure that those who raise concerns of serious malpractice are protected from dismissal, victimisation or any other detrimental treatment, provided that they follow the procedures set out below.

2.0 Definition

- 2.1 The concept of whistleblowing arises primarily, though not always, where the person believed to be indulging in malpractice is in some position of authority or seniority over the employee who is raising the matter.
- 2.2 The term “serious malpractice” is not exhaustive, but would include:

An alleged criminal activity, e.g. fraud, theft,
An alleged illegality, including, negligence, breach of contract, breach of administrative law,
Danger to health and safety or the environment,
Victimisation,
Activities against the values of the HPC, or
The cover up of any of these.

3.0 Scope

- 3.1 There are three types of situation that might arise that could lead to the reporting of malpractice:
 - where malpractice is believed to be occurring which, whilst apparently wrong, is not explicitly covered by existing policies or procedures;
 - where procedures or policies do exist to deal with the matter but attempts to use them appear to have been ignored or frustrated; and
 - where there appears, perhaps from a historical background, to be an organisational tolerance to a malpractice.

- 3.2 As far as possible the current formal processes and management channels should be used for reporting malpractice, especially where the matter causing concern is well defined within an existing policy, such as the Discipline, Grievance and Harassment Policies.
- 3.3 Where the matter to be raised is not so evidently or clearly defined the employee is advised to consult with the Human Resources who will offer advice and guidance on the most appropriate process for raising the matter.

4. Responding to reports of malpractice

- 4.1 An employee who considers that their cause for concern is a matter of malpractice must arrange to meet and discuss this with the Chief Executive and Registrar.
- 4.2 The Chief Executive and Registrar will accept, on face value, that the person reporting the malpractice genuinely believes that there is cause for concern so that individuals feel confident that a report of malpractice will be taken seriously.
- 4.3 The role of Human Resources is to provide advice and guidance on process if asked to do so.
- 4.4 Dependent upon the nature of the concern, the Chief Executive and Registrar may consider it to more suited to be investigated or dealt with under other existing policies. Alternatively, it may be agreed with the employee that invoking the malpractice policy would be the most appropriate route.
- 4.5 The Chief Executive and Registrar will arrange an appropriate investigation into the matter by, generally, assigning a suitable manager or managers to carry out the investigation and provide a report of their findings.
- 4.6 As far as is reasonably practicable and without compromising another employee's right to privacy, any employee raising a report of malpractice will be informed of the outcome of the investigation. Where no malpractice is proven or where it is felt that the procedure has not been properly applied, individuals should refer their concerns to the HPC's President who will hear and consider the matter.

5. Anonymous Reports of Malpractice

- 5.1 If employees feel compelled to lodge a report of malpractice anonymously they should endeavour to explain why they have chosen this path, and provide as much evidence as is available to them.

6. Investigating Reports of Malpractice

- 6.1 Reports of malpractice will be taken seriously and will be investigated by the organisation.

- 6.2 The Chief Executive and Registrar will record the receipt of an allegation and what subsequent action will be taken as well as the outcome of the investigation.
- 6.3 Investigations should not be carried out by the person who may ultimately have to reach a decision on the matter, and this would generally be the Chief Executive.
- 6.4 The Chief Executive and Registrar will decide who should carry out the investigation. The investigator(s) will provide a report of their findings.
- 6.5 Depending upon the nature of any proven malpractice the Chief Executive and Registrar will decide how best to proceed as a result of the findings from the investigation.

7. Responding to Anonymous Reports of Malpractice

- 7.1 Anonymous reports of malpractice, unsupported by evidence, will not normally be investigated.
- 7.2 Evidence presented anonymously will be treated seriously and investigated as far as is practicable and as seems warranted by the information provided, although it is considerably more difficult to investigate such anonymous reports. There may be occasions, however, where such information adds to existing intelligence or serious concern.
- 7.3 The Chief Executive and Registrar will decide what action, if any, is taken and the extent of any investigation, if any, that might be made.

8. Confidentiality for Employees Reporting Malpractice

- 8.1 The confidentiality of employees reporting malpractice will be guaranteed until a formal investigation is launched, and thereafter it will be respected as far as is possible.
- 8.2 Should the investigation reveal behaviour of an actual or a potential criminal nature then confidentiality may not be compatible with a full investigation into the matter or with any prosecution.
- 8.3 In such circumstances the HPC will fulfil its obligations under the law and will co-operate with any investigations by the police, but the employee who raised the report may need to forego confidentiality as a consequence.

9. Assurances and Protections for Employees Reporting Malpractice

- 9.1 To support and protect employees who raise a cause for concern of malpractice the HPC assures employees that it will:

- take your report of malpractice seriously,
- accept it on face value,
- accept you believe it is genuine
and 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,
and support you by ensuring that:
- you have access to impartial advice and assistance,
- you are informed of the outcome of any investigation.

9.2 In addition to the protection by provided by the HPC, employees are protected by law providing they have acted reasonably and responsibly.

9.3 An employee who makes a rash disclosure (for example to the media, where the matter could and should have been raised internally) will not be protected by this policy or by legislation.

10. Fair Treatment of Employees who are the Subject of a Report of Malpractice

10.1 The HPC is fully committed to observing the principles of natural justice in its handling of reports of malpractice whether actual or perceived, and this applies equally to those whom an allegation is made as well as those who make them.

10.2 For this reason, whatever the circumstances of any cause for concern, there will come a point in the investigation of an allegation where the person or persons against whom it was made must be told of the allegation, shown the evidence supporting it and be allowed to comment.

10.3 This should be done before the investigation is completed and the report submitted to the Chief Executive and Registrar.

10.4 It will be a matter of judgement at what point this is reached, but care must be taken under the circumstances to avoid giving that person or persons who are the subjects of the investigation any opportunity to thwart the enquiry in some way.

11. Deliberate False and Malicious Reports of Malpractice

11.1 The HPC's willingness to address claims of malpractice, within a supportive policy framework, raises the possible risk of malicious complaints being made. Not only are such complaints unfair and hurtful to the person about whom they are made, but investigating them involves much employee time and costs.

11.2 Consequently, the deliberate submission of a false complaint of malpractice will be regarded as a breach of discipline and action will be taken against the employee concerned.

12. Whistleblowing in Relation to Non-HPC Personnel

12.1 The whistleblowing policy, its process, procedures and protections also applies to other workers e.g. contractors.

13. Informing Council

13.1 Council will be informed of all cases of reports of malpractice. They will be told of the outcome of investigations and any subsequent action that may be taken as a result.