



Council
12 July 2016

Whistleblowing policy and amendments to the Governance Handbook

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| Classification | Public |
| Purpose | For decision |
| Issue | This paper sets out a number of recommended amendments to the Governance Handbook. |
| Recommendations | <ol style="list-style-type: none">1. To agree the consequential and minor amendments proposed at paragraph 3.2. To agree the guidance on testimonials at paragraph 7.3. To agree the revised policy on whistleblowing at the Annex. |
| Financial and resourcing implications | None |
| Equality and diversity implications | None |
| Communications implications | The Governance Handbook is published on the GOSc's website and the changes will be communicated to all non-executives. |
| Annex | Draft whistleblowing policy |
| Author | Tim Walker |

Background

1. Our Corporate Plan states that we will 'ensure that our governance is appropriate and effective'. As part of that commitment, periodically we update our Governance Handbook.
2. A number of minor revisions are necessary in consequence of decisions of Council with regard to the Policy Advisory Committee and remuneration. Further amendments are proposed in relation to two specific areas: whistleblowing and provision of testimonials in fitness to practise and registration matters.

Discussion

Consequential and minor updates

3. Amendments made in consequence of previous Council decisions and other minor matters are set out in the table below. The full text of these proposed changes has not been provided to Council.

| Issue | Changes made |
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| Policy Advisory Committee | All references to the Education and Registration Standards Committee and the Osteopathic Practice Committee have been removed and replaced with the Policy Advisory Committee, including insertion of the new Committee's terms of reference. |
| Registration Appeals Committee | The Registration Appeals Committee had wrongly been included among the non-statutory committees when, in fact, it is a statutory committee of Council. This has now been corrected. |
| Remuneration | Changes to the remuneration policy agreed by Council in March have been added to the handbook. |
| Education, training and performance of committee members | The Standing Orders have been amended to make them consistent in referring to the requirements on committee members as being the same as for Council members. |

Provision of testimonials

4. One area of concern that has arisen at various times in recent years has been the provision of references by Council members in relation to registration applications or testimonials in relation to fitness to practise cases.
5. Where there are matters considered or decisions made (or appeals considered) by the Registrar, Council or fitness to practice committees it is important that these decisions are seen to be completely impartial. This requirement may be implicit in the GOsC's Code of Practice but it would be helpful if this were to be made explicit in the associated guidance.
6. We have reviewed the practices of other regulators and rules and/or guidance is provided in this area by the majority of them.
7. We propose that in the specific guidance on the Code of Conduct in the Governance Handbook, the following wording is added:

'h. Testimonials

Individuals covered by this Code should avoid providing testimonials, references or acting as character witnesses for individuals who are applicants for registration with the GOsC or who are subject to fitness to practise proceedings within the GOsC.'

Whistleblowing

8. The GOsC's Governance Handbook contains a brief whistleblowing policy for staff members and non-executives. However, the policy has not been formally reviewed for some years.
9. The recent report by the PSA of an investigation of the General Dental Council handling of a whistleblower's complaint¹ has highlighted the need for a more comprehensive and robust policy in this area.
10. It should be noted this policy is separate to the GOsC's *Handling whistleblowing concerns policy*² which relates to matters raised with us externally in our capacity as a regulator.
11. The draft policy set out at the Annex has been adapted from policies in place in organisations with similar functions to the GOsC.
12. While the policy is the responsibility of Council, the Audit Committee maintains an interest in whistleblowing in a number of ways:
 - a. Its terms of reference include requirements:

¹ <http://www.professionalstandards.org.uk/publications/detail/report-of-investigation-of-general-dental-council-whistleblower-s-complaint>

² <http://www.osteopathy.org.uk/about-us/our-work/handling-whistleblowing-concerns-policy/>

- i. to receive reports relating to any incidents of whistleblowing
 - ii. to receive reports on corporate governance
- b. The Chair of the Committee having a formal role under the whistleblowing policy where an individual does not want to raise a concern either with the Chief Executive or Chair of Council.
13. Therefore the views of the Audit Committee on the policy have been sought and the draft at the Annex reflects its comments.

Recommendations:

1. To agree the consequential and minor amendments proposed at paragraph 3.
2. To agree the guidance on testimonials at paragraph 7.
3. To agree the revised policy on whistleblowing at the Annex.

Draft Whistleblowing policy for staff and non-executives

About this policy

1. The term whistleblowing is used to describe incidents where a member of staff or a non-executive³ discloses some alleged wrongdoing within the organisation, publicly or internally but bypassing normal reporting lines.
2. This policy is separate from our policy on how we handle whistleblowing concerns relating to the fitness to practise of individual osteopaths. This policy can be found at <http://www.osteopathy.org.uk/about-us/our-work/handling-whistleblowing-concerns-policy/>
3. The Public Interest Disclosure Act 1998 aims to promote greater openness in the workplace and while it reinforces the obligations for staff not to disclose to external sources any confidential information acquired during the course of their employment, it protects 'whistleblowers' from detrimental treatment, such as victimisation or dismissal, for raising concerns about matters in the public interest.
4. This policy provides a means by which staff and non-executives can make a disclosure if they have reasonable grounds for believing there is serious wrongdoing within the organisation. The issues of concern may include:
 - a criminal offence is being committed, or is likely to be committed, including suspected fraud or misuse of funds
 - a person has failed, is failing, or is likely to fail to comply with a legal obligation
 - a miscarriage of justice has occurred, is occurring or is likely to occur
 - an individual's health or safety, is being, or is likely to be put at risk
 - the environment has been, is being, or is likely to be damaged
 - you have information that any of the above has been, is being or is likely to be deliberately concealed.
5. The policy also aims to ensure that anyone who makes a disclosure in such circumstances will not be penalised or suffer any adverse treatment for doing so, regardless of whether their concern is proved unfounded.
6. The policy does not apply to personal grievances concerning an individual's terms and conditions of employment or other aspects of the working relationship, complaints of bullying or harassment, or disciplinary matters which are all covered by separate policies.

³Non-executives are defined as members of Council, statutory and non-statutory committees and any other individuals, other than the Chief Executive and the executive team, appointed from time to time to undertake tasks on behalf of Council.

Raising a concern

Staff members

7. In the first instance, you should normally raise the concern with your line manager or Head of Department, or if the issue concerns the Head of Department, with the Chief Executive.
8. If the issue concerns the Chief Executive you should raise it with the Chair of Council. Concerns about the Chair of Council should be raised with the Chair of the Audit Committee.

Non-executives

9. In the first instance you should normally raise the concern with the relevant Head of Department or the Chief Executive. If the issue concerns the Chief Executive you should raise it with the Chair of Council. Concerns about the Chair of Council should be raised with the Chair of the Audit Committee.
10. The independent Chair of the Audit Committee who can be contacted via the Council and Executive Support Officer on +44 (0) 20 7357 6655 x246 or at council@osteopathy.org.uk
11. As far as possible you will be assured of confidentiality unless at a later stage this becomes unavoidable (for example where the investigation leads to action under disciplinary procedures or criminal or civil proceedings and your testimony is likely to be required). Remaining anonymous can however, in some cases make any potential investigation more difficult and lengthier.
12. The person receiving the disclosure will be responsible for ensuring that the issue is investigated. Before doing so, they will inform the Chief Executive, Chair of Council or Chair of the Audit Committee as appropriate. In all cases, an independent person may be appointed to investigate the concerns raised.
13. If the person receiving the disclosure decides there are insufficient grounds to warrant an investigation this decision they will explain this to you giving reasons for their decision. You may then make the disclosure directly to the Chair of Council or to the Chair of the Audit Committee.

Investigating your concerns

14. Any investigation will be handled as sensitively and speedily as possible. You will be notified of the timetable for the investigation. This will depend on the nature of the concern but we will endeavour to complete the investigation within two months. The person or people against whom the disclosure is made will be told at an early stage and will be allowed to respond. Their confidentiality will be respected. The name of the person making the disclosure will not be disclosed at this stage.

15. You will be kept informed of the progress of the investigation and notified if there are delays with an outline of the reason for the delay. At the end of the investigation you will be advised of the outcome. This will be followed up with a written summary.
16. If in the course of the investigation any concern raised appears to the investigator to relate more appropriately to grievance, bullying, harassment or discipline, or a breach of the GOsC's Code of Conduct for non-executives the relevant procedures will be invoked.
17. The person initiating or undertaking the investigation will ensure that the findings are reported to the Chief Executive, Chair of Council or Chair of Audit Committee as appropriate who will determine what action should be taken. The report of the investigation and actions taken will also be reported directly to the Audit Committee, which may meet in private to consider the matter.
18. Any staff member who has made a disclosure and who feels that as a result they have suffered some detriment can submit a formal complaint under the grievance procedure. If it appears there are reasonable grounds for making the complaint the onus will be on the person against whom the complaint of adverse treatment has been made to show that the actions complained of were not taken in retaliation for the disclosure.
19. If you are considering raising a concern and want to receive independent advice before you do so then you can seek advice from the independent charity Public Concern at Work. You can find details of how they can support you at <http://www.pcaw.co.uk/individual-advice/advice-line> or you can call them on 020 7404 6609.