

MANAGEMENT BOARD

WHISTLEBLOWING

Note by the Director of HRM&D, Department of Resources

Purpose

This note sets out the current position on whistleblowing, and proposals for strengthening the arrangements.

Issues for the Board

2. The Board is asked to agree a strengthening of the current arrangements for whistleblowing and to indicate whether it would like some immediate publicity to be given to the issue.

Background

3. At its last meeting the Audit Committee asked for confirmation that the House had appropriate arrangements for whistleblowers. Assurance on the existence of arrangements was given; but the question has led us to review the adequacy of the arrangements. The House is not formally covered by the Public Interest Disclosure Act 1998 (PIDA), so we have some flexibility about how to approach the issue.

The current arrangements

4. The current arrangements are in the Staff Handbook:
- paragraph 5.28 (crises of conscience) deals with circumstances where staff feel they are being asked to do something wrong;
 - paragraph 5.31 deals with allegations of dishonesty, covering mainly suspected fraud and other criminal activity.

The relevant paragraphs are set out in the Annex. A revised fraud policy is in an advanced state of preparation as part of the forthcoming revised Resource Framework.

5. As it stands paragraph 5.28 refers only to matters which directly concern the individual. Paragraph 5.31 covers most but not all conceivable circumstances where whistle blowing might be justified, but concentrates more on the treatment of the person against whom an allegation is made rather than on the whistleblower. Moreover the term “whistleblowing” is not used, so staff wanting to blow the whistle might well be unable to find the relevant part of the Staff Handbook easily.

Analysis

6. When this issue was considered in 2004, the legal advice at the time was that the Public Interest Disclosure Act 1998 (PIDA) did not apply to Parliamentary staff, and that paragraphs 5.28 and 5.31 were adequate for the kinds of situation which were likely to occur in the House.

7. The email from the Clerk about lessons learned from the VRB issued to all staff on 22 July 2008, stated that “staff must feel empowered to raise issues of concerns with managers when they feel things are going wrong, and it is our responsibility to create an environment in which staff are able to do this.”

8. Our values state we are committed to maintaining the highest standards of professionalism and integrity, and that we serve the House of Commons, its Committees and Members, and the public, with honesty, probity and political impartiality. As employees are often the first to realise that there may be something wrong it is sensible that we provide a clearly- understood mechanism for staff to report any suspicions of malpractice, and for the House to be able to investigate them. Staff acting in good faith should feel able to do this without fear of action being taken against them.

9. A clearer mechanism for whistleblowing would reinforce that we expect staff to raise concerns in-house, and thereby avoid a situation where they feel justified in disclosing suspected malpractice to outside organisations because they believed there to be no in-house procedures by which to raise their concerns.

Way forward

10. There is a good case for redrafting the guidance to:
- make it more comprehensive (ie covering all potential whistleblowing situations, not just some of them);
 - bring all the elements together in a single place;
 - make the drafting more accessible to staff at all levels;
 - make it clear that staff who report suspicions in good faith need not fear adverse consequences.

If the Board agrees, this is what we propose to do.

11. In the meantime, if the Board believes that a reminder to staff is needed, a brief staff notice could be issued shortly drawing attention to the current arrangements.

Conclusion

12. The Board is asked to note the proposed way forward, and comment on whether there should be an interim staff notice.

Heather Bryson

Director of Human Resource Management and Development

February 2009

ANNEX**EXTRACTS FROM CURRENT STAFF HANDBOOK**

(NB the revised version of the Handbook to be issued in April will be amended to replace references to the DEO with references to an HR Manager or (where appropriate) a relevant line manager)

5.28 Crises of conscience

Your personal opinions are not a valid reason for you to refuse to carry out reasonable requests by management or Members. If, however, you object strongly to doing or not doing something in connection with your work because it appears to be illegal or improper or may raise questions of maladministration, you have the right to appeal to your Head of Department. In the last resort, you may also appeal to the House of Commons Commission.

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5.31 Dealing with allegations of dishonesty at work**5.31.1 Principles**

The House of Commons is committed to protecting its assets, including the public funds under its control, from theft or other criminal activity. This section describes what you should do if you suspect that a theft or other crime has been committed in the workplace. It also tells you the procedures that apply if you are suspected of dishonesty at work, and what may happen to you under House policies and procedures.

5.31.2 How to report a crime

Any credible evidence that a crime may have been committed should immediately be reported to your DEO or head of department. If this is not possible the matter should be reported to the Director of the Internal Review Services (IRS) ☎ 6460.

You may report any suspicions you might have anonymously to your DEO or to the Director of IRS. However, information given in this way may be less valuable than information provided by a named person and may not result in appropriate action being taken. Staff should not make malicious or unsupported accusations. Making such accusations may lead to disciplinary action.

You should try to preserve any evidence material to the event.

5.31.3 Investigation process

Preliminary enquiries

The DEO (of the member of staff against whom an allegation is made) will nominate a manager to conduct an investigation. If necessary, the DEO will arrange for the manager concerned to receive prior briefing in the techniques of conducting work place investigations. The investigating manager will begin by undertaking preliminary enquiries.

The purpose of these is to:

- establish the initial facts
- look at any available evidence
- assess the nature and quality of the evidence
- make a written record of facts and any subsequent decisions made or action taken.

From these enquiries, it will be established whether a full internal investigation or a criminal investigation is necessary. If, at this stage, there is evidence that a theft or other crime has been committed, the police will be called immediately.

Internal investigation

Where there is only a suspicion that a crime has been committed, a full internal investigation may be conducted. The relevant DEO, in consultation with his or her head of department, will decide who will carry out the investigation; this may be a different manager from the person who carried out the preliminary enquiries.

The aim of the internal investigation is to fully assess whether there is enough evidence to warrant referral of the matter to the police as a criminal investigation, and to inform any decision on whether disciplinary action is necessary (see paragraph 5.31.4)

Staff have the right to be accompanied by a colleague or TUR during any investigation.

5.31.4 Suspension from duty

If you are the subject of an investigation you may, at the DEO's discretion, be suspended with or without pay pending the conclusion of the investigation. Before reaching their decision DEOs may wish to consult both the Legal Services Office and the Director General Resources. If the police are conducting their own investigation and decide not to take further action, or if a prosecution is not proceeded with or results in acquittal, your DEO will consider whether disciplinary procedures are appropriate (see paragraph 5.30.4). You will be informed promptly if it is decided that no action will be taken against you and arrangements will be made for you to return to duties as soon as possible.