

From: FOIA (HEALTH EDUCATION ENGLAND) HEE.FOIA@nhs.net
Subject: RE: Whistleblowing Governance by Health Education England (HEE)
Date: 25 February 2016 at 17:14
To: Minh Alexander minhalexander@aol.com
Cc: FOIA (HEALTH EDUCATION ENGLAND) HEE.FOIA@nhs.net



Dear Dr Alexander,

RE: Freedom of Information Request

I refer to your email of 26 January 2016 in respect of attaining information relation to external whistleblowing policies for trainees.

I can confirm in accordance with S.1 (1) of the Freedom of Information Act 2000 (FOIA) that we do not hold the information that you have requested.

Your request

I write to ask if HEE has a national, external whistleblowing policy. I see that regional HEE offices indicate they have an internal whistleblowing policy, but I have not been able to locate a policy which governs the handling of disclosures made to HEE by health professionals in training, and the support provided by HEE in such circumstances.

I note that HEE has rejected a recent data request by another party about HEE's handling of whistleblowing matters on grounds of cost. I also note that HEE advised that such data is not held centrally but by its locality teams, and that HEE indicated that the data is held locally, will "vary in detail" and is "stored differently across the country". This suggests that HEE has not approached the issue of whistleblowing governance proactively or in a co-ordinated manner and is therefore not learning sufficiently from whistleblowing events, or fully cognisant of the difficulties faced by trainees.

Please may I ask if there is work planned or underway to review HEE's approach to whistleblowing governance, and if so, please could the relevant timetable and documents please be shared.

If HEE has an external whistleblowing policy, please could that also be shared. If HEE has no such policy, please could HEE advise whether such a policy will be developed.

I raise these issues in the context that the Freedom to Speak Up Review identified students and healthcare professionals in training as a "vulnerable" group in terms of whistleblower reprisal, and that serious systemic issues have been additionally raised by the case of Dr Chris Day, which has implications for all doctors in training.

Response

As explained below, HEE does not employ doctors in training and they are likely to be covered by their employers' whistleblowing policy. Therefore, HEE does not hold an external whistleblowing policy; we do not have any information on plans to develop such a policy and we do not have a timetable or associated documents on reviewing HEE's approach to whistleblowing governance. However, we do continue to work hard to support doctors in training and promote the raising of safety concerns by all NHS staff.

The majority of trainees in England are employed by a NHS Trust or GP practice

The majority of trainees in England are employed by a NHS Trust or GP practice. HEE does not employ doctors in training. Employment law encourages disclosure to a trainee's employer (internal disclosure) as the primary method of whistleblowing. Failure to utilise internal disclosure could result in the trainee losing legal protection. We would therefore expect, wherever possible, that trainees follow their employer's whistleblowing policy to raise such concerns internally at first instance.

HEE supports trainees raising concerns and encourages them to do so. While we cannot discuss individual cases, at a local level, HEE has supported trainees report concerns to their employer, the GMC, Care Quality Commission and other relevant regulatory bodies. We believe that trainees can be the eyes and ears of patient safety.

HEE has produced two short films (available at <https://hee.nhs.uk/our-work/hospitals-primary-community-care/learning-be-safer/raising-responding-concerns>) that aim to raise awareness on the importance of raising concerns, build confidence amongst staff on how to do so and equip managers with the knowledge, skills and confidence to respond appropriately, adequately, and in a timely manner.

As part of ensuring HEE is as supportive as we can be, within the law, of whistleblowing we welcome the fact that HEE recently been added to the statutory list of Prescribed Persons/Organisations under whistleblowing legislation. This means that HEE have been added to the list of bodies that an employee can blow the whistle to in circumstances where they can't report the wrong doing to their employer. For example, if a junior doctor considers that a NHS Trust is placing patients at harm and they will be punished or ignored if they inform their NHS employer, the trainee can report the issue to HEE. By doing so, they will now get statutory protection from acts of punishment by their employer (e.g. dismissal) however, they can still only sue their employer for such harm; not HEE.

We will also be working with Dame Eileen Sills, National Guardian for freedom to speak up, to ensure that our trainees and staff are supported through any such event.

I hope that this information is of use. If you are dissatisfied with the way in which we have dealt with your request you can ask us to review our decision by writing to:-

Mr Lee Whitehead
Director of People and Communications
Health Education England
2 - 4 Victoria House,
Capital Park,
Fulbourn,
Cambridge
CB21 5XB

If at the conclusion of any review you remain dissatisfied you may complain to the Information Commissioner who can be contacted at:-

The Office of the Information Commissioner
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

Yours sincerely

Erin Wood
Briefing Manager

Health Education England
Blenheim House | Duncombe Street | Leeds | LS1 4PL

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From: Minh Alexander [<mailto:minhalexander@aol.com>]
Sent: 26 January 2016 17:46
To: Wright Nicola (HEALTH EDUCATION ENGLAND)
Cc: amyas.morse@nao.gsi.gov.uk; jeremy.heywood@cabinet-office.gsi.gov.uk; pubaccomm@parliament.uk; meghilliermp@parliament.uk; Health Committee; sarah.wollaston.mp@parliament.uk; FOIA (HEALTH EDUCATION ENGLAND)
Subject: Whistleblowing Governance by Health Education England (HEE)

To Professor Ian Cummings Chief Executive Health Education England, 26 January 2016

Dear Professor Cummings,

Re Whistleblowing Governance by Health Education England (HEE)

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Yours sincerely,

Dr Minh Alexander

cc Sir Keith Pearson Chair HEE
Sir Amyas Morse Comptroller and Auditor General NAO
Sir Jeremy Heywood Cabinet Secretary
Chair Public Accounts Committee
Chair of Health Committee

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