

**From:** FOI <REDACTED>

**Subject:** [CONFIDENTIAL] RE: Identification and tracking of rogue employers who make vexatious, malicious and or dishonest referrals to professional regulators

**Date:** 17 September 2020 at 16:12:28 BST

**To:** REDACTED

**Our Ref. FR06803**

Dear Dr Alexander

Thank you for your email dated 22 August 2020, addressed to Chair of Council Christine Elliott et al, in which you ask for information in relation to how the HCPC handles fitness to practise cases involving whistleblowers. I am responding instead of Mrs Elliott, as I am best placed to provide the information that you seek.

Your request has been handled under the Freedom of Information Act 2000 (FOIA).

2a. Does the HCPC have any specific policy and procedure about the handling of referred cases of whistleblowers?

The HCPC's whistleblowing policy can be found on the HCPC website at <https://www.hcpc-uk.org/resources/policy/whistleblowing-policy/>

b. How does the HCPC ensure that whistleblowers who are referred are fairly treated, and that the referral and Fitness To Practice procedure is not just another instrument of unjust victimisation?

Details are set out in the [whistleblowing policy](#). We also publish an annual report, together with other regulators. Please see <https://www.hcpc-uk.org/resources/reports/2019/whistleblowing-disclosures-report-2019/>

c. Do senior registrants who refer frontline practitioners have to make any declaration about whether the referred individual is a whistleblower within the meaning of the Public Interest Disclosure Act?

No they do not.

d. Did the HCPC take any note of the 2015 Hooper Review Report done for the General Medical Council on referred whistleblowers, or adopt any of Sir Anthony's recommendations?

Our records suggest that the HCPC was not made aware of this review in 2015, and therefore did not take forward any of Sir Anthony's recommendations. However, as of November 2018, the HCPC centrally records recommendations from reports like this so that we can embed their learning into our work. We also report on our progress to Council so we are accountable to the commitments we make in response to these recommendations. We will therefore make sure that the Hooper Review Report findings are considered and embedded into this work.

Whilst not directly in response to the Hooper Review Report, we have done a lot of work on whistleblowing in recent years. This includes the introduction of a [Whistleblowing Policy](#). This is signposted to on our Raising Concerns pages. As outlined above, we also publish an annual report with the other regulators on whistleblowing disclosures made to us (more details below). You can find last year's report [on our website](#). We also frequently publish online guidance and advice for registrants on how to raise concerns and the expectations set out in our standards. Most recently we published [advice on this topic in the context of COVID-19](#). We also are increasing our engagement with employers, through the creation of a Professional Liaison team, to raise awareness of the expectations set out in our standards and to ensure employers are supporting registrants to meet these standards.

**e. Does the HCPC maintain any central record on whistleblowers who are referred to the HCPC?**

The HCPC does not currently have a central record of whistleblowers who are referred to the HCPC. However, we do record whistleblowing disclosures made to us and the relevant actions taken.

As an organisation, we are a Prescribed Person under the Public Interest Disclosure (Prescribed Persons) Order 2014. We therefore publish an annual report on the whistleblowing disclosures made to us by workers (an employee, former employee, trainee, agency worker or member of an organisation). The professional healthcare regulators publish a joint report each year highlighting each regulator's approach to whistleblowing. This year's report will be published week commencing 21 September. It details the 8 whistleblowing disclosures we received from 01 April 2019 to 31 March 2020. These were predominately received by the Policy and Standards team.

We are looking to improve how we centrally record data on whistleblowers. This includes within our fitness to practise case management system, so that we can clearly identify when a concern comes from a whistleblower or is about an employee who has formally whistleblown.

**f. If so please advise what data fields are collated about referred whistleblowers (eg. numbers referred, professional groups, source of referrals, employer details, outcome and disposal etc...)**

As stated above, we do not hold a central record on whistleblowers who are referred to the HCPC. However, the above mentioned report does track the following data: Numbers of disclosures made, actions taken in response to disclosures. The Policy and Standards team, where most whistleblowing disclosures were received, also records data on the profession and subject matter of the whistleblowing disclosure.

## **Internal review**

If you are unhappy with the way your request for information has been handled, you can request a review by writing to:

Governance Department  
Health and Care Professions Council  
Park House  
184 - 186 Kennington Park Road

London  
SE11 4BU

Email: [secretariat@hcpc-uk.org](mailto:secretariat@hcpc-uk.org)

If you remain dissatisfied with the handling of your request or complaint, you have the right to appeal to the Information Commissioner at:

The Information Commissioner's Office  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire  
SK9 5AF

Telephone: 0303 123 1113

Email: [casework@ico.org.uk](mailto:casework@ico.org.uk)

There is no charge for making an appeal.

Kind regards

Maxine Noel  
Information Governance Manager

Health and Care Professions Council  
Park House, 184 - 186 Kennington Park Road  
London SE11 4BU  
[www.hcpc-uk.org](http://www.hcpc-uk.org)

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Correspondence is welcome in English or Welsh / Gallwch ohebu yn Gymraeg neu Saesneg.

**From:** Minh Alexander <REDACTED>

**Sent:** 22 August 2020 11:46 AM

**To:** Claire Amor <REDACTED>

**Cc:** FOI <REDACTED>

**Subject:** Identification and tracking of rogue employers who make vexatious, malicious and or dishonest referrals to professional regulators

FAO The Health And Care Professions Council (HCPC)

Christine Elliott Chair of Council  
David Stirling Registrant Council Member  
Philip Geering Panel Chair Member  
Sheila Hollingworth Independent Member

Graham Aitken Panel Chair Member  
Kathryn Foreman Lay Member  
Stephen Wordsworth Registrant Member  
Catherine Boyd Panel Chair Member  
Eileen Mullan Lay Member  
Helen Gough Registrant Member  
Maureen Drake Registrant Member  
Nicola Scrivings Independent Remuneration Committee Member  
Alan Kershaw Independent member  
Julie Parker Independent Audit Committee Member  
Katie Thirlaway Registrant Council Member  
Marcia Saunders Independent member  
Stephen Cohen Lay Member  
Gavin Scott Lay Member  
Luke Jenkinson Independent Education and Training Committee Member  
Penny Joyce Independent Education and Training Committee Member  
Sonya Lam Registrant Member  
Sue Gallone Lay Member

22 August 2020

Dear Ms Elliott and colleagues,

**Identification and tracking of rogue employers who make vexatious, malicious and or dishonest referrals to professional regulators**

**1. I received the following indication from HCPC on 20 August 2020 - FOI response reference FR06782 - that it seemingly does nothing to actively identify, track and manage rogue employers who abuse power by making punitive bogus referrals on frontline practitioners:**

***"Question 4***

*We do not collate and track data on vexatious, malicious and/or dishonest referrals by employers.*

***Question 5***

*We do not have a policy or equivalent for handling employer referrals which we find are vexatious, malicious and/or dishonest.*

***Question 6***

*To determine if the HCPC had ever taken action against registrants who have made vexatious, malicious or dishonest referrals would require us to manually review each fitness to practise case. This would exceed the appropriate cost limit under Section 12 of the FOIA, that being £450."*

I was most disappointed to see this, as the HCPC's apparent omission will give heart to abusive employers.

Importantly, it gives corrupt senior registrants - the people who usually make the dishonest and trumped up referrals - a message that they are free to behave unethically and will not be held to the same professional standards as the frontline.

I am also aware that malicious referrals on whistleblowers have been made to the HCPC.

I wonder if the HCPC can consider this very serious issue of power imbalance and unfairness and let me know whether and how it might be prepared to correct its omission.

**2. I would also be grateful for the following information on how the HCPC handles cases involving whistleblowers:**

a. Does the HCPC have any specific policy and procedure about the handling of referred cases of whistleblowers?

b. How does the HCPC ensure that whistleblowers who are referred are fairly treated, and that the referral and Fitness To Practice procedure is not just another instrument of unjust victimisation?

c. Do senior registrants who refer frontline practitioners have to make any declaration about whether the referred individual is a whistleblower within the meaning of the Public Interest Disclosure Act?

Please note that the GMC has adopted such a procedure.

d. Did the HCPC take any note of the 2015 Hooper Review Report done for the General Medical Council on referred whistleblowers, or adopt any of Sir Anthony's recommendations?

For convenience, this is a link to the Hooper report:

[The handling by the General Medical Council of cases involving whistleblowers. Report by the Right Honourable Sir Anthony Hooper to the General Medical Council presented on the 19th March 2015](#)

e. Does the HCPC maintain any central record on whistleblowers who are referred to the HCPC?

f. If so please advise what data fields are collated about referred whistleblowers (eg. numbers referred, professional groups, source of referrals, employer details, outcome and disposal etc...)

Many thanks,

Yours sincerely,

Dr Minh Alexander

NHS whistleblower and former consultant psychiatrist

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