Whistleblowing Review 2018-19

Author: Sally Smith   Sponsor: Ben Foat   Meeting Date: 29th July 2019

Executive Summary

Context

This report provides an overview of the financial year 2018/19 as part of our obligations to protect whistleblowers and support individuals who raise genuine concerns under the Whistleblowing Policy. The report also provides a summary of the changes as part of the annual policy review.

Questions addressed in this paper

- What issues have been highlighted based on the review?
- What actions need to be undertaken to mitigate any issues identified?
- What changes to the Policy do we propose and why?
- What are the implications of these changes?

Conclusion

1. The whistleblowing process within Post Office is robust and the volume of whistleblowing reports received continues to rise year on year. Monthly MI is produced to track and monitor reports and investigations.
2. Further work is required to raise staff awareness, and this is being undertaken in conjunction with the People and Culture Director and a continuous awareness and improvement programme being delivered by the Financial Crime team.
3. The policy has been updated to reflect best practice recommended by Internal Audit, Legal review and feedback received from the staff survey conducted in March 2019.
4. Policy changes are minor and require no additional actions

Input Sought

The committee is asked to note the contents of this report, approve the updated Whistleblowing Policy and advise any further actions required.

The Report

Summary of activities relating to Whistleblowing reporting 2018-19

5. An internal audit of Whistleblowing was undertaken at the end of 2018 and concluded that *"The Whistleblowing process is well managed by the Financial Crime Team and monitoring and reporting has been improved since they assumed responsibility a year ago. The further improvements, both in progress and highlighted here, will help ensure that Post Office colleagues have confidence to use the process when appropriate".* There were three P2 and two P3 recommendations:
   - Minor amends and clarifications in the Whistleblowing Policy (para 10 below)
   - Expolink contract had not been renewed due to queries relating to GDPR clauses
   - A mechanism is needed to confirm staff awareness of whistleblowing arrangements and inform future awareness campaigns (para 3 and 18 below)
   - The Whistleblowing Policy states that investigations should be conducted in accordance with the Investigations Policy, however this policy had not been reviewed since September 2016. Once the policy is updated, targeted training and guidance is needed for whistleblowing investigations.
   - Root cause analysis and action plans to address recurring cases was not fully evident – monthly MI and commentary has now been updated and implemented.
6. We have developed and deployed posters and 3 targeted communication articles. An online survey was undertaken in March 2019 to review staff awareness of Whistleblowing policy and reporting methods, and the findings from this are being incorporated into on-going training and awareness activity.
7. Monthly whistleblowing MI is produced and shared at regular meetings with HR representatives (Employee Relations and the People and Culture Director) to ensure consistent messages are being promoted. Additionally work is being undertaken with the People and Culture Director in relation to raising awareness of ethical behaviour in business.
8. The Financial Crime Team have attended various industry forums and Expolink Client Forums to understand industry best practice and enhancements that Post Office can introduce.
9. Whistleblowing reporting and investigation processes within the Financial Crime Team have been reviewed and enhanced.

Summary of Whistleblowing reports received 2018-19

10. Please see Appendix A for full reporting MI:
    - Year on year comparison shows that there has been an increase in whistleblowing reports from 37 in 2017/18 to 43 in 2018/19.
    - Most reports relate to individuals in our network – Postmasters and Agent Assistants as well as Post Office employees.
    - The most popular reporting channel continues to be the Speak Up line
    - The most common complaint relates to fraud and financial mismanagement. In most cases the allegations are against Postmasters or Agent Assistants

- In 2018/19, there was an increase of reports with allegations of unethical behaviour or conduct and breach of internal policies and procedures
- A number of reports have been received from employees at one non-customer facing location, and HR are investigating if there are any underlying route causes or issues at this location.

Why do we need to review the Whistleblowing Policy?

11. The Policy was last reviewed and approved by the RCC in July 2018. The terms of the Policy require it be reviewed annually.

What changes to the Policy do we propose and why?

What are the key features that we propose and why?

12. There have been no legislation changes in the past year, but see Appendix B for a summary of the EU Whistleblowing Directive that the UK is expected to adopt by May 2021. Key impacts for Post Office appear limited but include:

    - Expansion of the definition of a whistleblower to encompass not only employees but also shareholders, volunteers, job applicants, non-executive directors, self-employed workers and contractors.
    - A tiered reporting mechanism across all industry sectors and within both private companies and public institutions with 3 or 6 month response timeframes.
    - A framework for protection against dismissal and other forms of retaliation from an employer against a whistleblowing employee

    If and when the UK publishes its draft legislation to adopt the EU directive, a full review will be undertaken to understand Post Office impacts and reported to the RCC and ARC.

13. Minor policy amends have been made in relation to:

    - Providing clarity to readers in line with feedback received and incorporating clarification provided from legal review
    - Updated contact details for external reporting and change of name of Public Concern at Work (PCAW) to 'Protect'
    - Clarification that any so-called 'gagging clauses' in settlement agreements do not prevent colleagues from making disclosures in the public interest
    - Method and type of feedback that a whistleblower can expect to receive
    - Explanation that anonymous whistleblowers will not ordinarily be able to receive feedback and that any action taken to look into a report could be limited
    - An indication of the time frame for investigating and responding to reports raised
    - Clarification that the whistleblower does not need to provide evidence in order for the report to be investigated.

How did we develop these recommendations?

14. Reviewing policy queries and issues that have arisen over the previous 12 months and the internal audit recommendations.

What are the implications of these changes?

What will we need to do and by when, to implement and embed these Policy changes?

15. No material changes are required to comply with this updated Policy.
16. The Financial Crime Team monitor adherence to the minimum control standards set out in the Policy on an on-going basis through their whistleblowing reports and

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issues. Any control gaps identified will be reported to the RCC as required (see Appendix C for latest assurance status).

What will the impact be on our wider business?

17. Transparency of Post Office's adherence and commitment to the Employment Rights Act 1996 and the Public Interest Disclosure Act 1998

What would the impact be of delaying approval?

18. Risk that the group breaches the Employment Rights Act 1996 and the Public Interest Disclosure Act 1998 by not having up to date policies and procedures to provide protections to whistleblowers.
19. Post Office Limited is required to maintain up to date policies to support contractual requirements with clients and suppliers (e.g. MoneyGram and the Partner Banking Framework) and failure to do so may result in a breach of contract, and whilst not material, could have commercial and reputational impacts.
20. Post Office Limited provides Post Office Management Services (POMS) with its policies suite in the form of "Group Policies". POMS is required under its regulatory responsibility to the Financial Conduct Authority to have up to date policies and failure to do so may lead to regulatory sanctions or penalties.

Activities planned for 2019-20:

21. The following activity is planned:
    - Explore running awareness campaigns via screen savers.
    - Review current employee induction process
    - Publish FAQs on the intranet and promote through One news article.
    - Promoting success stories, where possible.
    - Explore development of a short animation about Whistleblowing.
    - Enhance investigation training and procedures to include when and how whistleblowers are contacted
    - NAVEX Global (formerly Expolink Europe Ltd) contract renewal to be finalised.
    - Continuous collaboration with HR representatives (Employee Relations and the People and Culture Director) to ensure a consistent messages are being promoted and support the development of Post Office Ethical Values.
    - Conduct research into the possibility of rebranding the Speak Up/Whistleblowing service and alternative ways of promoting the service (e.g. short animations or videos).
    - Ensuring that all NDAs and HR Settlement agreements meet the Law Society's best practice;
        - specifically that they do not seek to or inadvertently try to prevent the reporting of any criminal offence to law enforcement agencies or the reporting of regulatory breaches / information to a relevant regulator, and
        - allow anyone signing an NDA time to consider the implications of the proposed agreement including giving them time and sufficient opportunity

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to obtain independent legal advice (this is already a settlement agreement requirement)

22. On approval of the Policy amends, there will be a One communication to advise all employees of the changes and provide a link to the updated document on the Post Office Intranet.

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17th July 2019