



DEVELOPING AND OPERATING A HOTLINE

By Richard P. Kusserow

A hotline is a critical part of any effective compliance program. It is an important avenue of communication between employees and management, in that it permits employees to report sensitive matters outside the normal supervisory channels. Absence of such lines of communication restricts management knowledge about matters that could be of critical importance. Failure to implement, or worse yet, properly use this linkage could also result in great liability for the organization. There are many uses for employee hotlines. It can permit transmission of information concerning violations of regulations, laws, and proper business and billing practices, etc. Recent Supreme Court decisions concerning sexual harassment and hostile work environment, create a near strict liability situation for employers that fail to establish communication links for employees to alert management to potential and emerging problems. Other human resource management issues are also high on any company hotline agenda, including discrimination, Occupational Safety and Health Administration (OSHA) matters, wrongful discharge, among others. A hotline can provide a means by which clarification can be made to standing instructions, policies, procedures, and the company standards of conduct.

A very important consideration in favor of establishing hotlines is the risk of not doing so. If employees are not provided legitimate means to report their observations of possible wrongful conduct, concerns and complaints, what choice is there but to become a "Whistleblower." Virtually all Qui Tam relators and other whistleblowers justify their actions in reporting to external bodies with the explanation that there were no means available to seek redress of the problem through the company. Not the least important considerations for a hotline arise from the U.S. Sentencing Commission "Guidelines for Organizations." In their compliance guidance this area is stressed. One quote illustrates this: "The OIG *encourages* (emphasis added) the use of hotlines (including anonymous hotlines), e-mails, written memoranda, newsletters and other forms of information to maintain these open lines of communication...Employees should be permitted to report matters on an anonymous basis."

There are many considerations associated with a decision as to whether it is better to operate the hotline 'in-house' or outsource the operations. For the great majority of organizations, the sounder decision is to contract the operations to a qualified vendor. The following provides some evidence to that conclusion:

- The benefits of maintaining the function in-house include the fact that in-house operators may be more familiar with company policies, procedures and regulations. However, be careful here. To a large extent it depends on how effectively and frequently such policies, etc. are communicated. They know the company better and are more familiar with company resource personnel. They may be able to channel employees back into the organization more effectively and react better to emergencies. All calls stay in the company. On the other hand, hotline companies have trained personnel who are experienced in answering hotline calls and debriefing employees. That is all they do—they are specialists and may be better prepared to cull-out hidden



problems or issues. Callers are generally nervous and afraid. They must be calmed down and it is critical to establish confidence and rapport between the operator and caller. Callers may be more comfortable talking with an external resource.

- Based on national statistics from the National Hotline Service, an organization may expect approximately 1-3% of the employee population will use the hotline each year. A rough way to compute this would be 1-1.5 calls per month for every thousand employees. The great majority of calls are received during daylight hours. There is a spike early in morning and they peak during lunch and the couple of hours immediately afterward. For companies operating 24 hour hotline services, less than 10% of the calls are received after normal business hours. Approximately three quarters or more of the total number of calls will be motivated by human-resources related issues.
- An important consideration for any in-house hotline operation is that employees are able to make their complaint, register their concerns, or report an incident at any time. In today's environment there are two means by which this may be accomplished; phone calls or using a web-based services. The trend is for employees to use the latter over the former. The best practice is to use a vendor that provides both services.
- Professional vendor services should be able to identify the level of urgency in the reports being received and understand the likely areas of responsibility for dealing with the issues (e.g. compliance officer, HRM, legal counsel, etc.). The vendor used should be well versed in issues confronting health care providers, especially those that are legal or regulatory in nature.
- Calls should never be answered in an area where others might overhear the hotline operator. Files should be kept in a secure area. Hotline numbers should be "backstopped" against tracing. No caller identification systems should be employed. People answering the calls should not be highly visible to the work force. Confidence comes from neither party being known to the other.
- Receiving the information is only one part of the process. Resolving the issues is much more demanding and requires the organization to have trained people to follow-up on information provided, as well as having details policies, procedures, and protocols for doing so.
- An organization operating its own hotline will require *a minimum* of 1.5 staff-years just to provide adequate coverage during work hours. Assuming one staff year costs \$50,000, the overhead addition of about 25% will raise the total over \$60,000. This would not cover the added costs of investigating the calls received. On top of that you must add the cost of the telephone line, the cost of the space and the cost of training and re-training operators. This could be prohibitive for a smaller organization. For example, a company with 1,000 employees (approximately 12-20 hotline calls per year) the cost per call will be over \$3,000 per call. Even for a company with 10,000 employees (approximately 120-180 hotline calls per year), the cost per call will be around \$300 per



call. It is advisable to shop and compare the costs of a hotline vendor service versus operating the hotline in-house.

In making a decision about using a hotline service, it is wise to consider the following:

- 1. Hours of operation.** Covered persons should be able to contact and report to the hotline 24 hours a day, seven days a week with a live operator available, at a minimum during normal business hours over a five day week.
- 2. Cost of operation.** Compare costs of service with the cost to maintain and operate a hotline in-house.
- 3. Industry expertise.** Determine level of expertise in the health care industry. It is advisable to have a company familiar with and sympathetic to health care issues, rather than focus on employee theft or other generic matters common to all industries.
- 4. References.** Obtain references among current clients, so that you can learn first hand about the quality of service.
- 5. Policies and procedures.** The company should be able to assist you with developing operating protocols for following up on allegations and complaints received through the hotline.
- 6. Timeliness.** It is important to insist and have as part of any contract, provision of a full written report within one business day of receipt of the call. For urgent matters, it should be immediate.
- 7. Reports provided.** Reports on individual calls should be well written, clear, concise and of high quality. Ask if trending and tracking reports are part of the service.
- 8. Insurance.** Like any other vendor, the company should have at least one to three million dollars coverage.
- 9. Other benefits.** Most services provide other ancillary services, such as policy and procedure manuals, training of in-house staff in proper follow-up to calls, etc. Find out what they offer.

Regardless of whether you run the function in-house or out-source it, make sure you are resolving the problems that are identified. Nothing will undermine the compliance program more quickly than for the organization to ignore the problems that are brought to its attention.

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