

POLICY FOR STAFF WHEN EXPRESSING CONCERNS ABOUT STANDARDS OF CARE OR OTHER TRUST ACTIVITIES 'WHISTLEBLOWING'

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Author	Ian Vince
Author's Job Title	Deputy Director of Human Resources & OD
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Owner Job Title	Director of Human Resources, OD & Communications

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POLICY FOR STAFF WHEN EXPRESSING CONCERNS ABOUT STANDARDS OF CARE OR OTHER TRUST ACTIVITIES

1. INTRODUCTION

- 1.1 Ensuring NHS staff are able to voice concerns about standards of care or other aspects of Trust activities provides an important public safeguard. This has on occasion meant NHS staff contacting the press or other media to voice their concerns, (sometimes referred to as “whistleblowing”). The purpose of this policy is to set out for employees of the Trust how to raise concerns constructively within the Trust and how to seek advice externally if ultimately they feel compelled to do so. ‘Public Concern at Work’ define Whistleblowing as ‘Providing a safe alternative to silence’, which is the focus of this policy. (For a full definition see Appendix 1).
- 1.2 This Policy has been prepared to take account of the Public Interest Disclosure Act 1998 (which came into force in July 1999), the NHS Guidance set out in EL (93)51 ‘Guidance for staff on Relations with the Public and the Media’, ‘Working Together to Safeguard Children: A guide to inter-agency working to safeguard and promote the welfare of children’ (April 2006, HM Government) and the guidance provided by the Public Concern at Work website.
- 1.3 It shall apply to all employees of the Queen Elizabeth Hospital King’s Lynn NHS Foundation Trust. It also applies to voluntary workers and students on placement with the Trust. The generic term ‘staff’ has therefore been used throughout this policy document.
- 1.4 It is acknowledged that all members of staff may find these issues difficult and sometimes sensitive and it is important to strike the appropriate balance between the ability to raise their concerns whilst at the same time exercising their contractual duty of loyalty to their employer. These guidelines are designed to ensure that a common understanding exists of the circumstances and the manner in which staff should be able to express views about health service issues. The Trust is committed to tackling any difficult issues that arise and staff who are unsure or unclear on an issue are encouraged to raise their concerns.
- 1.5 In many cases concerns can be dealt with very effectively through more traditional channels, including, but not limited to, the Capability, Disciplinary, Complaints and Mutual Respect Policies. However, it is accepted that in some cases members of staff may have sound reason for coming forward under the terms of this policy and procedure.
- 1.6 This policy is intended to compliment other Trust policies and staff should continue to ensure they comply with these i.e. incident reporting. Confidentiality is covered in Section 5.

2. POLICY STATEMENT

- 2.1 The Policy of the Trust is that it will strive to create a climate of honesty, transparency, accountability and openness within the Trust. All staff are encouraged to express their concerns freely within the Trust on all aspects of the Trust’s activities, but particularly on the delivery of care to patients. The expression of such concerns is welcome and will be viewed as a contribution towards improving the services offered to our patients. The Trust is committed to ensuring that staff concerns will be taken seriously and be fully

investigated and it will ensure that staff who raise concerns responsibly and reasonably will be protected against victimisation.

3. KEY PRINCIPLES

3.1 The individual interests of the patient are paramount and all staff have a responsibility to seek to ensure that the needs of the patients are being addressed appropriately within the Trust.

3.2 Staff have a right and a duty to raise any issue, which they consider to be damaging to the interests of patients and to suggest any improvement. At the same time staff may also have a responsibility to raise the concern with their professional body. Nothing in this Policy should be seen as replacing the duty of a registered professional to raise matters of professional practice with a professional registering body where this is appropriate.

3.3 Managers must ensure that all staff are easily able to contribute suggestions about care and delivery of services and that all concerns raised are dealt with thoroughly and fairly. Any concern raised formally under this Policy will be logged and be subject to regular review by the Director of Human Resources, OD & Communications.

3.4.1 Employees will be supported by senior staff within the Trust so that they can express their views within the Trust provided that:

- they are made in good faith,
- the member of staff reasonably believes that the information given and any allegations contained in it are substantially true,
- they are not made for the purposes of personal gain, and
- staff use the proper channels which are outlined in this Policy.

3.5 Should a member of staff have a concern about something he or she feels ought to be addressed, effort should be directed to trying to ensure that the issue is not raised in such a way that confuses the message with the messenger. The following questions from 'Public Concern at Work' may help to create clarity around whether or how to raise a concern:

- Is someone (e.g. a patient) unaware that they are being exposed to a risk that you would not take or expose your loved ones to?
- Do you believe that any of your colleagues or your team would answer the question in the same way?
- If the tables were turned and someone had a concern about your clinical practices, how would you want them to raise the issue?
- How can the risk be addressed so that the least damage is caused to the colleague involved?
- Have you talked to your colleagues or your team? (if not, why not?)
- Can you find a solution within your team?
- Who in the hospital will be dealing with the fallout if your concern is not raised and it proves well founded?
- If you have known of the risk for some time, why are you minded to raise the issue now?
- What do you think would be a satisfactory outcome?

- What obstacles are there to it?
- What is your motivation?

Before 'blowing the whistle' it is important to remember that a whistleblower is a witness, not a complainant. The approach needs to let the facts speak for themselves and allow those responsible to take an informed decision.

- 3.6 The Trust recognises the right of accredited trade union representatives to raise issues both within and outside the Trust on behalf of their trade union in the legitimate interests of their members. This may involve local representatives contacting the media or other external bodies to express a view on behalf of the trade union. Nothing in this Policy should be seen as affecting this right. In the spirit of good employee relations the Trust expects trade union representatives to act in good faith on information they reasonably believe to be true and to seek to have any issues addressed within the Trust in the first instance.

4. PROCEDURE

Set out below are the steps which should be followed by members of staff if they have concerns about standards of care or other aspects of Trust activities. It may be appropriate to omit some of the stages and staff may choose an entry point to these stages appropriate to the circumstances.

4.1 Informal Procedure

- 4.1.1 In the first instance, staff should discuss any concern with their immediate line manager or in an emergency with the most immediate Manager available. If the concern is about their manager then staff should contact the Divisional Manager or the Director of Human Resources, OD & Communications. Out of hours staff should contact the relevant On-call Director via switchboard. (In circumstances where fraud and/or corruption are suspected, staff may also consider discussing their concern initially with the Trust Local Counter Fraud Specialist (contact details in Appendix 1) or a senior member of the Trust Finance or Human Resources Departments).
- 4.1.2 If action is appropriate then this will be taken as a priority by the Manager to whom the concern has been reported and the staff who raised the concern will be notified of the outcome.
- 4.1.3 If the concern relates to child protection and child safety it should be raised with the Head of Midwifery and Nursing for Women and Children who will contact the Local Authority Designated Officer (LADO) for their advice. Taking statements or initiating an investigation should not be considered or instigated until the LADO has been consulted. The Head of Midwifery will discuss the advice received from the LADO with a senior member of Human Resources so that a decision can be made on the appropriate action to be taken based on the LADO's advice.
- 4.1.4 If the member/s of staff are still concerned, despite the outcome of the above, they should be told how to pursue the matter further through the formal procedure set out below.

4.2 Formal Procedure

- 4.2.1. For the formal procedure related to concerns raised around child protection and child safety please refer to the Trusts Child Protection Guidelines.

4.2.2 For all other whistleblowing issues there are three stages through which members of staff can raise concerns, reflecting the Trust's management structure, up to and including members of the Trust Board. Non-Executive Directors, including the Chairman, have a particularly important role in reviewing issues raised as concerns by members of staff.

4.2.3 At all stages of the formal procedure, a meeting will take place and the outcome will be recorded. Recognising the potential sensitivity of such issues, staff should have the right to be accompanied by a representative. Setting of timescales is difficult because of the sensitive nature of the matters which are being discussed, however, in order to ensure that the issues are dealt with swiftly and responsibly, it is recommended that the response time for arranging a meeting and an outcome being notified should be no longer than two weeks at each stage. Flexibility around timescales may be necessary, particularly at stages two and three, subject to the availability of the nominated Trust officers.

4.2.4 The following are the persons at each stage of the process who would consider a concern raised formally under this policy and who would chair the meeting:

Stage One Divisional Manager/Clinician Manager/Head of Nursing as appropriate

Stage Two Chief Executive or other Executive Director

Stage Three Chairman or other Non-Executive Director

4.2.5 The person chairing the meeting may wish to call other members of staff (e.g. the line manager who first considered the member of staff's concern) or external professional advisers to the meeting. The concern may then need to be investigated and any action taken as appropriate to address it. The member of staff who raised the concern will be informed of the outcome of the investigation and any resulting action as deemed appropriate.

4.3 Whistleblowing Helpline

4.3.1 If staff are in doubt about what they should do or they wish a nominated officer to progress their concern they may leave a message on the secure dedicated Whistleblowing Helpline Ext. 3949 (full number for outside calls 01553 613949) giving their name, contact details and a brief outline of the issue.

4.3.2 The Helpline will be checked daily on Monday to Friday by the Deputy Director of Human Resources & Organisational Development and action taken to respond to any messages left. A manual register of the issue and subsequent action taken will be maintained and a summary status report provided to Trust Board when new cases are reported or when the status of current cases changes up to and including 'closed'.

4.4 Anonymous Concerns

4.4.1 Individuals are encouraged to put their name to any disclosure they may make. This can be an issue when complaints are raised via the telephone and particularly via the Whistleblowing Helpline. It should therefore be understood and accepted that concerns expressed anonymously are more challenging to address but may still be considered at the discretion of the Trust. In exercising this discretion, the factors to be taken into account may include:

- the seriousness of the issues raised
- the credibility of the concern
- the likelihood of being able to confirm the allegation from attributable sources

5. RAISING ISSUES OUTSIDE THE TRUST

- 5.1 A member of staff who has exhausted the formal procedure but still remains concerned may wish to write to the Secretary of State for Health if appropriate. Or if their concern is about fraud and corruption, they can also contact either the Trust's Local Counter Fraud Specialist on 07779 031126 or the NHS Fraud and Corruption Reporting Line on 0800 028 40 60).

The various professional bodies and trade unions can also be contacted if they have not already been involved under the formal procedure set out in Section 4 above.
(See Appendix 1 for addresses and telephone numbers).

- 5.2 If, having gone through all established procedures set out in this document, the member of staff is still concerned, they may decide to go to the media. However, this is something which should be approached with caution, information given unjustifiably or maliciously to the media may unreasonably undermine public confidence in the health service and therefore disciplinary action may ensue if the appropriate procedures have not been followed.
- 5.3 For reference, the following paragraphs set out the issues around "confidentiality" and "loyalty" which may need to be considered if a member of staff is contemplating contacting the media:

All staff have a duty of confidentiality to patients. Unauthorised disclosure of personal information about a patient is unacceptable and is likely to lead to disciplinary action. Only in very unusual circumstances would it be considered that the public interest, taking account of the rights and freedoms or legitimate interest of any person, outweighed the patient's right to privacy.

All employees have a duty of loyalty to the Trust as their employer. This includes not acting in a way, which would damage the reputation of the Trust and the services it provides. Again, it would only be in very unusual circumstances that the public interest would be considered to outweigh this duty.

Any member of staff considering disclosing information to the media or otherwise into the public arena is very strongly advised to first seek specialist advice. A list of possible sources of advice is attached at Appendix 1.

- 5.4 See paragraph 3.6 above with regard to accredited trade union representatives.

6. FURTHER INFORMATION

Further information regarding this Policy can be obtained within the Trust from either the Human Resources Department or Patient Safety Directorate.

Sources of external information and guidance are set out in Appendix 1.

7. MONITORING EFFECTIVENESS

At operational level by:

- The Whistleblowing Helpline Officer – Deputy Director of Human Resources & OD.

- The Director of Human Resources, OD & Communications.
- The Deputy Director of Quality & Governance on behalf of the Patient Safety Directorate.

At strategic level by:

- The Director of Human Resources, OD & Communications chairing:
- The Human Resources Organisational Development Committee (HRODC), reporting to
- The Resource Governance Committee, reporting to
- The Healthcare Governance Committee

Achieved via reference to:

- The Employee Relations Case Report obtainable from the Electronic Staff Record (ESR)*
- The Whistleblowing Helpline Register and monthly report to Trust Board
- Internal Audit review of the Whistleblowing Policy and Helpline as may be commissioned by Director of HR, OD & Communications.
- Cases personally reported to Trust Executive/Non-Executive by Deputy Director of HR & OD.

* The ESR Employee Relations Report provides an analysis of the reasons contributing to dispute resolution, grievance and disciplinary activity across the Trust.

8. EQUALITY IMPACT ASSESSMENT

This process has been assessed using an equality impact assessment initial template and is deemed to meet current equality requirements.

Review date: February 2014

POSSIBLE SOURCES OF ADVICE

This list is not exhaustive, but staff may wish to contact one of the following if considering raising concern about the standard of care or any aspect of the Trust activities. This is very strongly advised if a member of staff is contemplating contacting the media.

- A recognised Trade Union e.g. UNISON, RCN, BAOT, BMA etc
- Professional bodies e.g. GMC, NMC etc.

The Nursing & Midwifery Council (NMC) has issued guidance in the form of a booklet entitled 'Raising and Escalating Concerns'. This covers the role of the nurse or midwife in raising concerns, how to raise a concern and the legislation in place to protect the concerned party. Copies of the guidance can be obtained via www.nmc-uk.org/publications and further information including a flow chart of stages in the process is obtainable via www.nmc-uk.org/guidance

- The Charity 'Public Concern at Work' Helpline **020 7404 6609**

Public Concern at Work is the whistleblowing charity. It is a legal advice centre designated as such by the Bar Council. Through its helpline its lawyers can provide confidential advice, free of charge, to people concerned about wrongdoing at work but who are not sure whether or how to raise the concern. Information that is disclosed to it in the course of seeking advice is protected under the Public Interest Disclosure Act. It can advise on other regulatory bodies such as the Health and Safety Executive etc.

Its website (www.pcaw.co.uk) defines Whistleblowing as:

(a) Bringing an activity to a sharp conclusion as if by the blast of a whistle (OED) **(b)** Raising concerns about misconduct within an organisation or within an independent structure associated with it (*Nolan Committee*) **(c)** Giving information (usually to the authorities) about illegal or underhand practices (*Chambers*) **(d)** Exposing to the press a malpractice or cover-up in a business or government office (*US, Brewers*) **(e)** (*Public Concern at Work*) **(f)** (*origins*) Police constable summoning public help to apprehend a criminal; signal to stop work in the industrial age; referee stopping play after a foul in football.

- NHS Executive/Department of Health for Secretary of State Tel **0113 254 4000**
Quarry House, Quarry Hill, Leeds LS2 7UE
- The NHS Fraud and Corruption Reporting Line on 0800 028 40 60 or the Trust Local Counter Fraud Specialist on 07779 031126.
- Government-funded whistle blowing helpline which is available to all staff and employers in the social care sector Tel **08000 724 725**

1.1 Documents

The following documents are available from the Human Resources Department

- Public Interest Disclosure Act 1998

- EL(93)51 'Guidance for staff on relations with the public and the Media'
- Letter from Mike Deegan, Acting Director of Human Resources 'Freedom of Speech in the NHS' dated 25 September 1997.
- Letter from Alan Milburn, Minister of State for Health 'Freedom of Speech in the NHS' dated 25 September 1998.

APPENDIX 2

EQUALITY IMPACT ASSESSMENT TOOL

STAGE 1 - SCREENING

Name & Job Title of Assessor: Claire Matthews, Assistant Director of HR	Date of Re-screening: December 2010
Policy or Function to be assessed: 'Whistleblowing' - A policy for staff when expressing concerns about Trust standards	

		Yes/No	Comments
1.	Does the policy, function, service or project affect one group more or less favourably than another on the basis of:		
	• Race & Ethnic background	No	The policy applies equally to all members of Trust staff and students.
	• Gender including transgender	No	The helpline service is completely confidential.
	• Disability	No	The policy seeks to cover a range of situations but is not an exhaustive list.
	• Religion or belief	No	
	• Sexual orientation	No	
	• Age	No	The above are general comments and do not refer specifically to the factor aligned.
2.	Does the public have a perception/concern regarding the potential for discrimination?	No	The public may well have an active general interest in this area but the policy addresses any potential concerns of discrimination.

If the answer to any of the questions above is yes, please complete a full Stage 2 Equality Impact Assessment.

Signature of Assessor: Claire Matthews, Assistant Director of HR
Signature of Line Manager: Ian Vince, Deputy Director of HR & OD

Date: December 2010
 Date: December 2010

Chair: Kate Gordon Chief Executive: Nerissa Vaughan
 Patron: Her Majesty The Queen

The Preferred Hospital for Local People



WHISTLEBLOWING POLICY

October 2011- Policy applied to students

Chair: Kate Gordon Chief Executive: Nerissa Vaughan
Patron: Her Majesty The Queen

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