

Trust Procedure

Raising a Matter of Concern Procedure (Whistleblowing)

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Jan 2012	Inclusion of new Whistleblowing help-line free phone number	Associate Director Of Workforce
February 2012	General review in line with policy/procedure expiry.	PSG
November 2012	Changed 'Head Of Workforce Relations' to 'Associate Director of Workforce'	P&P Manager

If you would like a Braille or large print copy of this procedure, or need to have it translated into another language, please contact the Human Resources Department, and it will be arranged

1. Introduction

- 1.1 This procedure is to be read in conjunction with the Trust Policy on Raising a Matter of Concern (Whistleblowing). All of us, at one time or another has concerns about what is happening at work. Usually these concerns are easily resolved, however it can be difficult to know what to do when they are about malpractice, dangers to patients, the public, environment, unlawful conduct, ethical concerns about the way services are provided, breaches of codes of conduct and accountability or maladministration.
- 1.2 You may be worried about raising such issues or may want to keep the concerns to yourself, perhaps feeling it is none of your business or that it is only a suspicion. You may feel that raising the matter would be disloyal to colleagues or to the Trust. You may decide to say something but find that you have spoken to the wrong person, or raised the issue in the wrong way and are not sure what to do next.
- 1.3 The Trust is committed to the highest possible standards of openness, integrity and accountability. In line with that commitment we expect you, our employee, and others that we deal with, who have serious concerns about any aspect of the Trust to come forward and voice potential concerns.
- 1.4 The aim of this procedure is to enable you to raise your concerns at an early stage and in the best way. The Trust would rather that you raised the matter when it is just a concern, rather than ignore it.
- 1.5 Remember - if in doubt – please raise it!
- 1.6 **What is Whistleblowing?** To blow the whistle on a service provision or an individual is to alert a third party that a person or group of people have done, or is doing, something wrong.

2. Scope

- 2.1 This Procedure applies to all employees of the Trust including temporary or subject to fixed term contracts and Bank Staff. The policy also applies to agency workers under contracts with an external agency and those holding an honorary contract.
- 2.2 Although the Public Interest Disclosure Act (1998) does not specifically cover volunteers and independent consultants, the Trust would encourage individuals to raise any concerns with a relevant employee of the Trust should they have cause to suspect, or evidence of any malpractice.

3. Rationale

- 3.1 This procedure is concerned with disclosure of serious concerns and information that is, or may be in the public interest, and is not intended to replace other Trust Policies and Procedures which cover standards of behaviour at work (such as recruitment and selection, disciplinary and bullying and harassment).
- 3.2 These serious concerns covered by this procedure include:

- Any concern about danger or illegality that has a public interest aspect to it usually because it threatens others
- Health care matters including suspected mistreatment or abuse of patients and/or issues relating to the quality of care provided
- Health and safety issues which affect patients, visitors and staff
- Suspicion or knowledge of theft, fraud, corruption or other financial malpractice
- Concerns about the professional or clinical practice or competence of colleagues or other members of staff
- The treatment of other employees, including suspected harassment or discrimination.
- Employment standards and/or working practices
- Concern that the environment is, or is likely to be, endangered
- Failure to comply with any legal obligation
- Information which may show that any of the above matters is being, or is likely to be, deliberately concealed
- Other unethical conduct.

3.3 Thus, any serious concerns that you have about any aspect of service provision or the conduct of members of the Trust, or others acting on behalf of the Trust, can be reported under this Raising a Matter of Concern Procedure. This may be about something that:

- Makes you feel uncomfortable in terms of known standards, your experience or the standards you believe the Trust subscribes to;
- Is against Trust policies
- Falls below established standards of practice; or
- Amounts to improper conduct.

3.4 ***Please note: there are existing procedures in place to enable you to raise a grievance relating to your own employment, and you should refer to the Trusts Grievance Policy to address individual or collective issues which have no additional public interest.***

4. Our Assurances to you

4.1 The Board and Chief Executive are committed to this policy. If you raise a genuine concern under this policy, you will not be at risk of losing your job or suffering any form of other penalty as a result. Provided you are acting in good faith, it does not matter if you are mistaken. However, the Trust does not extend this assurance to someone who maliciously raises a matter they know is untrue, or who raises concerns frivolously or for personal gain.

4.2 Harassment or Victimisation

- 4.3 The Trust recognises that the decision to report a concern can be a difficult one to make. If what you are saying is true, you should have nothing to fear because you will be doing your duty to the Trust and those for whom you are providing a service
- 4.4 The Trust has a zero tolerance attitude to any harassment or victimisation (including informal pressures), and in these rare circumstances will take appropriate action to protect you if a concern is raised in good faith
- 4.5 Any investigation into allegations of potential malpractice will not influence or be influenced by any disciplinary or redundancy procedures that already affect you (if applicable).
- 4.6 Confidentiality
- 4.7 All concerns will be treated in confidence and sensitively. Every effort will be made not to reveal your identity if you so wish.
- 4.8 At the appropriate time, however, you may need to come forward as a witness. In this case the Trust will discuss with you how best to proceed. Therefore, the investigation process may reveal the source of the information and in doing so you may need to provide a statement as part of the evidence required.
- 4.9 The Trust does encourage you to put your name to your concern whenever possible. Please remember that if you do not tell the Trust who you are, it will be much more difficult for us to look into the matter, to protect your position or to give you feedback. Concerns expressed anonymously are much less powerful, but will be considered at the discretion of the Trust. In exercising this discretion the factors to be taken into account would include:
- The seriousness of the issues raised
 - The credibility of the concern; and
 - The likelihood of confirming the allegation from attributable sources
- 4.10 Concerns which can not be proven
- 4.11 If you raise a concern in good faith, but it is not upheld by the investigation, no action will be taken against you. However, if you raise a concern done frivolously, maliciously or for personal gain, formal action will be taken against you in line with the Trust Disciplinary Policy.

5. Reporting Concerns

- 5.1 There are three levels within this procedure and it is intended that all concerns will be dealt with fully and comprehensively at level 1. However, it is important that you are assured that your concern can be raised safely at a higher or different level as 2 and 3 below.

Level 1

- 5.2 As a first step, you should normally raise concerns with your immediate line manager or their manager if you feel unable to raise it with your manager directly. This wholly

depends on the seriousness and sensitivity of the issues involved and who is suspected of the malpractice.

- 5.3 If, for whatever reason, you feel unable to approach management in the area in which you work or the area where you have identified the concern, you should raise your concern at Level 2 or 3, as appropriate.
- 5.4 The manager with whom you raise the concern is responsible for either dealing with the matter directly or nominating an investigating manager, who will ensure that the concerns are appropriately investigated.
- 5.5 The investigating manager who is dealing with your concern will establish and confirm the following with you and will then go on to investigate the concern or escalate to another person or relevant department for further consideration. They will:
 - reassure you that there will be no reprisals due to you raising the concern.
 - take concerns seriously
 - consider them fully and sympathetically
 - seek advice from other professionals / colleagues e.g. HR where appropriate
 - ask you when the concern first arose and (where relevant) what is prompting the decision for you to speak up at this particular time.
 - ask you whether the information is firsthand or hearsay
 - check whether confidentiality is sought from you.
 - ask you what feedback you would like
 - consider with you, without prejudice, whether you would want to be temporarily moved to another work area (investigating managers would be advised to seek further advice from their HR representative before any final decision is made)
 - ask you if there is anything else relevant that you should disclose or mention

Level 2

- 5.6 If, for whatever reason, you have felt unable to approach management in the area in which you work, or the area where you have identified the concern, please raise your concerns as follows:
- 5.7 **Clinical Care:** If there are professional concerns about Clinical Care that have not been resolved within the immediate clinical team they should be raised confidentially with the relevant Professional Head, Clinical Director or Heads of Nursing.
- 5.8 **Fraud and Corruption:** If there are concerns relating to Fraud and Corruption, and it is suspected that a direct line manager is involved and you do not feel able to raise it with their line manager, then you should raise it with the Trust's Local Counter Fraud Specialist, on extension 87181. Alternatively, the matter may be reported using the NHS Fraud Reporting Line, on 0800 028 40 60. This is a recognised means of

reporting a fraud concern under NHS counter fraud regulations and its use would not be regarded as a failure to follow internal reporting procedures.

- 5.9 **Health and Safety:** if there is a concern with Health and Safety involving your line manager and you do not feel able to raise it with their line manager, then you should raise it with the Trust's Health and Safety Manager on ext 81512
- 5.10 For concerns that do not fit specifically in to one of the above categories you should seek advice from the Associate Director Of Workforce via email or on extension 84976.
- 5.11 The manager to whom the concern has been raised to is responsible for either dealing with the matter directly or nominating an investigating manager. He or she will ensure that the concerns are appropriately investigated. The nominated manager will be selected on who is appropriate to deal with the particular issue raised.
- 5.12 ***Please note:*** Contact details for the above will be kept up to date on eHR, where you can seek further information.

Level 3

- 5.13 The Trust will guarantee that it will handle all concerns fairly and properly, and your use of this Procedure will help the Trust to achieve this. If you feel that the matter is so serious that you cannot discuss it with any of the above or if level 1 or 2 have been followed and you still have concerns, then you should contact a member of the Trust Board directly (either an Executive or Non Executive Director). Appendix A provides contact details.
- 5.14 Executive Directors such as the Chief Nurse/Chief Operating Officer and the Medical Director will be happy to discuss professional and clinical concerns raised by colleagues.
- 5.15 The Chief Executive and the Trust Chairman are always willing to be approached on clinical or non-clinical matters if you feel, for whatever reason, that you are unable to approach others.
- 5.16 The designated named lead for 'Raising a Matter of Concern' is a member of Trust Board. This is the Director of Workforce.
- 5.17 The Chief Executive, Chairman, designated named lead for 'Raising a Matter of Concern' or other Trust Board members will normally nominate a deputy such as a member of the Trust Management Executive, to investigate the concern raised and will notify the designated named lead of the concern raised and the outcome of the investigation.
- 5.18 The designated named lead will keep a record of concerns raised at level 3.

6. What happens once I've raised my concern?

- 6.1 Concerns may be raised in writing or verbally, however you may be asked to put your concern in writing if matters are taken forward. The earlier you express the concern the easier it is to take action.

6.2 The following format should be used as a guideline:

- The background and history of the concern (giving relevant dates)
- The reason why you are particularly concerned about the situation
- Although you are not expected to prove beyond doubt the truth of an allegation, you will need to demonstrate to the person contacted that there are reasonable grounds for your concern

6.3 All concerns will be given full and sympathetic consideration. The person (or their nominated investigating officer) with whom you have raised the concern should initially assess:

- How serious and urgent the risk is
- Whether the concern can be best dealt with under this procedure or whether it would be better dealt with under a different policy or procedure, for example the grievance procedure
- Whether there is a need for assistance or referral to senior managers and/or a specialist function

6.4 Communication with you after you have raised the concern

6.5 The investigating manager dealing with your concern is responsible for taking corrective action (if required) or liaising, escalating and/or working in conjunction with the relevant department / person for further support in resolving matters. Whatever action is or is not taken, you will normally be written to and given a thorough explanation of the reasons for this within 14 calendar days of initial discussion.

6.6 This deadline may be extended at management discretion if required and you will be notified of this either in writing or verbally.

7. What if I'm dissatisfied with the outcome?

7.1 If, having followed the above Procedure, you remain dissatisfied with the outcome of your concern at level 3 you consider no action or effective action has been taken to resolve the problem and/or you consider that the Trust will discharge or conceal evidence concerning the complaint and/or you consider you will be victimised for bringing a matter in accordance with internal disclosure proceedings and you honestly and reasonably believe that the information and any allegation contained in it are substantially true and the disclosure is not for personal gain, but it is in the public interest, then you may lawfully raise your concerns with one of the Prescribed Regulatory Bodies.

7.2 The Chief Executive should be notified of this intention to raise a matter of concern with a Prescribed Regulatory Bodies at the point of exhaustion of Level 3, and you should ensure you read the information contained in the sections below.

8. Independent Advice

- 8.1 The Trust recognises that an individual may be unsure whether to use this Procedure or may want independent advice at any stage, and also recognises the value of support that can be given by professional organisations. Therefore all employees retain the right to discuss the issue informally with their professional organisation or trade union, and with statutory bodies such as the Nursing and Midwifery Council, the General Medical Council, and Health Professionals Council. Physio's would seek advice from their union Chartered Society of Physiotherapy (CSP), seeking their advice. Having sought advice, staff should still exhaust this procedure before raising the issue formally with any external organisation.
- 8.2 Independent contacts include:
- Employee's professional association or trade union (including their telephone support line where they exist). Contact details are available on GTi.
 - The independent charity *Public Concern at Work* on 020 7404 6609. *Public Concern at Work* is a registered charity who is a leading authority on public interest whistleblowing. More information can be obtained about them at www.pcaw.co.uk.
 - The new, free advice line for NHS and Health and Social Care staff, available from January 2012: **08000 724 725**. The helpline will operate on weekdays between 08.00 and 18.00 with an out-of-hours answering service available at weekends and on public holidays.
 - More information about *the Public Interest Disclosure Act* can be obtained from the Department for Business Innovation and Skills (www.bis.gov.uk) or from *Public Concern at Work*.

9. External disclosures

- 9.1 If you consider making a disclosure directly to external persons or organisations, or to the Police, MP's and even the media, you should be aware that your employment may not be protected under the Public Interest Disclosure Act if you have not first raised your concern internally, in line with this procedure. The legal position regarding external disclosures is complex and therefore employees are strongly advised to seek professional advice or legal advice before starting such a course of action (see above).
- 9.2 External Disclosure to Prescribed Regulatory Bodies
- 9.3 The Trust recognises that the role of external oversight/regulators is important in reassuring you and other stakeholders that the Trust will deal with any malpractice properly. The Trust intends that this procedure gives reassurance that you can feel safe and supported when raising concerns internally.
- 9.4 All employees should be aware that only in exceptional circumstances as specifically defined by the Public Disclosure Act 1998 will disclosure to one of the Prescribed Regulatory Bodies be justified without first having exhausted the Trust's internal procedures. Additional information on the Public Disclosure Act can be found on e-HR.
- 9.5 Prescribed Regulatory Bodies include:

- Counter Fraud Services
- Audit Commission
- Monitor
- Department of Health
- CQC

9.6 Wider disclosures and disclosures to Non-Prescribed Regulatory Bodies

9.7 If you have exhausted this internal procedure without satisfaction, and have consulted the appropriate Prescribed Regulatory Body, you may consider raising the matter with other external bodies such as the Media, Members of Parliament or the Police.

9.8 Such wider disclosures are only protected under the provisions of the Public Disclosure Act 1998 if the matter has been raised internally, they are not made for personal gain, and the matter falls under one of the categories below:

- Exceptionally serious
- Not raised internally or with the Prescribed Regulatory Body because the employee reasonably feared that they would be victimised
- Not raised internally because the employee reasonably believed that there would be a 'cover up' and there is no relevant Prescribed Regulatory Body
- Raised internally or with a Prescribed Regulatory Body, but was not dealt with properly

10. Unauthorised disclosure of confidential information

10.1 You are advised that unauthorised disclosure of confidential information to external organisations, particularly information relating to the care and treatment of individual patients will be regarded as a most serious matter and will normally warrant disciplinary action up to and including dismissal.

11. Supporting documents

11.1 The following listed and hyperlinked policy and procedural documentation support and provide further guidance to the Raising a Matter of Concern Policy.

- Raising a Matter of Concern Policy
- Grievance Procedure
- Counter Fraud Policy
- Disciplinary Policy and Procedure
- Health and Safety Policy
- Confidentiality Policy
- Media Policy and Guidelines for Staff
- Trust Values
- SUI
- Safeguarding of Vulnerable Adults and Children

- Bullying and Harassment

Appendix A: Trust Board Contacts (Level 3)

Executive directors

- Sir Ron Kerr, Chief Executive
- Dr Ian Abbs, Medical Director
- Eileen Sills CBE, Chief Nurse

- Amanda Pritchard, Chief Operating Officer
- Ann Macintyre, Director of Workforce
- Steve McGuire, Director of Capital, Estates & Facilities Management
- Martin Shaw, Director of Finance

Non Executive Directors

- Sir Hugh Taylor, Chairman (*chairs the Remuneration Committee and the Strategy and Estates Committee*).
- Rory Maw, Vice Chairman (*chairs the Finance and Investment Committee*)
- David Dean (Chairs Audit Committee)
- Mike Franklin (*chairs the Workforce Committee*)
- Jan Oliver
- Girda Niles
- Diane Summers