

WHISTLEBLOWING POLICY

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Date ratified:	
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Equalities Impact Assessment	Assessor: Sally Storey	Date:
Child Safeguarding Assessment	Assessor: Christine McCree	Date:
HRA Impact Assessment	Assessor: Anthony Konzon	Date

Associated Documents

Disciplinary Policy Bullying and Harassment Policy Grievance Policy

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INTRODUCTION

This policy applies to anybody working in the Trust. This includes, employees, people who work for contract organisations, agency and bank workers, students/trainees on placement, self-employed NHS contractors and volunteers. Reference to 'staff' in this Policy covers all the above.

It is important to the Trust that any perceived fraud, misconduct or wrongdoing is reported and properly dealt with. The Trust encourages all staff to raise any concerns under this Policy in the first instance. If a staff member or worker is not sure whether to raise a concern s/he should discuss the issue with their line manager or the Human Resources Department.

The law provides protection for staff or workers who raise legitimate concerns about specified matters. These are called 'qualifying disclosures'. A qualifying disclosure is one made in the public interest by someone who has reasonable belief that:

- A criminal offence;
- A miscarriage of justice;
- An act creating a risk to health and safety;
- An act causing damage to the environment;
- A breach of any other legal obligation; or
- Concealment of any of the above;

Is being, has been, or is likely to be, committed. It is not necessary for staff to have proof that such an act is being, has been, or is likely to be, committed – a reasonable belief is sufficient. There is no responsibility on any member of staff to investigate their concerns before reporting them. It will be for the Trust to ensure that an appropriate investigation takes place.

PRINCIPLES

Everyone should be aware of the importance of preventing and eliminating wrongdoing at work. Staff should be watchful for illegal, malpractice, unethical or wrongdoing on the part of another person or practices.

Any matter raised under this Policy will be investigated thoroughly, promptly and confidentially, and the outcome of the investigation reported back to the staff member(s) that raised the issue.

Any member of staff making such a protected disclosure has the right, in law, not to be dismissed, subjected to any other detriment or victimised, because of making a disclosure. This means that the continued employment and opportunities for future promotion or training will not be compromised because of raising a legitimate concern

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Any victimisation of a staff member for raising such a disclosure will be a disciplinary offence.

Making a false allegation will be a disciplinary offence if it can be demonstrated that false information was knowingly provided.

The types of misconduct that might justify Whistleblowing include:-

- Failure to pay staff rates of pay equivalent to at least the minimum wage
- The use of unsafe equipment or unsafe working practices
- Abuse of vulnerable persons either on a ward, in their home or in a care home
- The employment of illegal immigrants
- Damage to the environment, e.g. chemical spillage
- False returns to HM Revenue and Customs
- Falsification of records, patient records and financial records
- Bribery
- Malpractice(e.g. risk to patients) or breach of professional conduct
- Unethical conduct, including any suspected cover ups of any failings

The Trust has introduced this policy to enable everyone to 'blow the whistle; safely so that such issues are raised at an early stage and in the right way. The Trust welcomes genuine concerns and is committed to dealing responsibly, openly and professionally with them. Without staffs help we cannot deliver a safe service and protect the interests of patients, staff and the Trust. If you are worried or concerned about an issue we would rather you raised it when it is just a concern than to wait for proof.

If something is troubling you which you think the Trust should know about or look into please use this policy. Alternatively, you can speak to the Trust's nominated and trained Freedom to Speak Up Ambassadors or Advocates or make contact with the Trust's Speak Up Guardian. Their names can be found on the Trust Intranet. You can also use the Trust's Freedom to Speak Up Email which is a confidential email and by which you can choose to remain anonymous if you wish. The Trust email is freedomtospeakup@slam.nhs.uk

The Trust recognises that raising issues of concern under this formal policy may prove too daunting. Staff are actively encouraged to raise any matter of concern through the less formal Freedom to Speak Up route as above. Any issue raised via that route can be anonymous although it is more helpful if you are prepared to leave your name. Any issue that would anyhow fall into formal Whistleblowing can be moved to this policy.

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This is not the correct policy if you are aggrieved about your personal position, local working practices or similar and in these instances you should use the Grievance Policy which can be found on the Trust Intranet.

But if in doubt – raise it!

RESPONSIBILITIES

Our Assurances to You

Your Safety

The Senior Management Team and Chief Executive are committed to this policy. If you raise a genuine concern based on a reasonable belief under this policy, you will not be at risk of losing your job or suffering any form of retribution as a result. Providing you are acting in good faith, it does not matter if you are mistaken or if there is an innocent explanation for your concerns. You will not be asked to prove any assertions that you make. Of course, we do not extend this assurance to someone who maliciously raises a matter they know to be untrue.

Your Confidence

The Trust will not tolerate the harassment or victimisation of anyone raising a genuine concern. However, it is recognised that you may nonetheless be anxious and want to raise a concern in confidence under this policy. If so you can ask to talk to someone in private. If you ask the Trust not to disclose your identity we will not do so without your agreement first. If the situation arises where we are not able to resolve the concern without revealing your identity (for instance if your evidence is needed in court) we will discuss with you whether and how we can proceed and the support that we will provide to you.

Anonymous Concerns

If you do not tell us who you are it will be much more difficult for the concerns to be investigated. It also makes it more difficult for the Trust to protect your position or to give you feedback. Accordingly, while the Trust will consider what action may be justified by an anonymous report the Trust will not be able to handle such reports under this policy.

PROCEDURE

Step 1 - Informal

In the first instance and unless the staff member reasonably believes their line manager to be involved in the wrongdoing, the concern should be raised with your line manager. This can be done orally or in writing.

Step 2 - Informal

If you feel unable to raise the matter with your line manager, for any reason, please raise the matter with your HR Business Partner or the Head of Employee Relations or, if

applicable, your Trade Union lead workplace representative or the Regional Officer. These names can be found on the Intranet under the HR pages.

Step 3 - Formal

If these channels have been followed and you still have concerns, or if you feel that the matter is so serious that you cannot discuss it with any of the above then please speak or write to one of the Trust's Designated Officers:

- Chief Executive
- Director of Human Resources
- Director of Finance
- Trust Medical Director
- Your Borough Service Director
- Your Clinical Director
- Your Trust Head of Profession
- The Trust's designated Freedom to Speak Up Guardian
- The Trust's Counter Fraud Service
- If you have concerns about the most senior person in the organisation – the Chief Executive – you should report this directly to the Trust Chair by contacting the PA on 0208 223 4763
- Instances of financial wrongdoing should be raised with the Local Counter Fraud Specialist on 01732 424147 or NHS Protect Fraud & Corruption Reporting Line on 0800 028 40 60. They will investigate all suspicions of fraud or corruption.

HOW WE WILL HANDLE THE MATTER

The Nominated/Designated Officer will offer to meet with you, somewhere confidential and perhaps off site so that you can discuss your concern. If you feel unable to meet with them in person this can be a discussion over the phone.

They will ask for your name. This will allow the Trust to properly investigate your concern, protect your position and give you feedback on the outcome of the investigation. If you give your name you will be asked whether you wish your identity to be protected. If you do your identity will not be revealed without your consent.

If you are unwilling to give your name, then the Trust would still prefer that you raise the concern with us rather than keeping it to yourself.

At the meeting you will be asked whether you wish to make a written or verbal statement. Either way the Nominated/Designated Officer will make brief notes of the meeting which will be agreed by both of you.

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Depending on the nature of your concern the Nominated/Designated Officer may advise you to use another Trust Policy for dealing with your concern, e.g. the Grievance Policy, Harassment & Bullying Policy. If that is the case, then the Whistleblowing file will be closed with the appropriate note made.

The Nominated/Designated Officer will then be responsible for contacting the Chief Executive, unless you have gone directly to the Chief Executive.

The Chief Executive will be responsible for ensuring that the matter is investigated within a reasonable timescale and that appropriate action, including notification to external bodies such as the NMC/GMC/HSP or the Police in relation to wrongdoing or criminal activity is made. Most cases would be expected to be concluded within an eight (8) week timeframe.

The Nominated/Designated Officer will continue to be your point of contact and will be responsible for contacting you to let you know the planned timescales, the progress and outcome of the investigation and any action taken as a result. Should the investigation outcome lead to disciplinary action in relation to staff you will not be entitled to know the nature of any disciplinary action taken against any individual as this would breach our duty of confidentiality to them.

Should you attend any meeting to discuss your concerns or be interviewed further as part of any investigation into your concerns you are entitled and encouraged to have support from a trade union or professional association rep or work colleague should you wish to do so. As this is an internal process formal legal representation by a solicitor is not applicable.

INDEPENDENT ADVICE

If you are unsure whether or how to raise your concern or you want free independent advice at any stage, you may contact:

your trade union;

or

The independent charity – Public Concern at Work – telephone number 020 7404 6609. They will give you independent confidential advice at any stage about whistleblowing.

LEGAL ADVICE

To ensure that people concerned about malpractice can get independent and confidential advice about how the Act works, disclosures to lawyers are protected.

EXTERNAL CONTACTS

While we hope the Policy gives you the reassurance you need to raise such matters internally.

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If you believe that the issue remains unresolved or that appropriate action has not been taken the legislation sets out a number of external bodies to which qualifying disclosures may be made. These include:

- HM Revenue & Customs
- Health Ombudsman/Care Quality Commission (CQC)
- Audit Commission
- Environment Agency
- Health and Safety Executive
- National Audit Office
- Appropriate Professional Bodies
- Public Concern at Work

In addition, the Trust recognises

- The NHS Counter Fraud Operational Service
- The Information Commission
- The National Patient Safety Agency
- Commission for Health Improvement

An external disclosure should be a last resort and staff should use the internal process in the first instance. However, disclosure to one of the above external bodies is preferable to the issue not being raised at all.

If you approach any of the prescribed external regulators you will have the same protection as if you were making an internal disclosure provided that you:-

- Have an honest and reasonable suspicion that the malpractice has, is or is likely to occur;
- Honestly and reasonably believe that the information and any allegation contained in it are substantially true.

You may of course also raise your concern with the relevant professional body but such disclosures are not protected under the Act in law.

WIDER DISCLOSURES

Wider disclosures, e.g. to the Police, MPs and non-prescribed regulators, are protected if, in addition to the tests for regulatory disclosures, they are not made for personal gain and if they satisfy a further two provisions.

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- The concern must have been raised with the employer or prescribed regulator, unless there is a reasonable belief of victimisation or there is no prescribed regulator
- There is a reasonable belief that if the disclosure was made to the Trust that the Trust would take steps to conceal or destroy the evidence of malpractice. `

If one of these preconditions is met and the disclosure is deemed reasonable the whistleblower will be protected.

In all cases going directly to the media or posting concerns on social media will be deemed inappropriate. It is important to remember that there is no guarantee that the media will represent your views accurately and responsibly. Further adverse media coverage may reflect badly and unfairly on other parts of the Trust and may cause unnecessary concerns among service users, carers and others about the Trust.

It will be regarded as a disciplinary matter if any member of staff releases information to the media which breaches patient confidentiality, which is deliberately inaccurate or defamatory towards the organisation or any individual either employed by the Trust or receiving treatment from the Trust.

RECORD KEEPING

A central record of disclosures made under this Policy will be maintained by the Trust's Secretary. This will enable the Trust to monitor the effectiveness of the Policy. The record will document:

- The date on which the concern was raised
- The part of the organisation to which the concern relates
- The nature of the concern and its key elements
- Any action that the organisation has taken
- Any feedback that has been provided to the discloser
- Whether or not the discloser has any wishes with regards to confidentiality
- The time period taken to conclude the investigation process

Any records kept will comply with data protection requirements and as may be amended from time to time.

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**APPENDIX A
PROTECTED DISCLOSURE FORM**

I/We wish to make a protected disclosure to the Trust in line with the Trust's Whistleblowing Policy and to be afforded the entitlement to be protected for raising this issue.	
Name(s) This will be kept confidential	
CAG	
Team	
Contact Number This can be a private number if you would prefer to be contacted by the investigating officer in this way	
Line Manager No contact will be made with your line manager unless they are involved in the disclosure	
DETAILS OF THE DISCLOSURE BEING MADE	
Name of Individual(s) Involved	
Dates of Incidents – if known	
Location of Incidents – if known	
Witnesses to the wrongdoing – if known	

APPENDIX B

Letter Confirming Receipt of a Protected Disclosure

Dear

I am writing to confirm that on (date) the Trust received your (verbal/written statement) raising concerns about (state issues) and which has been passed to me to investigate. I will now be your point of contact for this particular issue. I will be responsible for keeping you updated as to the investigation process and will feedback to you any outcome. In line with the Policy the Trust will endeavour to conclude this investigation in an eight week time period.

In accordance with the Trust's Whistleblowing Policy, the first step is for you to provide me with more details of your concern. I would like to arrange to meet with you and would suggest (date), (time) (venue). The purpose of this meeting is to discuss with you dates, times, locations and the identities of those involved and details of any witnesses who you think might be able to corroborate your concerns. I might need to contact you further during the investigation to comment on any additional evidence that I might obtain.

Once the investigation is complete, I will be making a report to the Trust's Senior Management Team who will take any necessary action, including reporting the matter to any appropriate government department or regulatory body. If disciplinary action is required against any individual(s) implicated in the wrongdoing this will be passed to the Human Resources Department to start the disciplinary process.

Please be assured that the fact that you are the source of the disclosure will be kept confidential as far as possible. However, it is possible that individuals you work with may find out or assume that it was you. If you are subjected to any detriment, or feel that you are being bullied or harassed for making the disclosure, you should inform me straight away.

If you have any queries or concerns in the meantime please do not hesitate to contact me.

Yours sincerely,

APPENDIX C

FORM FOR INVESTIGATING OFFICER/RECORD KEEPER

CLOSURE OF WHISTLEBLOWING FILE	
Concern Raised By: Request for Confidentiality	Yes/No
CAG	
Investigating Officer	
Investigation Start Date	
Investigation End Date	
Actions:	
Date Investigation Findings Reported Back to Whistleblower	
Any Further Action	
Date File Closed	

Appendix E

Plan for Dissemination of Procedural Documents Policy

To be completed and attached to any document which guides practice when submitted to the appropriate committee for consideration and approval.

Acknowledgement: University Hospitals of Leicester NHS Trust.

Title of document:	Smoke Free Policy		
Date finalised:		Dissemination lead: Print name and contact details	
Previous document already being used?	No		
If yes, in what format and where?	Available on-line on Trust intranet		
Proposed action to retrieve out-of-date copies of the document:			
To be disseminated to:	How will it be disseminated, who will do it and when?	Paper or Electronic	Comments
All Senior Managers and Core Standard Leads		Electronic	

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Appendix F

Equality Impact Assessment Summary

To be completed and attached to any procedural document when submitted to the appropriate committee for consideration and approval.

		Yes/No	Comments
1.	Does the policy/guidance affect one group less or more favourably than another on the basis of:		
	• Race	No	
	• Ethnic origins (including gypsies and travellers)	No	
	• Nationality	No	
	• Gender	No	
	• Culture	No	
	• Religion or belief	No	
	• Sexual orientation including lesbian, gay and bisexual people	No	
	• Age	No	
	• Disability - learning disabilities, physical disability, sensory impairment and mental health problems	No	
2.	Is there any evidence that some groups are affected differently?	No	
3.	If you have identified potential discrimination, are any exceptions valid, legal and/or justifiable?	No	
4.	Is the impact of the policy/guidance likely to be negative?	No	
5.	If so can the impact be avoided?	No	
6.	What alternatives are there to achieving the policy/guidance without the impact?	No	
7.	Can we reduce the impact by taking different action?	No	