



Raising Concerns at Work Policy (Whistle Blowing Policy)

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Contents

1	Introduction.....	5
2	Aims and Objectives	5
3	Definitions	6
4	Policy Statement.....	6
5	Arrangements	8
6	Responsibilities	10
7	Competence	10
8	Monitoring	10
9	Audit and Review.....	11
10	Equality Impact Appraisal.....	11
11	Associated Documentation	11
12	References	11

1 Introduction

- 1.1. The Public Interest Disclosure Act 1998 came into effect from 2nd July 1999 and provides protection to employees who “blow the whistle” when raising a genuine concern. South East Coast Ambulance Service NHS Foundation Trust (The Trust) is committed to maintaining the highest standards of patient care, to honesty and integrity in its management systems and processes, and to acting as a responsible employer within the communities that it serves.
- 1.2. All of us will have concerns about what is happening at work at one time or other, and usually these concerns can easily be resolved. However, where these concerns are about unlawful conduct, financial or professional malpractice, or risk to patients, it can be difficult to know what to do, especially where a concern may only be a suspicion, there is loyalty to a colleague, or senior staff are thought to be involved.
- 1.3. This policy and procedure has been introduced to enable you to raise concerns about any malpractice at an early stage and in the right way. We would rather that you raise the matter when it is just a concern rather than wait for proof.
- 1.4. If something is troubling you, which you think the Trust should know about or investigate, please use this procedure. If, you are aggrieved about your personal position, please use the Trusts Grievance Procedure. The Whistle Blowing Policy and Procedure is primarily for concerns where the interests of others or of the Trust itself are at risk.

2 Aims and Objectives

- 2.1. This procedure is intended to cover ALL employees of the Trust, bank staff, agency staff, all self-employed NHS professionals, trainees, volunteers and contractors working on behalf of the Trust.
- 2.2. The primary focus for this procedure is about raising concerns about clinical matters, the care of patients and the general way patients are treated by our staff. This can include concerns about healthcare systems, such as untoward incidents or near misses, or when patients are not treated with appropriate respect and dignity or where there is “sexualised behaviour”. (“Sexualised behaviour” has been defined as overtly sexual behaviour towards patients, which breaks the boundaries of trust and integrity that patients have the right to expect from healthcare professionals.)

- 2.3. The procedure may also be used to raise concerns about non-clinical matters. These may include failure to comply with health and safety legislation, financial irregularities, including fraud or suspected fraud, and breach of the employee code of conduct or rules on gifts and hospitality.

3 Definitions

- 3.1. The type of disclosures that qualify for protection under legislation are those which the individual reasonably believes tend to show one or more of the following:
- a criminal offence
 - a failure to comply with a legal obligation
 - a miscarriage of justice
 - endangering the health and safety of any patient or individual
 - damage to the environment
 - concealment of information relating to any of the above
- 3.2. The causes for concern could be happening now, have happened in the past, or likely to happen in the future. However, the member of staff must be acting in good faith and have a reasonable belief that one of the above has occurred. Whilst staff must still be aware of issues of patient confidentiality or information disclosed which is confidential to the Trust, these will qualify for protection if it falls within the definitions above.

4 Policy Statement

4.1. Protection for Individuals

- 4.1.1. The Trust Board and Chief Executive are committed to this policy, and have introduced it so that concerns can be raised in a consistent and appropriate way. The Trust is committed to developing a culture where it is safe and acceptable to raise concerns about poor or unacceptable practice and misconduct. The principles and arrangements set out in this Policy and Procedure are one means by which the Trust can demonstrate its accountability to our patients.
- 4.1.2. The Trust encourages and supports openness and welcomes contributions from its staff. If you raise a genuine concern under this policy, you will not be at risk of losing your job or suffering any form of retribution as a result. Provided you are acting in good faith, it does not matter if you are mistaken or if there is an innocent explanation for your concerns. However, if it is thought that a member of staff has deliberately made malicious allegations

this will be investigated in accordance with the Trusts Disciplinary Procedure.

- 4.1.3. The Trust will not tolerate harassment or victimisation of anyone raising a genuine concern. There is a Bullying and Harassment Policy to ensure that this does not happen.
- 4.1.4. However, the Trust recognises that individuals may want to raise a concern in confidence. If asked to protect an individual's identity, this will not be disclosed without the individual's consent, If however, the situation arises where we are not able to resolve the concern without revealing your identity (e.g. because evidence is needed in court) it will be discussed with you whether and how we can proceed.
- 4.1.5. Concerns may also be raised anonymously but this approach will make the concerns more difficult to investigate, support the individual or provide feedback. Therefore, while we will consider anonymous reports, these will not fall within the parameters of this policy.
- 4.1.6. Whilst it is acknowledged that those raising concerns as well as those subject to the concerns will need advice from their manager, Union Representative and Human Resources, it is not acceptable for these issues to be the subject of general conversation in the workplace. This confidentiality is in the best interests of all parties involved and should be maintained at all times.
- 4.1.7. We do recognise that this can be a stressful experience for all concerned. The Trust offers a free confidential counselling service through First Assist. Their telephone number is 0800 0687 987.

4.2. **Response to Issues Raised**

- 4.2.1. Once an issue of concern is raised this will be assessed initially to decide how best to proceed and what action will be taken. This may involve an internal enquiry or a more formal and possibly an independent investigation. An initial response will normally be given in writing to the individual within seven working days. This response will summarise the concerns raised and advise how the matter will be handled. The individual will be advised of who is responsible for handling the matter, how he/she can be contacted and whether further assistance may be required of the individual.
- 4.2.2. If individuals have any personal interest in the matter they should make this clear at the outset. If it is believed that the concern falls more appropriately within the Grievance or other Trust procedures, the individual will be advised accordingly.

- 4.2.3. While the purpose of this policy and procedure is to enable the Trust to investigate possible malpractice and take appropriate steps to deal with it, feedback will be offered to the individual where it is possible to do so. It may not be possible to relate the precise details and action taken where this would infringe a duty of confidence owed by the Trust to a patient or third party.

5 Arrangements

5.1. How to raise a Concern Internally

5.1.1. Step One

- 5.1.2. Any concern that you have regarding malpractice must be personally observed or experienced. If a friend or colleague tells you about malpractice you must encourage them to report it.
- 5.1.3. Raise the concern as early as possible. This increases the chance of a speedy resolution for example via re-training.
- 5.1.4. If you have a concern about malpractice, the Trust hopes that you will feel able to raise it first with your line manager. This may be done orally or in writing. Your manager should investigate and report back to you in writing within seven working days.
- 5.1.5. Alternatively, concerns may be raised confidentially via the Trust's Whistle Blowing Hotline on 01622 740560, which is available on a 24 hours basis and is checked daily by Human Resources.

5.1.6. Step Two

- 5.1.7. If you feel unable to raise your concern, or feel it is not being properly progressed by your line manager, for whatever reason, you may raise the matter with either:
- Senior Operations Manager / other relevant Senior Manager, or Head of HR Service Delivery
 - Union Representative
- 5.1.8. Please say whether the matter is raised in confidence so that they can make appropriate arrangements.

5.1.9. **Step Three**

5.1.10. If either or both the above steps have been followed and you still have concerns, or if you feel the matter is so serious that you cannot discuss it with any of the above, then please contact either:

- Director of Workforce and OD
- Director of Clinical Operations
- Chief Executive

5.1.11. **Step Four**

5.1.12. If all of the above steps have been followed and you still have concerns, or if you feel the matter is so serious that you cannot discuss it with any of the above, then please contact either:

- Non-Executive Director
- Staff Governor

5.1.12. The Trust recognises its accountability within the NHS, and in the light of this you can also contact the NHS counter fraud line on 0800 028 40 60. If appropriate you may raise your concern with the Secretary of State for Health.

5.2. **Independent Advice**

5.2.1. If you are unsure whether to use this procedure, or you want independent advice at any stage, you may contact either:

- your union representative, or
- the independent charity – Public Concern at Work on 0207 404 6609. Their lawyers can give you free confidential advice at any stage about how to raise a concern about serious malpractice at work.

5.2.2. For general advice on whistle blowing you can visit the website of Public Concern at work – www.pcaw.co.uk

5.3. **Reference to Members of Parliament and the Media**

5.3.1. An employee who has exhausted this Procedure and who has taken account of advice they may have been given, might also wish to consult his or her Member of Parliament in confidence. He or she might also, as a last resort, contemplate the possibility of disclosing his or her concern to the media. Any employee contemplating making such a disclosure is advised first to seek

specialist guidance from professional and other representative bodies and to discuss matters further with their line manager or HR Business Partner. Such action, if entered into unjustifiably, could result in disciplinary action and might unreasonably undermine public confidence in the Trust.

- 5.3.2. This does not prevent an employee from seeking advice and guidance from his or MP at any time. The reference to disciplinary action above does not refer to staff contacting their MPs, but to a situation where staffs unjustifiably and for personal gain disclose concerns to the media. The Trust would expect all employees to inform the Chief Executive before they approach the media to express any remarks which could be construed as a criticism of the Trust. Any failure to take this minimal step will be regarded most seriously.

5.4. **External Contacts**

- 5.4.1. While it is hoped that you would raise any matters of concern internally in the first instance, the Trust recognises that there may be circumstances where you can properly report matters to outside bodies such as regulators, e.g. the Health Professions Council or the Police. Your trade union representative or Public Concern at Work (contact details above) will be able to advise you on such an option and on the circumstances in which it may be appropriate to contact an outside body.

5.5. **Conclusion**

- 5.5.1. If you are unhappy with the Trust's response to any concerns you raise, you can go to the other levels and bodies detailed in this policy and procedures. While the Trust cannot guarantee that we will respond to all matters in the way that you might wish, we will try to handle the matter fairly and properly. By using this policy you will help the Trust to achieve this.

6 **Responsibilities**

- 6.1. The Chief Executive has delegated responsibility for the operation of this Policy to the Director of Workforce and OD. The Director of Workforce and OD will be responsible for assessing any issues of concern raised and for putting in place appropriate investigation procedures. He/she will refer any disclosures requiring external /independent investigation to the Chief Executive.

- 6.2. Where disclosures are made to other senior managers they have a responsibility to inform the Director of Workforce and OD of the disclosure.

7 Competence

- 7.1. All members of staff will receive awareness raising training in relation to this Policy as part of their Key Skills Update Training and new staff as part of their induction.

8 Monitoring

- 8.1. Monitoring of the application of this policy will be undertaken quarterly by the Workforce Development Operational Working Group.

9 Audit and Review

- 9.1. This application of this Policy will be monitored and the Policy reviewed every three years.

10 Equality Impact Appraisal

- 10.1. The Policy has undergone an Equality Impact Appraisal and has not identified any discriminatory impact when adhering to this Policy.

11 Associated Documentation

- 11.1. Any other internal publications or documentation referred to or linked with this policy.
- Grievance Procedure
 - Stress Policy
 - Code of Professional Conduct Policy
 - Bullying and Harassment Policy
 - Data Protection Policy

12 References

- 12.1. **Prescribed Regulators**

12.1.1. While we hope that this policy gives you the reassurance to raise concerns internally in the first instance, the Trust would rather you raised a matter with the appropriate regulator than not at all. Provided you are acting in good faith and you have evidence to back up your concern, you can also contact:

- Audit Commission for England and Wales, 1st Floor
Millbank Tower, Millbank, London, SW1P 4HQ
Tel: 0845 052 2646
Web: <http://www.audit-commission.gov.uk>
- Health Professions Council
Park House, 184 Kennington Park Road, London SE11 4BU
Tel: 0207 582 0866
Web: www.hpc-uk.org
- Her Majesty's Revenue and Customs, 22 Kingsway, London WC2B 6NR
Web: www.hmrc.gov.uk
- Data Protection Registrar, Wycliffe House, Water Lane, Wilmslow, Cheshire SK9 5AF
Tel: 0303 123 1113 or 01625 545745
Web: www.ico.gov.uk
- Director of the Serious Fraud Office
Elm House, 10-16 Elm Street, London WC1X 0BJ
Tel: 0207 239 7272
Web: www.sfo.gov.uk
- Health and Safety Executive
Information Services, Caerphilly Business Park, Caerphilly, Mid Glamorgan CF83 3GG
Tel: 0845 300 9923
Web: www.hse.gov.uk
- NHS Counter Fraud Service
Tel: 0800 284 060
Web: www.nhsbsa.nhs.uk/fraud

12.1.2. This list is not exhaustive and a full list can be obtained from Public Concern at Work - <http://www.pcaw.co.uk>.