

CONTROLLED DOCUMENT

Raising Concerns in the Public Interest (Whistleblowing) Policy

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PURPOSE	This policy is designed to support staff in raising concerns in the public interest.
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1. Policy Statement

- 1.1. University Hospitals Birmingham NHS Foundation Trust (the 'Trust') is committed to providing the highest possible standard of patient care and accountability. It is also committed to providing a working environment which promotes openness and opportunities for all staff to contribute ideas, and a culture whereby it is both safe and acceptable to raise concerns about unlawful conduct, misconduct, financial malpractice, fraud or dangers to public, staff, patients or the environment. This is also known as 'Whistleblowing'.
- 1.2. The Trust is keen to encourage and enable staff to raise concerns in a constructive and positive manner through the use of internal mechanisms, rather than overlooking a problem or Whistleblowing outside the organisation. Staff are reassured that they can raise their concerns without fear of reprisals, victimisation or subsequent discrimination, and that they will receive the appropriate support and feedback from the management of the Trust.
- 1.3. This is in line with the Trust's Visions and Values.
- 1.4. This policy supports professional Codes of Conduct and an individual's terms and conditions.
- 1.5. Postgraduate doctors and dentists in training must refer to Health Education England's Terms of Agreement regarding protected disclosures for Doctors in Training.
- 1.6. The Public Interest Disclosure Act 1998 (PIDA) protects staff from dismissal, victimisation or other detrimental treatment when they raise genuine concerns at work.

2. Scope

This policy and its associated procedural document (the Procedure for Raising Concerns in the Public Interest) are applicable to all staff working for the Trust including employees, contractors, volunteers, students, locum and agency staff and staff employed on honorary contracts.

3. Framework

- 3.1. This section describes the broad framework for the management of Whistleblowing throughout the Trust. Detailed operational instructions for the handling, investigation and management of concerns are provided in the associated Procedure for Raising Concerns in the Public Interest (Whistleblowing).
- 3.2. The Executive Director of Delivery shall approve all procedural documents associated with this policy, and any amendments to such

documents, and is responsible for ensuring that such documents are compliant with this policy.

- 3.3. A qualifying disclosure under PIDA is any disclosure of information which the worker reasonably believes to show one or more of the following:
- that a criminal offence has been committed, is being committed or is likely to be committed;
 - that a person has failed, is failing or is likely to fail to comply with any legal obligation to which he is subject;
 - that a miscarriage of justice has occurred, is occurring or is likely to occur;
 - that the health or safety of any individual has been, is being or is likely to be endangered;
 - that the environment has been, is being or is likely to be damaged; or
 - that information tending to show any matter falling within any one of the above has been, is being or is likely to be deliberately concealed.
- 3.4. Some examples of Whistleblowing can be found in Appendix A.
- 3.5. A Whistleblowing concern must not be confused with a grievance which is a concern, problem or complaint regarding an aspect of employment that a member of staff raises with their employer. This policy is not intended to replace the Grievance Policy.
- 3.6. A member of staff must initially raise any concerns with their line manager. Every effort must be made to resolve concerns at an early stage.
- 3.7. If they do not feel able to raise this with their line manager members of staff can raise it with the Freedom to Speak up Guardian (FTSUG). The FTSUG is an independent and impartial source of advice for all staff at any stage in the process. The FTSUG has access to everyone in the Trust, including the Chief Executive, and if necessary can also make external referrals.
- 3.8. If the member of staff is still not satisfied with the outcome after raising it with the FTSUG, they can raise it with the nominated Non-Executive Director (NED).
- 3.9. Where a member of staff has exhausted all stages of the internal process and remains dissatisfied with the outcome, they can lawfully make a disclosure to one of the external Prescribed Regulatory Bodies. A list of these can be found at:

3.10. Wider disclosures beyond employers (or Prescribed Regulatory Bodies) are only protected under the provisions of PIDA if the disclosure and:

- is made in the reasonable belief that the information disclosed, and any allegations contained in it, are substantially true;
- is not made for personal gain; and
- has been previously raised internally or Prescribed Regulatory Bodies; or
- is not raised internally or with the Prescribed Regulatory Body because the member of staff reasonably fears that they would be victimised; or
- is not raised internally because the member of staff reasonably believes that there would be a 'cover up' and there is no appropriate Prescribed Regulatory Body; or
- was raised internally or with a Prescribed Regulatory Body, but was not dealt with properly.

3.11. If a staff member is found to have deliberately made false or vexatious allegations or for personal gain these will be taken seriously and may result in disciplinary action.

3.12. Any disclosure of information, particularly relating to the care and treatment of individual patients, will be taken very seriously and may result in disciplinary action up to and including dismissal.

3.13. The Occupational Health and Staff Support Service will offer confidential advice and support to any staff involved in a Whistleblowing concern.

4. Duties

4.1. Chief Executive

The Chief Executive is the nominated board sponsor for the Raising Concerns (incorporating Whistleblowing) Policy, ensuring that all concerns raised are dealt with fairly, thoroughly and in accordance with the policy. The Chief Executive is responsible for the policy implementation and has the authority to approve the Procedure for Raising Concerns in the Public Interest (Whistleblowing) and any

amendments to that document in response to changes in legislation or best practice, provided that they are compliant with this policy.

4.2. Designated Non-Executive Director

The designated Non-Executive Director (NED) is responsible for ensuring that any concerns raised are dealt with in accordance with the procedure.

4.3. Freedom to Speak Up Guardian

The Freedom to Speak up Guardian (FTSUG) is appointed by the Board and will:

- 4.3.1. Be entirely independent of the Executive Team so they are able to challenge senior members of staff, reporting to the Board or externally as required;
- 4.3.2. Report to the Board on a quarterly basis the number of concerns raised with them; and
- 4.3.3. Ensure that any concerns raised are dealt with in accordance with the procedure.

4.4. Human Resources

Members of the Human Resources department will:

- 4.4.1. advise on the application of the Policy and Procedure to ensure fairness and consistency of application; and
- 4.4.2. report on the number of Whistleblowing concerns to the Board on an annual basis.

4.5. Occupational Health and Staff Support Service

Members of the Occupational Health and Staff Support Service will offer confidential advice and support to any staff involved in a Whistleblowing concern.

4.6. Managers

Anyone who has a responsibility for staff must ensure that:

- 4.6.1. They advise and inform their team to increase awareness and understanding of the policy;
- 4.6.2. They publicly promote a culture of value and respect in their day to day relationships thus reinforcing the key principles of the policy;

4.6.3. They respond to any concerns raised in a timely fashion; and

4.6.4. They maintain complete confidentiality relating to all aspects of cases of Whistleblowing and do not mention or discuss the case with any person not involved in its investigation;

4.7. Staff Side and Trade Union Representatives

Staff Side and Trade Union representatives will:

4.7.1. Be familiar with this policy in order to provide advice and support to their members if requested to do so; and

4.7.2. Assist in raising awareness and communication of the policy.

4.8. Staff (including contractors and volunteers)

All staff must:

4.8.1. Raise any concerns at the earliest possible opportunity; and

4.8.2. Maintain appropriate confidentiality during any investigation into Whistleblowing.

5. Implementation and Monitoring

5.1. Implementation

5.1.1. This policy will be available on the Trust's intranet site. The policy will also be disseminated through the management structure within the Trust;

5.1.2. Human Resources will provide consistent advice and guidance to managers and staff on the application of this policy and its procedure.

5.2. Monitoring

Appendix B provides full details on how the policy will be monitored by the Trust.

6. References

Freedom to Speak Up Report – an independent review into creating an open and honest reporting culture in the NHS, Sir Robert Francis QC February 2015

Freedom to speak up: raising concerns (Whistleblowing) policy for the NHS, April 2016

Public Concern at Work – ‘Speak up for a Healthy NHS.’

Terms of Agreement between Health Education England and NHS body employing trainees re protected disclosures by postgraduate trainees

The Public Interest Disclosure Act 1998

7. Associated Policy and Procedural Documentation

Complaints Policy and Procedure

Disciplinary Policy and Procedure

Grievance and Dispute Policy and Procedure

Health and Safety Policy

Hospitality, Gifts and Sponsorship Policy

Policy for the Reporting and Management of Incidents including Serious Incidents

Procedure for the Reporting and Management of Incidents including Serious Incidents

Policy for the Safeguarding of Adults at Risk Policy and Procedure

Standing Financial Instructions

Examples of Whistleblowing concerns

- criminal offences
- exposing fraud
- mis-selling of pensions or financial products
- any form of abuse of children, the elderly, or vulnerable people in care
- health and safety issues concerning the workplace that puts the safety of workers or visitors at risk
- failure to investigate allegations of sexual assault by one employee against another
- failure to comply with legal obligations, breaches of legislation, for example the Data Protection Act
- medical negligence in a health care establishment
- payments in exchange for awarding contracts
- risks to the environment

This list is not exclusive or exhaustive and there may be other concerns which also constitute Whistleblowing concerns.

Monitoring Matrix

Appendix B

MONITORING OF IMPLEMENTATION	MONITORING LEAD	REPORTED TO PERSON/GROUP	MONITORING PROCESS	MONITORING FREQUENCY
Whistleblowing concerns reported to FTSUG then reported to the Board	FTSUG	Board of Directors	Reported to the Board	Quarterly
Whistleblowing concerns raised under Stages 2 and 3 of the Procedure are recorded in the Annual Workforce Report	Executive Director of Delivery	Board of Directors via Annual Workforce Report	Concerns raised under stages 2 and 3 of the procedure are monitored and recorded in the Annual Workforce report.	Annually