

Whistleblowing at Work Policy

Consultation	JCNC		
Applies to	All Trust Workers		
Originated by	David Holmes		
Approved by	Executive Board		
Date of policy	April, 2009	Review date	October 2011

WHISTLEBLOWING AT WORK POLICY

1 INTRODUCTION

- 1.1 The word whistleblowing has been imported from the USA and normally refers to the disclosure by employees (or ex employees) of malpractice as well as illegal acts or omissions at work.
- 1.2 It is recognised that many staff at one time or another may have concerns about what is happening at work. Usually these concerns are easily resolved. However, when they are about patient care, unlawful conduct, financial malpractice or dangers to the public or the environment it can be difficult to know what to do.
- 1.3 Staff may be worried about raising such issues or may want to keep the concerns to themselves perhaps feeling it's none of their business or that it is only a suspicion. It may be felt that raising the matter would be disloyal to colleagues, managers or to the organisation.
- 1.4 Birmingham Children's Hospital NHS Trust has introduced this procedure to enable individuals to raise their concerns about such malpractice at an early stage and in the right way. Raising the matter as a concern immediately is preferred to individuals waiting for proof.

2 PURPOSE

- 2.2 Staff are actively encouraged to report any concern, complaint or disclosure in the first instance through normal internal channels. This will entail referring such matters to local management or utilising established trust policies or procedures. However, where an individual believes that such arrangements will fail or have failed to deal with the matter satisfactorily the following policy will apply.
- 2.3 The purpose of this policy is to create a positive environment which encourages the disclosure of sensitive information to Trust management and to provide for workers a clear procedure for making such disclosures without the need to inform anyone outside the Trust. It's purpose is to support and provide an alternative mechanism if normal management reporting arrangements and existing employment policies and procedures have failed to address the concern raised.

3 DUTIES

3.1 DUTIES WITHIN THE ORGANISATION

- All staff are required to comply with this Policy prior to any external disclosure of a concern.
- 3.2 All Managers are required to communicate this Policy to their staff and to resolve any concerns raised by their staff.
- 3.3 The Designated officer, Chief Executive, Chairman of the Trust, Vice Chair of the Council of Governors or the Senior Independent Director are required to fulfill duties assigned to them as part of this Policy.

4 METHOD DEVELOPMENT

- 4.1 This Policy has been developed through consultation with the Joint Consultative and Negotiating Committee and Managers of the Trust.
- 4.2 This Policy will be disseminated to Staff and Managers through email, Staff Handbook and through Briefing arrangements.

5 CONTENT

- 5.1 Birmingham Children's Hospital NHS Foundation Trust is committed to achieving the highest possible standards of patient care and the highest possible ethical standards in public life and in all of its practices. To achieve these ends, it encourages freedom of speech. It also encourages staff to use internal mechanisms for the reporting of any malpractices or illegal acts or omissions by its employees or ex-employees.
- 5.2 This policy enables staff to report wrongdoing to an appointed person within the Trust. It envisages that positive use of this procedure should mean there would be no need for staff to raise matters external to the Trust or make public statements. If however, staff feels that the policy will fail or has failed to deal with the malpractice they have reported, they should read the Trust's policy on dealing with the Media and should seek advice from their Trade Union/Professional Association.
- 5.3 In particular, the Trust wishes to remind employees of their obligation to safeguard personal and/or identifying information about patients, which is under all circumstances strictly confidential. Unauthorised disclosure of personal and/or identifying information about any patient is a most serious matter.
- 5.4 This policy is designed for the use of all Trust Workers, which includes paid employees, agency workers, contractors, volunteers, trainees and vocational/work experience schemes.

6 ASSURANCES

6.1 Your Safety

The Board of Directors and Chief Executive Officer are committed to this policy. If an individual raises a genuine concern under this policy, they will not be at risk of losing their job or suffering any form of retribution as a result. Provided individuals are acting in good faith, it does not matter if they are mistaken. Of course the Trust does not extend this assurance to someone who maliciously raises a matter they know is untrue.

6.2 Your Confidence

The Trust will not tolerate the harassment or victimisation of anyone raising a genuine concern. However, it is recognised that individual may nonetheless want to raise a concern in confidence under this policy. If an individual requests protection of their identity by keeping their confidence, the Trust will not disclose it without consent. If the situation arises where it is not possible to resolve the

concern without revealing the identity of the individual the way forward will be discussed.

- 6.3 However, it has to be acknowledged that if an individual wishes to remain anonymous it will be much more difficult to look into the matter, to protect the individual position or to give feedback. Accordingly, while the Trust will consider anonymous reports, this policy is not appropriate for concerns raised anonymously.

7 OTHER POLICIES AND PROCEDURES

- 7.1 Birmingham Children's Hospital NHS Foundation Trust has a range of policies and procedures, which deal with standards of behaviour at work; they cover Discipline, Grievance, Dignity at Work, Misuse of Alcohol, Drugs and other substances and Equality and Diversity. It should be noted that the Trust has developed specific guidance to staff on fraud and any suspicion of fraud should be raised according to that policy, also in place are procedures for reporting Clinical Incidents and serious Clinical Incidents. Employees are encouraged to use the provisions of these procedures. There may be times, however, when the matter is extremely sensitive and needs to be handled in a different way, and when it is not appropriate to go via normal management reporting channels. Examples of qualifying disclosures may be:

- Malpractice or ill treatment of a patient by a senior member of staff.
- Repeated ill treatment of a patient, despite a complaint being made.
- A criminal offence has been committed, is being committed or is likely to be committed.
- Disregard for legislation, particularly in relation to health and safety at work.
- The environment has been, or is likely to be, damaged.
- A miscarriage of justice has occurred, is occurring or is likely to occur.
- Breach of standing financial instructions.
- Showing undue favour over a contractual matter or to a job applicant.
- Information on any of the above has been, is being, or is likely to be concealed.

This list is not exhaustive.

8 PROCEDURE

- 8.1 The following section sets out how a concern is raised internally (a flow chart is provided at appendix 1).

Step One

- 8.2 A concern should be raised initially with line management. Where an individual feels that is inappropriate to raise the matter with line management or concerns remain unresolved, an individual should refer to the relevant Trust policies for reporting the specific concern and/or raise the matter with senior management in the Trust.

Step Two

- 8.3 If normal management channels have been followed and the concerns are not satisfactorily dealt with, or if it is felt that the matter is so serious an individual should contact the 'Designated Officer', as outlined in section 5.

Medical Staff

- 8.4 Medical staff are often not in formal line management arrangements but are encouraged to raise any concerns with an appropriate person e.g. Clinical Lead, Clinical Director or Chief Medical Officer.

Nothing in this policy infringes professional and contractual rights to raise matters of concern.

9 DESIGNATED OFFICER

- 9.1 Birmingham Children's Hospital NHS Foundation Trust has nominated Colin Horwarth, a Non-Executive Director of the Trust as the designated officer to be the initial point of contact for workers under this procedure. The designated officer will have direct access to the Chair/Chief Executive Officer/Vice Chair of the Council of Governors or the Senior Independent Director.

Colin Horwarth can be contacted as follows:

Mobile Phone: 07836 601 937

10 ROLE OF THE DESIGNATED OFFICER

- 10.1 The designated officer will be the point of contact for employees who wish to express concerns under the provisions of this policy. S/he will arrange an initial interview, which will be strictly confidential and will ascertain the area of concern. At this stage, the complainant will be reassured about protection from possible reprisals, victimisation or any detrimental treatment. S/he will also be asked whether or not s/he wishes to make a written or verbal statement. In either case, the designated officer will write a brief summary of the interview, which will be agreed by both parties.

11 THE ROLE OF THE CHAIR AND CHIEF EXECUTIVE OFFICER

- 11.1 The designated officer will report to either the Chair or the Chief Executive Officer. If the complaint is about the Chief Executive Officer the Chair will decide on how the investigation will proceed, this may include an external investigation. Any concerns raised in relation to the Chairman will be reported to the Vice Chair of the Council of Governors or the Senior Independent Director.

12 THE INVESTIGATION

- 12.1 The Chief Executive Officer/Chair/Vice Chair of the Council of Governors or the Senior Independent Director will appoint an investigating officer to undertake an investigation. Such an investigation will be carried out under the terms of strict confidentiality ie, by not informing the subject of the complaint until (or if) it becomes necessary to do so. This may be appropriate in cases where there would be the possibility of irreparable damage to the working relationship of the people concerned. In certain cases, however, such as allegations of ill treatment of patients or fraud and corruption, suspension from work may have to be considered immediately according to the Disciplinary Policy and Procedure. Protection of patients is paramount in all cases.
- 12.2 If the result of the investigation is that there is a case to be answered, the Disciplinary Policy and Procedures will be used. In such cases the individual concerned will have to be informed of the allegations and it may be difficult to maintain the anonymity of the complainant. In cases of suspected fraud, the Trust's Fraud Policy and Response Plan will be followed.
- 12.3 If there is no case to answer the Chair/Chief Executive Officer Vice Chair of the Council of Governors or the Senior Independent Director will take into account that protection should be afforded to an employee who is not in a position to form a belief about the truth of information, but believes on reasonable grounds that the information may be true and is of sufficient importance to justify its disclosure.
- 12.4 If there are grounds for believing that allegations which had been made were knowingly false or made with malicious intent, then the disciplinary procedure may be used. If the allegations were made through the designated officer then they will be fully consulted before any decision is made to utilise disciplinary processes.
- 12.5 When it becomes apparent that the disclosure concerns a potential criminal offence the investigating officer should liaise closely with the Police to ensure that any criminal conviction is not compromised.
- 12.6 Investigations will be undertaken in a timely manner and reports of progress should be made on a regular basis to the Designated officer.

13 FOLLOWING THE INVESTIGATION

- 13.1 The Chair/Chief Executive Officer/Vice Chair of the Council of Governors or the Senior Independent Director will brief the designated officer as to the outcome of the investigation. The designated officer will then arrange a meeting with the complainant to give feedback on any action taken. (This will not include details of any disciplinary action, which will remain confidential to the individual concerned).

If the complainant is not satisfied with the outcome of the investigation, Birmingham Children's Hospital NHS Foundation Trust recognises the rights of employees and ex-employees to pursue the matter outside the confines of this internal procedure.

- 13.2 Staff should always endeavor to use the Trust's internal procedures before making any public disclosure of any allegations.

14 ROLE OF TRADE UNIONS AND STAFF ASSOCIATIONS

- 14.1 Birmingham Children's Hospital NHS Foundation Trust recognises that some employees may wish to be represented by their staff side representatives when using the provisions of this policy, and acknowledges the commitment of its staff side to the highest standards of ethical behaviour at work.

15 ANONYMITY

- 15.1 In some cases, employees may wish to be represented in their absence. In such situations, the employee should make a written statement about their concern. One copy should be signed and retained by the representative and the other passed to the designated officer by the representative for appropriate action.

16 THE LAW

- 16.1 This policy and procedure has been written to take account of the Public Interest Disclosure Act 1998, which protects workers who make disclosures in good faith about matters of concern when they may have reasonable grounds for believing that they are substantially true and they are not making the disclosure for personal gain.

17 APPROVAL, DISSEMINATION AND IMPLEMENTATION

- 17.1 This Policy has been approved by Joint Consultative and Negotiating Committee. This Policy will be distributed electronically to Heads of Departments and stored in the Trust's Intranet under Policies and will be communicated through the Trusts Staff Handbook and Briefing Sessions.

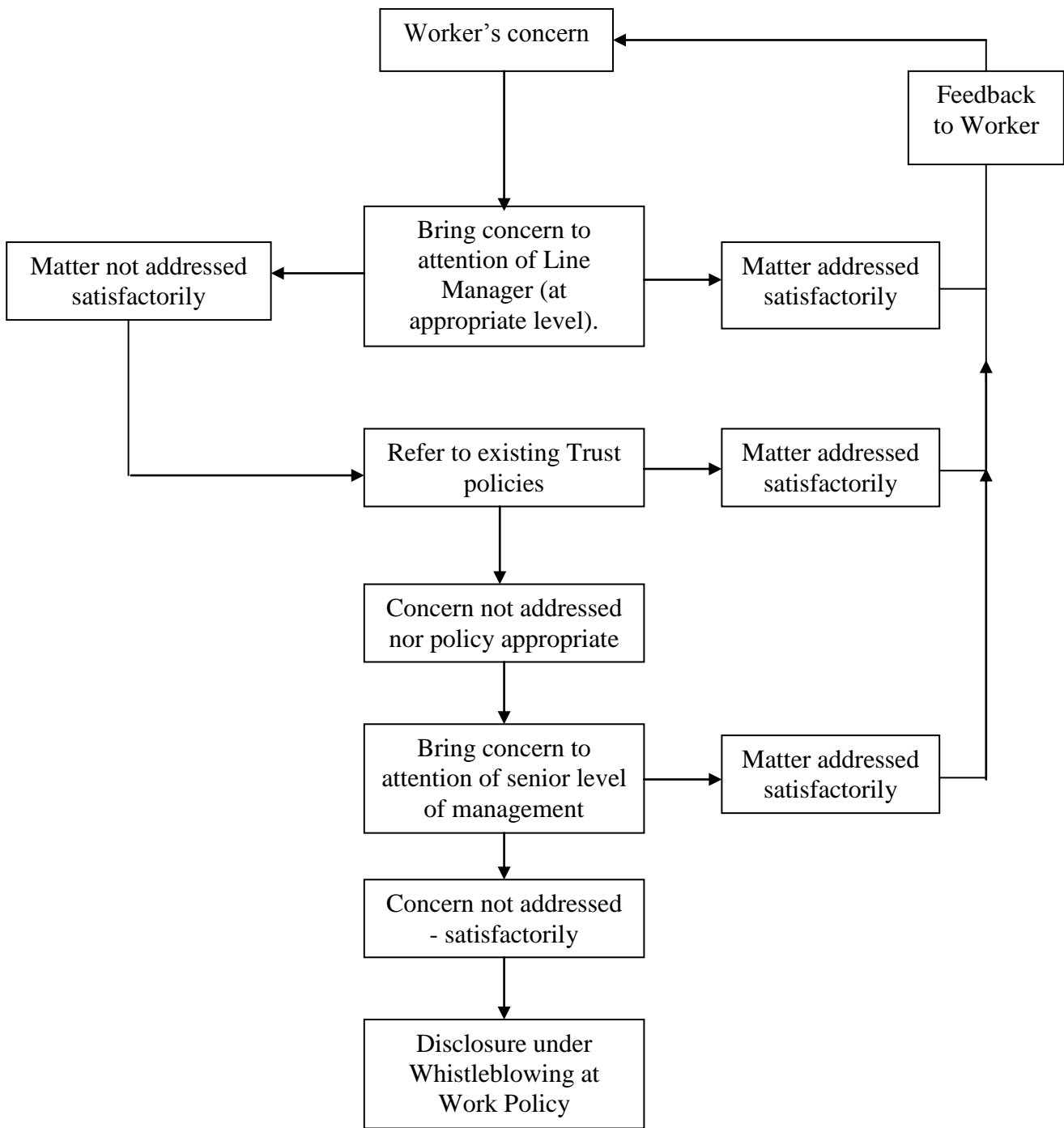
18 MONITORING COMPLIANCE WITH THE EFFECTIVENESS OF THE POLICY

- 18.1 A confidential record of all Whistleblowing concerns will be maintained by the Designated Officer.
An assimilated record of all Whistleblowing concerns will be provided to the Directors of Education and Governance as part of evidence of compliance with relevant compliance assurance frameworks.

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Procedure – Flow Chart

1. Step One - Reporting arrangements prior to Whistleblowing at Work Disclosure



2. Step Two - Reporting arrangements under Whistleblowing at Work Disclosure

