

## Whistleblowing Policy

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<b>State whether the policy is aimed Trustwide, Divisional or a local directorate level</b>	Trustwide
<b>If new policy, reason for development:</b>	N/A
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<b>Policy consultation (including patient consultation):</b>	Senior Managers Local Negotiating Committee Staff Representatives Auditors
<b>Policy applicable to (Identify by location and staff groups):</b>	This policy applies to all staff of the Trust as well as third party contractors, dentists and doctors under statutory schemes and those engaged under training contracts, workers, trainees, agency and contract staff within the Trust at all levels.
<b>Synopsis outlining policy aims:</b>	The Policy explains to staff what they should do if they want to bring concerns about any malpractice or wrongdoing to the Trust's attention
<b>Policy to be read In conjunction with:</b>	Procedure for Dealing with Personal/Professional Conduct Procedure for Handling Concerns about the Conduct, Performance and Health of Medical Staff Capability Procedure Grievance Procedure Complaints Procedure Anti-Bullying & Harassment Policy Fraud & Corruption Policy Anti Bribery Policy Safeguarding Children & Adults Policies
<b>Review Date</b>	March 2014 (subject to on-going review each time Policy used)
<b>Financial resource implications</b>	N/A
<b>Potential Risks of implementation</b>	No
<b>Outcome of E&amp;D assessment</b>	The policy has been screened and, with agreement from the Equality and Diversity lead within the Trust, a full impact assessment <b>does not need</b> to be undertaken.
<b>NHS Constitution</b>	This policy <b>has</b> given consideration to the NHS Constitution in its development. <a href="http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_093419">http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_093419</a>
<b>Access to Information</b>	To access this policy in another language or format please contact the policy author.

Document Change History (changes from previous issues of policy (if appropriate) :

Issue Number	Page	Changes made with rationale and impact on practice	Date
4		The Policy has been completely re-written to a more user friendly style to ensure that staff are clear about the processes to be followed. Account has been taken of the Whistleblowing Arrangements Code of Practice 2008, associated employment legislation and the Social Partnership Forum document 'Speak up for a Healthy NHS'.	December 2010
		Further changes have been made to comply with Policy standards	December 2010

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## **1. Introduction**

The Trust is committed to achieving the highest possible standard of patient care and ethical standards in all of its practices. Therefore, the Trust encourages a culture of openness to help prevent malpractice and it encourages staff and workers to raise genuine concerns about malpractice or wrongdoing. This is sometimes called “whistleblowing”. The purpose of this Policy is to explain what you should do if you want to bring concerns about any malpractice or wrongdoing to the Trust’s attention.

The NHS Staff Council have agreed that all staff working in the NHS have a contractual right and a duty to raise with their employer at the earliest reasonable opportunity genuine concerns about malpractice, patient safety or other serious risks and this right has been incorporated into the NHS Terms and Conditions of Service and therefore forms part of the contract of employment.

You may be worried that by reporting such issues you will be ‘victimised’, suffer a detriment or be disadvantaged in some way. The Trust assures you that if you make a disclosure under the Whistleblowing Policy in good faith and meet the conditions stated in this Policy then you should not experience such treatment.

It is essential that your disclosure is made in ‘good faith’. This means that you must act honestly with no ulterior motive. If, for example, you made a disclosure with the intention or desire of causing harm, because of a personal grudge or to damage the Trust’s reputation, then you would not be protected and you would be at risk of disciplinary proceedings being brought against you by the Trust.

Individuals making a disclosure under this policy will be afforded the right of representation at all stages by an accredited trade union representative or a workplace colleague.

### **Equality, Diversity and Human Rights Statement**

The Trust is committed to an environment that promotes equality and embraces diversity in its performance as a service provider. It will adhere to legal and performance requirements and will mainstream Equality, Diversity and Human Rights principles through its policies, procedures and processes. This policy should be implemented with due regard to this commitment.

To ensure that the implementation of this policy does not have an adverse impact in response to the requirements of the Race Relations (Amendment Act) and the Disability Discrimination Act 2005 and the Equality Act 2006, the Trust will monitor the impact of this policy and this policy will be Impact Assessed during the consultation process. The Trust will take remedial action when necessary to address any unexpected or unwarranted disparities and monitor all strands of equality legislation and will meet statutory duties under race, gender, disability and wider strands of equality to ensure that this policy is fairly implemented. Where adverse impact is identified through the monitoring process the trust will investigate and take corrective action to mitigate and prevent any negative impact.

In order to ensure we are meeting the needs of our diverse workforce, should any employee require a copy of this Policy in an alternative format or require any assistance in engaging and/or complying with the processes of the Policy, contact for assistance should be made with a member of the Senior Human Resources Team.

## **2. Who is covered by the Policy?**

This policy applies to all staff employed by or working for the Trust as well as third party contractors, dentists and doctors under statutory schemes and those engaged under training contracts, honorary contracts, workers, trainees, agency and contract staff, volunteers and self-employed within the Trust at all levels.

## **3. What is covered by this Policy?**

The Trust has a range of policies and procedures dealing with standards of behaviour at work. These cover personal and professional conduct and capability, grievances, complaints, bullying and harassment and fraud and corruption.

In certain circumstances you may be under a *duty* to report information. This duty might arise in various ways – for example: - under the rules of a professional body, industry regulator or under the law, such as the money laundering legislation (namely the Proceeds of Crime Act 2002).

This policy is not intended to inform you of your duty to report. You should refer to the appropriate policy, guidance, legislation or professional body if you need guidance on this duty. You are encouraged to use the policy and procedure that is most appropriate to your situation or type of concern. The Whistleblowing Policy should only be used when you believe you need to report particular types of concerns which are outlined below. If you are at all unsure about whether the Whistleblowing Policy is appropriate for the type of concern you have then you should first seek advice from your manager or one of the Trust's Designated Officers (see Appendix A for list).

The types of disclosure that are covered under this policy are those which you reasonably believe tend to show one or more of the following: -

- (a) a criminal offence
- (b) a failure to comply with a legal obligation
- (c) a miscarriage of justice
- (d) the endangering of the health and safety of any individual or patient
- (e) Abuse or neglect of patients (adults or children)
- (f) damage to the environment
- (g) the concealment of information relating to any of the above

If you have a concern about any of these matters outlined at (a) to (f) above then you should follow the procedure in this Policy.

Please note that professional staff have additional obligations to report areas or acts of malpractice.

## **4. With whom should you raise your concerns?**

All cases should initially be raised within the Trust as in the vast majority of cases it will be appropriate for you to raise your concerns internally and the process for this is set out below. All concerns raised will be pursued.

## **5. The procedure for raising your concerns with the Trust**

For ease of reference please see the flow chart at Appendix 2 which identifies the steps as described below.

The officers identified below are appropriately trained in interview techniques and the handling evidence.

### **Step 1: Notify the Trust of your concerns**

You should report your concerns verbally or ideally in writing to your immediate manager at the earliest opportunity, making it clear that you are raising your concerns under the Whistleblowing Policy. You will need to explain what is causing concern and any action that has already been taken in order to try and resolve the situation.

If you do not feel that you can raise your concerns with your line manager, for example because they concern him or her, you can raise them with the next level of management i.e. Clinical Business Manager, Clinical Director or Assistant Director of Operations, Divisional Medical Director. If, having raised your concerns with your manager or an alternative manager your concerns remain then you should contact one of the Trust's Designated Officers. A list of Designated Officers can be found at Appendix A of this Policy.

The Trust understands that you may be concerned about identifying yourself when making a disclosure and assures you that it will handle your disclosure sensitively and will ensure that your confidentiality will be protected as far as possible.

If at all possible you should not make an anonymous disclosure as this can make it very difficult to investigate your concerns and to provide you with feedback.

If you feel that you have no alternative but to make an anonymous disclosure the Trust assures you that your disclosure will not be ignored and that it will be acted upon.

### **Step 2: Meeting**

After receiving notification of your concerns your Manager/Designated Officer will investigate them and consider any necessary action.

Prior to doing that, a meeting may be held with you and a representative of your choice (trade union representative, colleague or friend not acting in a legal capacity) and the Manager/Designated Officer. The objective of this meeting would be to clarify exactly what the concerns are and to discuss the action to be taken.

### **Step 3: Letter**

You will receive a letter from the person with whom you raised your concerns. This letter will explain who will investigate the concerns, the expected process that will be followed and the anticipated timescale for when

you can expect to receive feedback. Where the nature of the issue means that the investigation is likely to be lengthy you will receive updates in terms of progress. The aim will be to conclude the investigation as quickly as possible.

#### **Step 4: Investigation/possible disciplinary action**

It may be that as a result of an investigation disciplinary action needs to be taken against individuals. In this case you may be required to provide a witness statement. If you are concerned about this then please discuss this with the investigator.

The manager/officer dealing with your concerns will, in consultation with others, need to determine when it is appropriate to inform the subject of the allegation of the investigation. This decision will be a risk based decision, taking into account the need to ensure your protection and also to ensure no loss or damage to the Trust occurs.

#### **Step 5: Written confirmation of outcome**

Once the investigation has been completed, you will receive written confirmation about the findings of the investigation and any action taken.

If you do not feel that your concerns have been dealt with appropriately or properly then you should contact the Chief Executive or Chairman.

### **6. Raising your concerns outside of the Trust**

It is expected that you will take steps to exhaust internal procedures before you raise concerns outside the Trust however if you feel that your concerns cannot be raised internally within the Trust or if your attempts to do so have not proven successful then you may wish to consider raising the matter externally but **this should only be considered as a last resort**.

**You are strongly urged to take advice from your trade union or professional association or independent legal advice before raising the matter outside of the Trust.**

If you make an external disclosure you must ensure that you do not breach patient confidentiality

External disclosures may be made to a '**Prescribed Person**' or '**Regulator**'. These are known as '**Regulatory Disclosures**'. A full list of prescribed persons/regulators is available on request. Key bodies for the NHS are:-

Care Quality Commission – Independent Regulator of Health and Social Care in England

Monitor – Independent Regulator of NHS Foundation Trust's

External disclosures may also be made to a person or body other than a prescribed person or regulator. These are known as '**Wider Disclosures**' but it is only in certain narrow circumstances and if certain conditions are met that such disclosures outside of the Trust *may* be protected under the Public Interest Disclosure Act 1998.

**7. Conditions that must be satisfied in order to be protected from adverse treatment/detriment as a result of making a disclosure**

**For all disclosures (whether made within the Trust or outside of it):-**

You must **genuinely** and in **good faith** believe that one or more of the type of activities or behaviour described at paragraph 3 (a) to (f) of this Policy is taking place, has taken place or may take place within the Trust.

**For disclosures outside of the Trust:-**

Additional conditions to those already stated will apply as follows:-

**For Regulatory disclosures**

Regulatory disclosures may be protected under the Act so long as the following conditions are met:-

- that you reasonably believe that the information disclosed and any allegation contained in it are substantially true;

that you reasonably believe that the failure/concerns that you disclose fall within the matters that the Prescribed Person or Regulator are 'prescribed' to deal with;

- that the disclosure is made in good faith;
- the disclosure is made to a Prescribed Person or Regulator

**For Wider Disclosures**

If you make a Wider Disclosure – for example to the police or a political representative - you will only be protected by the Act if you can satisfy **all** of the following conditions:-

- the disclosure is not made for personal gain;
- the disclosure is made in good faith;
- you must reasonably believe that the information disclosed and any allegation contained in it are substantially true;
- at least one of the following conditions is met:-
  - that at the time of the disclosure you reasonably believe that you will be subjected to detriment by raising your concerns with Trust or with a Prescribed Person;
  - that there is no Prescribed Person in relation to the relevant failure/concerns and/or you reasonably believe that it is likely that evidence will be concealed or destroyed if you make a disclosure to the Trust;
  - that you have previously made a disclosure of substantially the same information either to a Prescribed Person or to the Trust.
- in all the circumstances of the case it must be reasonable to make the disclosure.



In the interest of all parties the Trust advises that you do not raise your concerns with the press. However, if you intend to contact the press then you should notify an Executive Director or the Chief Executive or the Chairman, depending on the nature of the issue, in writing of this intention before contacting the press. As previously stated it is expected that you will exhaust all internal processes before raising concerns outside the Trust.

## 8. Disciplinary proceedings

The Act is there to protect you if you act within the stated terms.

To be protected in relation to making a disclosure you must meet **all** of the conditions stated in this Policy. For example, if a disclosure has not been made in good faith ( if a deliberately false or malicious allegation is made) or you do not reasonably believe the allegations or information contained in the disclosure are true then you may not be protected under the Act, and you may be subject to disciplinary proceedings by the Trust for misconduct. Such proceedings may result in dismissal.

***For the avoidance of doubt, if you make a Wider Disclosure (for example to the press) and cannot satisfy all of the relevant conditions stated in this policy you may be liable to disciplinary action, including dismissal.***

As stated at the beginning of this document, the Trust encourages a culture of openness and will support staff who genuinely invoke this Policy.

## 9. Training & Communication

The Policy will be brought to the attention of all new staff through the Induction Training programme (for both medical and non medical staff).

There will be a twice yearly focus on the Policy in Team Brief.

## 10. Further information

There is an independent charity – ‘Public Concern at Work’ - that can provide free, confidential advice at any stage about how to raise a concern about serious malpractice at work. The contact details for Public Concern at Work are: Telephone: 020 7404 6609 Website:[www.pcaw.co.uk](http://www.pcaw.co.uk). The PCAW in conjunction with the NHS Social Partnership Forum have produced a guide ‘Speak up for a Healthy NHS’ which is available on both the PCAW website and the Social Partnership Forum website [www.socialpartnershipforum.org](http://www.socialpartnershipforum.org)

## 10. Duties and Responsibilities

### Individuals raising concerns

- Only use the Whistleblowing Policy for the types of concerns outlined in this document
- If you are unsure about whether the Whistleblowing Policy is appropriate please seek advice from your Manager or one of the Trust’s Designated Officers

- Follow the steps identified for raising your concern and remember you must genuinely and in good faith believe that one or more of the types of activities or behaviours described in this document is either taking place, has taken place or may take place
- Before raising any concerns externally you should consider taking advice from your professional body/trade union.
- Notify the Chief Executive in writing if you intend to contact the press
- Ensure that any external disclosure are made to appropriate person as identified in this policy, otherwise your disclosure may not be protected

### **Managers/Designated Officers**

- To advise staff on the use of this procedure in relation to their concerns
- To be responsible for managing the investigation as quickly as possible, seeking statements from anyone who can provide information or evidence to assist the investigation
- To meet with the employee (who has the right to have representation), to discuss the matter.
- To receive any written or oral statement from the employee and to write a summary of the meeting which will be agreed by all parties present
- To refer any alleged or suspected fraud or corruption to the Trust's Local Counter-Fraud Specialist
- To meet with the employee to give feedback on the investigation and action taken and confirm this in writing
- To write a report setting out the findings of the investigation and submit this to the Chief Executive/Chairman

### **Chief Executive/Chairman**

- To receive investigation reports from Designated Officers
- To receive any 'appeals' from staff who do not feel that their concern has been dealt with appropriately or properly
- To receive notifications from staff who intend to make a disclosure to the press

### **Director of Human Resources**

- To incorporate this Policy into Trust induction training programmes and the local induction checklist

### **Director of Communications**

- To publicise this Policy twice a year through Team Brief

### **Counter Fraud-Specialist**

- To investigate any alleged or suspected fraud or corruption in accordance with the NHS Counter-Fraud and Corruption Manual
- To determine with the Director of Finance if a referral is to be made to the Police in cases where there is evidence of a criminal act

The NHS Fraud Hotline number is 0800 028 4060

## **10. MONITORING EFFECTIVENESS**

The implementation of this Policy will be reviewed on an annual basis through a review of reported issues and a report will be presented to the Partnership Forum.

## **11. REFERENCES**

NHS Circular EL (93)51 Guidance for staff on relations with the public and media (June 1993)

Public Interest Disclosure Act 1998

Public Interest (prescribed Persons) (Amendment) order 2003

Whistleblowing in the NHS: Updated Policy Pack July 2003

PAS: Whistleblowing arrangements – Code of practice (2008)

Speak up for a Healthy NHS – guide (2010)

## LIST OF DESIGNATED OFFICERS

The following individuals in the Trust have been nominated as Designated Officers. If you feel that you cannot raise your concern with your manager you may contact any of these Designated Officers.

Director of Nursing, Aintree House, University Hospital Aintree

Contact number [REDACTED] (Personal Assistant)

Director of Human Resources, Aintree House, University Hospital Aintree

Contact number [REDACTED] (Personal Assistant)

Assistant Director of Clinical Governance, Aintree House, University Hospital Aintree

Contact number [REDACTED]

Medical Director, Aintree House, University Hospital Aintree

Contact number [REDACTED] (Personal Assistant)

Senior Independent Director, Aintree House, University Hospital Aintree

Contact number [REDACTED] (Board Secretary)

Director of Finance and Business Services, Aintree House, University Hospital Aintree

Contact number [REDACTED] (Personal Assistant)

Local Counter Fraud Specialist, [REDACTED]

Contact Number [REDACTED]

[REDACTED]@ [REDACTED]

Whistle blowing flow chart would appear on this page