

ORG013

WHISTLE BLOWING/RAISING ISSUES OF CONCERN Policy & Procedures

Berkshire Healthcare NHS Foundation Trust



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Please be advised that the Trust discourages the retention of hard copies of policies and can only guarantee that the policy on the Trust website is the most up-to-date version.

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Designated Lead	Senior HR Manager
Policy Manager:	Director of Human Resources
For policy information:	Policy Administration 4 th Floor Fitzwilliam House Skimped Hill Lane Bracknell RG12 1BQ 01344 415623

POLICY DEVELOPMENT

ORG013 – WHISTLE-BLOWING/RAISING ISSUES OF CONCERN

History:	Version 3:	Updated to comply with current legislation.
	Version 2:	Updated and approved January 2007
	Version 1:	Approved September 2002. Issued December 2002

Designated Lead: Senior HR Manager

Policy Consultants: Joint Staff Consultative Committee (JSCC) - 14th July 2010

Distributed for comments: Policy Working Group - 19th May 2010

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1. INTRODUCTION

The Trust is committed to achieving the highest possible standards of services and the highest possible ethical standards in public life in all of its practices. To achieve these ends it encourages freedom of speech. All of us at one time or another have concerns about what is happening at work. Usually these concerns are easily resolved. However, when they are about unlawful conduct, financial malpractice or dangers to the public or the environment it can be difficult to know what to do.

Examples of concern might be about malpractice or negligence within a general practice, nursing home or hospital. Or they may be closer to home and concern colleagues who you may think are struggling to cope with their workload.

You may be worried about raising such issues or may want to keep the concerns to yourself, perhaps feeling it is none of your business or that it is only a suspicion. You may feel that raising the matter would be disloyal to colleagues, managers or to the organisation. You may decide to say something but find that you have spoken to the wrong person or raised the issue in the wrong way and are not sure what to do next.

The Trust has introduced this policy to encourage you to raise your concerns at an early stage and in the right way. The Trust would rather that you raised the matter when it is just a concern rather than wait for proof and recognises the valuable contribution of staff to the running of health services and the protection of the public interest.

If something is troubling you, which you think we should know about, or look into, please use this policy. If, however, you are aggrieved about your personal position, please use the Grievance Procedure - which you can get from your manager or the Human Resources Department. This Raising Issues of Concern Policy is primarily for concerns where the interests of others or of the organisation itself are at risk.

If in doubt - raise it!

2. SCOPE OF THE POLICY

The following sets out the policy we will follow in regard to dealing with concerns raised. In addition to the main policy offering general guidance, appendix documents deal with more specific elements relating to:

- Reporting Concerns about Patient Care (Appendix 1)
- Reporting Illegal Acts Within The Trust Or Suspicion Of Illegal Acts, Including Fraud And Corruption (Appendix 2)

You should read these appendices in light of relevant concerns and for guidance as to how these aspects are dealt with in regard to the main Raising Issues of Concern Policy.

This policy does not affect the rights of a doctor to deliver lectures or speak on matters arising out of his or her hospital service as provided for in paragraph 330 of Hospital Doctor Terms and Conditions.

3. RELATIONSHIP WITH OTHER POLICIES

- Vulnerable Adults Policy
- Counter Fraud Policy
- Grievance Policy
- Media Handling Policy
- Standards of Business Conduct

4. OUR ASSURANCES TO YOU

4.1 Your Safety

The Board are committed to this policy. If you raise a genuine concern under this policy, you will not be at risk of losing your job or suffering any form of victimisation as a result. Provided you are acting in good faith, it does not matter if you are mistaken. Of course we do not extend this assurance to someone who maliciously raises a matter they know is untrue.

4.2 Your Confidence

We will not tolerate the harassment or victimisation of anyone raising a genuine concern. However, we recognise that you may nonetheless want to raise a concern in confidence under this policy. If you ask us to protect your identity by keeping your confidence, we will not disclose it without your consent. If the situation arises where we are not able to resolve the concern without revealing your identity (for instance because your evidence is needed in court), we will discuss with you whether and how we can proceed.

Remember that if you do not tell us who you are, it will be much more difficult for us to look into the matter or to protect your position or to give you feedback. Accordingly, while we will consider anonymous reports, this policy is not appropriate for concerns raised anonymously.

5. HOW WE WILL HANDLE THE MATTER

Once you have told us of your concern, we will look into it to assess initially what action should be taken. This may involve an internal inquiry or a more formal investigation. We will tell you who is handling the matter, how you can contact them and whether your further assistance may be needed. If you request, we will write to you summarising your concern and setting out how we propose to handle it.

When you raise the concern you may be asked how you think the matter might best be resolved. If you do have any personal interest in the matter, we do ask that you tell us at the outset. If your concern falls more appropriately within the Grievance Procedure we will tell you.

While the purpose of this policy is to enable us to investigate possible malpractice and take appropriate steps to deal with it, we will give you as much feedback as we properly can. If requested, we will confirm our response to you in writing. Please note, however, that we may not be able to

tell you the precise action we take where this would infringe a duty of confidence owed by us to someone else.

6. HOW TO RAISE A CONCERN

6.1 Stage One

If you have a concern about malpractice, we hope you will feel able to raise it first with your manager. This may be done orally or in writing.

6.2 Stage Two

If you feel unable to raise the matter with your manager, for whatever reason, please raise the matter with:

*Philippa Slinger
Chief Executive
Berkshire Healthcare NHS Foundation Trust
3rd Floor
Fitzwilliam House
Skimped Hill Lane
Bracknell
RG12 1LD
Tel: 01344 415600*

Please say if you want to raise the matter in confidence so that appropriate arrangements can be made.

6.3 Stage Three

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, please contact:

*Lynne Graham
Non-Executive Director
Berkshire Healthcare NHS Foundation Trust
3rd Floor
Fitzwilliam House
Skimped Hill Lane
Bracknell
RG12 1LD
Tel: 01344 415600*

If appropriate you may raise the matter with the Secretary of State for Health.

7. INDEPENDENT ADVICE

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

- if applicable, your professional association or trade union;
- or the independent charity Public Concern at Work on 020 7404 6609 or on the Internet at www.pcaw.co.uk. They can give you free confidential advice at any stage about how to raise a concern about serious malpractice at work.
- the Ombudsman who is empowered to look into complaints raised by staff on behalf of patients provided that he is satisfied that there is no one more appropriate, such as an immediate relative, to act on the patient's behalf. Information leaflets about the Ombudsman's role and the procedures for reference to him can be obtained from the Chief Executive.

8. EXTERNAL CONTACTS

While we hope this policy gives you the reassurance you need to raise such matters internally, we recognise that there may be circumstances where you can properly report matters to outside bodies, such as regulators or the police. Public Concern at Work (or, if applicable, your union) will be able to advise you on such an option and on the circumstances in which you may be able to contact an outside body safely.

9. PUBLIC DISCLOSURE

The Public Interest Disclosure Act 1998 often referred to as the "Whistleblowers Act" gives certain categories of concern as protected rights for public disclosure. Any member of staff who disclose information about matters of patient care to the media or the public without recourse to this policy and that is outside the protected rights for public disclosure under the Public Interest Disclosure Act may be subject to disciplinary action.

10. IF YOU ARE DISSATISFIED

If you are unhappy with our response, remember you can go to the other levels and bodies detailed in this policy. While we 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 us to achieve this.

Appendix 1

REPORTING CONCERNS ABOUT PATIENT CARE

This appendix explains the procedure which should be followed by staff who have concerns about aspects of the Trust's service affecting patient care. Where there are allegations of ill treatment of patients, the Trust's complaints procedure will be followed. The Chief Executive with Peter Warne, Non-Executive Director will determine the appropriate method of investigation. This will also apply to any issue arising under the Mental Health Act.

Trust employees have a duty to draw to the attention of their managers any matter they consider to be damaging to the interests of a patient.

HOW TO RAISE CONCERNS

Stage One

Any employee who has concerns relating to patient care should raise the matter with their immediate line manager initially. The line manager will discuss the concern with the member of staff and, after investigation, if necessary, will identify any appropriate action.

Stage Two

If the employee is not satisfied with the response received and any subsequent action taken, they should put their concerns, either verbally or in writing to Peter Warne, Non-Executive Director (as appropriate to the clinical issue of concern). Stage Two may be used without reference to Stage One if the concern relates to patient care given by the employee's line manager. The Chief Executive will be informed of all incidents reported at this level.

Stage Three

If the member of staff is still not satisfied that appropriate action has been taken, they should put their concerns, either verbally or in writing to the Chief Executive, who may ask for the matter to be investigated in the same manner as an independent complaint. Any concerns which remain unresolved after the stages outlined above, should be put in writing to the Chairman of the Trust Board who will arrange for such further investigation as appropriate.

Appendix 2

REPORTING ILLEGAL ACTS WITHIN THE TRUST OR SUSPICION OF ILLEGAL ACTS, INCLUDING FRAUD AND CORRUPTION

This appendix explains the procedure which should be followed by staff who have concerns about illegal acts including fraud and corruption. It is the duty of every member of staff to report any incidents of illegal behaviour in the Trust which comes to their attention, or any suspicion they have of members of staff behaving illegally.

HOW TO RAISE CONCERNS

Stage One

Any employee who has concerns relating to illegal acts should raise the matter with their immediate line manager initially. The line manager will discuss the concern with the member of staff and, after investigation, if necessary, will identify any appropriate action.

However, in the event of fraud or corruption the Director of Finance must be informed immediately. The Director of Finance will inform the Internal Auditors and the Chairman of the Audit Committee.

Where the Director of Finance is implicated in the event of fraud or corruption, the Chief Executive must be informed immediately.

If your concern is about fraud and corruption you can also contact the NHS Fraud Hotline on 08702 400100.

Stage Two

If the employee is not satisfied with the response received and any subsequent action taken, they should put their concerns, either verbally or in writing to the Director of Finance or Peter Warne, Non-Executive Director and Human Resources (as appropriate to the issue of concern). Stage Two may be used without reference to Stage One if the concern relates to patient care given by the employee's line manager. The Chief Executive will be informed of all incidents reported at this level.

Stage Three

If the member of staff is still not satisfied that appropriate action has been taken, they should put their concerns, either verbally or in writing to the Chief Executive, who may ask for the matter to be investigated in the same manner as an independent complaint. Any concerns which remain unresolved after the stages outlined above should be put in writing to the Chairman of the Trust Board who will arrange for such further investigation as appropriate.

COMMENTS / FEEDBACK (This form can be photocopied as needed)

ORG013 - Whistle-Blowing/Raising Concerns Policy

Name _____ Date _____

Address _____

Return comments for consideration three months prior to review date of policy to designated lead or to Policy Administrator, Fitzwilliam House, Skimped Hill Lane, Bracknell, RG12 1LD: 01344 415623

Page: Paragraph:	
Page: Paragraph:	
Page: Paragraph:	
General comments:	

EQUALITY IMPACT ASSESSMENT

SECTION 1: INITIAL ASSESSMENT													
Policy Author: Senior HR Manager	Date of Assessment: April 2010												
Title of Policy: Whistle-blowing/Raising Issues of Concern	Is this a new or existing Policy? Existing.												
<p>1. Briefly describe the aims, objectives and purpose of the Policy:</p> <p>The Trust is committed to achieving the highest possible standards of services and the highest possible ethical standards in public life in all of its practices and encourages its employees to raise concerns at the earliest opportunity and through the right procedure.</p>													
<p>2. Who is intended to benefit from the Policy and in what way?</p> <p>Staff, service users, the Trust/BSS and the public. To reduce risk and to ensure that raising concerns are dealt with at the earliest opportunity, internally and without recourse to victimisation.</p>													
<p>3. Who are the main stakeholders in relation to this Policy?</p> <p>The purpose of this policy sets out the Trust's and BSS expectations and standards of personal and ethical conduct when identifying and raising concerns. The policy outlines the process for raising concerns.</p> <p>The policy is linked to the policy on Standards of Business Conduct and other Trust policies.</p>													
<p>4. Are there concerns that the Policy does, or could have, a differential impact due to any of the equality areas?</p> <p style="text-align: right;"><i>(Y/N - delete as appropriate)</i></p> <table style="width: 100%;"> <tr> <td style="width: 50%;">Race</td> <td style="width: 50%;">No</td> </tr> <tr> <td>Gender</td> <td>No</td> </tr> <tr> <td>Disability</td> <td>No</td> </tr> <tr> <td>Sexual orientation</td> <td>No</td> </tr> <tr> <td>Age</td> <td>No</td> </tr> <tr> <td>Religious belief or non belief</td> <td>No</td> </tr> </table>		Race	No	Gender	No	Disability	No	Sexual orientation	No	Age	No	Religious belief or non belief	No
Race	No												
Gender	No												
Disability	No												
Sexual orientation	No												
Age	No												
Religious belief or non belief	No												
<p>5. What existing evidence (either presumed or otherwise) do you have for this?</p> <p>N/A</p>													
<p>6. Based on the answers given in questions 4 & 5 is there potential for adverse impact in this policy?</p> <p>N/A</p> <p>Please explain:</p>													
<p>7. Can this adverse impact be justified?</p> <p><i>(Y/N - delete as appropriate)</i></p> <p>N/A</p> <p>Please explain:</p>													

If you have not identified adverse impact or you can justify the adverse impact, please do not complete this form further.

If you have identified adverse impact that cannot be justified, please continue to Section 2.

Section 2: FULL IMPACT ASSESSMENT

8. What experts/relevant groups have you approached to explore their views on the issues?

Please list the relevant groups/experts, how they were consulted and when. (A list of experts/relevant groups is available on the Diversity pages of the Trust Intranet:-

<http://nwww.berkshirehct.nhs.uk/page.asp?fldArea=1&fldMenu=6&fldSubMenu=0&fldKey=216>

Relevant groups/experts:

How were the views of these groups obtained?

Date when contacted:

9. Please explain in detail the views of these groups/experts on the issues involved:

10. Taking into account the views of the groups/experts and the available evidence, what are the risks associated with the policy, weighed against the benefits of the policy if it were to stay as it is:

Risks:

Benefits:

If you have found that the risks outweigh the benefits you need to review the policy further and put together an implementation plan which clearly sets out any actions you have identified as a result of undertaking the EIA. These may include actions that need to be carried out before the EIA can be completed or longer-term actions that will be carried out as part of the policy or development.

11. Monitoring arrangements and scheduled date to review the policy and Equality Impact Assessment:

Review Date: May 2012