

## TRUST POLICY AND PROTOCOL FOR WHISTLEBLOWING

### CONTENTS LIST:

- a) Purpose
- b) Principles
- c) The Activities Involved
- d) Responsibilities

### APPENDICES

Appendix A – Contacting the designated officers

Appendix B – Wider Disclosures

### MANAGEMENT GUIDANCE NOTES

Yes

### ANNEXES

None

<b>Originator:</b>	<b>Corporate HR Manager Policy &amp; Law</b>
<b>Approval Route:</b>	<b>HR Policy Group    March 2006</b>
	<b>JCNC                            July 2006</b>
	<b>LNC/DDNC                    December 2006</b>
	<b>HMT                              January 2007</b>
<b>Issue No:</b>	<b>2</b>
<b>Date of issue:</b>	<b>23.01.2007</b>
<b>Review Date:</b>	<b>2009</b>

This policy has been assessed against the PHT Equality impact assessment process

# Whistle blowing Policy

Portsmouth Hospitals   
NHS Trust

## Policy

### a) Purpose

The purpose of this policy is to enable staff to raise concerns about wrongdoing at work in a way which protects their interests, and which ensures, at the same time, that instances of wrongdoing, alleged wrongdoing or apparent wrongdoing are properly investigated and dealt with.

The policy is designed to comply with the Public Interest Disclosures Act 1998. For more information please see the following websites:

[Code A](#) [Code A](#)

### b) Principles

The key principle of this policy is that staff will be given every opportunity to raise concerns of wrongdoing in a confidential way that others can investigate.

Staff do not have to investigate or "prove" the wrongdoing, nor do they have to decide how the Trust should respond. They must have a reasonable belief that the wrongdoing is either happening now, took place in the past, or is likely to happen in the future.

The policy is designed: -

- to provide a way for members of staff concerned about the care or safety of patients to speak out in the event of other procedures failing or being exhausted.
- to provide an effective and confidential process to enable staff to challenge practices or behaviours if they believe others are acting in an unlawful and/or unethical way.
- to make clear that victimisation or retribution against staff, if they use this policy, will not be tolerated.
- to protect staff if they appropriately speak out in accordance with this policy.

The policy can also be appropriately used where concern over Health & Safety, corporate governance or use of NHS resources are an issue.

If the concern is regarding the welfare of an adult patient, staff should also refer to the Hampshire County Council Protecting People from Abuse guide available at

[Code A](#)

#### What is Whistleblowing?

Whistle blowing may be described as a process of reporting matters of concern and wrongdoing and covers: -

- Poor quality care
- Administration laxness in relation to care
- Malpractice of Care

- Criminal Offences
- Fraud or corruption
- Breach of Contract
- Negligence
- Other Civil Law issues, such as racial and sexual discrimination
- Miscarriage of Justice
- Danger to Health and Safety
- Environmental issues (e.g. pollution)

### Who does the policy apply to?

This policy applies to every member of staff at whatever level and whatever their terms of employment, hours of work, or length of service, including Bank and Agency workers.

This policy does not replace the Trust's existing policies and procedures regarding adverse incident reporting, Grievance, reporting cases of potential fraud or corruption, or Complaints, ***nor does it replace the normal lines of communication between staff and their managers so that matters of concern may still be dealt with through normal management/advisory channels.***

### To whom may a concern be raised?

Concerns may be raised by any member of staff to the following people:

- ∞ Their immediate line manager
- ∞ Their manager's manager
- ∞ an Executive Director
- ∞ The staff side Chair of the JCNC
- ∞ Any staff side or Trade Union representative
- ∞ The Local Counter Fraud Specialist
- ∞ Any Designated Officer listed in Appendix A

### What happens when a concern is raised?

The Trust will treat all matters raised under this policy as serious, and address all such matters fairly and thoroughly. The Trust will take action promptly and notify those raising concerns of action taken as soon as possible and no later than one month after the concern was raised. Where action is not considered practicable or appropriate the Trust will provide a prompt and thorough explanation of the reasons for this, and may also provide information regarding what further action is available within the Trust's policies and procedures, where appropriate.

In recognition that raising a concern can be a difficult experience for some staff, the Trust will provide support via the Occupational Health Staff Counsellors, Line Managers and Designated Officers if requested. Staff are also reminded that Union, Staff Organisation or Staff Elected Representative may be able to provide support to them.

When a reasonable concern is expressed in good faith staff will not be penalised in any way. Their wishes regarding confidentiality must and will be respected. Victimisation by other members of staff towards them will not be tolerated.

The policy is designed to ensure:

- that raising genuine concerns does not make a member of staff a "snitcher" or "trouble maker"
- that staff will not be asked to prove that their concerns are true – only that they are honestly raised
- that concerns can be raised early
- that there is a difference between a grievance and a concern
- that raising genuinely held but unsubstantiated concerns will not expose staff to disciplinary action
- that raising concerns solely for malicious intent is a disciplinary offence
- that preventing anybody from whistleblowing is a disciplinary offence
- that bullying, isolating or victimising anyone who uses the whistleblowing procedure for genuine concerns is a disciplinary offence

### What should staff do if a concern is ignored?

Whilst the Trust encourages staff to tell us of their concerns, this does not negate the role of other agencies. These agencies, however, should normally be involved only if internal procedures have been exhausted. External agencies include the Ombudsman, the Mental Health Commission and Parliament (via the appropriate MP). Further details can be found in Appendix B of the policy.

There is also a source of advice available through an independent confidential advice line. This is the "Public Concern at Work" helpline, Tel.No: **Code A**

Staff are expected to follow the procedure outlined in this policy before involving these agencies and before considering any course of action involving the media. The media and other wider disclosures are covered in Appendix B.

If staff are victimised in any way for raising genuine concerns, they should use the Trust's grievance procedure or, once the internal grievance procedure has been exhausted, a claim may be brought at an employment tribunal.

If staff raise a genuine concern, they will be safeguarded by the Trust. However, it should be understood that if staff are not willing to identify themselves:

- The Trust will be less able to protect them;
- Feedback will be difficult.

## c) The Activities Involved

Staff are encouraged to contact their immediate manager in the first instance. The manager then becomes the "contacted officer." If staff are not confident with this approach, or if they feel the matter will not be handled appropriately they can choose to contact either an Executive Director, the Staff Side Chairman of the JCNC, any staff side or trade union representative or a "Designated Officer" who will then become the contacted officer. If the matter is raised with a staff side or trade union representative they will then raise it with an appropriate member of management from the "Designated Officer" list.

If the concern raised is regarding fraud and corruption, then the member of staff should immediately contact the Trust's Local Counter Fraud Specialist (LCFS). In such cases it is requested that the line manager is not involved at this stage (in case they themselves may be implicated, or may attempt to suppress the allegation for whatever reason). Contact with the line manager will be at the discretion of the Local Counter Fraud Specialist.

A list of Designated Officers and contact details can be found in Appendix A, including the contact details for the LCFS.

The contacted officer receiving the concern will make a confidential record of concerns. A confidential review team comprising at least three of the "Designated Officers", one of who must be a Non Executive Director, will be formed. This team may establish, at its own discretion, an Incident Review Team to investigate and report back to it.

It will be the responsibility of the originally contacted officer to communicate and provide feedback to the person who raised the issue, including actions taken, within the Trust's agreed timescale of one month following the raising of the initial concern. Where this timescale cannot be met the contacted officer will advise the person who raised the issue of this and explain the reasons.

## d) Responsibilities

### Individuals

- ∞ An individual staff member's responsibility under this policy is to report any genuine concern of wrongdoing or malpractice either to their line manager (except for cases of potential fraud or corruption) or via one of the other routes set out in this policy. Proof of wrongdoing is not required, merely a genuine and reasonable concern. At the same time, everyone has an equal responsibility not to raise issues maliciously, where no potential evidence or indication of malpractice or danger exists.
- ∞ Staff have an obligation to provide a high standard of service and to raise genuine concerns.
- ∞ It is the responsibility of all staff to familiarise themselves with and to understand this policy.

### Managers/Contacted Officers

- ∞ All managers are responsible for ensuring that their staff are aware of this policy and have access to it.
- ∞ Managers and contacted officers must respond to concerns quickly and in confidence, taking all concerns seriously
- ∞ Managers and contacted officers should be supportive and reassure those raising concerns, not sceptical or dismissive

**Designated Officers**

- ∞ It is the responsibility of the Designated Officers to review and investigate all concerns raised to them.

**The Trust**

- ∞ The Trust is responsible for ensuring this policy is explained to all new staff, including medical staff, as part of the Trust Induction.
- ∞ The Trust is responsible for protecting the interests and confidentiality of staff, for treating any concerns raised seriously, and for investigating them fairly and thoroughly.

## Appendix A

### Contact

#### Methods of contacting the Designated Officers

Non - Executive Director	See <b>b)</b> below
Director of Human Resources	<b>Code A</b>
General Staff Contact	See <b>b)</b> below
Equality & Diversity Officer	<b>Code A</b>
Medical Staff Contact	<b>Code A</b>
Counter Fraud Service National Fraud Reporting Line (individuals may report anonymously if preferred)	<b>Code A</b>
Staff Involvement Facilitator	See <b>b)</b> below
Director of Postgraduate Medical and Dental Education	<b>Code A</b>

a) Contact can be made as above.

A Private and Secure line has been set up Tel. **Code A** or internally **Code A** which has an answer machine giving the caller the option of leaving a message, which may be anonymous.

b) This telephone answer service will be reviewed weekly.

c) This telephone answer service will only be able to be accessed via the Designated Officers using a PIN security number.



## Appendix B

### Wider Disclosures

- Wider disclosures (e.g. to the police, the media, MPs, and agencies other than those listed in the policy) are protected if the following conditions are met:

Firstly the worker must:

- ∞ Make the disclosure in good faith
- ∞ Reasonably believe that the information, and any allegation contained in it, are substantially true, and
- ∞ Not act for personal gain.

In addition, one or more of the following conditions must be met:

- ∞ The worker must reasonably believe that he/she would be subjected to a detriment by his/her employer if disclosure were to be made to the employer or to a prescribed person;
- ∞ In the absence of an appropriate prescribed person, the worker reasonably believes that disclosure to the employer would result in the destruction or concealment of information about the wrongdoing;
- ∞ The worker has previously disclosed substantially the same information to his/her employer or to a prescribed person.

### Contact details for other agencies:

#### The Audit Commission for England and Wales

1 Vincent Square  
London  
SW1P 2PN

**Code A**

#### The Charity Commissioners for England and Wales

Liverpool Head of Operations  
2<sup>nd</sup> Floor  
20 Kings Parade  
Queens Dock  
Liverpool  
L3 4DQ

**Code A**

#### Food Standards Agency

Personnel and Establishments Division  
Food Standards Agency  
Room 111C  
Aviation House  
125 Kingsway  
London  
WC2B 6NH

**Code A**

**Financial Services Authority**

Director, Authorisation  
Financial Services Authority  
25 The North Colonnade  
Canary Wharf  
London  
E14 5HS

**Code A****Health & Safety Executive**

Information Centre  
Broad Lane  
Sheffield  
S3 7HQ

**Code A**

## Management Guidance Notes

### a) Purpose

The purpose of the policy is to enable staff to raise concerns about matters which, while they do not personally affect them (such matters would be dealt with under the Grievance Policy) nonetheless give them cause for concern. Such concerns could relate to wrongdoings such as criminal activities, a failure (actual or potential) to comply with legal obligations, financial malpractice, a danger to patients, a health and safety danger or some other matter which could have serious implications for the Trust, patients, staff or public.

### b) Principles

A key principle is that the policy encourages staff to raise concerns as quickly as possible – rather than wait for proof, by which time someone may have already been harmed in some way.

The Trust is committed to the highest standards of integrity. Managers must demonstrate commitment by: -

- i) treating any matter raised seriously
- ii) committing to the member of staff that their identity will only be disclosed either with their permission or if it becomes impossible to resolve the matter without doing so (for example, if the staff member's evidence is required in a court of law)
- iii) committing to the member of staff that they will not be harassed, victimised or disadvantaged in any way as a result of raising their concerns.

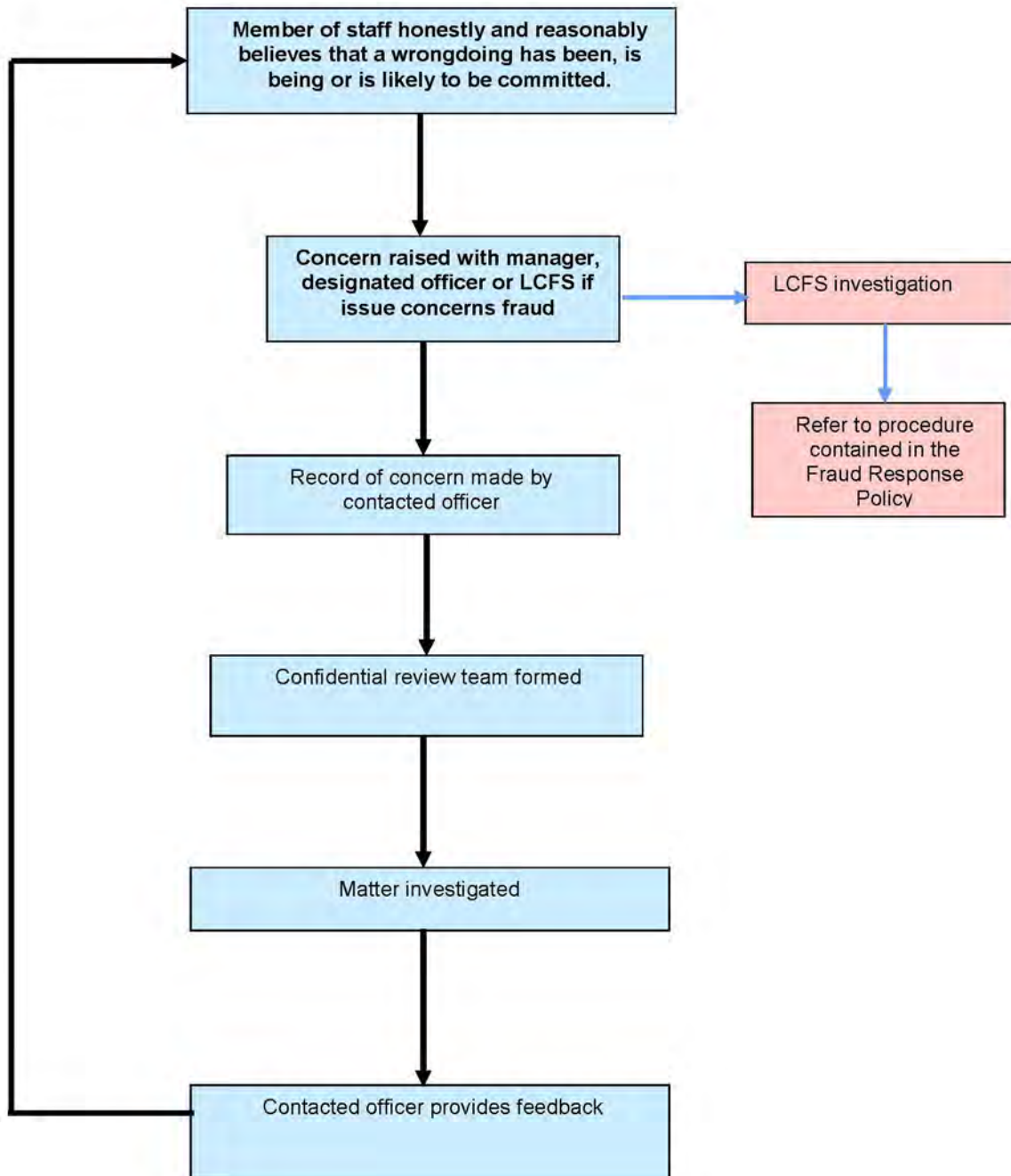
### c) The Activities Involved

While, ideally, the member of staff should raise the issue with their line manager (with the exception of potential cases of fraud and corruption), they may not feel comfortable doing so. The policy gives people the opportunity to report the matter confidentially to a group of designated officers (see the Policy itself).

If the concern is raised to a line manager, that manager should immediately notify one of these designated officers whilst assuring full confidentiality at the investigation stage to the staff member.

There is no obligation on the member of staff to raise the matter in writing. However, if the matter is reported to a manager, they then become the "contacted officer" and should make a written record of the conversation and any allegations or concerns made, so that this record can be passed to the relevant Director or "Designated Officer". The latter will then be responsible for forming and leading a confidential review team, who will conduct the investigation.

The steps involved are shown in the following diagram:



#### d) Responsibilities

See policy