

Hull Teaching Primary Care Trust

**CONFIDENTIAL REPORTING  
POLICY**

## **CONTENTS**

## **Page**

<b>1.</b>	<b>INTRODUCTION</b>	<b>2</b>
<b>2.</b>	<b>SCOPE</b>	<b>2</b>
<b>3.</b>	<b>PRINCIPLES</b>	<b>2</b>
<b>4.</b>	<b>WHEN TO WHISTLEBLOW</b>	<b>3</b>
<b>5.</b>	<b>HOW TO WHISTLEBLOW</b>	<b>4</b>
<b>6.</b>	<b>WHISTLEBLOWING: PROCESS AND PROCEDURES</b>	<b>5</b>
<b>7.</b>	<b>REVIEW</b>	<b>6</b>

# **CONFIDENTIAL REPORTING POLICY (WHISTLEBLOWING POLICY)**

## **1. INTRODUCTION**

- 1.1. Someone blows the whistle when they tell their employer, a regulator, customers, the police or the media about a dangerous or illegal activity that they are aware of through their work. Whistleblowing can inform those who need to know about health and safety risks, potential environmental problems, fraud, corruption, deficiencies in the care of vulnerable people, cover-ups and many other problems. Often it is only through whistleblowing that sensitive and important information concerning malpractice comes to light and can be addressed before real damage is done.
- 1.2. The Public Interest Disclosure Act (subsequently “the Act”) came into force in July 1999. The Act encourages people to raise concerns about malpractice in the workplace by protecting whistleblowers from dismissal or victimisation. Hull Teaching Primary Care Trust has a responsibility under this Act to protect all whistleblowers who raise concerns about misconduct and malpractice from victimisation and dismissal. This document, which has been developed in consultation with staff side organisations, constitutes Hull Teaching PCT’s policy, practices and procedures in relation to whistleblowing and it outlines its responsibilities under the Act. The aim of this policy is to ensure that employees and others associated with Hull Teaching PCT who whistleblow are fully informed on
  - When to whistleblow
  - How to whistleblow
  - What will happen once a whistleblowing allegation has been brought under this policy

## **2. SCOPE**

- 2.1. This procedure applies to all PCT employees irrespective of age, race, colour, religion, disability, nationality, ethnic origin, gender, sexual orientation or marital status, domestic circumstances, social and employment status, HIV status, gender reassignment, political affiliation or trade union membership. All employees will be treated in a fair and equitable manner and reasonable adjustments will be made where appropriate (e.g. interpreter or signing provision, access arrangements, induction loop, etc.).

## **3. PRINCIPLES**

- 3.1. The general principle must be that those against whom allegations are made are entitled to be told what is alleged but not by whom. However, there may be exceptional circumstances where natural justice requires the identity of the whistleblower to be made known to the person against whom an allegation has been made, but this can only be done with the consent of the whistleblower and after careful consideration of the costs and benefits of such a course of action.

#### **4. WHEN TO WHISTLEBLOW**

- 4.1. When someone blows the whistle they are raising a concern about a situation which affects others (e.g. patients, members of the public, or their employer). The person blowing the whistle is usually not personally affected by the matter worrying them. Consequently, the whistleblower rarely has a personal interest in the outcome of any investigation into their concern - they are simply trying to alert others to a serious problem. S/he is a messenger raising a concern so that others can address it.
- 4.2. A whistleblowing allegation is therefore very different from a personal complaint or grievance and must be carefully distinguished. When someone complains, they are saying that they have been poorly treated. This poor treatment might, for instance, involve a breach of their individual employment rights or bullying concerning which the complainant is seeking redress or justice for themselves. The person making the complaint therefore has a vested interest in the outcome of the complaint and, for this reason, is expected to be able to prove their case. This policy should not normally be used to pursue a personal grievance, where other procedures and avenues of complaint and redress are likely to be more appropriate (though of course there may be instances where personal injustice is closely linked to a wider matter which warrants invoking this policy). Before making an allegation under this policy, make sure it is covered by **3.1** above and is not a complaint about personal treatment which would be better and more appropriately served by other procedures.
- 4.3. Because personal complaints and whistleblowing are very different things, if someone raises a concern under this policy they will not be expected to prove it (though of course they will be asked what they know). Establishing the truth of the matter will be the responsibility of others.
- 4.4. It is impossible to anticipate what kinds of situation might give rise to legitimate concern under this policy. However, the Act identifies a number of 'qualifying concerns' relating to acts of omission and commission covering both criminal and civil offences (i.e. negligence, breach of contract and breaches of administrative law). The 'qualifying concerns' are:
  - 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,
- 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.

## 5. HOW TO WHISTLEBLOW

5.1. You may wish to reflect on the situation that is worrying you and obtain further advice and information before you decide whether to proceed with an allegation under this policy. There is an impartial organisation, which can assist you. This is:

- *Public Concern at Work*. (Tel: 0207 404 6609). This is an independent charitable organisation, which exists to assist and advice whistleblowers. Their postal address is Suite 305, 16 Balwin Gardens, London, EC1N 7RJ. Their lawyers will give you free confidential advice at any stage of a whistleblowing allegation.

5.2. Allegations under the Hull Teaching Primary Care Trust whistleblowing policy can be made in writing or verbally. If the latter, you should make sure that any notes taken subsequent to the allegation accurately reflect the information you have provided. It will be the responsibility of the person receiving your complaint to check the accuracy of your statement with you (see **5.4** below)

5.3. There are a number of ways someone can report their concerns under this policy and they are free to select the one that they feel most comfortable with. They can report the matter to their line manager making it clear that they are making a whistleblowing allegation. Matters of concern covered by this policy are reported to line managers without specific reference to whistleblowing. If this happens, managers are responsible for drawing the provisions of the policy to the attention of those raising the concern and discussing its relevance/applicability with them.

5.4. You might be uncomfortable with raising the matter with your line manager. If so, you can contact the Non-Executive Director (NED) nominated to receive allegations under the Whistleblowing policy. The name, address and telephone number of the Non-Executive Director is:

Mr Danny Brown at Age Concern, Bradbury House, Porter Street, Hull, HU1 2RH Telephone No: 01482 - 591519

- 5.5. You can, if you wish, raise your concerns anonymously. There may be good reasons for you wishing to do so and instances of anonymous whistleblowing will be treated seriously and will be processed in the same way as other complaints. However, it is important to recognise that by their very nature anonymous reports may be difficult to fully investigate (see 'Whistleblowing Processes and Procedures' below).
- 5.6. All anonymous reports should be made *solely* to the nominated NED and can be made either verbally or in writing. This is to ensure that anonymous concerns are recorded and acted on. The NED will act as an external guarantor in this respect.

## **6. WHISTLEBLOWING: PROCESSES AND PROCEDURES**

- 6.1. This policy aims to address whistleblowing concerns rapidly, fairly and thoroughly in a fully accountable and transparent manner and in a way which protects the interests of the whistleblower. The procedures outlined below are designed to ensure these aims are realised.
- 6.2. Whistleblowing concerns can only be addressed/investigated if they are adequately summarised with full details. Verbal reports will need recording and it is unlikely that even written complaints will contain all relevant detail. Those receiving reports (line managers and the nominated NED) are responsible for producing without delay a summary which the complainant agrees is a full account of their concerns and which contains all necessary information. In the case of anonymous reports, the nominated NED will be responsible for producing a summary and communicating this to the Director of Human Resources (HR) within ten working days of receiving the report.
- 6.3. It is not the task of those receiving concerns under the whistleblowing policy to comment on allegations being reported to them or - at this stage - to investigate them in any way at all. Their role is to gain a clear picture of the allegation and to record it so that it can be investigated thoroughly.
- 6.4. Allegations once summarised/ recorded under **6.2** above must be immediately copied to the Director of HR. If the report originates from a line manager, the Director of HR will notify the nominated NED and send them a copy. It will then be the responsibility of the Director of HR and the nominated NED to consult on how the matter should be investigated and by whom. The investigation must include a representative of HR supporting a senior manager. The nominated NED will oversee the investigation.
- 6.5. The role of the NED is to provide external assurances that the investigation is being conducted in a timely, fair and transparent fashion and to monitor its progress. Where the complainant is not

anonymous, s/he is encouraged to regard the NED as a supportive colleague throughout the investigative process.

- 6.6. It is vitally important that whistleblowers are not discriminated against either during the process of reporting/enquiry or subsequently after investigations have been concluded. The Hull Teaching Primary Care Trust recognises that the Act offers legal protection against victimisation.
- 6.7. Whistleblowing concerns reported to line managers or the NED must be treated in the strictest confidence. The privacy of whistleblowers is paramount and their identity must not be publicised in any way except to those receiving and investigating whistleblowing allegations.

## **REVIEW**

- 7.1 This Policy will be reviewed with the PCTs' recognised Trade Union Partners within 2 years of the date of implementation.

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Representative

Date: 17 August 2006

Approved by: Date:

Reviewed by: Date:

## **FURTHER INFORMATION**

### **The Media**

In view of the principles and procedures described above, it is hoped that staff concerns can be addressed and dealt with without reference to the media. The discussion of sensitive issues in the press or other media can be very unhelpful and potentially damaging to the Trust's reputation. This policy has been designed to encourage whistleblowers to make their concerns known; to promote investigations, which are timely, fair, accountable and transparent, and to protect the identity and interests of those making a whistleblowing allegation. Going to the press without exhausting the provisions of this policy would be to waste the opportunity it presents.

### **References**

The Public Interest Disclosure Act 1998  
HSC 1999/198 – Whistleblowing in the NHS

Guidance to Staff on relations with the public and the media  
NHS Management Executive's Guidance EL (93)51

**Associated Trust Documents**

- Harassment Policy
- Grievance Procedure
- Disciplinary Procedure
- Recruitment and Selection Procedure
- Policy and Procedure to Ensure High Standards of Business Integrity
- Health and Safety Policy
- Policy and Procedure on Fraud and Corruption, and the Trust Response Plan