

Whistleblowing Policy

(How to Raise Concerns)

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DOCUMENT CONTROL

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Amendments	Following the Enterprise and Regulatory Reform Act (25 April 2013), effective from 25 June 2013, the requirement for a protected disclosure to be “in good faith” has been removed. In order for a concern to qualify as a protected disclosure, the criteria of “in good faith”, has been amended to having “reasonable belief that the concern is in the public interest”. Section 1.8 and section 4 have been amended to reflect this.		
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1. INTRODUCTION

- 1.1 All of us at one time or another have concerns about what is happening at work. Usually these are easily resolved. However, when the concern feels serious because it is about a possible danger, professional misconduct or financial malpractice that might affect patients, colleagues, or the Trust itself, it can be difficult to know what to do.
- 1.2 You may be worried about raising such an issue and may think it best to keep it 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, to managers or to the organisation. You may have said something but found that you have spoken to the wrong person or raised the issue in the wrong way and are not sure what to do next.
- 1.3 The Board of Somerset Partnership NHS Foundation Trust is committed to running the organisation in the best way possible and to do so we need your help. We have reviewed and amended this policy to reassure you that it is safe and acceptable to speak up and to enable you to raise any concern you may have at an early stage and in the right way. Rather than wait for proof, we would prefer you to raise the matter when it is still a concern.
- 1.4 This policy applies to all those who work for us and with us: whether full-time or part-time, self-employed, employed through an agency or as a volunteer.
- 1.5 If something is troubling you which you think we should know about or look into, please use this procedure. If, however you wish to make a complaint about your employment or how you have been treated, please read the Grievance Policy and/or the Anti-Bullying and Harassment Policy which you can obtain from HR, your manager or the Intranet. (If you have a concern about financial misconduct or fraud, please see our Counter Fraud Policy).
- 1.6 This Whistleblowing Policy is primarily for individuals who work for us and have concerns where the interests of others or of the organisation itself are at risk.

If in doubt – raise it!

- 1.7 **Our commitment to you - Your safety**
The Board and the Chief Executive and the staff unions 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 detriment (such as a reprisal or victimisation).
- 1.8 Provided you have a reasonable belief that the concern you are raising is in the public interest it does not matter if you are mistaken or if there is an innocent explanation for your concerns. So please do not think

we will ask you to prove it. Of course we do not extend this assurance to someone who maliciously raises a matter they know is untrue.

1.9 **Your confidence**

We appreciate raising concerns may be difficult, however with these assurances, we hope you will raise your concern openly. However, we recognise that there may be circumstances when you would prefer to speak to someone in confidence first. If this is the case, please say so at the outset. If you ask us not to disclose your identity, we will not do so without your consent unless required by law. You should understand that there may be times when we are unable to resolve a concern without revealing your identity, for example, where your personal evidence is essential. In such cases we will discuss with you whether and how the matter can best proceed.

- 1.10 Please remember that if you do not tell us who you are it will be much more difficult for us to look into the matter. We will not be able to protect your position or to give you feedback. Accordingly you should not assume we can provide the assurances we offer in the same way if you report a concern anonymously.

2. **PURPOSE AND SCOPE**

- 2.1 The purpose of this policy is to ensure that all those who work for us and with us understand how to raise concerns, and encourage them to do so.
- 2.2 This policy supports our values, in particular *“commitment to quality of care”* and *“working together for patients”* where *“everyone counts”*.
- 2.3 This policy applies to all those who work for us and with us: whether full-time or part-time, self-employed, employed through an agency or as a volunteer.

3. **DUTIES AND RESPONSIBILITIES**

- 3.1 It is the responsibility for **all staff** working for us and with us to raise concerns in accordance with this policy.
- 3.2 The **Director of Human Resources and Workforce Development** is the Executive Lead and author of this policy who is responsible for ensuring this document is reviewed at least every three years or sooner if required by local/national guidance.
- 3.3 The **Non-Executive Director Whistle Blowing Lead** for the Trust (contact via Trust Secretary 01278 432073) is responsible for ensuring this policy is implemented effectively.
- 3.4 The **Line Manager / Lead Clinician** will ensure that all staff are aware of this policy and will support staff raising concerns in line with this policy.

4. EXPLANATIONS OF TERMS USED

4.1 **Whistle Blowing:** “Raising concerns about misconduct within an organisation or within an independent structure associated with it” (The Nolan Committee on Standards in Public Life)

4.2 **Public Interest Disclosure Act:** This Act came into force in 1998 and applies to staff, contractors providing services, most agency workers, home workers and trainees on vocational and work experience schemes.

The Act gives legal protection to staff against detrimental treatment or dismissal if they raise concerns about:

- a criminal offence
- a breach or failure to comply with a legal obligation, including negligence, breach of contract, breach of administrative law
- a miscarriage of justice
- a breach of Health and Safety
- damage to the environment
- the concealment of information relative to any of the above
- any act which harms or causes a risk to patients, carers or staff
- any other wrongdoing

4.3 In June 2013, the law was updated and it is important that you understand that in order for this legal protection to apply (in other words, to be a “protected disclosure”), you are required to have a reasonable belief that your concern is raised in the public interest.

5. HOW TO RAISE A CONCERN

5.1 If you are unsure about raising a concern at any stage you can get independent advice from your trade union representative or Public Concern at Work (see contact details under Independent advice below). Please remember that you do not need to have firm evidence before raising a concern. However, we do ask that you explain as fully as you can the information or circumstances that gave rise to your concern.

5.2 Step One

If you have a concern about a risk, malpractice or wrongdoing at work, we hope you will feel able to raise it first with your line manager or lead clinician. This may be done verbally or in writing.

5.3 Step Two

If you feel unable to raise the matter with your line manager or lead clinician, for whatever reason, please raise the matter with the relevant

Executive Director of the service. Or if you feel unable to do this, please raise the matter with the:

Director of Governance and Corporate Development
Tel: 01278 432000

OR

Director of Human Resources and Workforce Development
Tel: 01278 432076

5.4 These people have been given special responsibility and training in dealing with whistleblowing concerns. If you want to raise the matter in confidence, please say so at the outset so that appropriate arrangements can be made.

5.5 Step 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 the Chief Executive on 01278 432094..

5.6 Department of Health

The Trust recognises its accountability within the NHS. In light of this you can also contact:

1. NHS Protect Fraud and Corruption Reporting Line on **0800 028 40 60** (if your concern is about financial malpractice). You can also report your concerns on line at www.reportnhsfraud.nhs.uk
2. Department of Health, Customer Service Centre, Department of Health, Richmond House, 79 Whitehall, London SW1A 2NS
e-mail: dhmail@dh.gsi.gov.uk Telephone: 020 7210 4850
3. National Whistle Blowing helpline – 08000 724 725

5.7 How we will handle the matter

Once you have told us of your concern, we will assess it and consider what action may be appropriate. The mechanism by which we will do this will depend on the nature of your concerns. This may involve an informal review or a more formal independent investigation. We will tell you who will be handling the matter, how you can contact them, and what further assistance we may need from you. If you ask, we will write to you summarising your concern and setting out how we propose to handle it and provide a timeframe for feedback. If we have misunderstood the concern or there is any information missing, please let us know.

5.8 When you raise the concern it will be helpful to know how you think the matter might best be resolved. If you have any personal interest in the matter, we do ask that you tell us at the outset. If we think your

concern falls more properly within our grievance, bullying and harassment or other relevant procedure, we will let you know.

- 5.9 Whenever possible, we will give you feedback on the outcome of any investigation. Please note, however, that we may not be able to tell you about the precise actions we take where this would infringe a duty of confidence we owe to another person.
- 5.10 While we cannot guarantee that we will respond to all matters in the way that you might wish, we will handle the matter fairly and properly. By using this policy you will help us to achieve this.
- 5.11 The **Non-Executive Director Whistle Blowing Lead** for the Trust (contact via Trust Secretary 01278 432073) will ensure your concern is handled in accordance with this policy. The Lead will be informed each time a concern is raised and may be contacted directly in the event that you believe your concern is not being handled in accordance with this policy.

6. Independent advice

- 6.1 If you are unsure whether to use this policy or you want confidential advice at any stage, you may contact your trade union representative or the independent whistleblowing charity Public Concern at Work on 020 7404 6609 or by email at helpline@pcaw.co.uk. Their lawyers can talk you through your options and help you raise a concern about malpractice or wrongdoing at work.

6.2 External contacts

While we hope this policy gives you the reassurance you need to raise your concern internally with us, we recognise that there may be circumstances where you can properly report a concern to an outside body.

7. TRAINING REQUIREMENTS

- 7.1 The Trust will ensure that all necessary staff (qualified, unqualified, other clinical staff, bank and agency staff) are made aware of this policy.

8. EQUALITY IMPACT ASSESSMENT

- 8.1 'All relevant persons are required to comply with this document and must demonstrate sensitivity and competence in relation to the nine protected characteristics as defined by the Equality Act 2010. If you, or any other groups, believe you are disadvantaged by anything contained in this document please contact the Document Lead (author) who will then actively respond to the enquiry'

9. MONITORING COMPLIANCE AND EFFECTIVENESS

9.1 Monitoring arrangements for compliance and effectiveness

The Somerset Partnership NHS Foundation Trust Board will receive an anonymous and confidential report of all concerns raised under this policy as part of the quarterly workforce report. The report will provide assurance that the policy is working effectively and that issues raised are being dealt with in an appropriate and timely manner. The report will also provide assurance that individuals raising concerns under this policy are protected from detrimental treatment, dismissal or other disadvantage as a result of raising their concern.

9.2 Responsibilities for conducting the monitoring

The Director of HR and Workforce Development will complete the report for the Trust Board and the Workforce Governance Group will review any lessons learnt from each anonymised case.

9.3 Methodology to be used for monitoring

DATIX forms completed for concerns raised

9.4 Frequency of monitoring

Quarter reports to Trust Board

9.5 Process for reviewing results and ensuring improvements in performance occur.

The Workforce Governance Group will review any lessons learnt from each anonymised case.

10. COUNTER FRAUD

- 10.1 The Trust is committed to the NHS Protect Counter Fraud Policy – to reduce fraud in the NHS to a minimum, keep it at that level and put funds stolen by fraud back into patient care. Therefore, consideration has been given to the inclusion of guidance with regard to the potential for fraud and corruption to occur and what action should be taken in such circumstances during the development of this procedural document.

11. RELEVANT CARE QUALITY COMMISSION (CQC) REGISTRATION STANDARDS

The standards and outcomes which inform this procedural document, are as follows:

Section	Outcome
Safeguarding and Safety	7 Safeguarding and Safety
Suitability of staffing	12 Requirements relating to workers 13 Staffing 14 Supporting workers
Quality and management	15 Statement of purpose 16 Assessing and monitoring the quality of service provision

12. REFERENCES, ACKNOWLEDGEMENTS AND ASSOCIATED DOCUMENTS

Anti-bullying and Harassment Policy

Confidentiality Policy

Counter Fraud Policy

Grievance Policy

Managing Allegations Against Staff policy

Raising Concerns Policy (Members Council)

Stress Management Policy

Untoward Events Reporting Policy

13. APPENDICES

For the avoidance of doubt, Appendix A is for information purposes and does not constitute part of the policy.

Appendix A Public Concern at Work – How to implement and review whistleblowing arrangements in your organisation

Speak up for a healthy NHS



How to implement and review whistleblowing arrangements in your organisation

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About this guide

This guide is designed to help employers working in partnership with the trade unions at local level to achieve best practice when devising, implementing and auditing their whistleblowing arrangements. It has been commissioned by the NHS Social Partnership Forum (NHS Employers, NHS trade unions and the Department of Health) and has been written by the independent whistleblowing charity, Public Concern at Work.

NHS Social Partnership Forum

The Social Partnership Forum brings together NHS Employers, trade unions and the Department of Health to discuss, debate and involve partners in the development and implementation of the workforce implications of policy.

www.socialpartnershipforum.org

Public Concern at Work (PCaW)

PCaW is the leading independent UK authority on whistleblowing. Established in 1993, PCaW provides confidential advice to individuals who witness wrongdoing at work and are unsure whether or how to raise a concern. Over the years PCaW has advised thousands of NHS staff members; worked with NHS organisations to help them meet best practice; and made submissions to the Shipman, Ayling and Neary Inquiries. In April 2008 PCaW won the competitive tender to provide independent and confidential advice to staff, and policy advice to organisations throughout the NHS.

For more information about what PCaW does and why it matters, please visit www.pcaw.co.uk or call 020 7404 6609.

www.pcaw.org.uk

Foreword by the Secretary of State for Health

Dear Colleagues,

I am pleased to welcome the publication of the new whistleblowing policy guide, *Speak up for a healthy NHS*.

I put patient safety first. It is vital that staff in the NHS feel empowered and expected to speak up whenever patient safety may be compromised or errors occur. The Public Interest Disclosure Act gives employees protection under the law to raise any concern they may have with their employer, whether it be about patient safety, financial malpractice or any other risk. This has been further backed up by the NHS Constitution, which incorporates the right of all staff who report wrongdoing to be protected.

However, the best legislation in the world only works if organisations have systems in place that give people the confidence to put it into practice. To enhance public confidence in the safety and quality of the care they receive, now more than ever it is important that staff understand the ways through which they can raise a concern. I will shortly be announcing further measures to protect whistleblowers and to strengthen the culture of patient safety and 'challenge' within our health services.

In the meantime, the Social Partnership Forum (comprised of the Department of Health, employers and trade unions) has worked with the independent whistleblowing charity, Public Concern at Work, to develop this guide for NHS organisations to assist you in developing robust whistleblowing arrangements.

The pack explains why whistleblowing matters, what is expected of NHS boards and their executives, and the support you can expect from the Department of Health and Public Concern at Work. Its case studies and model policy will help you and colleagues consider the right way forward for your organisation. Most importantly, it sets out some simple steps that can ensure that your whistleblowing arrangements work – helping you improve patient safety and minimise harm to patients.

Yours sincerely,



A handwritten signature in black ink, appearing to read 'Andrew Lansley'.

Rt Hon. Andrew Lansley MP
Secretary of State for Health

Why does whistleblowing matter?

Over the years there have been a number of high-profile cases involving tragic incidents both in and outside the NHS. Extensive inquiries into the baby heart unit at Bristol Royal Infirmary and into the extraordinary behaviour of the GP Dr Harold Shipman have raised questions about the protection provided to whistleblowers within the health service. Investigations into these and other incidents revealed that in some cases staff had concerns about what was happening but were unsure whether or how to raise them, or had raised the issue only to be ignored. In many of those cases the consequences were devastating for patients, families, staff and the organisation itself. This is why getting whistleblowing in healthcare right is vital.

The Government expects all NHS organisations to have a whistleblowing policy. Recent evidence suggests that nearly all NHS bodies have complied with this requirement. However, a policy is worth little if it is not promoted and is left to gather dust in a drawer, or worse, is actively contradicted by the experience of staff on the ground. NHS bodies have a role in building trust and confidence across the NHS. A responsible attitude to whistleblowing helps each organisation to promote a healthy workplace culture built on openness and accountability. Encouraging staff to raise any serious concern they may have about malpractice or serious risk as early as possible, and responding appropriately, is integral to achieving this. Importantly, it will help NHS organisations to deal with a problem before any damage is ever done.

We know that in most hospitals, primary care and other NHS bodies, busy healthcare professionals and other staff work together to establish the trust and confidence of patients and of one another. Even so, it is worth reminding oneself of the dilemmas, distractions and diversions that can get in the way of clear thinking. Remember, it is the environment that you create, working in partnership with your trade union representatives, that will determine whether your staff will have the confidence to approach you or one of your colleagues. If you do not provide good guidance and a safe alternative to silence in your organisation, there is a danger that poor practice will go unchallenged. No-one wants a culture where problems are exposed by secret filming or by endless public inquiries.

Whistleblowing is a straightforward and practical governance tool. It is not a substitute for good risk management, but getting it right reaps benefits beyond simply detecting malpractice. Importantly, whistleblowing deters wrongdoing and raises the bar on standards and quality. Organisations which promote whistleblowing are likely to be viewed by their staff as better employers and better service providers.

This simple, brief guide is designed to help you think through and – where necessary – improve your whistleblowing arrangements. This will give you the confidence and ability to demonstrate to your patients, staff and other stakeholders that high standards of clinical care and governance are at the heart of your daily work.

Step-by-step guide

This guide has been prepared for those tasked with implementing and/or reviewing whistleblowing arrangements in their organisation.

- Step 1** Read this document
- Step 2** Gain commitment from the board
- Step 3** Gain buy-in and leadership from the senior management team and senior clinical staff, and staff-side engagement
- Step 4** Make the right start – policy, practicalities and consultation
- Step 5** Brief and train designated contacts and managers
- Step 6** Relaunch, communicate and promote
- Step 7** Audit, review and refresh

The law

The Public Interest Disclosure Act (PIDA) protects the public by providing a remedy for individuals who suffer a detriment by any act or any deliberate failure to act by their employer for raising a genuine concern, whether it be a risk to patients, financial malpractice, or other wrongdoing. The Act's tiered disclosure regime promotes internal and regulatory disclosures, and encourages workplace accountability and self-regulation.

Essentially, under PIDA, workers who act honestly and reasonably are given automatic protection for raising a matter internally. In the NHS an internal disclosure can go up to the highest level and includes going to the responsible Minister at the Department of Health. Protection is also readily available to individuals who make disclosures to prescribed regulators (such as the Care Quality Commission and Monitor).

In certain circumstances, wider disclosures (for example to an MP or the media) may also be protected. A number of additional tests apply when going wider, including:

- whether it is an exceptionally serious concern
- whether the matter has already been raised
- whether there is good reason to believe that the individual will be subject to a detriment by his employer if the matter were raised internally or with the appropriate regulator
- whether disclosure was reasonable given all the circumstances.

The Act covers all workers including temporary agency staff, persons on training courses and self-employed staff who are working for and supervised by the NHS. It does not cover volunteers. PIDA also makes it clear that any clause in a contract that purports to gag an individual from raising a concern that would have been protected under the Act is void.

To help make your whistleblowing policy work in practice and to avoid unnecessary damage, you should ensure your policy authorises all staff, not just health and medical professionals, to raise a concern, and identifies who they can contact.

Legal protection is very important if staff are to be encouraged to raise a concern about wrongdoing or malpractice. However, it is vital that employers develop an open culture that recognises the potential for staff to make a valuable contribution to the running of public services, and to the protection of the public interest.

Where an individual is subjected to a detriment by their employer for raising a concern or is dismissed in breach of PIDA, they can bring a claim for compensation under PIDA in the Employment Tribunal. Awards are uncapped and based on the losses suffered.

For further information about the law and an annotated guide see:

www.pcaw.co.uk/law/uklegislation.htm

How to health-check your whistleblowing arrangements

Gain commitment from the board

It is likely that you already have a whistleblowing policy. However, you will want to ensure that your whistleblowing arrangements meet current best practice. This guide will help you to achieve this. Before you review your arrangements, it is important that the board and executive directors are committed to the principles set out in their whistleblowing arrangements and can ensure that it is safe and acceptable for staff to speak up about wrongdoing or malpractice within their organisation.

Ensure buy-in and leadership from the senior management team and senior clinical staff, and staff-side engagement

Within your organisation, appoint an appropriate senior manager to take responsibility for ensuring implementation of the whistleblowing arrangements. This could be the clinical governance lead, the nursing or medical director, or responsible officer.

Convene a board, senior management team, or clinical governance committee meeting: discuss existing and intended arrangements, consider key messages, risks and opportunities. Getting trade union involvement is also key as they have a major role to play in creating the right workplace culture and ensuring that the employer's policies and practices are fair and have the confidence of staff. Fortunately, establishing robust whistleblowing arrangements is not expensive. However, to ensure the arrangements run smoothly it is helpful to consider where the costs of training, promotion and investigating concerns might fall.

Make the right start – policy, practicalities and consultation

Consulting with staff, managers and unions will provide you with an opportunity to think through policy messages, any issues arising, and the language of the policy. It is also an opportunity to decide what it should be called (for example some organisations prefer to call their policies 'Speak Up' or 'Raising

Concerns' rather than 'Whistleblowing Policy') and how helpful staff think it would be, should they face a dilemma on how or whether to raise their concern.

To help you with this consultation exercise, you will find a model policy on page 15 that you can use and adapt for your own purposes. If you ensure that your whistleblowing arrangements support the messages in this policy, staff will have the necessary assurances that it is safe and acceptable to speak up about wrongdoing or malpractice. This will give them the confidence they need to speak to you about a serious concern.

Questions to consider in developing your policy:

- Does the policy make it clear who and what it applies to?
- Does your policy cover volunteers? (Although volunteers are not covered by PIDA, it may be wise to extend the protection of your policy to all those who work for or with you including volunteers and the self-employed.)
- Does it make it clear you are committed to tackling malpractice and wrongdoing?
- Does it give examples of the type of concerns to be raised (such as distinguishing a whistleblowing concern from a grievance)?
- Does it make it clear that confidentiality will be preserved if required?
- Does the policy make it clear how and when staff can bypass line management?
- Who are the designated contacts in the policy?
- Does the policy make it clear that members of staff may contact their union or Public Concern at Work at any stage for free confidential advice, if they are unsure how to raise a concern?
- Is it clear who, how and when a member of staff can approach any outside bodies?

Your policy should answer all these questions, be in writing and readily available to all staff.

Once you have agreed who will be the designated contacts in the policy, ensure they are accessible and that have they been briefed and trained in issues to do with handling the concerned employee (see below). You should also consider what you can say to contractors.

Following the consultation process, agree the final arrangements with the board and ensure that your policy is signed off in partnership with the local trade unions.

Briefing and training designated contacts and managers

Many concerns will be raised openly with line managers as part of normal day-to-day practice. Good whistleblowing arrangements should do nothing to undermine this. It is important that this is made clear to both staff and managers.

All managers and designated contacts should be briefed on:

- the value and importance of an open and accountable workplace
- how to handle concerns fairly and professionally
- how to protect staff who raise a genuine concern and where staff can get help or refer a concern
- how to manage expectations of confidentiality
- the importance of an alternative to line management if the usual channels of communication are blocked
- how to brief their staff on arrangements.

Senior managers and designated contacts who are given a specific role in the whistleblowing arrangements should be trained on how to handle a concern at a senior level.

Handling whistleblowing: practical tips for managers

As a manager you can lead by example. Be clear to your staff what sort of behaviour is unacceptable and practise what you preach. Encourage staff to ask you what is appropriate if they are unsure before – not after – the event. If you find wrongdoing or a potential risk to patient safety, take it seriously and deal with it immediately.

Responding to a concern

- Thank the staff member for telling you, even if they may appear to be mistaken.
- Respect and heed legitimate staff concerns about their own position or career.
- Manage expectations and respect promises of confidentiality.
- Discuss reasonable timeframes for feedback with the member of staff.
- Remember there are different perspectives to every story.
- Determine whether there are grounds for concern and investigate if necessary as soon as possible. If the concern is potentially very serious or wide-reaching, consider who should handle the investigation and know when to ask for help. If asked, put your response in writing.
- Always remember that you may have to explain how you have handled the concern.
- Feedback any outcome and/or remedial action you propose to take to the whistleblower but be careful if this could infringe any rights or duties you may owe to other parties.
- Consider reporting to your board and/or an appropriate regulator the outcome of any genuine concern where malpractice or a serious safety risk was identified and addressed.
- Record-keeping – it makes sense to keep a record of any serious concern raised with those designated under the policy, anonymising these where necessary.

Relaunch, communicate and promote

Once you have good arrangements in place – make sure people know about them. Getting the message across to staff can be done in a number of ways: through hard copy correspondence with staff, communication by email and/or via your intranet, through team briefings and inductions, or the message appearing on payslips. Please see page 18 for our suggested wording of a quick reference guide. Once your managers are briefed, you can engage them in rolling out the message to all staff and use the case studies on pages 12 and 13 in team or staff meetings. You should also seek to involve trade unions in any communications strategy.

You may wish to use and adapt the model letter to staff on page 19. It is important that this letter comes from the top of your organisation – this demonstrates to staff how seriously you are taking the issue.

Audit, review and refresh

A well-run organisation will periodically review its whistleblowing arrangements to ensure they work effectively and that staff have confidence in them. The following points can sensibly be considered to assure the board that the arrangements meet best practice. Monitoring the arrangements in line with this checklist will also help the board to demonstrate to regulators that their arrangements are working:

- Arrange regular feedback sessions with senior designated contacts to evaluate progress and collect data on the nature and number of concerns raised.
- Check the procedures used are adequate to track the actions taken in relation to concerns made and to ensure appropriate follow-up action has been taken to investigate and, if necessary, resolve problems indicated by whistleblowing. Is there evidence of constructive and timely feedback?

- Have there been any difficulties with confidentiality?
- Have any events come to the board's attention that might indicate that a staff member has not been fairly treated as a result of raising a concern?
- Look at significant adverse incidents/incident management systems or regulatory intervention – could the issues have been picked up or resolved earlier? If so, why weren't they?
- Compare and correlate data with information from other risk management systems.
- Find out what is happening on the ground – include a question about awareness and trust of arrangements in any future staff surveys. See below for suggested survey questions.
- The organisation should seek the views of unions, as employees might have commented on the whistleblowing arrangements or sought their assistance on raising or pursuing a whistleblowing concern.
- The board could also consider other sources of information, including information from exit interviews, and PIDA or other legal claims.
- Key findings from a review or surveys should be communicated to staff. This will demonstrate that the organisation listens and is willing to learn and act on how its own arrangements are working in practice.

- Refresh whistleblowing arrangements once a year. Regular communication to staff about arrangements is also recommended. This can be via payslips, management briefings, the intranet or newsletter. As part of audit, checks should be made to ensure that all promotional material is readily available and up-to-date.
- Think about the good news – success stories encourage and reassure everybody. Consider using the case studies provided in this guide, if this will help.

Suggested survey questions for staff

- Have you been troubled about some malpractice in the past three years? If so, did you raise the concern, and with what result?
- How aware are you of the whistleblowing arrangements?
- How likely are you to raise a whistleblowing concern with your manager and with senior managers?
- How confident are you that there will be no negative repercussions for raising the matter with your manager and those above?
- How confident are you that the matter will be addressed properly by your manager and those above?
- How likely is it that your colleagues would raise a whistleblowing concern with their manager or with senior managers?

Key questions

Q What's the difference between a grievance and a whistleblowing concern?

Generally speaking, a whistleblowing concern is about a risk, malpractice or wrongdoing that affects others. It could be something which adversely affects patients, the public, other staff or the organisation itself. A grievance, on the other hand, is a personal complaint about an individual's own employment situation: for example, a staff member may feel aggrieved if they think a management decision has affected them unfairly or that they are not being treated properly. A whistleblowing concern is where an individual raises information as a **witness** whereas a grievance is where the individual is a **complainant**.

Q Open, confidential, anonymous?

Usually, the best way to raise a concern is to do so openly. Openness makes it easier for the organisation to assess the issue, work out how to investigate the matter, understand any motive and get more information. A worker raises a concern confidentially if he or she gives his or her name on the condition that it is not revealed without their consent. A worker raises a concern anonymously if he or she does not give his or her name at all. If this happens, it is best for the organisation to assess the anonymous information as best it can, to establish whether there is substance to the concern and whether it can be addressed. Clearly if no-one knows who provided the information, it is not possible to reassure or protect them.

Q What if the whistleblower has an ulterior motive?

There may be occasions when you are worried that someone has raised a concern with an ulterior motive or, more rarely, maliciously. Most policies (including the one in this guide) make it clear that the organisation cannot give the same assurances and safeguards included in the policy to someone who is found to have *maliciously* raised a concern that they also *know to be untrue*. Such situations should be handled carefully. The starting point for any organisation is to look at the concern and examine whether there is any substance to it. Every concern raised should be treated as made in good faith, unless it is subsequently found not to be. However, if it is found that the individual has maliciously raised a concern that they know is untrue, disciplinary proceedings may be commenced against that individual.

Case studies

The following case studies are intended for use in team or staff briefings to help communicate the key policy messages and to engage staff in the roll-out of the policy.

Case study 1: Dealing with a 'flu outbreak

Due to a 'flu outbreak, the number of cleaners in a hospital block with four wards is down 50 per cent one evening. The supervisor of the contract company says that no help is available so they would just have to do their best, but she will get some cover the following evening. The next night, the situation is the same. Two of the cleaners, Harriet and Gordon, say they are not happy about working like this, as it is impossible to keep the ward clean, and they have asked to meet the ward sister that evening with a list of work not done the previous evening. The manager tells the supervisor to let them know that they could be disciplined if they do that.

Stop here – ask staff and managers what they think Harriet and Gordon should do.

Harriet and Gordon then raised this with their union representative. They were advised to fill in an incident form, which would be forwarded on to the trust's directorates of facilities and risk management. After this was done, the director of facilities discussed the issues raised with the contract company and as a result the company increased the number of cleaners employed, so as to ensure they had adequate cover for sickness absence.

Case study 2: Qualified to cover?

Ijaz, a newly qualified nurse, was working on a 28-bedded acute medical ward. The first two weeks went well and he had lots of support and development. However, in week three he was left in charge for five days. This was his first time in charge and for two days things went OK. However, after day three the ward got busier and he struggled to cope with staff shortages. Ijaz spoke to the ward manager who said it was a good way for him to learn, and that she, the ward manager,

had been thrown in at the deep end when she first qualified. Ijaz decided to carry on but remained unhappy and worried. On day five an elderly patient fell from bed and other things went wrong. He contacted the matron, who said there was nothing she could do as they had reduced staffing levels elsewhere.

Stop here – ask staff and managers what they think Ijaz should do.

Rather than leave this Ijaz contacted his local trade union representative, who went through his options. He had acted entirely correctly to record his concerns both with the ward manager and matron. Ijaz was also right in recognising his limitations. Not only was he newly qualified, but even an experienced nurse would have struggled to cope in such a situation. Both the ward manager and matron had failed to discharge their professional duties. They should have thoroughly investigated the concerns of the nurse and if they found these to be justified, done everything possible to provide additional staffing and the nurse in question with the appropriate supervision. Their union then took the matter up with senior management, who, following a brief investigation, agreed to transfer staff from another ward, and to employ additional bank staff.

Case study 3: Flushing it out

Derek was a senior care coordinator in a care home for the elderly. Derek was on duty one day when he found that the carers had forgotten to give some residents their medication, which included tablets for water retention, blood pressure and some heart medication. Derek immediately told the home's manager what had happened. The home's manager took the unused medication and flushed it down the toilet.

Stop here – ask staff and managers what they think Derek should do.

Derek came across another incident where medication was missed and was unsure what to do.

After considering his options, Derek decided to contact the head office to tell them what he had witnessed. The matter was investigated and the home's manager was taken through a disciplinary process. Derek then contacted PCaW because he was worried about being revealed as the whistleblower.

Stop here – ask staff and managers what assurances may be given to Derek.

The adviser at PCaW worked through the situation with Derek. As Derek was the sole witness of the manager's actions, it was more than likely the manager would work out that Derek was the source of the concern. PCaW advised Derek to be open with head office and explain his anxieties to them, particularly as they were taking the concern seriously. PCaW reassured Derek that he could ring back if he had any questions or concerns. A couple of months later Derek advised PCaW that the concern had been resolved. He had followed the advice and when he spoke to head office, they had taken his worries about confidentiality seriously and found another way to deal with the situation. Derek was still at the same home. He was relieved no-one had been fired; the manager was still in post but there has been a change in the medicine protocols and in the culture at the home.

Case study 4: A private matter?

Sheila was a paramedic and team leader in an ambulance service. Sheila's trust had contracted out part of the ambulance service to a private company. Sheila was concerned about staff from the private company who were not properly trained, did not have the required paramedic registration numbers, did not sign in (so there was no way of tracing who

had done what job), and had made incorrect diagnoses. On one occasion a team had failed to initially diagnose stroke symptoms and left: another ambulance had to be called out later.

Sheila raised her concern with her manager who told her to report it to the local clinical standards team, which she did. She was told it would be looked into further. Sheila then received a call from two directors in the trust who said the matter should be kept internal as it was being investigated by the HR director. This made Sheila uneasy and she was worried that her concerns would not be investigated properly.

Stop here – ask staff and managers what they think Sheila should do.

Sheila contacted PCaW and was reassured that she had done the right thing and it would be best to give the trust a chance to look into the matter. PCaW pointed out that to get a response at director level is an achievement and a sign that the issue was being taken seriously. PCaW suggested Sheila see what response she gets – thank the trust for handling the issue and if possible suggest ways forward.

Sheila contacted PCaW again to say that she had met one of the directors who had asked her to be seconded to head office to work alongside them in addressing the issue. Sheila was still unhappy that no interim measures had been put in place to deal with the issue and was frustrated that things were not moving fast enough. PCaW pointed out that when Sheila was stationed at head office she would be better placed to influence what happens. Sheila later contacted PCaW to say that the private company were no longer going to be used by the trust.

Best practice checklist for your policy

The Committee on Standards in Public Life has recommended that all NHS organisations have, and take steps to publicise, a whistleblowing policy.¹ The whistleblowing policy should make the following points clear:²

1. The organisation takes malpractice seriously, giving examples of the type of concerns to be raised, so distinguishing a whistleblowing concern from a grievance.
2. Staff have the option to raise concerns outside of line management.
3. Staff are enabled to access confidential advice from an independent body, such as the independent whistleblowing charity Public Concern at Work.
4. The organisation will, when requested, respect the confidentiality of a member of staff raising a concern.
5. When and how concerns may properly be raised outside the organisation (for example with a regulator).
6. It is a disciplinary matter both to victimise a *bona fide* whistleblower and for someone to maliciously make a false allegation.

The following model policy has been drafted with these principles in mind and should help you reassure staff that it is acceptable and safe to speak up.

¹ The Nolan Committee's fourth report on standards in public life, review of standards of conduct in executive NDPBs, NHS trusts and local public spending bodies

² The reports of the Committee on Standards in Public Life can be found at www.public-standards.gov.uk

Policy template;

Model whistleblowing policy for NHS organisations

Introduction

All of us at one time or another have concerns about what is happening at work. Usually these are easily resolved. However, when the concern feels serious because it is about a possible danger, professional misconduct or financial malpractice that might affect patients, colleagues, or the *[Trust/organisation]* itself, it can be difficult to know what to do.

You may be worried about raising such an issue and may think it best to keep it 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, to managers or to the organisation. You may have said something but found 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 board of *[organisation name]* is committed to running the organisation in the best way possible and to do so we need your help. We have introduced this policy to reassure you that it is safe and acceptable to speak up and to enable you to raise any concern you may have at an early stage and in the right way. Rather than wait for proof, we would prefer you to raise the matter when it is still a concern.

This policy applies to all those who work for us: whether full-time or part-time, self-employed, employed through an agency or as a volunteer *[see page 7 for further discussion on this point]*.

If something is troubling you which you think we should know about or look into, please use this procedure. If, however, you wish to make a complaint about your employment or how you have been treated, please use the grievance policy or bullying/harassment policy, which you can obtain from your manager or personnel officer. (If you have a concern about financial misconduct or fraud, please see our Anti-fraud Policy.) This Whistleblowing Policy is primarily for individuals who

work for us and have concerns where the interests of others or of the organisation itself are at risk.

If in doubt – raise it!

Our commitment to you

Your safety

The board and the chief executive and the staff unions 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 detriment (such as a reprisal or victimisation). Provided you are acting in good faith (effectively this means honestly), it does not matter if you are mistaken or if there is an innocent explanation for your concerns. So please do not think we will ask you to prove it. Of course we do not extend this assurance to someone who maliciously raises a matter they know is untrue.

Your confidence

With these assurances, we hope you will raise your concern openly. However, we recognise that there may be circumstances when you would prefer to speak to someone in confidence first. If this is the case, please say so at the outset. If you ask us not to disclose your identity, we will not do so without your consent unless required by law. You should understand that there may be times when we are unable to resolve a concern without revealing your identity, for example where your personal evidence is essential. In such cases, we will discuss with you whether and how the matter can best proceed.

Please remember that if you do not tell us who you are it will be much more difficult for us to look into the matter. We will not be able to protect your position or to give you feedback. Accordingly you should not assume we can provide the assurances we offer in the same way if you report a concern anonymously.

How to raise a concern

If you are unsure about raising a concern at any stage you can get independent advice from your trade union representative or Public Concern at Work (see contact details under Independent advice below). Please remember that you do not need to have firm evidence before raising a concern. However, we do ask that you explain as fully as you can the information or circumstances that gave rise to your concern.

Step one

If you have a concern about a risk, malpractice or wrongdoing at work, we hope you will feel able to raise it first with your line manager or lead clinician. This may be done verbally or in writing.

Step two

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

[Name of designated officer]
[Contact details]

OR

[Name of designated officer]
[Contact details]

These people have been given special responsibility and training in dealing with whistleblowing concerns. If you want to raise the matter in confidence, please say so at the outset so that appropriate arrangements can be made.

Step 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:

[Chief Executive, Medical Director, Responsible Officer, Nursing Director]

Department of Health

[Name of organisation] recognises its accountability within the NHS. In light of this you can also contact:

1. NHS Counter Fraud Line on **0800 028 40 60** (if your concern is about financial malpractice)
2. Department of Health (Customer Service Centre, Department of Health, Richmond House, 79 Whitehall, London SW1A 2NS
E-mail: **dhmail@dh.gsi.gov.uk**
Telephone: 020 7210 4850
3. SHA/PCT [*insert details of appropriate contact*].

How we will handle the matter

Once you have told us of your concern, we will assess it and consider what action may be appropriate. This may involve an informal review, an internal inquiry or a more formal investigation. We will tell you who will be handling the matter, how you can contact them, and what further assistance we may need from you. If you ask, we will write to you summarising your concern and setting out how we propose to handle it and provide a timeframe for feedback. If we have misunderstood the concern or there is any information missing, please let us know.

When you raise the concern it will be helpful to know how you think the matter might best be resolved. If you have any personal interest in the matter, we do ask that you tell us at the outset. If we think your concern falls more properly within our grievance, bullying and harassment or other relevant procedure, we will let you know.

Whenever possible, we will give you feedback on the outcome of any investigation. Please note, however, that we may not be able to tell you about the precise actions we take where this would infringe a duty of confidence we owe to another person. While we cannot guarantee that we will respond to all matters in the way that you might wish, we will strive to handle the matter fairly and properly. By using this policy you will help us to achieve this.

Independent advice

If you are unsure whether to use this policy or you want confidential advice at any stage, you may contact your union *[where applicable insert details of local officers]* or the independent whistleblowing charity Public Concern at Work on 020 7404 6609 or by email at helpline@pcaw.co.uk. Their lawyers can talk you through your options and help you raise a concern about malpractice or wrongdoing at work.

External contacts

While we hope this policy gives you the reassurance you need to raise your concern internally with us, we recognise that there may be circumstances where you can properly report a concern to an outside body. In fact, we would rather you raised a matter with the appropriate regulator – such as the Care Quality Commission, the Independent Regulator of

NHS Foundation Trusts (Monitor), your professional regulator, the Audit Commission or the National Patient Safety Agency – than not at all. Your union or Public Concern at Work will be able to advise you on such an option if you wish.

Monitoring oversight

The board/audit committee is responsible for this policy and will review it annually. The risk team *[Compliance/HR]* will monitor the daily operation of the policy and if you have any comments or questions, please do not hesitate to let one of their team know.

Who we consulted

This policy has been drawn up in consultation with *[trade union, professional association(s), Public Concern at Work]*. *[Organisation name]* will review the policy and welcomes your comments.

Additional resources

Suggested wording for quick reference guide

Whistleblowing

If you are worried that something wrong or dangerous is happening at work, please don't keep it to yourself. Unless you tell us about any concerns you may have about fraud, safety risks including clinical safety, or other wrongdoing, the chances are we won't find out until it's too late.

As some of you may be nervous about raising such matters, here are some tips:

- raise it when it's a concern – we won't ask you to prove it
- keep it in perspective – there may be an innocent explanation
- it will help us if you can say how you think things can be put right
- stay calm – you're doing the right thing
- if for whatever reason you are worried about raising it with your manager, please follow the steps shown in the next column.

How to raise a concern about serious malpractice

1. We hope that you will feel able to tell your line manager.
2. If for whatever reason you are uneasy about this or your manager's response doesn't seem right, you should contact: *[add contacts from policy, including your local trade union representatives]*
3. If you want to talk to them in confidence, just say so. If you prefer to put it in writing, that's fine but please tell them who you are.
4. If you want confidential advice first, you can talk to your local trade union representative. You may also call the independent whistleblowing charity Public Concern at Work on 020 7404 6609.

[Place your logo here]

Model letter to staff: suggested wording

To all staff

Dear *colleague/name*

[Organisation name] is committed to dealing responsibly, openly and professionally with any genuine concern you may have about wrongdoing, malpractice or a safety risk in the workplace affecting you, colleagues, patients or *[organisation name]* itself.

We cannot do this without your help. The simple fact is that in many cases you or another member of staff may suspect something is going wrong long before we *[the board/executive]* find out about it. The sooner we know, the better we are able to prevent an accident or serious damage.

If something at work is troubling you, please tell us. While we hope you will feel able to raise such a matter with your line manager, we recognise that you may prefer another contact point, or would welcome the chance to discuss your concern with someone in confidence first.

For this reason we have *[introduced/revised]* our whistleblowing policy, a copy of which is attached

[or is summarised in the enclosed pocket guide]. The policy has been drawn up in consultation with staff and local trade unions here following the guidance developed by the Social Partnership Forum and the independent whistleblowing charity, Public Concern at Work. It commits us to ensuring that you will suffer no detriment by your employer as a result of honestly raising a genuine concern about malpractice or wrongdoing at work, even if your concern later proves to be wrong or unfounded. If you wish to raise a concern in confidence, the policy explains how you can do this.

I do ask you to take a few minutes to read the policy *[which, if not attached, is available from...]*. If you are worried about whether or how to raise a concern about a risk, wrongdoing or malpractice, you can also seek advice from your union or from Public Concern at Work on 020 7404 6609.

If you are unclear about any aspect of the policy and our arrangements, please feel free to speak with one of the people listed in the policy *[or with me]*.

Yours sincerely

Chair/Chief Executive

Further information

BSI Code of Practice on Whistleblowing Arrangements

Organisations can download a free copy of the 2008 British Standards Institution's Code of Practice on Whistleblowing Arrangements from

www.pcaw.co.uk/bsi

Public Concern at Work

For information about the Public Interest Disclosure Act 1998, please visit:

www.pcaw.co.uk/law/uklegislation.htm

NHS Counter Fraud and Security Management Services (CFSMS)

Weston House
246 High Holborn
London WC1V 7EX
Tel: 020 7895 4500

Care Quality Commission (CQC)

Finsbury Tower
103–105 Bunhill Row
London EC1Y 8TG
Tel: 020 7448 9200

Monitor

4 Matthew Parker Street
London SW1H 0NP
Tel: 020 7340 2400

Audit Commission

1st Floor
Millbank Tower
Millbank
London SW1P 4HQ
Tel: 0844 798 1212
or 020 7828 1212

National Patient Safety Agency (NPSA)

4–8 Maple Street
London W1T 5HD
Tel: 020 7062 1620

Professional regulators

- General Chiropractic Council
44 Wicklow Street
London WC1X 9HL
www.gcc-uk.org
Tel: 020 7713 5155
- General Dental Council
37 Wimpole Street
London W1G 8DQ
www.gdc-uk.org
Tel: 020 7887 3800
- General Medical Council
Regents Place
350 Euston Road
London NW1 3JN
www.gmc-uk.org
Tel: 0161 923 6602
- General Optical Council
41 Harley Street
London W1G 8DJ
www.optical.org
Tel: 020 7580 3898
- General Osteopathic Council
176 Tower Bridge Road
London SE1 3LU
www.osteopathy.org.uk
Tel: 020 7357 6655
- Health Professions Council
Park House
184 Kennington Park Road
London SE11 4BU
www.hpc-uk.org
Tel: 0845 300 4472 or 020 7840 9802
- Nursing and Midwifery Council
23 Portland Place
London W1B 1PZ
www.nmc-uk.org
- Royal Pharmaceutical Society of Great Britain
1 Lambeth High Street
London SE1 7JN
www.rpsgb.org.uk
Tel: 020 7735 9141

The Social Partnership Forum

The Social Partnership Forum brings together NHS Employers, trade unions and the Department of Health to discuss, debate and involve partners in the development and implementation of the workforce implications of policy; it aims to promote partnership working at all levels of the NHS.

www.socialpartnershipforum.org

Public Concern at Work

Public Concern at Work (PCaW) is the independent authority on public interest whistleblowing. Established as a charity in 1993 following a series of scandals and disasters, PCaW has played a leading role in putting whistleblowing on the governance agenda and in developing legislation in the UK and abroad. PCaW has been contracted to provide advice and guidance for staff and bodies throughout the NHS in England and policy advice to Government.

www.pcaw.org.uk

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