

## Whistleblowing Policy

### (How to Raise Concerns)

Version:	4
Ratified by:	Trust Board
Date ratified:	September 2013
Title of originator/author:	Director of HR and Workforce Development
Name of responsible committee/group:	Trust Board
Date issued:	<b>October 2013</b>
Review date:	<b>August 2016</b>
Relevant Staff Group/s:	All staff working for and with the Trust

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## DOCUMENT CONTROL

<b>Reference</b> AF/Sep13/WP	<b>Version</b> 4	<b>Status</b> Final	<b>Author</b> Director of HR and Workforce Development
<b>Amendments</b>	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.		
<b>Document objectives:</b> To enable staff to raise concerns about what is happening at work at an early stage, and in the right way.			
<b>Intended recipients:</b> All staff working for and with the Trust			
<b>Committee/Group Consulted:</b>			
<b>Monitoring arrangements and indicators:</b> See section 9			
<b>Training/resource implications:</b> See section 7			
<b>Approving body and date</b>	Executive Management Team		Date: September 2013
<b>Formal Impact Assessment</b>	Impact Part 1		Date: September 2013
<b>Ratification Body and date</b>	Trust Board (TB required)		Date: September 2013
<b>Date of issue</b>	<b>October 2013</b>		
<b>Review date</b>	<b>August 2016</b>		
<b>Contact for review</b>	Director of HR and Workforce Development		
<b>Lead Director</b>	Director of HR and Workforce Development		

### CONTRIBUTION LIST Key individuals involved in developing the document

Name	Designation or Group
Phil Dolan	Non-Executive Directors
Stephen Ladyman	Non-Executive Directors
Members	Executive Directors
Members	Trust Board
Andrew Sinclair	Equality and Diversity Lead

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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](http://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](mailto: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](mailto: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:

<b>Section</b>	<b>Outcome</b>
<b>Safeguarding and Safety</b>	<b>7 Safeguarding and Safety</b>
Suitability of staffing	12 Requirements relating to workers
	13 Staffing
	14 Supporting workers
<b>Quality and management</b>	<b>15 Statement of purpose</b>
	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