

**SOUTHPORT AND ORMSKIRK HOSPITAL  TRUST  
(INTEGRATED CARE ORGANISATION)**

**Whistleblowing Policy**

<b>Policy Type</b>	Corporate
<b>Policy No</b>	CORP 69
<b>Policy Title</b>	Whistleblowing Policy
<b>Policy replaces (if applicable)</b>	NHS Sefton – NP 18 Whistleblowing Policy and Central Lancs – DPOD 16 Whistleblowing Policy
<b>Date of First Issue</b>	May 2008
<b>Original Author's Name and Title</b>	Richard McCarthy Deputy Director Strategy, Commerce and Communications
<b>Reviewer's Name and Title</b>	Sharon Partington, Director of HR and Communications; Audrey Cushion, Deputy Director of HR; Kristina Risley, Organisational Development Manager
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<b>ICO Version No</b>	2
<b>Scope</b>	This policy applies to all Southport and Ormskirk Hospital NHS Trust employees
<b>Consultation with</b>	Joint Negotiating Committee Joint Medical Staff Negotiating Committee
<b>Training Required</b>	No
<b>Name of Trainer</b>	N/A
<b>Approved By Quality Assurance Committee</b>	9 <sup>th</sup> January 2014
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**1. INTRODUCTION**

- 1.1 The Trust Board believes it is important to encourage a climate of openness, dialogue and constructive criticism within the Trust, where the free expression by staff of their concerns is welcomed by Managers as a contribution towards improving services. However, this must be done reasonably and with proper regard to the Trust Policy and the principles of confidentiality. The Trust will provide staff with a clear commitment that staff concerns will be taken seriously and investigated. Members of staff who raise concerns responsibly and reasonably will be protected against victimisation.  
Individuals are expected to adhere to codes of conduct and professional standards, a raised concern should be about anything preventing them from doing this.
- 1.2 The Public Interest Disclosure Act (1998) 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 amendments to the Employment Rights Act (1996) and the NHS Constitution (2013), which incorporates the right of all staff who report wrongdoing to be protected. Further protections for employees were clarified by the Enterprise and Regulatory Reform Act (2013).
- 1.3 Essentially, under the Public Interest Disclosure Act and Enterprise and Regulatory Reform Act, workers who act honestly and reasonably are given protection against dismissal or detriment for raising a concern internally provided they reasonably believe that their disclosures are made in the public interest.  
In the NHS an internal disclosure can go to the highest level and includes going to the responsible Minister at the Department of Health.
- 1.4 If, having read this policy, staff have any doubt about the correct course of action they should contact their Executive Director or Lead Clinician for advice.

**2. PURPOSE**

- 2.1 The objective of this policy is to identify the appropriate action to be taken by staff wishing to raise concerns about themselves, the welfare, care and treatment of patients or the Trust's policies, organisation and funding of services.
- 2.2 The Trust is confident that if members of staff accept their responsibility for raising concerns in accordance with this policy, issues can be resolved internally without external interventions.

- 2.3 Any employee unsure as to whether to use this procedure or wishing to seek independent advice at any stage should contact:
- Their Trade Union, professional organisation or statutory body such as the Nursing Midwifery Council (NMC), General Medical Council (GMC) or boards of Council for Professions Supplementary to Medicine
  - The independent charity Public Concern at Work – by telephone: 020 7404 6609 or by email: [whistle@pcaw.org.uk](mailto:whistle@pcaw.org.uk). Their lawyers provide free independent advice at any stage about how to raise a concern in relation to serious malpractice at work
- 2.4 In certain circumstances, wider disclosures, for example to a Member of Parliament (MP), or the media may also be protected. However a number of additional tests need to apply including:
- Whether the matter has already been raised
  - Whether it is an exceptionally serious concern
  - Whether there is good reason to believe that the individual will be subject to a detriment by his/her employer if the matter were raised internally or with the appropriate regulator
  - Whether disclosure is reasonable given all the circumstances

### **3. SCOPE**

- 3.1 This policy applies to all Trust employees including agency staff, students and volunteers. It should be noted that the protection provided by the Public Interest Disclosure Act does not cover volunteers. However, other individuals performing functions in relation to the Trust, such as volunteers and contractors are also encouraged to use this policy. The Trust board will extend the protection of the Act locally to all who raise concerns appropriately and in accordance with this policy.

### **4. DUTIES**

#### **4.1 Trust Board**

The Trust Board has responsibility for ensuring the Trust Whistleblowing Policy (CORP 69) operates within legal and mandatory requirements and that staff who identify criminal activity or other malpractice are adequately supported and protected.

#### **4.2 Chairman**

The designated Chairman must ensure their contact details are widely known and must investigate concerns that are brought to their attention.

#### **4.3 Chief Executive**

The Chief Executive is responsible for investigating concerns that are brought to their attention and for raising these with the Board as necessary.

#### **4.4 Ward and departmental managers**

All ward and departmental managers have a responsibility for taking appropriate action when concerns are raised and for ensuring that staff are aware of this policy and their duty within it.

- 4.5 **All members of staff** have a duty under the NHS Constitution to raise any genuine concerns about a risk, malpractice or wrongdoing at work (such as a risk to patient safety, fraud or breaches of patient confidentiality), which may affect patients, the public, other staff or the organisation itself, at the earliest reasonable opportunity.

All members of staff also have a duty to treat each other with dignity and respect in accordance with the Trust's Dignity at Work policy and the Trust values (SCOPE). Ill-treatment towards whistleblowers will not be tolerated and will be managed in accordance with the Trust's Grievance Resolution Procedure and Disciplinary Policy and Rules (PERS 01).

- 4.6 Failure to raise concerns in line with professional codes of practice may result in action being taken by the appropriate regulating body.

## 5. DEFINITIONS

### 5.1 Whistleblowing

Generally speaking, a whistleblowing concern is about a risk, malpractice or wrongdoing that affects others. It could be something that adversely affects patients, the public, other staff or the organisation itself.

A whistleblowing concern is where an individual raises information as a **witness**.

### 5.2 Malpractice

In the context of this policy this may refer to any of the following:

- Failure to comply with a legal obligation
- Unprofessional acts
- Misuse or inappropriate use of Trust funds or resources
- A criminal offence
- A miscarriage of justice
- The endangering of an individual's health and safety
- Damage to the environment
- Deliberate concealment of information relating to any of the above

### 5.3 Grievance

A grievance 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 grievance is where the individual is a **complainant**. Where members of staff think they may have a grievance they should refer to PERS 02 Grievance Resolution Procedure.

## 6. RAISING ISSUES OF CONCERN ABOUT THE WELFARE, CARE OR TREATMENT OF PATIENTS

- 6.1 The Trust believes that members of staff have a professional duty to ensure that the best care and treatment is provided to all patients within the Trust, not just those directly under their care. Furthermore, openness and honesty are requirements in

healthcare professionals' codes of practice and the principles and the NHS Constitution also emphasises the importance of honesty and openness.

- 6.2 If staff believe that they have witnessed care or treatment that falls below the standards expected by the Trust or professional bodies either due to the actions of an individual or a group or due to a lack of resources, then staff have a moral and professional duty to alert senior staff to such concerns. All instances of malpractice should be reported as an incident on the incident reporting system DATIX.
- 6.3 For instances of significant malpractice or if an incident has not been adequately resolved, concerns should be raised verbally with the next in line Manager. If this is not deemed to be effective the concern should be recorded in writing and sent to the relevant Executive Director responsible for the business unit. If staff concerns are regarding themselves they must raise the matter with a senior colleague without delay.
- 6.4 Concerns may also be raised anonymously via DoN Direct, a direct line to the Director of Nursing and Quality, which is aimed at highlighting good practice and raising concerns where standards of treatment are falling below those which would be expected.  
The Trust Chief Executive's rumour-busting hotline also provides an opportunity for staff to raise their concerns, Staff wishing to access this service should email [soh-tr.communications@nhs.net](mailto:soh-tr.communications@nhs.net).
- 6.5 The Department of Health also offers a free phone helpline offering free, impartial and confidential advice to staff who wish to raise concerns, but are not sure how or what protections they have in law when they do.  
The helpline number is 08000 724 725.

## **7. SPECIFIC GUIDANCE FOR MEDICAL STAFF**

- 7.1 Members of teams should be responsible to each other and if there is evidence of poor practice, the team should deal with the problem in a positive manner. Where patient safety is considered to be compromised, immediate contact with the Risk Management Department and the Executive Medical Director, Chief Operating Officer or Director of Nursing and Quality must be made. Signs of poor practice must be dealt with quickly in order to protect patients if they are at risk. Support and practical help will be provided to those directly involved.
- 7.2 It is an absolute requirement by the Trust, that staff rapidly report any incidence which could lead to adverse consequences for patients or staff. There are appropriate reporting procedures such as Datix incident reporting to facilitate this within the Trust. Alternatively, incidents can be reported via the Serious Incident Reporting Hotline (extension 4997), but an incident form will also need to be completed.  
Where there is doubt as to whether an incident needs to be reported or not, it is preferable to report it.
- 7.3 For more detailed information on incident reporting, please refer to the Risk Management Policy 06 'Policy for Management and Reporting of Incidents', which can be found on the intranet site.

- 7.4 Once a concern about a member of the medical staff is reported the following key actions will be considered:
- 7.4.1 Clarify what has happened and the nature of the problem or concern.
  - 7.4.2 Discuss with Director of Human Resources and Communications and direct Clinical Manager such as a Clinical Director or Associate Medical Director to ensure that the concern is investigated and dealt with in accordance with the Trust Policy Maintaining High Professional Standards in the Modern NHS MED STAFF 01
  - 7.4.3 At any stage of the process if judgement has been reached that a practitioner is considered to be a serious potential danger to patients or staff, he or she must be referred to the regulatory body (General Medical Council (GMC) in cases of medical staff). An issue of an “alert letter” should be considered.

## **8. RAISING ISSUES OF CONCERN ABOUT THE TRUST’S POLICIES, ORGANISATION OR FUNDING OF SERVICES, INCLUDING CLINICAL SERVICES**

- 8.1 The aims should always be for staff concerns about Health Service issues to be resolved informally, between the individual and their Manager. Consultant staff may wish to approach the Lead Clinician about their concerns.
- 8.2 Action will be taken promptly by the Manager and the member of staff will be notified of the intended action. If action is not deemed appropriate, the member of staff will be given a prompt explanation of the reasons for the decision.
- 8.3 Where the member of staff initiating the concern remains dissatisfied, the concern should be passed to the appropriate Executive Director and then, if still dissatisfied, to the Chief Executive.
- 8.4 The employee is at liberty to raise his or her concern with the highest level of local Management. If the issue remains unresolved after it has been referred to all levels of Management then the employee has recourse to the Chairman of the Trust.
- 8.5 The Chairman may choose to deal with the matter personally or in conjunction with Non-Executive Board Members, or delegate the investigation of the matter to other suitable persons or bodies. Wherever possible this will be done in agreement with the whistleblower. However, should the Trust be in a position where the matter cannot be investigated without referral to another person or body, this shall be discussed with the whistleblower before any disclosure is made.
- 8.6 At each level of escalation the member of staff will receive a response detailing the intended action within 5 working days. If, due to the nature of the concerns raised, this timescale needs to be extended; the case manager will inform the staff member raising the concern of this.

## **9. CONCERNS ABOUT FRAUD AND CORRUPTION**

- 9.1 If your concern is about fraud, corruption or bribery please report your concern by way of **one** of the following reporting lines:
- a) The Trust's local Counter Fraud Specialist on 0151 285 4544
  - b) The Trust's Director of Finance
  - c) The national confidential NHS Fraud and Corruption Reporting Line 0800 028 40 60 [Free phone Monday to Friday 8am – 6pm)
  - d) Online reporting form [www.reportnhsfraud.nhs.uk](http://www.reportnhsfraud.nhs.uk)
- 9.2 Information provided via any of these reporting lines will be treated in strictest confidence and can be provided anonymously if necessary
- 9.3 Refer to the Trust's Anti-Fraud and Corruption Policy (CORP 66).

## **10. GUIDANCE FOR STAFF ON RAISING ISSUES OF CONCERN TO THE MEDIA OR OTHER EXTERNAL BODIES**

- 10.1 We would encourage staff to raise their concerns internally to facilitate the resolution of the issue. However, in exceptional circumstances it is recognised that an individual may feel justified in referring concerns to an external body including MP's and the media to ensure that the highest possible standards of patient care and probity are maintained at all times.
- 10.2 The Trust is confident that virtually all such concerns can be addressed internally but the aim of this policy is to ensure that where such action is contemplated advice is offered and the duty of confidentiality is maintained.
- 10.3 Any employee contemplating making a disclosure to an external body including the media is advised to first seek further specialist guidance from professional or other representative bodies, to discuss matters further with their colleagues, their line/professional manager and to ensure that all local procedures have been exhausted.
- 10.4 All staff retain the right to consult and seek guidance and support from their professional organisation or trade union, and from statutory bodies such as the Nursing and Midwifery Council and General Medical Council and the Boards of the Council for Professions supplementary to Medicine or any other senior manager.
- 10.5 Managers should encourage staff to consult with representative bodies, particularly if an issue seems likely to remain unresolved. It is not the intent of the policy to unduly delay the raising of issues of concern but to ensure that appropriate and proper advice is sought and that subsequent actions are based on this advice.

## **11. ACCESS TO THE CHAIRMAN**

In exceptional circumstances any member of staff wishing to raise issues of concern which might be of a particularly sensitive nature may, rather than pursuing

the matter in accordance with the procedure described above, make direct contact with the Chairman, in confidence, on a direct phone line.

**Chairman's Direct Line: 01704 704080 (Ext: 4080)**

## **12. DEALING WITH STAFF CONCERNS**

- 12.1 After a concern has been raised with the appropriate Manager/Lead Clinician/ Executive Director/Chairman, the appropriate Manager/Lead Clinician/ Executive Director/Chairman will then become the case manager for the concern and may commission an informal review, internal inquiry or formal investigation as appropriate. The case manager may escalate the issue to an appropriate manager within the Trust for resolution as required.
- 12.2 The individual raising concerns will be informed of how the matter will be resolved within 5 working days. If, due to the nature of the concerns raised, this timescale needs to be extended; the case manager will inform the staff member raising the concern of this.
- 12.3 Any subsequent investigation will be undertaken in accordance with the Trust's Investigation Guide (PERS 38) and resulting disciplinary action will be carried out in line with the Trust's Disciplinary Rules and Procedure (PERS 01). The procedure for Maintaining High Professional Standards in the Modern NHS will apply to medical and dental staff (MED STAFF 01).

## **13. CONFIDENTIALITY**

- 13.1 Concerns raised will be treated seriously and actions taken in accordance with this policy. The Trust will make every attempt to respect the requests of staff who ask for concerns to be treated in confidence. However, it is not possible to guarantee confidentiality. Should the Trust be in a position where confidentiality cannot be maintained, this will be discussed with the whistleblower before any disclosure is made. In some circumstances the Trust may be required to reveal the identity of a whistleblower in order to assist in the investigation into the matter; the whistleblower will be advised if this is the case.
- 13.2 Whistleblowing does not negate the duty of confidentiality to patients and other users of the Trust. Patient information must only be disclosed when there the recipient has a need to know. This may include at a later stage in the process to investigate the concerns but may not be required at initial reporting.
- 13.3 Careful consideration must be given to the disclosure of patient information to any external party during the whistleblowing process, including to a Member of Parliament or the media. A breach of patient confidentiality will only be justifiable in the event of significant public interest and where the patient information is essential to the whistleblowing concern. In most cases the concern can be raised and the public interest satisfied without the disclosure of the patient information to external parties.



13.4 The Information Governance team can be contacted in confidence to discuss any confidentiality concerns before whistleblowing is exercised. Contact can be made on 01704 704868 or soh-tr.infogov@nhs.net.

## **14. MONITORING**

<b>Systems</b>	<b>Monitoring and / or Audit</b>				
Criteria	Measurables	Lead Officer	Frequency	Reporting to	Action Plan / Monitoring
Appropriate action is taken by staff wishing to raise concerns about welfare of patients, policies, organisation and funding of services as per policy	Incidents reported using Datix incident reporting system	HR Manager	Monthly	Operational Risk Management Committee	Operational Risk Management Committee

## **15. REFERENCES**

Department of Health Publication - Whistleblowing in the NHS Policy Pack.

Employment Rights Act (1996)

Enterprise and Regulatory Reform Act (2013)

HSC 1999/198 The Public Interest Disclosure Act (1998\_ whistleblowing in the NHS.

NHS Constitution (2013)

Public Concern at Work (2010) – Speak up for a Healthy NHS

Public Interest Disclosure Act (1998)

The Speaking up Charter (2012)

## **16. ASSOCIATED DOCUMENTS**

RM 06 Policy for Management and Reporting of Incidents.

PERS 02 Grievance Resolution Procedure

PERS 42 Alcohol, Drugs and Substance Misuse Policy

MED STAFF 01 Maintaining High Professional Standards in the Modern NHS

PERS 01 Disciplinary Policy and Rules

CORP 66 Anti-Fraud and Corruption Policy

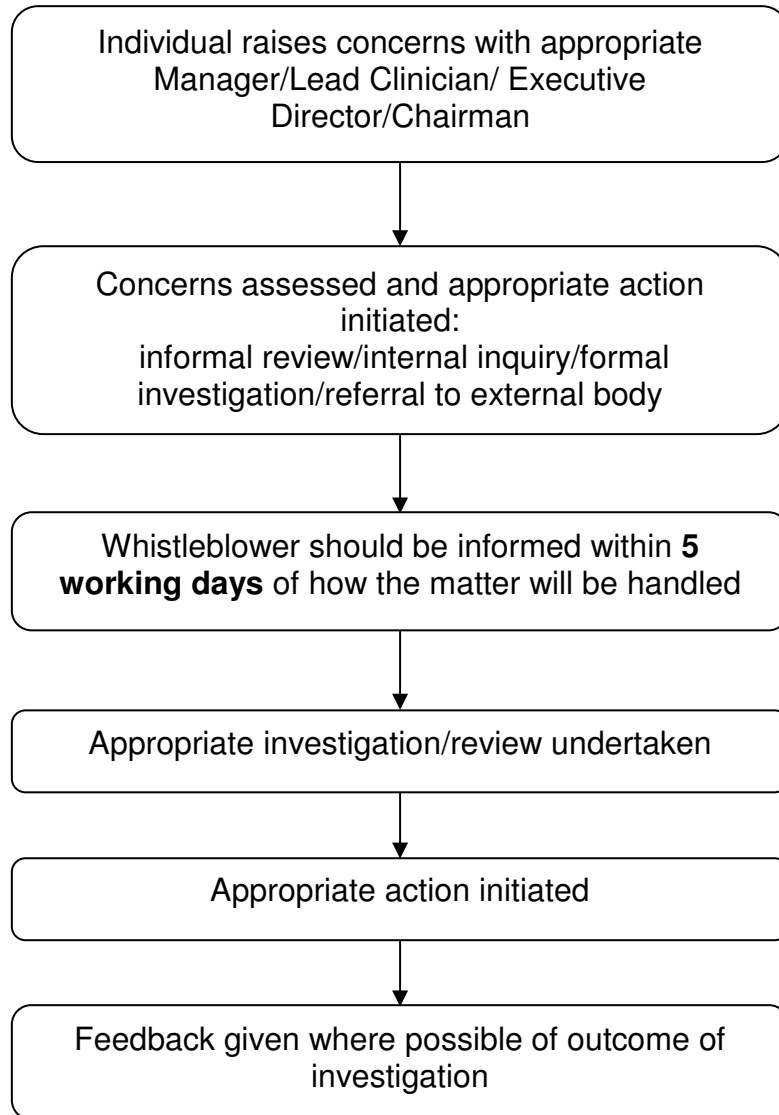
PERS 37 Dignity at Work policy

PERS 38 Investigation Guide

## **17. EQUALITY IMPACT ASSESSMENT**

<b>EQUALITY IMPACT ASSESSMENT</b>	
Impact Assessment Completed By	Kristina Risley, Organisational Development Manager
Date Completed	October 2013
Relevance Shown	No
Action Plan Completed	No
Nominated lead for Managing Action Plan	N/A
Completed Assessments held by	Policy Coordinator

**Flow Chart for Dealing with Staff Concerns**



**Appendix 2**

**INTERNAL INCIDENT REPORTING PROCESS**

1. A Trust Incident Report must be completed at the earliest opportunity on the Datix web system using the Data Input Form 1 (DIF 1), which can be accessed via the link on the desk top of all computers in the Trust.
2. When an accident, incident or near miss occurs involving staff, patients and others, clinical or non-clinical, it is essential that prompt action be taken to deal with the immediate situation.
3. All incident reports are to be completed fully – documenting fact only and details of immediate action taken to prevent a recurrence of the incident should be recorded on the DIF 1 form.
4. All information regarding an incident must be documented and secured, as soon as possible after an incident.
5. The level of severity needs to be established following the incident, and consideration should be given as to whether the incident falls into the Serious untoward incident (SUI), in line with the categories as detailed in the Trust Risk Management Policy (RM 06)
6. Major Accidents, incidents and near misses must be reported to the Risk Management Department immediately by using the serious incident hotline, **(extension 4997)** and to the Assistant Director /Head of Nursing or Risk Lead.
7. If a major accident, incident or near miss occurs out of normal working hours which are Monday - Friday 8.30am - 5.00 pm, the bleep holder for the hospital must be informed who in turn is responsible for notifying the on-call manager.
8. The Risk Management Department must be advised of the incident on the next working day.
9. Examples of the types of incidents which must be reported are shown in the Trust Risk Management Policy (RM 06) at Appendix E for Clinical Incidents and at Appendix F for Non-Clinical Incidents.
10. These examples should be used as guidance only as any events that may lead to harm should be reported.

**Contingency plan for Datix Web**

If Datix web is unavailable then a paper Incident reporting form (IR1) must be completed.

Yellow copy - to be completed and sent to Risk management department

Pink copy – to be completed and sent to Line manager

White copy – to be retained by the person reporting the incident