# Whistle Blowing Policy

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The Trust strives to ensure equality of opportunity for all, both as a major employer and as a provider of health care. This policy has therefore been equality impact assessed to ensure fairness and consistency for all those covered by it, regardless of their individual differences, and the results are available on request.
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Executive Summary

The term ‘whistle blowing’ is used to describe the action of raising concerns, or giving information, to the appropriate authorities about any ‘wrongdoings’ within an organisation which fall into one of the following categories:

- A criminal offence
- A miscarriage of justice
- The endangering of an individual’s health and safety
- An act causing damage to the environment
- Deliberate concealment of information relating to any of the above.

Examples of such actions may include the physical abuse of people using our services; clinical malpractice or dangerous patient care / practice which compromises patient safety; financial impropriety, such as the falsification of claims, records or accounts; putting others at serious risk by failures to act or withholding information on known dangers to health and safety.

The Public Interest Disclosure Act gives employees protection under the law to raise any concern they may have with their employer about matters which they believe are of public interest. This is backed up by the NHS Constitution, which incorporates the right of all staff who report wrongdoing, to be protected. This right is now part of the NHS Terms and Conditions of Service.

Openness, transparency and candour were key themes arising from the recommendations of the Francis Report (February 2013), supporting an organisational culture of enabling concerns to be raised freely without fear and allowing information about performance to be openly shared in the public interest. This policy demonstrates how University Hospital Southampton NHS Foundation Trust (UHS) is committed to applying those recommendations in tackling malpractice and wrongdoing.

All Trust staff must be able to raise concerns about wrongdoing at an early stage and in the right way. Only by being made aware, can the Trust correct any wrongdoing before it becomes a serious problem or causes harm. The Trust believes that a responsible attitude to raising concerns and whistle blowing helps to promote a healthy workplace culture and built on openness and accountability.

This policy covers all Trust staff including temporary and agency staff, students in training, apprentices, people on work experience, volunteers and self employed staff who are working for and supervised by the NHS.

This policy is an integral part of our Quality Governance Framework and our action plans arising from the Francis Report. It sets out the process for how individuals may raise concerns of public interest and how those concerns will be dealt with. It provides a safe alternative to silence. The policy of the Trust is to:

- encourage staff to raise concerns as soon as possible through their normal line management structures and electronic incident reporting procedures.
- view the whistle blower as a witness not a complainant and to view the message and not the messenger.
- provide a separate and additional channel of communication for raising a serious concern.
- utilise a grading system in order to prioritise incidents and allow the Trust to act speedily and effectively to investigate and take appropriate action.
- promote a climate of openness and accountability and thereby to deter and detect wrongdoing in the workplace.
- support and protect staff from reprisals, victimisation or any other detriment from their employers or workplace colleagues, where they have raised a serious concern that they
have reasonable belief is in the public interest. Co-workers will have personal liability for proven victimisation.

The process of raising a concern and escalating it to the appropriate level within the organisation, should follow 4 stages:

**STAGES FOR RAISING AND ESCALATING CONCERNS**

1. **STAGE 1**
   - Raise your concern internally with your line / department manager. If unable to do this for any reason then

2. **STAGE 2.**
   - Raise your concern internally with a designated Divisional Senior Manager.

   Concern not adequately addressed and / or immediate risk to others

3. **STAGE 3.**
   - Escalate your concern internally to a more senior level of Trust management. Call the internal Raising Concerns Helpline on Ext 6555

   Concern not adequately addressed and / or immediate risk to others

4. **STAGE 4.**
   - Escalate your concern to an external agency.

If you are thinking of taking this course of action you should always seek advice before you act. Gain free confidential advice from your Trade Union Rep, Professional Body or from Whistle Blowing Helpline.
1.0 Introduction

The Trust already has a number of policies / procedures in place for capturing details of, and reporting incidents to Managers. If you decide to raise any concerns then you should follow one of the current procedures in place for incident reporting in the first instance, as detailed in the following policies:

- Incident Reporting and Management Policy.
- Counter Fraud Policy.
- Trust Grievance Policy.

If your concern relates to one of the following:

- A criminal offence
- A miscarriage of justice
- The endangering of an individual’s health and safety
- An act causing damage to the environment
- Deliberate concealment of information relating to any of the above.

or does not clearly fit within any of the existing policies, or you have previously raised a concern via one or more of these routes, which you feel has not been dealt with appropriately or has failed to correct the wrongdoing, then you should report your concerns using the Whistle Blowing Policy. You may contact the Trust internal Raising Concerns Helpline at anytime on Ext 6555.

All of us at one time or another have concerns about what is happening at work. Usually these concerns are easily dealt with and resolved through the normal line management structures. 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.

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 Trust. 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 Trust Board 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.

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 about it until it’s too late. You have the right to do this anonymously if you wish.

If you raise a genuine concern under this policy, because you have a reasonable belief that it is in the public interest to do so, you will not be at risk of losing your job or suffering any detriment such as reprisal or victimisation. It does not matter if you are mistaken or if there is an innocent
explanation for your concern. You will not be asked to prove anything. Of course we do not extend this assurance to anyone who maliciously raises a matter they know is untrue.

With these assurances, we hope that 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 we are required to do so 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 that we can provide the assurances we offer in the same way if you report a concern anonymously.

1.2 Scope

This policy and procedure applies to all Trust staff including temporary and agency staff, students in training, volunteers and self employed staff who are working for and supervised by the NHS. It is designed to promote fairness and consistency in handling concerns and safeguards employees who raise concerns / ‘blow the whistle’.

This policy is not a substitute for the Grievance Procedure. If your concern relates to, or affects, your own contract of employment or your personal well being, then you should follow the Trust Grievance Procedure.

This policy should only be used when you have exhausted all other internal processes for raising a concern through your normal line management structures, or if your concern is a serious one relating to the issues outlined above and you have a belief that raising the matter formally is in the public interest.

1.3 Aim / Purpose

This policy explains how individuals may raise any concerns under the Whistle Blowing Policy (once all other internal processes for reporting an incident have been exhausted) and how those concerns will be dealt with.

If Trust employees consider that their concerns will be handled properly, and in a timely manner, they are more likely to report them internally, thereby safeguarding patients, the reputation of the organisation and the well being of others working in it.

It is important to the Trust that any wrongdoing is reported and properly dealt with. The Trust expects all employees to raise any concerns / ‘blow the whistle’, if they become aware of any such wrongdoing.

It is the Trust’s policy that you must be able to raise concerns about such wrongdoings at an early stage and in the right way. Only by being made aware, can the Trust correct any wrongdoings before they become a serious problem.

1.4 Definitions

The term ‘whistle blowing’ is used to describe the action of raising concerns, or giving information, to the appropriate authorities about any ‘wrongdoings’ within an organisation.
2.0 Trust Related Policies

This Policy is linked with, and may be used in conjunction with, the following policies:

- Incident Reporting and Management Policy
- Being Open Policy
- Counter Fraud Policy
- Managers Guidelines on Conducting Formal HR Investigations
- Health & Safety Policies
- Complaints Procedure
- Doctors and Dentists Conduct and Performance Policy
- Grievance Policy
- Collective Disputes Procedure
- Eliminating Bullying, Harassment and Discrimination from the Workplace Policy
- Disciplinary Policy
- Supporting Staff Involved in an Incident, Complaint or Claim - Policy

3.0 Roles and Responsibilities

Corporate Accountability

The Chief Executive and Trust Board carry corporate accountability for the safety of staff and patients within the organisation and are responsible for ensuring that it is safe and acceptable for staff to speak out about wrongdoing or malpractice within UHS.

The Trust Board are committed to the principles set out in this policy.

Non-Executive Director Lead for Whistle Blowing

The Trust has appointed a Non-Executive Director to take a lead role in the whistle blowing process. The role of the Non-Executive Lead is to:

- Provide a consistent, high profile presence in all whistle blowing cases.
- Act as an external advisor / critical friend to the Investigating Officer(s) throughout the investigation process.
- Advise on and assist with the preparation of the investigation report.
- Act as a member of the Whistle Blowing Reference Group.

Whistle Blowing Reference Group (see Appendix E for membership)

The Trust has identified a number of key senior managers to act as a small reference group during any whistle blowing investigation. The Reference Group will meet within 48 hours of a ‘high risk or catastrophic’ whistle blowing incident being raised and will be responsible for:

- Appointing a Lead Investigating Officer and a Senior HR Manager for the case.
- Agreeing and securing the resources required to undertake the investigation.
- Making a judgement about any immediate action that needs to be taken e.g. suspensions or immediate changes in practices.
- Agreeing the communication strategy for the case, including all internal and external communications and publicity.
- Agreeing timescales for the management of the case.

Department / Divisional Managers

Managers must see ‘whistle blowing’ as an opportunity to improve the organisation rather than as a threat to it. Managers should lead by example and make it clear to staff what sort of behaviour is
unacceptable in the workplace. They are responsible for creating a working environment where openness and honesty are valued and where staff are not fearful to report concerns and feel confident that if they do raise a concern it will be taken seriously and dealt with appropriately.

Managers are responsible for raising awareness of this policy amongst their staff.

All managers must be aware of what to do if a member of their staff raises a concern about wrongdoing in the organisation. Managers are responsible for ensuring that individuals are appropriately supported throughout this process, recognising that it can be a very stressful time for those raising the concern. The Trust has developed a staff support leaflet which the manager should give to their member of staff following a concern being raised under this policy. The leaflet can be found at Appendix G.

**Human Resources**

The Director of Human Resources is responsible for ensuring that a robust policy is in place for the management of concerns / whistle blowing incidents and for ensuring that the policy is reviewed in light of legislative changes and/or following any whistle blowing incident that has been graded as ‘high risk’ or ‘catastrophic’ to ensure that any ‘lessons learnt’ are incorporated into the policy.

Identified senior HR Managers will be trained to undertake whistle blowing investigations and once an investigation has been agreed, will work alongside the investigating officer to ensure that a thorough investigation is carried out in a timely manner.

**Investigating Officer(s)**

The Trust has identified a number of senior managers across the organisation that are trained to investigate serious concerns raised under this policy. An up to date list of trained Investigating Officers is held by the Deputy Director of Human Resources and can be accessed via his Personal Assistant on Ext 5960.

The role of the Investigating Officer(s) is to ensure that a thorough and appropriate investigation is carried out in accordance with this policy and with the ‘Managers Guidelines for Conducting Formal HR Investigations’ document which can be found on Staffnet.

**Employees**

All employees have a duty to report any concerns they have regarding patient safety or malpractice, in accordance with Trust policies. Employees should note that any concerns raised out of malice or dishonestly will result in disciplinary action being taken against them.

**4.0 Policy**

The policy of the Trust is:

- To encourage staff to raise concerns as soon as possible through their normal line management structures and incident reporting procedures.
- To provide a separate and additional channel of communication for raising a serious concern.
- To utilise a grading system in order to prioritise incidents and allow the Trust to act speedily and effectively to investigate and take appropriate action.
- To promote a climate of openness and accountability and thereby to deter and detect wrongdoing in the workplace.
- To support and protect staff from reprisals, victimisation or any other detriment from their employers or workplace colleagues, where they have raised a serious concern that they have reasonable belief is in the public interest.
You have a right and duty to raise any concerns that you may have about the provision of care or services, or the management of the organisation. Likewise every manager has a duty to ensure that you are able to express your concerns readily through all levels of management and to ensure that such concerns are dealt with thoroughly, fairly and consistently.

If you should decide to raise any concerns about wrongdoing in the Trust, the Public Interest Disclosure Act 1998 offers you general protection, provided that you follow the legislative procedure in disclosing specific categories of wrongdoing.

A disclosure will only qualify for protection in law if it is your reasonable belief that it is made in the public interest and it relates to one or more of the following actions:

- A criminal offence
- A miscarriage of justice
- The endangering of an individual’s health and safety
- An act causing damage to the environment
- Deliberate concealment of information relating to any of the above.

Examples of such actions may include the physical abuse of people using our services; clinical malpractice or dangerous patient care / practice which compromises patient safety; financial impropriety, such as the falsification of claims, records or accounts; putting others at serious risk by failures to act or withholding information on known dangers to health and safety.

You have protection under the Public Interest Disclosure Act 1998 from victimisation from your employer or your work colleagues and from dismissal, for disclosing information or raising genuine concerns about any wrongdoing. You are protected if you believe your disclosure has a public interest element, is made without malice and you make the disclosure under this internal procedure or externally in the appropriate way. Your career will not be in any way harmed or hindered as a result of your action.

Without limiting the protection offered by the Public Interest Disclosure Act 1998, you are reminded of your duties of trust, confidentiality and fidelity to your employer, the Trust and to your patients. This includes maintaining the confidentiality of the information you may have access to during your employment (e.g. personal information relating to patients, service users and present, past and potential members of staff).

Making disclosures to the press should always be a last resort having exhausted all appropriate internal processes as outlined in this policy and having reported your disclosure to an appropriate external agency e.g. The Care Quality Commission. It should be noted that this statement does not overrule actions detailed in the Terms and Conditions of Employment for Doctors and Dentists regarding information given to the press or external agencies in a professional / expert capacity.

Committing an act of misconduct and/or breaching the Trust’s disciplinary procedures in relation to disclosing patient confidential information or records to a third party will result in disciplinary action being taken against you, up to and including dismissal.

Inevitably some concerns raised will be genuinely misconceived because, for example, you did not know all the facts. However, concerns raised dishonestly, maliciously, with an ulterior motive, or inappropriately to an external body (by any member of staff including Doctors and Dentists) will not be protected, and could lead to action being taken against you under the Disciplinary Policy.

It is not necessary for you to have proof that such an act is being, has been, or is likely to be, committed; a reasonable belief is sufficient. You have no responsibility to ensure that an investigation takes place.

A worker who believes that they have been treated unfairly or have suffered detriment by the employer or by work colleagues as a result of raising a concern or ‘whistle blowing’ may be able to
take action against the employer via an Employment Tribunal. The Trust holds vicarious liability for any harassment by a co-worker, unless all reasonable steps have been taken to prevent it. Workers with less than a year’s continual service also have the right to an Employment Tribunal if the case relates to ‘whistle blowing’.

**Anonymity / Confidentiality**

All concerns raised under the whistle blowing policy must be treated confidentially by all parties, including the person who has initially raised the concern. Information relating to the specific concerns raised will only be shared on a ‘need to know’ basis, with those people directly involved in the process of investigation or reporting and those outlined in this policy as having a key role in assisting the whistle blowing process e.g. members of the Whistle Blowing Reference Group.

If you wish to remain anonymous and ask us not to disclose your identity, we will not do so without your consent unless we are required to do so 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 that we can provide the assurances we offer in the same way if you report a concern anonymously.

**8.0 Procedures**

**Procedure for Raising a Concern / Making a Disclosure under the Whistle Blowing Policy**

Wherever possible, you should report any concerns you have, verbally or in writing, to your line / department manager in the first instance (Stage 1). Where the concern involves that manager, or you feel, for whatever reason, that your manager is not the appropriate person, you should take your concerns directly to a more senior Divisional / THQ Manager (Stage 2) as outlined below:

- Your Divisional HR Business Partner
- Your Care Group Manager
- Your Divisional Director of Operations
- Your Divisional Clinical Director
- Your Divisional Head of Nursing
- A more senior Department Manager (for staff in THQ departments).

It will be the responsibility of the senior divisional / THQ managers above to investigate your concern appropriately and to escalate it to the next line of senior management where necessary.

If your concern relates to one of the issues described in the introduction of the policy, or if you have previously raised concerns using any of the existing Trust policies (Incident Reporting Process or the Counter Fraud Process) and do not consider that your concerns have been dealt with appropriately or have failed to rectify the wrongdoing, then you can use this policy to escalate your serious concern to a more senior level of Trust management (listed below) for action (Stage 3).

- Director of Nursing and OD / Associate Director of Nursing
- Director of Quality
- Medical Director / Deputy Medical Directors
- Director of Human Resources / Deputy Directors of HR
- Director of Finance / Deputy Directors of Finance (for cases involving financial impropriety
If you feel you need support to deal with your concerns or are worried about how to go about reporting your concerns, you can contact one of the following people who will be able to support you and offer confidential advice:

- Your Trade Union Representative
- A Trust Staff Support Advisor
- Raising Concerns Helpline for the Trust – Extension 6555
- Whistle Blowing Helpline for the NHS provided by the Royal Mencap Society. (see Appendix A for contact details.

N.B - You have the right to report your concern directly to the appropriate agency at any time, should you wish to do so e.g. Care Quality Commission or National Patient Safety Agency.

Raising concerns openly and professionally is acknowledged as being the best way to deal with such incidents to ensure speedy and appropriate responses and actions to your concern. If you wish to remain anonymous and ask us not to disclose your identity, we will not do so without your consent unless we are required to do so by law e.g. when the case becomes the property of an outside agency such as the Policy / Fraud Investigation Team.

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 that we can provide the assurances we offer in the same way if you report a concern anonymously.

Once you have raised your concern formally through one of the above channels, you can expect to receive written acknowledgement within 5 working days of you formally raising the incident. (For staff raising concerns through the Raising Concerns / Whistle Blowing Helpline then you will receive either a verbal or email acknowledgement within 14 hours of you raising your concern).

Any correspondence regarding your concerns will be sent to you in writing to your home address and arrangements for taking statements will be made to ensure this takes place at an agreed venue outside of the workplace if required / preferred.

The Trust will treat your concerns confidentially and will only share details of the case with those senior managers appointed to be directly involved in the investigation e.g. Investigating Officers or members of the Whistle Blowing Reference Group.

During the investigation process you can expect to receive progress updates regarding the key milestones of the process e.g. when the investigation has been concluded and when the investigation report is being submitted. You will not be given any details of the investigation itself as this may infringe a duty of confidence to another member of staff. On conclusion of any investigation you will be advised of its outcome. If no action is to be taken, the reason for this will be explained. Please note however, that the Trust may not be able to state the precise action taken where this would infringe a duty of confidence to another person.

If on conclusion of the above process you reasonably believe that the appropriate action has not been taken, you should report the matter to the proper external authority (Stage 4). See Appendix A for list of external agencies. This internal procedure exists to provide an effective and protected
means of disclosure, but you may at any time consider action under the protection of the Public Interest Disclosure Act 1998.

**Escalation Procedure for Line / Department Managers**

As someone with line management responsibilities, you may find that a member of your staff raises a concern with you about a possible danger or a professional misconduct or financial malpractice issue that might affect patients or staff or damage the reputation of the Trust.

You must take these concerns seriously and deal with them promptly and appropriately in accordance with this policy.

Once a concern is raised with you, you need to determine what course of action is appropriate to take in the specific circumstances. You need to ask yourself the following questions:

- Is this an issue relating to the individual’s contract of employment or personal well-being? If so then it should be dealt with using the grievance procedure.
- Is this a one-off clinical adverse incident / error / risk? If so then you should use the Trust electronic incident reporting system to report it through the Trust Incident Reporting and Management Procedure.
- Is this a wider issue relating to patient safety, clinical or financial malpractice that could have serious consequences for patients, staff or the reputation of the Trust? If so then you should escalate the concerns in accordance with the procedure outlined below.

Once an incident has been brought to your attention, you must act immediately. Thank the member of staff for bringing the issue to your attention and reassure them that the matter will be taken seriously and dealt with appropriately and that the concerns they have raised will be treated confidentially. You should provide your staff member with a copy of the staff support leaflet attached at Appendix G of this policy. Do not attempt to investigate the issue yourself at this stage.

You need to establish if the member of staff is happy for his/her name to be disclosed or if they would prefer to remain anonymous. You need to explain to them that if they do decide to remain anonymous that the issue may be more difficult to investigate and the Trust may not be able to give them appropriate feedback or protection. You need to ensure that the member of staff knows where they can go to access personal support during this time.

You then need to escalate the concern immediately to one of the following Designated Senior Managers:

- A member of your Divisional Management Team (DDO, DCD, DHN)
- Medical Director / Associate Medical Director
- Director of Nursing and OD / Associate Director of Nursing / Head of Midwifery
- Director of Quality
- Director of Human Resources / Deputy Director of HR
- Director of Finance (if the case relates to financial malpractice).
- Director of Strategy
- Chief Executive

Remember to feed back to the member of staff when you have discharged your duties and passed the concern on to an appropriate senior manager. You should note the date that the incident was brought to your attention and the date that you passed it on to a senior manager.
Procedure for Undertaking a Whistle Blowing Investigation

It is the responsibility of the Designated Senior Manager (listed above) to establish as many facts about the case as possible and for making a judgement about the potential severity and scale of the case and the subsequent investigation required.

This should be done by grading the case according to the likely risks associated and the level of investigation required:

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<tr>
<th>Potential Impact</th>
<th>Risk Grading</th>
<th>Level of investigation</th>
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<tr>
<td>Minimal risk to patients, staff or the Trust. No one in immediate danger.</td>
<td>Low</td>
<td>Local departmental</td>
</tr>
<tr>
<td>Some low level risk. No one in immediate danger.</td>
<td>Medium</td>
<td>Local departmental or divisional</td>
</tr>
<tr>
<td>High risk to patients, staff or the Trust. Potential immediate danger.</td>
<td>High</td>
<td>Divisional or Corporate</td>
</tr>
<tr>
<td>Patients or staff in immediate danger. Potential reputational damage for the Trust.</td>
<td>Catastrophic</td>
<td>Corporate</td>
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Where the case has been graded as ‘low’ or ‘medium’ risk the Designated Senior Manager should allocate an appropriately trained Investigating Officer at Care Group or Divisional level to co-ordinate and manage the investigation and reporting process.

Where the case has been graded as ‘high’ or ‘catastrophic’ and requires a corporate investigation, the Designated Senior Manager must call together the Whistle Blowing Reference Group (Appendix E). This must be done within 48 hours of the incident being reported. The Designated Senior Manager is responsible for briefing the Whistle Blowing Reference Group on the issues of the case.

The Whistle Blowing Reference Group will meet and will:

- Appoint an appropriate Lead Investigating Officer and a Senior HR Manager for the case.
- Decide if the case needs to be referred to the Counter Fraud Team.
- Decide on the appropriate level, size and completion date of the investigation.
- Agree and secure the resources required to undertake the investigation.
- Give consideration to how the day to day work of the Investigators will be covered.
- Make a judgement about any immediate action that needs to be taken e.g. suspensions or immediate changes in practices.
- Decide if any outside agencies / professional or regulating bodies need to be informed.
- Agree the communication strategy for the case, including all internal and external communications and publicity.
- Decide what if any information needs to be shared with any patients involved (follow the guidelines in the Trust Being Open Policy).
- Agree timescales for the management of the case.
- Agree who the investigation report needs to be submitted to e.g. TEC, Trust Board or the Audit Committee (for cases involved fraud).
- Provide personal and professional support to the Investigating Officers.
- Where appropriate be responsible for securing any documentary evidence for the duration of the investigation.
- Log the whistle blowing event on the central whistle blowing register on the ‘O’ Drive

In all cases of whistle blowing, the Designated Senior Manager must inform the Designated Non-Executive Lead. The Non-Executive Lead will be a member of the Whistle Blowing Reference Group.
A dual approach to the management of the investigation must be taken in all cases, with a Lead Investigating Officer working in conjunction with a Senior HR Manager. In cases where the investigation may involve interviewing a large number of staff / patients, a team of investigators may be appointed to the case in order to manage the case in a timely manner. Should specialist knowledge or information be required, the appropriate experts will be co-opted onto the investigation team. In some cases the expert advice / information may need to be obtained from an external source. All investigations must be carried out in line with the ‘Managers Guide to Conducting Formal HR Investigations’ document which can be found on Staffnet.

All Investigating Officers must have undertaken appropriate training in whistle blowing investigation techniques and the Public Interest Disclosures Act. The Deputy Director of HR (Operations) will be responsible for maintaining an up to date list of training whistle blowing investigators and for providing training and regular (at least annually) updates.

The Whistle Blowing Reference Group will meet at agreed intervals throughout the investigation process and will be responsible for:

- Testing out assumptions and interpretations of statements.
- Testing factual accuracy of the statements e.g. facts and figures stated by the Whistle Blower.
- Acting as a critical friend in relation to the process of investigation and format of the report.
- Reviewing progress and drafts of the report
- Signing off the final report before it is shared more widely.

In some instances during the investigation, it may become clear that practice is unsafe. Information needs to be shared immediately with others in the Divisional Team, or the relevant THQ Director, so that practice can be changed immediately and without waiting for the report to be completed and signed off by the relevant bodies.

It is the responsibility of the Lead Investigating Officer to ensure that the Whistle Blower is sent a letter to their home address to confirm that their concerns have been acknowledged (within 5 working days). This letter should include the staff support leaflet which can be found at Appendix G of this policy and should cover:

- Confirmation that their concern will be dealt with confidentially and proactively.
- That in raising a concern their employment and career prospects will not be hindered or damaged in any way.
- Sources of personal support that they may wish to access prior to, during and after the investigation process.
- Details of how and when feedback can be expected.

The Lead Investigating Officer should also ensure feedback is given to the ‘Whistle Blower’ at appropriate points during the investigation. No details of the investigation should be shared but they should be kept informed of process milestones e.g. on completion of the investigation, on submission of the report to TEC / Trust Board / Audit Committee and on the outcome of the case and any actions agreed.

Feed back should also be given to staff that have participated in the investigation by giving evidence. Again, no individual details of the investigation will be shared, just the key milestones and timeframes for when they may expect an outcome. Feedback may be given to a whole department where appropriate.
Once the draft report has been prepared, a meeting with the Divisional Management Team / relevant THQ Director should be called in order to provide them with details within the report and allow them to respond to any issues raised.

The report should be written on behalf of the Whistle Blower and should follow the suggested layout in *Appendix F* of this policy.

The Chief Executive will decide who owns the final report and the associated actions. The Chief Executive will designate an appropriate senior manager to co-ordinate the writing of a final report which captures the Trust response to the incident and the investigation.

Once the case has been concluded, the Whistle Blowing Reference Group will be called together by the Director of HR to reflect on the management of the case and to note any 'lessons learnt' which should be incorporated into the next version of the Whistle Blowing Policy. The audit tool attached at *Appendix D* should be used for this purpose.

5.0 Implementation

The procedure will be brought to the attention of all staff on commencement of employment and will be included in corporate induction programmes.

Senior Managers identified to participate in the whistle blowing process will undertake specific training relating to whistle blowing investigation and the Public Interest Disclosure Act and will receive update training on an annual basis.

Line / Department Managers will be responsible for disseminating information about this policy to their members of staff.

This policy is available on Staffnet.

6.0 Process for Monitoring Compliance / Effectiveness

UHS will monitor compliance and effectiveness of this policy on an annual basis and following every major whistle blowing incident in the Trust to ensure that the arrangements continue to meet best practice.

Auditing of compliance and effectiveness will be the responsibility of the Director of Human Resources in conjunction with the Non-Executive Lead for Whistle Blowing. Auditing will follow the checklist identified in the Social Partnership Forum document ‘Speak up for a Healthy NHS’. This checklist can be found at *Appendix D* of this policy.

The Trust Whistle Blowing Helpline Dashboard also sets standards for when concerns have been raised through the whistle blowing helpline. This dashboard will be updated and will be reported quarterly to Trust Board through the Quarterly HR Report.

Comments and feedback regarding whistle blowing will also be included as part of the annual staff survey.

The purpose of monitoring is to provide assurance that the agreed approach is being followed – this ensures we get things right for patients, use resources well and protect our reputation. Our monitoring will therefore be proportionate, achievable and deal with specifics that can be assessed or measured.

Any identified areas of non-adherence or gaps in assurance arising from the monitoring of this policy will result in recommendations and proposals for change to address areas of non-compliance and/or embed learning. Monitoring of these plans will be coordinated by the group/committee identified in the monitoring table.
7.0 Arrangements for Review

This policy will be reviewed and updated in light of any further legislative changes and following any complex whistle blowing investigation in the Trust.

It will be formally reviewed again no later than the end of November 2017

8.0 References

Social Partnership Forum and Public Concern at Work (2010) *Speak up for a Healthy NHS.*

BSI Code of Practice on Whistle Blowing Arrangements – www.pcaw.co.uk/bsi

Public Interest Disclosure Act 1998 – information about the PIDA can be accessed at www.pcaw.co.uk/law/uklegislation.htm

Nursing and Midwifery Council (November 2010) – *Raising and Escalating Concerns: Guidance for Nurses and Midwives.*


Enterprise and Regulatory Reform Act 2013 – information about this act can be accessed at www.legislation.gov.uk/ukpga/2013/24/pdfs/ukpga_20130024_en.pdf
Contact Details and Sources of Advice for Raising Serious Concerns or Making a Protected Disclosure.

**General Enquiries inside the Trust**

Any enquiries should be made to your Divisional Management Team in the first instance. Enquiries can also be made to your Divisional Human Resources Manager, or to your Trade Union Representative.

**Trust Raising Concerns / Whistle Blowing Helpline**

This is an internal helpline number which is covered by a senior manager from either the Patient Safety Team or the Human Resources Team between the hours of 08.00 and 18.00 Monday to Friday and with an out of hours answering service outside of these hours and at weekends. By calling [Ext 6555](tel:6555) you can be redirected to speak personally to the senior manager on-call about your concern, or you can leave a message and contact details and someone will call you back.

If calling from outside of the Trust dial [02381 206555](tel:02381206555).

**General Enquiries outside the Trust**

Sources of information and advice include:
- A trade union official at your trade union’s central office
- A legal adviser
- Any of the organisations listed below.

**National whistle blowing helpline**

Provided for the NHS by the Royal Mencap Society. NHS staff who have concerns and are unsure how to raise them or would like free, independent and confidential advice are able to call the helpline provided. The helpline is also open to employers for good practice advice.

The telephone number is [08000 724 725](tel:08000724725).

The helpline is available weekdays between 08.00 and 18.00 with an out of hours answering service on weekends and public holidays.

Counter Fraud Department if your concern is to do with financial malpractice, please refer to the Trust’s Counter Fraud Policy and contact:

Jennison Baskerville  
Local Counter Fraud Specialist  
Hampshire and Isle of Wight Counter Fraud Services  
Practitioner and Patient Services Agency  
Coitbury House  
Friarsgate  
Winchester  
Tel. 01962 876668  
Mobile – 07881 954851  
Email: Jennison.Baskerville@hampshire.nhs.uk  
NHS Fraud and Corruption Reporting Hotline: 8000 0284060
List of Prescribed Authorities and Regulatory Organisations

The following list is not exhaustive:

**Care Quality Commission (CQC)**
Finsbury Tower
103-105 Bunhill Row
London ECiY 8TG
Tel: 020 7448 9200

**Audit Commission**
1st Floor
Millbank Tower
Millbank
London SW1P 4HQ

**National Audit Office**
The Comptroller and Auditor General
National Audit Office
157-197 Buckingham Palace Road
London
SW1W 9SP
Tel: 020 7798 7999
www.nao.gov.uk

**National Patient Safety Agency (NPSA) N.B – being dissolved in 2011**
4-8 Maple Street
London W1T 5HD
Tel: 020 7062 1620

**Health and Safety Executive (for reporting in relation to H&S danger)**
Rose Court
2 Southwark Bridge
London
SE1 9HS
Tel: 020 7717 6000
www.hse.gov.uk
Email: hseinformationsservices@natbrit.com

**HM Revenue and Customs**
www.hmrc.gov.uk
For matters relating to customs and Excise:
Tel. 0845 010 9000
Email: enquiries.estn@hmrc.gsi.gov.uk
For matters relating to tax evasion:
Tel. 0800 788 887
Criminal Cases Review Commission (for miscarriages of justice)
Alpha Tower
Suffolk Street Queensway
Birmingham
B1 1TT
Tel: 0121 633 1800
Email: info@ccrc.gov.uk
www.ccrc.gov.uk

Certification Office for Trade Unions and Employers’ Associations
Brandon House
180 Borough High Street
London SE1 1LW
Tel. 020 7210 3734/5

Professional Regulators

General Medical Council
Regents Place
350 Euston Road
London NW1 3JN
www.gmc-uk.org
Tel: 0161 923 6602

Health Professions Council
Park House
184 Kennington Park Road
London SE11 4BU
www.hpc-uk.org
Tel: 0845 300 4472

Nursing and Midwifery Council
23 Portland Place
London W1B 1PZ
www.nmc-uk.org

General Pharmaceutical Council (GPC)
1 Lambeth High Street
London SE1 7JN
www.gpc.org.uk
Tel: 020 7735 9141
Appendix B

HOW DO I RAISE A CONCERN – WHICH POLICY DO I USE?

Is your concern relating to your terms and conditions / contract of employment or your personal well-being?

YES  NO

Is your concern relating to a one-off Clinical incident, adverse event, error or risk?

YES  NO

Follow the Trust Grievance Policy

Follow the Trust Incident Reporting and Management Policy or Counter Fraud Policy.

Is this a serious concern which is in the public interest and relating to:

- A criminal offence
- A miscarriage of justice
- Endangering an individual's health or safety
- An act causing damage to the environment
- Deliberate concealment of information relating to any of the above

YES  NOT SURE

Follow the Whistle Blowing Policy

Contact the Trust Raising Concerns / Whistle Blowing Helpline on Ext 6555 or discuss your concern with your Trade Union Rep or a Staff Support Advisor.
STAGES FOR RAISING AND ESCALATING CONCERNS

**STAGE 1**
Raise your concern internally with your line / department manager.

If unable to do this for any reason

**STAGE 2.**
Raise your concern internally with a designated Divisional Senior Manager.

Concern not adequately addressed and / or immediate risk to others

**STAGE 3.**
Escalate your concern internally to a more senior level of Trust management. Call the Raising Concerns Helpline on Ext 6555.

Concern not adequately addressed and / or immediate risk to others

If you are thinking of taking this course of action you should always seek advice before you act. Gain free confidential advice from your Trade Union Rep, Professional Body or from Whistle Blowing Helpline.

**STAGE 4.**
Escalate your concern to an external agency.

If unable to raise your concern at any level within the Trust you should seek advice.

Disclaimer: It is your responsibility to check against Staffnet that this printout is the most recent issue of this document.
Appendix D

Monitoring Compliance and Effectiveness - Audit Tool Checklist

On an annual basis or following any whistle blowing case graded as high risk or catastrophic risk, the Whistle Blowing Reference Group will meet to reflect on the management and the outcome of the case and the effectiveness of this policy and its associated guidelines and procedures.

‘Lessons learnt’ from live whistle blowing cases should be incorporated into the policy and procedures where appropriate.

Questions / Issues for consideration

- Was the incident reported following the correct procedure? If not why and how could this be avoided in the future?
- Did the person to whom the incident was reported, act in a timely manner and escalate the incident through the correct channels? If not why and how could this be avoided in the future?
- Was feedback given in the correct way, to the person who raised the incident and were they kept informed of progress / milestones throughout the investigation process? If not why and how could this be improved in the future?
- Was the Investigating Officer appropriately trained and the right person to lead the investigation?
- Was the Non-Executive Lead informed of the incident at the outset of the investigation?
- Was the incident logged via the central electronic Whistle Blowing Register?
- Was consideration given to the potential size and scale of the investigation required and were appropriate resources identified to manage this?
- Was the Whistle Blowing Reference Group used for advice prior to or during the investigation process?
- Was the investigation undertaken in conjunction with the appropriate senior HR Manager and any other appropriate experts?
- Have there been any difficulties with confidentiality?
- Was the appropriate data / information collected and used as part of the investigation process?
- Were significant event logs / untoward incident reports examined during the investigation?
- Could the incident have been picked up earlier from a source other than the Whistle Blowing Policy? If so why, and what could be done to improve this in the future?
- Was the Board alerted to the incident at the appropriate time?
- Have there been any difficulties with internal communications throughout this process?
- Have there been any difficulties with external publicity?
- Were the staff involved and the Divisional Management Team been kept fully informed of the progress of the investigation?
- Were the Divisional Management Team given an opportunity to see the draft report and give feedback?
- Were the appropriate professional regulating bodies informed where appropriate?
- Were the outcomes of the incident communicated to the staff involved and in particular to the person who originally raised the concern?
• Was the appropriate support and help offered to staff involved with the investigation?
• Was the Lead Investigating Officer given the appropriate help, support and resources to undertake the investigation?
• Was the Whistle Blowing Policy helpful to guide the process? If not why and how could this be improved for the future?
Appendix E

THE WHISTLE BLOWING REFERENCE GROUP

The Whistle Blowing Reference Group will be made up of the following ‘multi-professional’ core members. Depending upon the nature of the individual case, other senior managers / subject experts may be co-opted onto the Reference Group as required. The Reference Group must be multi-professional to avoid any uni-professional bias to the investigation.

- Human Resources Director or nominated deputy.
- Non-Executive Lead for Whistle Blowing.
- Medical Director or nominated deputy.
- Director of Nursing and OD or nominated deputy.
- Head of Communications or nominated deputy.
- Chief Operating Officer or nominated deputy.
- Nominated Trade Union Representative.
INVESTIGATION REPORT

Strictly Confidential

(Insert title of investigation)

[Insert name of individual]

(Insert department / division)

Investigating Officer:

Supported by: [hr advisor]

Date investigation started:
(This will be the date the investigation was passed to the investigating officer by the manager who has authorized it.)

Date report submitted:

Report submitted to:

Total time taken for Investigation:
(see attached timeline)

1.0 Background

- of individual (e.g. previous performance, absence if applicable)
- Individual's Division/dept/base
- of incident – relevant contextual information

2.0 Alleged Incident

- details of incident
- when it happened
- who was involved
- how it was reported

3.0 Terms of Reference

- the aims of the report
- methods used in the report (e.g. interviews with employees)
- what questions will be answered in the report

4.0 List of Witnesses

- name
• job title
• department/base

5.0 Findings

• answers to terms of reference
• key aspects of investigation
• outline how and where any actions breach Trust policies/professional codes of conduct etc

6.0 Supporting Information

• any other information that supports the investigation/ findings

7.0 Conclusion

• summary and outcome of the investigation

8.0 Further considerations

• any mitigating circumstances
• any other considerations needing to be taken into account

9.0 List of Appendices

• statements – should be signed
• copies of supporting evidence (emails/timesheets/letters etc)
• copies of relevant correspondence
• event log – timescale of events.
Raising Concerns and Whistle Blowing

Guidance for Staff
Thank you for raising a concern.

We recognise that it is not always easy to report concerns and for the person making the disclosure it can often seem an isolating and intimidating experience. You may worry that you are being disloyal, or fear reprisals from your manager or your work colleagues or worry that making the disclosure may harm your future career prospects.

**Please be reassured that you have done the right thing in bringing your concern(s) to someone’s attention.**

It is now really important to us that you are given access to the appropriate support and advice at this early stage to support and guide you through this process.

This leaflet explains what you can expect to happen now that you have raised a concern through the Trust internal Raising Concern / Whistle Blowing Helpline.

1. **Acknowledging your concern / disclosure**

You can expect to receive either a verbal or email acknowledgement to your telephone call or email from the whistle blowing helpline manager within 14 hours of your concern being raised.

The helpline manager will explain to you what he/she will do in relation to your call or email and will give you some indication of who your concern will be passed onto for further investigation.

2. **Establishing the facts**

Depending upon the complexity of the concern(s) you have raised, the helpline manager may request to meet with you to ensure that they are in full possession of the facts before taking things forward. This will be an informal meeting and is purely about establishing the detail and facts of the concern that you have raised.

3. **Confidentiality**

Please be reassured that your concern will be treated confidentially by all parties and information will only be shared on a ‘need to know’ basis with those people directly involved in the process of investigation or reporting and those outlined in the Trust Whistle Blowing Policy as having a key role in assisting the whistle blowing process e.g. members of the Whistle Blowing Reference Group.

4. **Formal investigation**

Depending upon the nature of the concern(s) you have raised a formal investigation may be required. Once in possession of the facts of the case, the helpline manager will decide what type of investigation is required to deal with your concern(s). Formal investigations will be classified as either ‘non-complex’ or ‘complex’ depending upon the individual circumstances and who needs to be involved in undertaking the investigation. In general terms a non-complex investigation should take no longer than 4 weeks to conclude and a complex investigation should take no longer than 12 weeks.

Depending upon your individual involvement in the issues you have raised, you
may be invited to attend a formal investigation meeting with the assigned investigating officer. As with all formal meetings of this nature you do not have to attend this meeting on your own. You have the right to bring along either a workplace colleague or a trade union representative. You may also be asked to provide a written statement of events as part of the formal investigation process.

5. Keeping you updated on progress

For reasons of confidentiality it may not be possible for the investigating manager to share details of the investigation with you however, you will be kept informed about the progress of the investigation, any key milestones reached and the likely timescale for concluding the investigation. For non-complex investigations you should expect to be informed about the outcome within 6 weeks of you raising your concern(s). For complex investigations you should expect to be informed about the outcome within 14 weeks of you raising your concern(s).

6. Closing the case

Once your concern(s) have been fully investigated and a conclusion to the investigation has been reached and communicated to you, you will be asked to give your consent to the formal closure of the case, provided you feel it has been taken seriously and the process has been thorough.

In most cases this will be within the timescales indicated above. However, in some cases the formal closure of the case may not be reached for many months after the conclusion of the investigation. This may be because dealing with the issues of the concern may be extremely complex e.g. managing a cultural change within a department / division. In these circumstances the closure of the case will be documented as the date on which the ongoing action plans are handed over to the appropriate formal Trust Committee to monitor and assure.

Should you feel dissatisfied with the outcome of the case or the way in which the Trust has handled your concern, you may wish to consider contacting an appropriate external agency. A full list of external agencies that will be able to help you can be found in Appendix A of the Trust Whistle Blowing Policy.

7. Personal support for you

Raising a concern / making a protected disclosure can be a very difficult thing to do. It is really important that you don’t feel isolated or on your own during this process.

The Trust offers various support mechanisms which you may wish to access for personal support throughout this process. The following people are available to you:

Internal support

- Trust Staff Support Advisors – contact details on Staffnet
- Trade Union Representatives – 02381 206870
- Hospital Chaplaincy Team – 02381 208517
- Occupational Health Department – 02381 204156
- Board non-Executive Directors – via the Head of Corporate Affairs – 02381 206829
- Trust Governors – via the Head of Corporate Affairs – 02381 206829
External support

- Trust Employee Assistance Programme – Freephone 0800 243458
  Email: assistance@workplaceoptions.com
- Public Concern at Work Whistle Blowing Advice Line – 020 7404 6609

8. Protection from reprisals

The Public Interest Disclosure Act 1998 gives you protection under the law when you raise any concern about matters which you believe are of public interest. This is backed up by the NHS Constitution, which incorporates the right of all staff who report wrongdoing, to be protected. This right is now part of the NHS Terms and Conditions of Service.

In raising your concern(s) via the helpline you have indicated that you have a reasonable belief that it is in the public interest to make your concern(s) known. You should be reassured that this action will not place you at risk of losing your job or suffering any form of detriment such as reprisal or victimisation. It does not matter if you are mistaken or if there turns out to be an innocent explanation for the concern(s) you have raised.

If you believe that you are being treated unfairly or have suffered any form of detriment by the Trust, your manager or by work colleagues as a result of raising your concern then you must bring this to the attention of Human Resources as a matter of urgency. You should contact your Divisional HR Business Partner or alternatively the HR Director on 02381 206859.

9. Trust Policy

For further information regarding the raising concerns / whistle blowing procedure please see the Trust Whistle Blowing Policy on Staffnet. The policy can be accessed via the following link:
http://staffnet/WorkingHere/HRpolicies/HRpolicies.aspx