

WHISTLEBLOWING POLICY AND PROCEDURE (For Raising Concerns)

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VERSION CONTROL SHEET

Version	Date	Author	Status	Comment
1 to 3	2007-11	HR	Final	Approved by PCT Board
4	May 2013	S Cornford	Final	Minor updates re CCG status.
5	April 2016	LCFS	FINAL	Updates to reflect NHS – National Whistleblowing Policy requirement.
6	Feb 2018	Tanya Betts	FINAL	Minor updates
6.1	July 2018	Fiona Andrews, Office Manager	Update	Updated with new legislation wording
6.2	March 2019	Tanya Betts	Reviewed	Minor change following review at Audit Committee

Equality Analysis

This Policy is applicable to the Governing Body, every member of staff within the Surrey Heath CCG (SHCCG) and those who work on behalf of the CCG. This document has been assessed for equality impact on the protected groups, as set out in the Equality Act 2010. This document demonstrates SHCCG's commitment to create a positive culture of respect for all individuals, including staff, patients, their families and carers as well as community partners.

The intention is, as required by the Equality Act 2010, to identify, remove or minimise discriminatory practice in the nine named protected characteristics of age, disability, sex, gender reassignment, pregnancy and maternity, race, sexual orientation, religion or belief, and marriage and civil partnership. It is also intended to use the Human Rights Act 1998 and to promote positive practice and value the diversity of all individuals and communities.

An equality impact assessment was completed by Ann Cooper, Governance and Corporate Manager April 2016, shown in Appendix 2.

If you have identified a potential discriminatory impact of this procedural document, please contact the Corporate Office, Surrey Heath CCG, Surrey Heath House, Knoll Road, Camberley, Surrey GU15 3HD. Telephone 01276 707572.

WHISTLEBLOWING POLICY AND PROCEDURE

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WHISTLEBLOWING POLICY AND PROCEDURE

1 INTRODUCTION

This policy reflects the moral and legal obligations of NHS Surrey Heath Clinical Commissioning group (the CCG) in line with legislation, NHS Policy and Improving Working Lives. The CCG will deal with all genuine concerns in a responsible, open and professional manner.

This policy covers all governing body members, employees, workers, trainees, volunteers, agency and contract staff within the CCG from commencement of employment (and will supersede all other relevant policies under previous terms and conditions of employment held by individuals who have transferred into the Surrey Heath CCG from other NHS organisations).

This policy has been reviewed in the light of the recommendations from the NHS Social Partnership Forum and the independent Whistleblowing Charity, Public concern at work and also takes into account guidance issued under the NHS – National Whistleblowing Policy. The intention is to provide guidelines on how to speak up for a healthy workplace and to outline ways on how to raise a concern. This will help the CCG to promote a healthy workplace culture built on openness and accountability to ensure high standards of clinical care and governance are at the heart of what we do.

The need for an independent National Guardian for the NHS was highlighted in Sir Robert Francis's Freedom to Speak Up review in February 2015, which found that patients could be put at risk of harm because vital information about mistakes and concerns was not being raised by NHS staff routinely. The creation of the National Guardian was one of the key recommendations from the review – an arrangement which the Secretary of State for Health confirmed last July. The new 'Office of the National Freedom to Speak up Guardian' sits in the CQC.

The Public Interest Disclosure Act 1998 (PIDA) provides protection to workers "who blow the whistle" where they are raising a genuine concern about a dangerous or illegal activity that they become aware of through their work. Surrey Heath CCG has introduced this policy to enable any worker to speak up and raise their concern in confidence and safely about any malpractice they may observe. The policy intends to reassure workers to speak up in the right way at an early stage. We would rather you raised the matter when it is just a concern, than wait for proof.

2 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance to all staff on how to raise a concern and identifies who they can contact if they need to report an incident or series of events that cause concern. Surrey Heath CCG has a positive

commitment to supporting staff to understand how they can raise concerns and an open approach to handling Whistleblowing concerns. Our policy and procedure is intended to be in line with the Public Interest Disclosure Act 1998 (PIDA).

The policy encourages you to raise concerns with your manager or others where appropriate in the first instance and provides protection to staff for Whistleblowing on wrong-doing when their actions are not spurious or malicious in intent.

The types of disclosure that qualify for protection under legislation are those which the individual *reasonably believes* tend to show one or more of the following:

- a criminal offence (e.g. theft, fraud, bribery and/or corruption)
- a failure to comply with a legal obligation
- a miscarriage of justice
- endangering the health and safety of any individual or patient
- unsafe working conditions
- damage to the environment
- concealment of information relating to any of the above.

In these circumstances, employees should follow the guidance in this policy. It should be noted that, in the case of professional staff and in relation to their professional registration, there is an obligation to report acts of malpractice.

This policy does not cover private grievances, including complaints about individual employment matters that may be referred to an employment tribunal. The CCG has a number of policies designed to resolve many of these kinds of concerns. These are the policies on:

- grievances
- equality and diversity
- disciplinary matters
- health and safety
- challenging bullying and harassment
- Local Counter Fraud and Corruption Policy

They can be accessed on the shared drive under Policies.

However, where there is not a relevant procedure listed above or you have genuine concerns about using a particular policy, or that your concern is about conduct likely to harm individuals or the reputation of Surrey Heath CCG, in this event use the Whistleblowing Policy and Procedure.

3 PRINCIPLES AND PROTECTING INDIVIDUALS

In making the disclosure the belief need not necessarily be correct but of enough concern to require further investigation and the employee must demonstrate that it was an honest and reasonable belief that suggested wrong doing for protection under PIDA. Employees who pursue the whistle blowing policy, and their actions are not spurious or malicious in intent, will not be disadvantaged in their access to promotion, training or any other aspects of their employment within the CCG.

A person making a report via the whistle blowing policy who request that their identity is not disclosed will have the request respected, unless required to disclose by law. If there is a statutory need to involve his/her name, they will be contacted first. You can choose to raise your concern anonymously, without giving anyone your name, but that may make it more difficult for us to investigate thoroughly and give you feedback on the outcome.

Employees who are protected by the provisions may make a claim for unfair dismissal if they are dismissed for making a protected disclosure. Workers who are not employees may make a complaint that they have been subjected to detriment if their contract has been terminated by the employer because they made a protected disclosure.

3.1 Response to Issues Raised

Where possible, incidents should be resolved locally without the need to recourse to this policy. This policy should be used when normal channels have been unsuccessful or are inappropriate. This policy protects any member of staff making a report in good faith. Any person making a false report with malicious intent will have the matter fully investigated which may result in disciplinary action.

The CCG will not tolerate harassment or victimisation of anyone who raises a genuine concern under this policy. Anyone who feels that this is happening should proceed through the Challenging Bullying and Harassment policy.

4 DUTIES AND RESPONSIBILITIES

Manager's responsibility:

- Ensure that all staff are aware of how to access policies and relevant professional guidance
- To handle any complaints in line with the policy guidance

Staff responsibility:

- Staff have responsibility to ensure they are familiar with this policy and to raise any concerns in line with the guidance outlined below.

5 HOW TO RAISE A CONCERN

5.1 Raising Concerns Internally

Concerns can be raised verbally or preferably in writing stating the reason for the concern, detailing the actions that are causing concern, and any action that has already been taken in order to try and resolve the situation.

When raising the concern, individuals should highlight the fact that they are raising it under the whistle blowing policy and that they require the matter to be dealt with confidentially, stating if they have any personal interest in the matter.

It would be helpful to know how you think the matter might best be resolved. Whilst we cannot guarantee that we will respond to all matters in the way that you might wish, we will strive to handle the matter fairly and properly.

Step 1

In the first instance concerns should initially be raised with the individual's supervisor / team leader or line manager. In an ideal situation, the concern will be resolved locally.

Step 2

If it is not possible to deal with it via your line manager or in the event that you do not feel that your concern has been dealt with appropriately please raise the matter with: Andy Brooks Chief Officer Tel - 01276 707572 email- a.brooks1@nhs.net

Step 3

If these channels have been followed and you still have concerns, or if you feel that the matter is so serious you can contact the Chair and/or the Lay Member for Governance to provide further independence guidance.

Their contact details are:

Tony Fitzgerald, Lay Member (Governance) Tel 01276 707572 email tony.fitzgerald@nhs.net

Andrew Lloyd, Lay Chair Tel 01276 707572 email andrew.lloyd1@nhs.net

If the concern raised is regarding potential fraud and corruption you should immediately contact the Chief Finance Officer or the Local Counter Fraud Specialist, Chris Lovegrove on 01424 776750 or 07879 434976, email chris.lovegrove@tiaa.co.uk in the first instance who will decide the appropriate action to take. If the concern relates to the Director of Finance please contact

the Chief Officer.

If it is requested that you do not contact or involve your line manager at this stage then any contact with the line manager will be at the discretion of the Director of Finance, or Chief Officer.

If you are uncertain how to proceed you can also contact the [NHS National Fraud and Corruption Reporting Line](#) on 0800 028 40 60. All reports are considered discreetly and in confidence.

The Bribery Act 2010 creates two general offences:

- The first covers the offering, promising or giving of a bribe – active bribery.
- The second is passive bribery – requesting, agreeing to receive, or the accepting of a bribe which assists in obtaining/retaining business or financial advantage, so this could cover seeking to influence a decision-maker by giving some kind of extra benefit to that decision maker rather than by what can legitimately be offered as part of a tender process.

The Act will:

- Introduce a corporate offence of failure to prevent bribery by anyone working on behalf of a business. Businesses can only avoid conviction if they can show that they have adequate procedures in place to prevent bribery.
- Make it a criminal offence to give, promise or offer a bribe, agree to receive or accept a bribe either at home or abroad.
- Increase the maximum penalty for bribery from seven to ten years imprisonment, with an unlimited fine.

All members of staff have a responsibility to report any instances of bribery, or suspected bribery through the Local Counter Fraud and Corruption Policy or any of steps detailed above.

5.2 Independent Advice

If you are unsure whether to use this procedure or you want independent advice at any stage, you can also contact one of the following:

- HR department (01276 604604)
- The national NHS whistleblowing helpline provided by the Royal Mencap Society. This provides free, independent and confidential advice on 08000 724 725 or email enquiries@wbhelpline.org.uk.

It is recognised that you may wish to seek advice from their Trade

Union/Professional Association prior to or rather than any of the managers detailed in section 5.1.

A trade union representative or work colleague may represent you if you raise a concern at any stage.

If you have a disability or difficulty understanding English reasonable adjustments will be made e.g. consideration will be given to allow another individual to accompany them for examples an Interpreter.

5.3 Raising Concerns Externally

In the vast majority of cases, raising concerns via the internal avenues outlined in 5.1 will be the most appropriate course of action to take. If you feel that your concern cannot be raised internally or your attempts to do so have not proven successful you may wish to consider raising the matter externally. Your professional association or trade union will be able to advise you on such an option and on the circumstances in which it is appropriate to contact an outside body.

You may also contact 'The national NHS whistleblowing helpline' provided by the Royal Mencap Society. This provides free, independent and confidential advice on 08000 724 725 or email enquiries@wbhelpline.org.uk and other contacts in Appendix A.

You may also contact the national whistleblowing "guardian" who will act as an 'independent and impartial source of advice to staff'.

We would advise you that before involving the media, e-mails or social networking sites, that you give serious consideration to the issues of confidentiality and data protection legislation (given the meaning described in the Data Protection Act 2018) for the clients and other members of staff who might get involved. Such actions may unreasonably undermine public confidence in the service. Under its duty of care to its clients and staff, the CCG would need to consider action within the context of its disciplinary procedure if it felt that disclosure to the media had resulted in a breach of this duty of care or breached your confidentiality clause in your contract. Furthermore, should your concerns prove to be unfounded or misplaced after they have been published in the press issues of slander or libel may arise.

We would therefore encourage you to fully utilise all options set out in this policy before considering involving the media, e-mail or social networking sites.

In the interests of all parties, it is however advised that you do not raise your concerns with the Press. Please refer to the confidentiality clause in your Contract of Employment.

5.4 Process on how we will deal with the matter

When an individual has raised a concern, a meeting will be held with them and a representative of their choice (trade union representative or work colleague). The aim of the meeting is to clarify exactly what the concerns are, and what action will be taken. Notes of the discussion will be taken and will be used to agree the next appropriate action to be taken.

The individual will receive a letter from the person who has received the concern, detailing the exact nature of the concern, who is investigating it and the anticipated outcome / process that will be followed subsequent to the investigation.

If, as a result of an investigation, disciplinary action is taken, the individual who raised the complaint may have to provide a witness statement. If the individual has serious concerns about doing this, the investigator will explore other ways of using the evidence provided within the disciplinary situation, without breaching confidentiality. The individual raising the concern is entitled to be represented (as above) throughout any contact by investigators.

Once the investigation is concluded, the individual who raised the concern will receive written confirmation with regard to the action that has been taken, and the findings of the investigation.

5.5 Reporting of Incidents

An individual found to be raising malicious concerns will be investigated and may be subject to disciplinary action.

Any individual accused of victimising a person who has raised a concern under the whistle blowing policy will be investigated and may be subject to disciplinary action.

If you are dissatisfied with the response from the Surrey Heath CCG, you can go to the other levels and bodies detailed above. While it is not possible to guarantee that Surrey Heath CCG will respond to all matters in the way that you might wish, it will try to handle the matter fairly and properly. By using this policy you will assist Surrey Heath CCG in achieving this.

6 APPROVAL, RATIFICATION AND REVIEW PROCESS

This policy will be subject to review annually, and at any stage at the request of either the executive directors or the Audit Committee.

Anonymous data relating to the number of incidents reported under the Whistleblowing policy will be submitted to the Audit Committee on an annual basis.

The actions taken in relation to concerns made will be tracked to ensure

appropriate follow up action has been taken to investigate and, if necessary, resolve problems indicated by Whistleblowing.

To review awareness of Whistleblowing arrangements via the staff surveys and key findings to be communicated to staff.

7 DISSEMINATION AND IMPLEMENTATION

Regular communications will be used to raise staff awareness about how to speak up in raising a concern and the arrangements for Whistleblowing. These will be communicated via team briefings, website or the extranet, promotional materials and awareness meetings and newsletters.

8 MONITORING COMPLIANCE AND EFFECTIVENESS

Consult with staff, managers and unions to develop the policy.

Regular feedback will be sought from designated contacts to evaluate progress and collect data on the nature and number of concerns raised.

To audit procedures used to track the actions taken in relation to concerns made and to ensure appropriate follow up actions are taken in relation to concerns made.

Ensure follow up action has been taken to investigate and, if necessary resolve problems indicated by Whistleblowing.

Compare and correlate data information from other risk management systems. Review local experience and compare against that of similar organisations through NHS Staff Survey data.

Monitor compliance against the Care Quality Commission standards for Whistleblowing to provide assurance to the Board of Surrey Heath CCG.

9 REFERENCES

Associated legislation

The Public Interest Disclosure Act (1998)

The Health Service Circular 1999/198

Amended sections 43 and 47 of the Employment Rights Act (1996)

Bribery Act (Revisions 2010)

NHS Employer Guidance for Employees June 2012

National Freedom to Speak up Guardian, who sits within in the CQC

For information about the Public Interest Disclosure Act 1998 contact www.pcaw.co.uk/law/uklegislation.htm

Associated Policies and Procedures

Local Fraud and Corruption Policy

Code of Conduct for NHS Managers

Data Protection Legislation

Challenging Bullying and Harassment

Disciplinary

Equality & Diversity

Grievance

Professional Registration

Recruitment & Selection

Sickness

To Combat Fraud and Corruption

Safeguarding Adults Surrey Multiagency Procedures Child Protection

APPENDIX 1 – Useful External contact details

NHS England

Legal Team
4th Floor, Quarry House
Leeds LS2 7UE
Tel: 0300 311 2233
Email: england.contactus@nhs.net

NHS Counter Fraud

Authority
Fourth Floor
Skipton House, 80 London Road,
London SE1 6LH
Tel: 0800 028 4060
Email: cfa@nhs.uk/reportfraud

Care Quality Commission (CQC)

Citygate
Gallowgate
Newcastle-upon-Tyne NE1 4PA
Tel: 03000 616161

Public Sector Audit Appointments Ltd

3rd floor
Local Government House, 18 Smith Square
London SW1P 3HZ
Tel: 020 7072 7445
Email: generalenquiries@psaa.co.uk

National Patient Safety Agency

4-8 Maple Street
London W1T 5HD
Tel: 020 7927 7895
Email: patientsafety.media@nhs.net

Royal Mencap Society

123 Golden Lane,
London EC1Y 0RT
Tel: 0207 454 0454
www.mencap.org.uk/contact-us

Health & Safety Executive

www.hse.gov.uk

The NHS Fraud & Corruption Hotline

0800 028 4060

www.reportnhsfraud.nhs.uk

Public Concern at Work

For information about the Public Interest disclosure Act visit:

www.pcaw.co.uk

Tel: 0207 404 6609

Email: whistle@pcaw.org.uk

Appendix 2

EQUALITY IMPACT ASSESSMENT

1.	Title of policy/ programme/ framework/ strategy being analysed. WHISTLEBLOWING POLICY AND PROCEDURE	
2.	Please state the aims and objectives of the work and intended equality outcomes The purpose of this policy is to provide guidance to all staff on how to raise a concern and identifies who they can contact if they need to report an incident or series of events that cause concern. Surrey Heath CCG has a positive commitment to supporting staff to understand how they can raise concerns and an open approach to handling Whistleblowing concerns. Our policy and procedure is intended to be in line with the Public Interest Disclosure Act 1998 (PIDA).	
3.	Who is likely to be affected? Eg staff, patients, service users, carers staff, patients, service users, carers	
4.	What evidence do you have of potential impact (positive and negative) None noted.	
	Yes/No	Comments
5.	Does the document/guidance affect one group less or more favourably than another on the basis of:	
	Race	N
	Ethnic origins (including gypsies and travellers)	N
	Nationality	N
	Gender	N
	Culture	N
	Religion or belief	N
	Sexual orientation including lesbian, gay and bisexual people	N
	Age	N
	Disability - learning disabilities, physical disability, sensory	N

	impairment and mental health problems		
6.	Is there any evidence that some groups are affected differently?	N	
7.	If you have identified potential discrimination, are there any exceptions valid, legal and/or justifiable?	N	
8.	Is the impact of the document/guidance likely to be negative?	N	
9.	If so, can the impact be avoided?	N	
10.	What alternative is there to achieving the document/guidance without the impact?	NONE	
11.	Can we reduce the impact by taking different action?	N	

For advice in respect of answering the above questions, please contact the Corporate Office, Surrey Heath CCG. If you have identified a potential discriminatory impact of this procedural document, please contact as above.

Sign off	Name	Date of the Assessment
Name and designation of Individuals who carried out the Assessment:	Ann Cooper, Governance and Corporate Manager	April 2016
Name of responsible Director	Rob Morgan, CFO	April 2016