



Wandsworth Clinical Commissioning Group

WHISTLEBLOWING POLICY

v1.0

Whistleblowing Policy

THIS POLICY WILL BE APPROVED BY WANDSWORTH CCG, AND WILL HAVE EFFECT AS OF 8th October 2014

Target Audience	Governing Body members, committee members and all staff working for, or on behalf of, the CCG
Brief Description (max 50 words)	This policy is intended to provide employees with genuine and reasonable concerns with a framework which ensures that those concerns are taken seriously and where practicable addressed, and ensures that the employee raising the concern is not labelled as a trouble-maker, accused of disloyalty or victimised in any way.
Action Required	<p>Following approval at the CCG Governing Body, the Chief Officer will ensure that the requirements of this policy will be raised at all team meetings, and confirm the requirements with the chairs of each committee, and with CCG executives.</p> <p>Chairs of committees will identify the programme of review with the Accountable Executive for each policy within their committee remit.</p> <p>Accountable Executives will identify policy owners for each policy within their remit.</p> <p>The Corporate Business Manager will establish and maintain a corporate register of all policies and their status, and will ensure that these are appropriately reflected on the website.</p>

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Equality Analysis	<p>Equality Analysis This document has been assessed for equality impact on the protected groups, as set out in the Equality Act 2010. This document demonstrates Wandsworth CCG's commitment to create a positive culture of respect for all individuals, including staff, patients, their families and carers as well as community partners.</p> <p>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.</p>
Contact details for further information	

This policy progresses the following Authorisation Domains and Equality Delivery System (tick all relevant boxes).

Clear and Credible Plan		Commissioning processes	
Collaborative Arrangements		Leadership Capacity and Capability	
Clinical Focus and Added Value		Equality Delivery System	
Engagement with Patients/Communities		NHS Constitution Ref:	

Associated Policy Documents

Reference	Title
	CCG Constitution V*.*

Glossary

Term	Definition
Accountable Executive	CCG Executive accountable for development, implementation and review of the policy
Policy Owner	Post holder responsible for the development, implementation and review of the policy
Document definitions	These are provided in Section 1

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1. INTRODUCTION

1.1 The Public Interest Disclosure Act 1998 (PIDA)¹, ('the Act'), gives significant statutory protection against victimisation to employees who disclose genuine and reasonable concerns in the public interest. This Policy is intended to provide employees with genuine and reasonable concerns with a framework which ensures that those concerns are taken seriously and where practicable addressed, and ensures that the employee raising the concern is not labelled as a trouble-maker, accused of disloyalty or victimised in any way. The findings and recommendations of the Francis Report demonstrate the need for creating the right culture for Whistleblowing. Additionally changes made to the Enterprise and Regulatory Reform Act makes it explicit that all disclosures must be in the public interest, in order to be protected by Public Interest Disclosure Act 1998.

1.2 Wandsworth CCG will:

- not allow anyone to be victimised for raising genuine and reasonable concerns;
- treat victimisation of whistle blowers as a serious matter and take disciplinary action if it is found to have occurred;
- not attempt to conceal evidence of poor or unacceptable practice;
- take disciplinary action if an employee destroys or conceals evidence of poor or unacceptable practice or misconduct;
- ensure confidentiality clauses in our contracts do not forbid or penalise whistle blowing;
- liaise with other organisations who work closely with us, so that employees know who the appropriate contacts are if you choose to raise the matter elsewhere. ²

1.3 Beyond the requirements under the Act, and in line with the commitments in the Speaking Up Charter³, Wandsworth CCG recognises that providing an effective framework for raising and addressing genuine and reasonable concerns is a positive contribution to the safety and effectiveness of care and the protection of the public. The Bristol Royal Infirmary Inquiry⁴, the Fifth report of the Shipman Inquiry,⁵ the Francis Inquiry⁶ and a host of other reports, emphasise the need for openness and honesty within and between health care organisations, clinical professionals and other employees as a powerful tool in improving patient safety and the quality of services.

1.4 This policy is primarily for concerns where the interests of others or the organisation itself are at risk, for example areas of clinical risk or patient care. If staff are aggrieved regarding a personal issue within their work environment then Wandsworth CCG Grievance procedure should be used.

¹ <http://www.legislation.gov.uk/ukpga/1998/23/contents> All websites accessed July 2013 unless otherwise stated

² Adapted from Public Concern at Work <http://www.pcaw.org.uk>

³ <http://www.nhsemployers.org/SiteCollectionDocuments/FINAL%20Speaking%20Up%20Charter.pdf> All websites accessed July 2013 unless otherwise stated

⁴ <http://webarchive.nationalarchives.gov.uk/20090811143745/http://www.bristol-inquiry.org.uk> Chapter 23

⁵ <http://discovery.nationalarchives.gov.uk/SearchUI/Details?uri=C16350>

⁶ <http://www.midstaffspublicinquiry.com>

2 NHS CONSTITUTION

- 2.1 The NHS constitution has been created to protect the NHS, bringing together details of what staff, patients and the public can expect from the National Health Service. It also explains what you can do to help support the NHS, help it work effectively, and help ensure that its resources are used responsibly. The Constitution sets out your rights both as an NHS patient and as staff. These rights cover how patients access health services, the quality of care, the treatments and programmes available, confidentiality, information and the right to complain if things go wrong.
- 2.2 The NHS Constitution identifies the need to protect from detriment in employment, and the right not to be unfairly dismissed for 'whistleblowing' or reporting wrongdoing in the workplace.

3 POLICY STATEMENT

- 3.1 It is the Policy of Wandsworth CCG to create a climate of openness, and to welcome the free expression by employees of their genuine and reasonable concerns, both to ensure compliance with the Act and as a contribution towards improving standards
- 3.2 It is Wandsworth CCG Whistleblowing Policy that any malpractice identified as a result of concerns raised will be taken seriously and will be addressed, and that employees raising concerns will be protected.
- 3.3 The CCG has introduced the policy to enable everyone to raise their concerns immediately, confidentially and with the assurance that they will be dealt with properly. The CCG welcomes genuine concerns and is committed to dealing responsibly, openly and professionally with them. Where there is a potential risk to patients or members of staff this should over-ride concerns regarding disloyalty to colleagues and organisational boundaries.
- 3.4 The CCG will not tolerate harassment or victimisation of anyone raising a genuine concern. For staff who raise a genuine concerns under this Policy, their job will not be at risk, and they will not suffer any form of retribution or harassment. Any allegations made that are found to be deliberately malicious will be dealt with under the CCG Disciplinary Policy and Procedure.

4 POLICY SCOPE

- 4.1 This policy applies to all Wandsworth CCG employees, in whatever capacity they are employed, as well as independent contractors and agency workers.

5 DEFINITIONS

- 5.1 For the purposes of this policy, a genuine and reasonable concern is defined as:

An occasion when an employee has a reasonable belief that a criminal offence has been committed, is being committed or is likely to be committed; that a person has failed, is failing or is likely to fail to comply with any legal obligation to which he is subject; that a miscarriage of justice has occurred, is occurring or is likely to occur; that the health or

safety of any individual has been, is being or is likely to be endangered; that the environment has been, is being or is likely to be damaged⁷

5.2 For the purposes of this policy a whistleblower is defined as:

‘someone who tells their employer, a regulator, customers, the police or the media about a dangerous or illegal activity that they are aware of through their work.’⁸

5.3 As an early warning system, whistleblowing can help alert employers to risks such as:

- A danger in the workplace
- Fraud in, or by the organisation
- Miss-selling or price fixing
- Offering, taking or soliciting bribes
- Dumping damaging material in the environment
- Misreporting performance data
- Medical negligence

6 PROCEDURE FOR RAISING CONCERNS

6.1 Employees have a public and professional duty to report on the following:

- Malpractice or ill treatment of a patient by a member of staff for whom there is no line management responsibility
- Awareness of suspected child/vulnerable adults abuse or neglect
- Repeated ill treatment of a patient despite a complaint being made
- A criminal offence has been, or is likely to be committed
- Suspected fraud
- Awareness of suspected terrorist or extremist activity
- Disregard for legislation, particularly in relation to health and safety at work
- The environment has been, or is likely to be, damaged
- Breach of Standing Orders or Standing Financial Instructions
- Showing undue favour over a contractual matter or a job applicant
- Information on any of the above has been, is being, or is likely to be concealed.

6.2 In the first instance any concern relating to fraud, bribery or corruption should be reported to the CCG’s Local Counter Fraud Specialist or Chief Finance Officer.

6.3 In all cases where concerns relate to the abuse of children, the local Social Services Child Protection Team should be notified immediately⁹ and the Director of Services for Children and Young People should be notified either by the person raising the concern or by the person they report the concern to.

6.4 In all cases where concerns relate to the abuse of vulnerable adults, the Chief Nurse and/or Safeguarding lead should be notified either by the person raising the concern or by the person they report the concern to.

⁷ Adapted from PIDA <http://www.legislation.gov.uk/ukpga/1998/23/section/1>

⁸ <http://www.pcaw.org.uk/faq-answers>

⁹ The Child Protection team will be responsible for investigating any allegations or suspicions concerning the abuse of children, with the involvement of the police as necessary

6.5 Where concerns are raised about the practices of clinical staff, action under this procedure may not be appropriate, and the CCG will have to act in accordance with English law, e.g. follows Child Protection procedures.

6.6 Any other concerns should be raised with their line manager. This may be done verbally, or in writing. The manager will then decide what action to take.

6.7 If they feel unable to raise the matter with their manager, they should contact:

- Director/member of the Senior Management Team
- Chief Finance Officer

7 The Investigation

7.1 Any resulting investigation may need to be carried out under the terms of strict confidentiality, i.e. by not informing the subject of the issue until (or if) it becomes necessary to do so. This may be appropriate in cases of suspected fraud. Protection of service users is paramount in all cases.

7.2 Once a concern has been raised with a line manager or any other member of the management team they will:

- Note the key points of concern and ask if the matter has been raised with anyone else in the CCG or with any other organisation.
- Check that the person raising the concern has a copy of this Policy and explain the key principles, for example, the rights and responsibilities of someone expressing a concern under the Act.
- Assure the person raising the concern that their anonymity will be respected, unless at a later stage disclosure becomes unavoidable
- Refer the concern to a Director who will be referred to as the Lead Director. The person raising the concern can say if they have a preference about which Director this should be.

7.3 The Lead Director will appoint an appropriate manager as the Investigating Officer. The manager should not have had any previous involvement with the matter raised. An investigation will be carried out to establish the facts of the incident or complaint, before deciding if there is a formal case to answer, and whether to proceed under CCG policies or procedures. In cases of suspected fraud, this will be passed for investigation in the first instance to the Local Counter Fraud Service Specialist (LCFS) and investigated in accordance with the CCG's Policy in Relation to Fraud and Fraud Response Plan and the Anti-Bribery Policy.

7.4 All employees have the right to be represented by their Trade Union or Professional Organisation Representative or accompanied by a colleague (other than a person acting in a legal capacity). The right to representation does not include relatives or friends.

7.5 The Investigating Officer will send a letter inviting the individual who raised the initial concern to attend an investigatory meeting of which the employee will be given no less than 7 working days' notice. If they wish to be accompanied at the investigatory

meeting, it is the employees' responsibility to contact their representative at the earliest opportunity. An employee who cannot attend a meeting should inform the Investigating Officer in advance whenever possible. If an employee's representative cannot attend on a proposed date, the employee can suggest another date, so long as it is a reasonable amount of time (and within two weeks maximum) after the original date proposed by the employer. A summary of the investigatory meeting will be made and provided to the employee to sign and date as a record of the meeting. Once agreed, the summary, together with any statement the employee may have provided, will be considered as the employee's full statement.

7.6 The Investigating Officer may choose to obtain evidence from other employees and/or patients/members of the public. Witnesses will generally be asked to provide a statement that must be signed and dated by them as a true and accurate record of the events.

7.7 Once all the evidence has been considered and collected in the form of a written report, the Investigating Officer will recommend to the Lead Director whether there is a case to answer and whether the matter should be progressed under another CCG policy or procedure, such as the CCG Disciplinary Policy and Procedure. Should the recommendation be that there is no case to answer, the Investigating Officer will write to the employee to confirm this. The Lead Director will be responsible for progressing any action as agreed by the Investigating Officer.

7.8 The Investigating Officer will offer to keep the member of staff who has raised the concern informed about the investigation. However, it should be noted that the CCG might not be able to disclose the precise action taken where this would breach a duty of confidentiality.

7.9 Where there is no case to answer, but the employee held a genuine concern and was not acting maliciously, the Lead Director should ensure that the employee suffers no reprisals and that appropriate support is provided. Only where a concern is made maliciously, will it be considered appropriate to act against the employee who raised the concern under the CCG's Disciplinary Policy and Procedure. These procedures can only be invoked if the facts are able to show that the concern was vexatious.

8 Anonymous Concerns

8.1 If an anonymous concern is received, the Lead Director and Investigating Officer will meet to discuss the contents of the concern. However without talking to the employee(s) through an interview and without the attainment of any additional facts, a full investigation may not be possible.

9 If the Member of Staff Raising the Concerns Remains Dissatisfied

9.1 If the individual who raised the concern is not satisfied with the outcome of the investigation and/or inquiry, the CCG recognises the lawful rights of employees and ex- employees to make disclosures to prescribed persons, such as the Health and Safety Executive or the Audit Commission.

10 Reporting by Ex-Employees and Raising Concerns Regarding Ex-Employees

10.1 Reporting of concerns can also apply to staff that have left the CCG's employment. Ex-employees may raise concerns under this policy within 3 months of leaving the CCG and these will be managed in accordance with CCG policies and procedures.

11 RESPONSIBILITIES

11.1 Chief Officer

Will ensure that reasonable resources are allocated for the implementation of this policy.

11.2 Director of Corporate Affairs, Performance & Quality

Will oversee the implementation of this policy, ensuring that it is made available to all staff, monitor the effectiveness of its implementation and will ensure that there are robust policies, procedures and systems in place for the management of clinical performance issues arising from genuine and reasonable concerns raised by employees, and that such concerns arising are dealt with in accordance with this policy.

11.3 All Directors

Will ensure that they are aware of the requirements of this policy and ensure that they are implemented, particularly when an employee approaches them with a genuine and reasonable concern.

11.4 Chief Financial Officer

Will act as first point of contact for any concerns relating to fraud, bribery or corruption

11.5 Department managers

Will ensure that all staff with are encouraged to raise genuine and reasonable concerns and are assisted in doing so.

11.6 All employees

11.6.1 Will make themselves aware of the content of this policy and comply with it;

11.6.2 Will ensure (where relevant) that they comply with the ethical, professional and clinical requirements of their professional body;

11.6.3 Will ensure that any genuine and reasonable concerns they might have are dealt with in accordance with this policy.

12 CONCERNS RAISED ABOUT INDEPENDENT CONTRACTORS, OR THOSE PROVIDING COMMISSIONED SERVICES

12.1 Concerns raised under this heading will fall into one of two categories:

- Concerns raised by CCG employees
- Concerns raised by employees of other organisations or members of the public

12.2 In either category the CCG will act within the limit of its statutory powers and any rights and authority granted under contract to:

- establish the facts
- establish whether the concerns have a basis in fact
- establish whether further action is needed in the public interest and take what action is necessary on the basis of proportionality. Such action could include:
- supporting performance
- reporting to the relevant professional body or regulatory authority
- enforcing contract terms
- re-drawing or withdrawing from existing contract terms
- reporting to the police

13 CONFIDENTIALITY

13.1 This policy does not automatically release staff from the duty of clinical confidentiality; where there are apparent or potential tensions or conflicts between the public interest and confidentiality, employees should seek advice. Where possible, information passed to the CCG will be treated as confidential and individuals will not be identified; however, the CCG has a duty to pass on information to other authorities (such as healthcare regulatory bodies, or the police) if this is required in the public interest.

13.2 If it is not possible to resolve the issue without identifying employees raising a concern because evidence is needed in court, or because they may be called as a witness, the CCG will discuss this with the employee beforehand and ensure they are provided with the necessary guidance and support.

14 OTHER RELEVANT POLICIES/ PROCEDURES

14.1 The Whistleblowing Policy should be read in conjunction with the following, which can be found on the CCG intranet.

- Disciplinary Policy and Procedure
- Grievance Policy and Procedure
- Policy in Relation to Fraud and Fraud Response Plan
- Anti-Bribery Policy
- Counter Fraud and Corruption Policy
- Conflict of Interest Policy
- Corporate Governance Framework

APPENDIX 1: WHERE TO GO FOR INDEPENDENT HELP AND ADVICE

This policy assures those with concerns that those concerns are taken seriously, but there may be occasions when it is appropriate to take the concern to another organisation or the police.

Whistleblowing Helpline for NHS and Social Care

08000 724725

Public Concern at Work

Public Concern at Work is a registered charity and the leading body on whistleblowing issues. They provide advice to individuals: <http://www.pcaw.co.uk/index.html> 020 7404 6609 or email helpline@pcaw.co.uk

Local Counter Fraud Specialist

Mike Harling – Email: Mike.Harling@nhs.net Tel: 020 3049 9380

Chief Finance Officer

Hardev Virdee – Email: Hardev.Virdee@Wandsworthccg.nhs.uk Tel: 020 8871 5168

National Fraud Helpline

0800 0284060

Staff Counselling and Advice Service

Occupational Health Department

G Block

St Helier Hospital

Wrythe Lane

Carshalton

Surrey SM5 1AA Telephone number: 020 8296 2678

Employee Assistance Programme - offers unlimited, confidential access to emotional and practical support, including legal and financial advice. The freephone number is 0800 1116 387.

Other sources:

Trade Union or Professional body will provide you with advice.

Other organisations concerned with the standards in the NHS include:

British Dental Association

<http://www.bda-dentistry.org.uk>

020 7935 0875

General Medical Council

www.gmc-uk.org

gmc@gmc-uk.org

0845 357 8001

The Nursing and Midwifery Council

<http://www.nmc-uk.org>

Main switchboard: 020 7637 7181;

Main fax: 020 7436 2924

The Health Professions Council

<http://www.hpc-uk.org>

Park House,
184 Kennington Park Road,
London,
SE11 4BU
+44 (0) 20 7582 0866

Health and Safety Executive

0845 345 005

Health Service Ombudsman

<http://www.ombudsman.org.uk> Helpline 0845 015 4033 or email
phso.enquiries@ombudsman.org.uk

The Parliamentary and Health Service Ombudsman
Milbank Tower
Milbank
London
SW1P 4QP

Mental Health Act Commission

Maid Marian House
56, Hounds Gate
Nottingham
NG1 6BG
Tel: 0115 943 7100
Fax: 0115 943 7101
Email: ChiefExec@mhac.org.uk