

Whistle Blowing Policy
Guidance for Staff
Raising Issues of Concern

Document No.	Version	Issue Date	Last Review	Next Review	Impact Assessed	Author/Contact Person
HR-GL-5	3	02/2014	02/2014	02/2017	✓	Director of Human Resources

Approved By:
JCNC

For use in (clinical area)	Trustwide
For use by (staff groups)	All Staff
For use for (patients/staff/public)	All Staff
Document Owner:	Human Resources
Document Status:	APPROVED

Document History

Version	Date	Author	Reason
1.0	April 2006 to April 2007	Chanelle Wilkinson Director of Human Resources	Review
2.0	June 2008	Andrea Chown Deputy Director of Human Resources	Review
2.1	January 2012	Julieann Carter (with authors approval)	Minor amendment made to Page seven with the insertion of Named non-executive director.
2.1	January 2012	Wendy Bowes, Deputy Director of Human Resources	Amendment to monitoring arrangement. Document updated and review date amended.
3.0	January 2014	Afusat Abdulkadir-Ayo, HR Business Partner	Amendment to ensure compliance with recommendations in the Francis Report

Consultation History

You must ensure your policy has appropriate consultation or it will not be approved

Stakeholders Name	Area of Expertise	Date Sent	Date Received	Comments	Changes Made
Wendy Bowes	Human Resources	Jan 2012			
Kathy Renacre	Human Resources	Jan 2012			
Glennis Toms	Human Resources	Jan 2012			
Julieann Carter	Risk Management	Jan 2012			
Neil Carter	Equality and Diversity	Jan 2012			
PRG	Subgroup of JCNC	April & May 2013	April & May 2013		
JCNC	JCNC	Feb 2014	Feb 2014		

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1.0 INTRODUCTION

This policy provides details of the ways in which staff can talk to their line manager, a senior manager or a designated officer in confidence and without fear that any action may be taken against them, if they have any concerns about:

- a general health service issue, which may be related to the Trust's activities or wider aspects of the health service;
- the delivery of care or services to a patient or client including the endangering of the health or safety of any individual;
- the conduct of another member of staff;
- a financial irregularity/falsification of documents for gain, corruption, bribery or blackmail;
- a failure to comply with a legal or regulatory obligation;
- any miscarriage of justice;
- the endangering the environment;
- any criminal offence; or
- the concealment of any of the above.

The individual interests of our patients, together with their care and treatment, are of paramount importance to the Trust. In order to achieve and sustain the highest standards of care, therefore, the views of members of staff will be encouraged on any and all aspects of our activities. The culture of the Trust will be one based on openness and all managers will be expected to ensure that staff are given every opportunity to make their contribution, and to make it clear that staffs' views will be welcomed, appreciated and, where appropriate acted upon positively.

On occasions, when a member of staff becomes concerned about a general health issue, or specifically about the delivery of care or services to a patient or client; it is extremely important that such matters are brought to the attention of the Trust's Senior Managers.

In certain cases, it is recognised that individuals may be reluctant to voice their concerns, particularly where a colleague is involved, or where the member of staff is in a senior position or from a different discipline or profession. The Trust is anxious to ensure that staff feel able to raise such concerns confidentially and without fear of any subsequent action being taken against them. Consequently, procedures have been developed which provide three different methods which staff can use to bring concerns to the attention of senior management:

- an informal approach;
- a formal approach;
- an approach to one of the 'designated' officers who are outside the formal line-management structure.

In all cases, members of staff will have the right to discuss their concerns with the Chief Executive and ultimately, with the Chairman of the Board of Directors.

2.0 SCOPE OF DOCUMENT

This policy applies to every member of staff of Milton Keynes Hospital NHS Foundation Trust at all levels and in their different terms of employment, hours of work or length of service, including Bank, Agency workers and Volunteers.

This policy is designed to comply with the Public Interest Disclosure Act 1998 and gives significant statutory protection to staff who discloses information reasonably and responsibly in the public interest. The Act gives legal protection from dismissal, harassment, fear of reprisal or other detrimental treatment to “workers” (this term means Trust employees, agency or bank staff, the staff of one of our contractors, or volunteers) who wish to report information, which they reasonably believe, is in the patient or public interest.

The Trust accepts that individual members of staff have a right and a duty to raise any matters of concern about health service issues, particularly those which involve the Trust directly. Such issues may include aspects related to the delivery of care/services to a patient, together with matters which they consider to be damaging to the interests of a patient.

This policy does not replace the Trust’s existing policies and procedures regarding adverse incident reporting, Grievance procedure, reporting cases of potential fraud or corruption or the Trust Complaints Policy nor does it replace the normal lines of communication between staff and their managers so that matters of concern may still be dealt with through normal management channels.

For issues of suspected fraud, for example dishonesty to make gain or expose the Trust to the risk of loss, staff should contact the Local Counter Fraud Specialist on 01223 216019. Alternatively, staff can ring the NHS Fraud Hotline on 0800 0284060.

This guidance does not affect existing guidance on statutory complaints procedures and it complements and runs alongside professional or ethical rules, guidelines and codes of conduct on freedom of speech, e.g. the NMC Code of Professional Conduct. Staff must always observe relevant professional codes of practice or codes of conduct.

The Trust’s contracts and compromise agreements give consideration to the spirit of the Public Interest Disclosure Act 1998 (PIDA) guidance which prohibits the use of ‘gagging’ clauses which seek to prevent the disclosure of information in the public interest.

3.0 CONFIDENTIALITY

Whilst pursuing the aim of openness, it is imperative that patient confidentiality is maintained and that confidence in the services provided by the Trust is not unreasonably undermined. Similarly, as members of staff have certain obligations and loyalties to the Trust as their employer; it is important that the employer/employee relationship is not compromised. Consequently, providing that staff follow the procedures detailed below, potential problems around breaches of confidentiality can be avoided and staff will be able to express their views without fear of being penalised for doing so.

Provided that issues of concern are raised in accordance with these procedures, in good faith and with reasonable care, the Trust will meet the costs of the defence of the member of staff and of any costs or damages awarded against the individual should action for

defamation be brought by another member of staff implicated in the matter raised. Where an issue of concern is raised maliciously, however, the Trust will regard this as a serious matter and will invoke its disciplinary procedure accordingly. This may result in summary dismissal.

As far as is reasonably practicable, information brought to the attention of Management will be treated in the strictest confidence. Members of staff who raise issues of concern will not be identified unless required to provide evidence as part of an official investigation. In such situations, it may be necessary to attend formal hearings to give evidence and/or to make written statements. In these instances, staff can choose to be represented by a Trade Union/Professional Organisation representative, or accompanied by a work colleague.

The Trust expects its staff to safeguard all confidential information, particularly about individual patients. Unauthorised breach of confidentiality with regards to personal information about a patient will be regarded as a very serious matter which will warrant disciplinary action and may result in summary dismissal. In certain situations, however, a member of staff may claim that disclosure of confidential information was made either in the patient's interest or in the public interest. Such a justification might need to be defended and staff are advised to seek advice from their Trade Union/Professional Organisation or from some other specialist source before they disclose information.

4.0 CONSULTATION WITH TRADE UNIONS/PROFESSIONAL ORGANISATIONS

This guidance has been the subject of consultation with the Trade Unions/Professional Organisations recognised by the Trust and where appropriate, staff are encouraged to seek the advice and guidance of staff representatives in situations where they have concerns which they feel should be raised.

5.0 ROLES AND RESPONSIBILITIES

5.1 Individuals/Staff

Individual staff members have a right and a duty under this policy to report, in good faith any concern about which they have a reasonable belief either to their line manager (except for cases of potential fraud or corruption) or via one of the other routes set out in this policy. Proof of wrong doing is not required, merely a reasonably held concern. At the same time, individuals have an equal responsibility not to raise issues maliciously.

It is also the responsibility of all staff to familiarise themselves with and to understand the policy.

All staff should feel able to raise concerns confidentially and without fear of any subsequent action being taken against them.

However, where, after investigation, it has been shown that it was reasonable to conclude that an allegation is raised maliciously; the Trust will invoke its disciplinary procedure against the complainant which may result in their summary dismissal.

5.2 Managers

Managers should ensure that all employees are aware of this policy and should encourage staff to give their views on any and all aspects of our activities.

Managers should ensure that all staff are given every opportunity to make their contribution and managers should act upon the views of staff positively.

Managers should also ensure that all staff involved in the whistle blowing policy are made aware of who in the organisation can offer advice and support.

5.4 Human Resources

The Human Resources Department is responsible for the implementation, monitoring and review of this policy.

5.5 Trade Union/Staff Side organisations

Trade Union and staff side organisation have a responsibility to support their members and to work with management on the implementation and review of this policy.

6.0 PROCESS

6.1 Informal Procedure

Staff are encouraged to raise concerns about health service issues with their immediate line manager or professional lead in the first instance. Where this happens, the manager becomes the 'designated officer' and is expected to investigate the matter fully and feedback on the outcome of any investigation. The feedback may not include details about the precise actions that have been taken where this would infringe on a duty of confidence owed to another person. However, managers will take concerns seriously, consider them fully and sympathetically, recognise that raising a concern can be a difficult experience, and where appropriate, seek advice from other healthcare professionals.

In certain situations, for whatever reason, staff may not wish to discuss matters informally with their line manager/professional lead but, at the same time, may not wish to invoke a formal procedure (see 6.2 below). Discussion with one of the designated officers, therefore, can be held either informally or formally (see 6.3 below).

Consultant medical staff should consider discussing their concerns with colleagues and then, if necessary, raise them with the Medical Director. In very exceptional cases, direct referral to the Chief Executive may be appropriate.

Where action is to be taken in response to a concern raised by a member of staff, this will be carried out promptly and the member of staff will be notified of the action

taken. Where action is not considered practicable or appropriate, the member of staff will be given a prompt and thorough explanation of the reason, and will also be informed of the further action available under this procedure.

6.2 Formal Procedure

This stage of the procedure is applicable where a member of staff considers that the informal approach to the line manager proves ineffective; or where the member of staff does not wish to bring the matter to the attention of her/his line manager, for whatever reason.

The matter should then be raised formally with either their manager's manager; a member of the management team at any of the different levels within the line management structure; or any member from the 'Designated Officer' list at 6.3. In order for such matters to be considered formally, individuals will have to put their concern in writing.

The stages contained in the Trust's Grievance Procedure should be observed as a guide to the process to be followed and a formal response to the issue(s) raised will be provided at each stage. Staff will be able to refer concerns up to the Chief Executive and ultimately, to the Chairman of the Board of Directors. In considering any matters raised, the Chairman may decide to involve non-executive Board members.

6.3 Designated Officer

In cases where members of staff prefer to raise their concerns with a senior manager with whom they have no direct or indirect line management responsibility, the matter(s) of concern can be referred in confidence, to the:

- Chief Nurse
- Medical Director;
- Director of Human Resources
- Local Counter Fraud Specialist
(refer to the Trust's Counter Fraud and Corruption Policy)
- A designated Non-Executive Director (please contact the Chief Executive's office for details)

The Designated Officer approached will meet the member of staff and initiate relevant action, as appropriate. A formal response will be made to the individual who will have the right to ask that the matter be referred to the Chief Executive, and thereafter, to the Chairman of the Board of Directors, for consideration.

6.4 When a concern is raised

The Trust will treat all matters raised under this policy as serious, and address all such matters fairly and thoroughly. The Trust will take prompt action to investigate such matters and notify those raising concerns of how the issue will be dealt with as soon as possible and no later than one month after the concern was raised. Where for any reason the timescales need to be extended the staff member will be informed

accordingly. Where any required action will involve taking disciplinary action or other action against a third party, this will remain confidential to that third party.

All staff should feel able to raise concerns confidentially and without fear of any subsequent action being taken against them. Where, after investigation, it has been shown that it was reasonable to conclude that an allegation is raised maliciously; the Trust will invoke its disciplinary procedure against the complainant which may result in their summary dismissal.

In recognition that raising a concern can be a difficult experience for some staff, the Trust will provide support for counselling via Occupational Health. Staff are also reminded that their trade union representatives, may be able to provide support to them.

7.0 WIDER DISCLOSURES

Whilst it is hoped that this policy gives staff the reassurance required to raise concern internally with the Trust, this does not negate the role of other agencies. These agencies, however, should normally be involved when internal procedures have been exhausted. However, we also recognise that there may be circumstances where staff can properly report a concern to an outside body. In fact, it is welcome for you to raise a matter with the appropriate regulator such as, Care Quality Commission, the Independent Regulator of NHS Foundation Trust (Monitor), and your professional regulator, the Audit Commission or the National Patient Safety Agency, Parliament (via your MP) – than not raising issues at all. The trade union representatives and Public Concern at Work will be able to advise you on these options if required.

Staff are expected to follow the procedure outlined in this policy before involving other agencies and before considering any course of action involving the media.

Wider disclosures to (e.g. to the Police, the media, MPs and agencies other than those listed in the policy) are protected if the following conditions are met:

(A) The member of staff must:

- Reasonably believe that the disclosure is in the public interest
- Reasonably believe that the information, and any allegation contained in it are substantially true, and
- Not act for personal gain

(B) In addition one or more of the following conditions must be met:

- The member of staff must reasonably believe that he/she would be subjected to a detriment by his/her employer if disclosure were to be made to the employer or to a designated officer.
- In the absence of an appropriate designated officer, the worker reasonably believes that the disclosure to the employer would result in the destruction or concealment of information about the wrongdoing
- The member of staff has previously disclosed substantially the same information to his or her employer or to designated officer.

If an individual is concerned about an issue but is reluctant to use these procedures, the following organisations, totally unconnected with the Trust, will provide free advice about the best way to proceed:

- Public Concern at Work Tel: 020 7404 6609 or [www.helpline@pcaw.co.uk](mailto:helpline@pcaw.co.uk)
- The Whistleblowing helpline: 08000 724 725 or www.wbhelpline.org.uk
- Freedom to Care: freedomtocare@aol.com

8.0 TRAINING REQUIREMENT

Staff should be made aware of this policy through local induction and regular policy updates.

9.0 AUDIT AND MONITORING CRITERIA

Document Audit and Monitoring Table	
Monitoring requirements:	The usage of this policy is monitored by the Chief Executive Office.
Monitoring Method:	The usage of this policy is monitored by the Chief Executive Office. Due to the anonymity of whistle blowing issues, no equality data is monitored. Issues of whistle blowing will be reported to the Trust Board and Quality Committee as appropriate.

10.0 STATEMENT OF EVIDENCE/REFERENCES/ASSOCIATED DOCUMENTATION

- Milton Keynes Hospital (NHS) Foundation Trust, (Current), Disciplinary Policy and Procedure
- Milton Keynes Hospital (NHS) Foundation Trust, (Current), Grievance Procedure
- Milton Keynes Hospital (NHS) Foundation Trust, (Current), Counter Fraud and Corruption Policy
- Health Service Circular HSC1999/198: The Public Disclosure Act 1998 - Whistleblowing in the NHS

11.0 EQUALITY IMPACT ASSESSMENT

Impact	Age	Disability	Race	Gender	Religion or Belief	Sexual Orientation
Do different groups have different needs, experiences, issues and priorities in relation to the proposed policy?	N	N	N	N	N	N
Is there potential for or evidence that the proposed policy will not promote equality of opportunity for all and promote good relations between different groups?	N	N	N	N	N	N
Is there potential for or evidence that the proposed policy will affect different population groups differently (including possibly discriminating against certain groups)?	N	N	N	N	N	N
Is there public concern (including media, academic, voluntary or sector specific interest) in potential discrimination against a particular population group or groups?	N	N	N	N	N	N

12.0 NHSLA AND CARE QUALITY COMMISSION ESSENTIAL STANDARDS

NHSLA element	Element to be monitored	Lead	Tool	Frequency	Reporting arrangements	Acting on recommendations and Lead(s)	Change in practice and lessons to be shared
Outcome 2.2	Incident Reporting – How staff can raise concerns	Designated Officer	Annual reporting	1 x per year	Management Board	Required actions will be identified with a relevant lead and completed in a nominated timeframe.	Required changes to practice will be identified and actioned within a specific time frame. Lessons will be shared with all the relevant stakeholders.

CQC element	Element to be monitored	Lead	Tool	Frequency	Reporting arrangements	Acting on recommendations and Lead(s)	Change in practice and lessons to be shared
Outcome 1	Involvement and information. Staff are able to raise concerns about their workplace or care of patients	Designated Officer	Annual reporting	1 x per year	Management Board	Required actions will be identified with a relevant lead and completed in a nominated timeframe.	Required changes to practice will be identified and actioned within a specific time frame. Lessons will be shared with all the relevant stakeholders.
Outcome 7	Safeguarding and Safety. Staff are able to raise any safeguarding concerns that they may have						
Outcome 14	Suitability of staffing. Staff are supported in being able to raise concerns						

<p>Outcome 17 & 20</p>	<p>Quality and Management. 17. Staff are able to raise complaints and concerns about their workplace or care of patients. Meets 20. Staff are able to raise complaints and concerns about other incidents such as near-misses.</p>						
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13.0 IMPLEMENTATION AND DISSEMINATION OF THE DOCUMENT

This Policy and Procedure will be placed on the Trust's Intranet site.

- Homepage of the Trust's Intranet
- Departments
- HR
- Policies

14.0 OVERALL RESPONSIBILITY FOR THE DOCUMENT

The Director of Human Resources has overall responsibility for the review and update of this policy.