

**POLICY CONTROL DOCUMENT - 1**

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| POLICY TITLE | **Public Interest Disclosures (Whistle blowing) POLICY** |
| POLICY CODE | **HR 07** |
| NEW **/** REVISED or REPLACES +code |  **Freedom of Speech/ Whistleblowing** |
| AUTHOR(Name and title/role) | **Revised By Barbara Simmons, Employee Relations Manager** |

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| TRUST BOARD SUB-COMMITTEE WHICH APPROVED **ORIGINAL** VERSION |
| (Name of Committee) **Integrated Governance**  | DATE OF APPROVAL**Nov 2007** |
| DATE OF NEXT REVIEW  | **Q2/ FY 2015** |

REVIEW HISTORY

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| COMMITTEE WHICH APPROVED **REVISED** VERSION |
| **HR QIC**  | 16/09/2011 |

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| CURRENT VERSION PLACED ON INTRANET | DATE |

**CHAIR(S) OF APPROVING COMMITTEE**

**SIGNATURE(S)..................................................................................................**

**TITLE(S) ..........................................................................................................**

**DATE ......................................................................................................**

**POLICY CONTROL DOCUMENT - 2**

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| NUMBER OF PAGES (EXCLUDING APPENDICES) | **7** |
| **SUMMARY OF REVISIONS:*** The Monitoring and Evaluation section has been revised to ensure that it complies with the current Trust format and meets the obligations within the Core Care Standard
* The policy has also been re-focused to place greater emphasis on a commitment to encourage and support people in raising concerns rather than primarily emphasising the protections
* Increased emphasis has been given to the obligations to beware of and report instances of suspected abuse of children or vulnerable adults
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| **Approval Checklist** | **✓** |
| **Healthcare Standard identified how the policy meets the standard stated** **CQC regulation** Outcome 4 – Care and welfare of people who use servicesOutcome 7 – Safeguarding people who use services from abuseOutcome 17 - Complaints | **✓** |
| **Consultation process undertaken****(Outline with whom)**Staff-side representativesHR Policy Committee CEACHead of Information Governance | **✓****✓****✓****✓** |
| **Equality Impact Assessment completed** | **✓** |
| **Has the potential for an impact on a person’s human rights been considered** | **✓** |
| **Training implications assessed and agreed where relevant with Learning Advisory Committee** | **✓** |
| **Any resource implications for operational services discussed with the Chief Operating Officer** | **✓** |
| **Monitoring/audit arrangements included** | **✓** |

**All policies are copy controlled. When a revision is issued previous versions will be withdrawn. Uncontrolled copies are available but will not be updated on issue of a revision. An electronic copy with be posted on the Trust Intranet for information.**

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|  Logo |  |  | Policy | **HR 07** |
|  |  | review Q2 / 2015  |
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| Policy applicable to - |  |  |  | **All areas √** |  |  |  | Specific Areas |  |
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| 1 Aim |
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| 1.1 | The purpose of this policy is to ensure that the Trust fully complies with the requirements of the Public Interest Disclosure Act 1998 and by so doing our employees, our patients and this organisation benefit from this legislation which encourages an open, responsible and accountable culture. The policy actively seeks to encourage staff to raise serious concerns of any kind, at the earliest opportunity, in good faith and to provide reassurance that they can do so without fear of victimisation, discrimination or disadvantage as a result of their actions.  |
| 2 Legal and policy framework |
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| 2.1 | The Public Interest Disclosure Act 1998 introduces specific rights and protections for those who disclose information to a third party about an alleged wrongdoing in defined circumstances, and provides protection against victimisation or dismissal for employers who ‘blow the whistle’ on criminal behaviour or other wrongdoing. The Protection applies to employees who follow the procedures laid down in the legislation in disclosing specific categories of malpractice. Certain rights have taken effect through the Employment Rights Act 2006 as amended in 1999. The policy also takes account of the Data Protection Act and Freedom of Information Act |

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| 2.2 | In order to qualify for ‘protection’ as provided for by this legislation, members of staff must act in good faith, and must have reasonable grounds for believing that the information disclosed falls within the potentially protected categories listed below. They must not act for financial or personal gain. |
| 2.3 | A disclosure must be covered by one of the following six categories known as 'qualifying disclosures' for a member of staff to be protected. The member of staff must have reason to believe that: |
|  | * A criminal offence has been committed, is being committed or is likely to be committed.
* A person has failed, is failing or is likely to fail to comply with a particular legal obligation.
* A miscarriage of justice has occurred, is occurring or is likely to occur.
* The health or safety of any individual has been, is being or is likely to be endangered.
* The environment has been, is being or is likely to be damaged.
* Information indicating the occurrence of any of the above has been, is being, or is likely to be deliberately concealed.
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| 2.4 | A ‘protected’ disclosure is one made in good faith by the member of staff to: |
|  | * The Trust.
* Another person legally responsible for the matter, e.g. contractor, external auditor.
* A relevant regulatory body e.g. NMC ,[Appendix 2 PIDAWhistleblowing 28.10.11.doc](Appendix%202%20PIDAWhistleblowing%2028.10.11.doc).
* A legal adviser.
* The regulator
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| 2.5 | The Act stipulates that the following factors should be taken into account when assessing ‘reasonableness’ * The identity of the person to whom the disclosure is made, e.g. relevant person/ Trust/professional body.
* The seriousness of the concern.
* Whether the matter is continuing or is likely to occur in the future.
* Whether the disclosure is made in breach of a duty of confidentiality owed by the Trust to another person, e.g. to protect patient confidentiality.
* Any action which the Trust or regulator has taken, or might reasonably be expected to have taken, as a result of a previous disclosure.
* Whether the member of staff complied with an authorised procedure when raising the issue with the Trust
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| 2.6 | Individuals covered by the Act include 'employees' (those working under a contract of employment), and all 'workers'. This effectively includes Governors, casual staff, trainees, secondees from other organisations, volunteers and agency workers, and in respect of the NHS, all self employed workers. For the purposes of this policy the term ‘member of staff’ covers all these groups. |
| 2.7  | The types of malpractice which might properly fall within the remit of this policy include;* Frauds and malpractice
* Other types of corruption or criminal offence
* Attempts to cover up or conceal acts
* Abuse or neglect of vulnerable adults and children
* Failure to deliver proper standards of service
* Damaging conflicts at a senior level
* Non-adherence to existing codes of practice or conduct
* Actual or potential miscarriage of justice
* Act creating a risk to health and safety
* Act causing a damage to the environment
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| 3 The Policy |
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| 3.1 | The Trust recognises the importance of having a culture which encourages openness and constructive feedback to enable the organisation to speedily and effectively address issues which might otherwise have the potential to undermine the best interest of its patients, carers, staff and the community it serves.  |
| 3.2 | The Trust is committed to the highest standards of quality, probity, openness and accountability, and as part of that commitment the Organisation encourages members of staff with serious concerns to report those concerns. This policy is intended to encourage and enable staff to raise these within the Trust rather than creating an environment in which they have no option but to raise issues externally. |
| 3.3 | Staff have the right and a duty to raise any matters of concern that they may have about issues relating to the delivery of care services to a patient or client; and fraud, misconduct or criminal acts, in the way the Trust is run. This includes issues such as such as in respect of health, safety or treatment or other matters which could amount to malpractice in accordance with their relevant Professional Codes of Conduct. Failure to report incidents of concern without a fair and reasonable justification may render an employee liable to disciplinary action by the Trust, and if appropriate, their professional registration body. |
| 3.4 | The Trust will support any concerned members of staff who comes forward in good faith at the earliest possible opportunity and will take every reasonable step to ensure that there are no adverse effects on their career. It will always deal with a concern seriously. . |
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| 3.5 | Employees will be informed at the outset of using this policy, of the principles of ‘natural justice’’ which will apply to all parties. Whilst the Trust will endeavour to support and protect employees who have come forward with serious concerns this policy cannot override any instruction from a court of law for the release of evidence gathered or the identity of a witness. |
| 3.6 | Although the Trust seeks to reassure employees that it welcomes the raising of concerns internally in the first instance and will deal with these properly, employees should note that they are also able to contact specific regulatory bodies directly. A member of staff can make disclosures, in good faith where they believe the information to be disclosed and/or the allegation to be substantially true, direct to a regulatory body as set out in Appendix 2 of this policy.  |
| 3.7 | Some allegations or concerns may need to be subject to external and / or criminal procedures and this may affect the degree of control the Trust has in respect of the management of such circumstances |
| 3.8 | Key points* If a concern later turns out not to be justified, but was raised in good faith and without malice, the member of staff can still expect support and that their employment, promotion and development opportunities will not be affected.
* Issues and concerns are most effectively addressed if they are reported at the earliest possible opportunity to someone in authority.
* Any member of staff who raises a concern that later turns out to be malicious or brought in bad faith may be subject to disciplinary procedures.
* Any colleague who tries to discourage another member of staff from coming forward, or criticises or victimises them after voicing a concern, may find themselves liable to action under the Disciplinary Procedure.
* All parties involved in the disclosure will be protected as far as possible from victimisation or retaliation, which in itself is a disciplinary offence.
* If there is a need to protect the member of staff raising the concern, consideration will be given as to what temporary action should be taken to minimise contact between the complainant and any member of staff against whom the complaint has been raised.
* If a member of staff does not feel that the matter they have raised is being taken seriously or investigated sufficiently, they can escalate their concern through the routes outlined in section 2.4 of the policy and the stages set out in the procedure
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| **4** | **Incident/issue reporting**  |
| 4.1  | Wherever possible concerns should be reported through normal line management processes  |
| 4.2  | Where employees feel unable to report through their line management, they are encouraged to register their concerns with a representative: HR, one of the Trust’s recognised Trade Unions or any other senior manager at the earliest opportunity. |
| **5** | **Confidentiality and anonymity** |
| 5.15.2 | Every attempt will be made to respect confidentiality where at all possible if this is requested by the concerned member of staff. All parties involved in the investigation must respect the need for confidentiality. If an employee has asked not to be identified and the concern cannot be resolved without this (for example as a witness in a court or at a disciplinary hearing) this will be discussed with the employeeThe Trust will make every effort to investigate anonymous allegations and protect a ‘whistleblower’ requests for their identity to remain confidential, but such restrictions may limit or constrain the remit and thus the effectiveness of the investigation. The Trust may conclude that whilst an allegation is noted, the detail contained within it is insufficient to proceed with an investigation. Any decision not to proceed beyond the first level of investigation will be taken by the Executive Board and a record will be retained to explain the reason for the decision |
| **6** | **Timescales**  |
| 6.1 | As far as is reasonably possible, the Trust will commence an investigation into allegations or concerns raised under this policy, or associated with this policy within 7 working days of the matter being raised formally under the accompanying procedures. It will seek to complete the investigation within 6 weeks. However timescales may necessarily be extended to take account of such factors such as the availability of witnesses, the complexity of the matters etc.  |
| 7 Responsibilities  |  |
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| 7.1 | It is the responsibility of the Chief Executive and the Board to ensure that this policy is in place and is adhered to. The Director of Human Resources and Organisational Development is responsible for ensuring that there are suitable and robust arrangements in place to enable this policy to operate effectively.  |
| 7.27.3 | The Director of HR and OD (unless otherwise implicated in the allegation/concern) is responsible for nominating a Case Manager and a designated officer/team to investigate concerns or allegations raised under stages 3 or 4 of the procedure. He/she is also responsible for ensuring that investigations are concluded within a reasonable time frame. A Case Manager is responsible for ensuring sure that the investigation is undertaken and concluded in a timely manner and that suitable facilities and resources are made available to the investigators. The Case Manager is also responsible for ensuring that there are support services available to all staff involved, that patient and career are kept suitably informed and, where appropriate, outcome actions are implemented. |
| 7.4 | In dealing with reports and disclosures raised under this policy, all managers have the responsibility to |
|  | * Take concerns seriously.
* Consider them fully, objectively and with sensitivity.
* Recognise that raising a concern can be a difficult experience for members of staff and to offer support
* Seek advice from other professional/advisory bodies/Trade Unions where appropriate.
* Seek to investigate and resolve the matter as quickly as possible.
* Maintain a record of complaints or concerns raised, the process of investigation and the outcome.
* Ensure that the complainant is informed of the outcome of the matter.
* Ensure that there is no victimisation of members of staff raising concerns.
* Ensure that protection is offered if the concern comes within the legal definitions covered by the Public Interest Disclosure Act.
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| 7.5 | The Trust’s designated Senior Manager, known as the Allegations Officer, is responsible for ensuring that all allegations against employees with regard to the safeguarding of Vulnerable Adults and Children are investigated and reported in accordance with the recognised local Safeguarding arrangements.  |
| 7.6 | It is the responsibility of staff to report all matters of concern through any suitable procedure without undue delay. Even if these concerns are subsequently proved to be unfounded but are raised in good faith, such reports can be invaluable in identifying potential weaknesses in Trust Policies, procedures and practices. |
| 7.7 | In certain circumstances it may be appropriate for the Trust to nominate a Non Executive Board member to oversee a ‘Whistle blowing’ allegation and ensure that the investigation is thorough, timely and consequential action plans are implemented.  |

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| 8 Training and Communication |
| 8.1 | All staff appointed to the Trust will be advised of this policy and their rights and responsibilities within it, upon appointment and thereafter within associated training, briefing and learning opportunities. |
| 8.2 | Managers and staff with special responsibilities under this policy will have received appropriate training in how to manage the receipt of reports raised under this policy and their involvement in any subsequent investigations and /or formal action,  |
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| **9** | **Other relevant policies** |
| 9.1 | Other relevant policies, procedures and guidance as listed below should be read in conjunction with this policy and are available on the Trust’s Intranet* Discipline Procedure
* Grievance Procedure
* SIRI (Serious Incident Requiring Investigation) Policy
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| 9 Monitoring and evaluation |

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| **Criteria**  | **Measurable** | **Lead person/group**  | **Frequency** | **Reported to** | **Monitored by** | **Frequency** |
| Individual cases/ allegations raised under this policy  | * Nature of allegation
* Team/ward implicated
* Duration of investigation
* Outcome
 | Employee Relations Manager | Weekly | Nursing and Clinical Governance Committee | Executive Team | Weekly |
| The effectiveness of this policy will be assessed through analysis of incidents addressed and other data which may checked by the monitoring system  | * Number of allegations received
* Nature of allegations
* Source of allegation (if identifiable)
* Outcome
* Exit interview feedback
* Information from other sources as may indicate a short fall in the procedure or any impediment to employees making use of this procedure
 | Director of HR and OD | Quarterly Monthly | HR Quality Improvement Committee | The Board | Annually |

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| Appendices / Procedure Notes |

[Appendix 1 – Procedure](file:///G%3A%5COxfordshire%5CHR%5CPolicies%20%26%20Procedures%5CDraft%20Policies%20and%20Procedures%5CAppendix%201.to%20PIDAWhistleblowing%2028.10.11.doc)

[Appendix 2 – List of Prescribed Persons](file:///G%3A%5COxfordshire%5CHR%5CPolicies%20%26%20Procedures%5CDraft%20Policies%20and%20Procedures%5CAppendix%202%20PIDAWhistleblowing%2028.10.11.doc)

[Appendix 3 – Equality Impact assessment – Screening ‘Partial’ Impact Assessment](file:///G%3A%5COxfordshire%5CHR%5CPolicies%20%26%20Procedures%5CDraft%20Policies%20and%20Procedures%5CAppendix%203%20PIDAWhistleblowing%2028.10.11.doc)