



Policy: Whistle blowing

Definition -A common term used when an individual makes a disclosure of wrongdoing or malpractice within an organisation. This policy has been produced as a result of the Public Interest Disclosure Act 1998 which came into force on 2 July 1999. Blythe House Hospice is firmly committed to an open culture whereby freedom of speech is encouraged amongst employees and other individuals connected to the trust to enable them to offer their views and opinions on all its activities. At the same time it is important to maintain confidentiality and ensure that public confidence in the Hospice is not reasonably undermined.

The policy aims to provide the basis by which legitimate concerns can be fairly and effectively raised; provide legal protection from victimisation, disciplinary action or dismissal for employees who disclose in good faith, wrongdoings or dangerous practices in the public interest. It not only protects employees but also: Employees may elect to raise concerns on an individual or collective basis. The Chairman, CEO Director and Board are fully committed to this policy.

Background

Under the Act, protection is given to those making certain disclosures. A disclosure is any information which, in the reasonable opinion of the employee, shows a relevant failure. Relevant failures include:

- A criminal offence has been or is likely to be committed
- A fraudulent offence has been or is likely to be committed
- That a miscarriage of justice has occurred, is occurring or is likely to occur
- That someone has failed, is failing or is likely to fail to comply with a legal obligation to which they are subject
- That the health and/or safety of any individual has been, is being or is likely to be endangered
- That the environment has been, or is likely to be damaged
- That information relating to any of the above has been, is being or is likely to be deliberately concealed
- Contravention of professional codes of conduct
- Poor standards of patient care
- Victimisation or harassment of a patient, colleague or other individual
- criminal act
- Unethical practice not necessarily of a criminal nature
- Serious maladministration
- Dangerous act or omissions which create a hazard to health, safety, and the environment
- Fraud
- Disclosure of personal information.

Rationale

The Hospice has a duty to comply with the Public Disclosure Act 1998.

The aim of the Act is to encourage employees to approach their employer before raising their concerns outside the organisation. This is a protected disclosure under the Act if undertaken in good faith.

Principles

If an employee reasonably believes that if they disclose a matter to their employer they will be subjected to victimisation, disciplinary action or dismissal, or that evidence will be concealed or destroyed, or they have previously made a similar disclosure without action or it is reasonable for them to do so, disclosure may be made externally to another agency or fraud officer.

The extent of and limitations on protection for employees disclosing externally are detailed in the Act. Protection is afforded under the Act to an employee making a 'protected disclosure' as follows:

- Dismissal is automatically unfair (where the dismissal was principally for the reason of a 'protected disclosure')
- Action taken against the employee falling short of dismissal will give the employee a right to complain to an Employment Tribunal. Any contractual restriction placed on an employee whereby they are prevented from reporting the matters referred to in the Act (the so-called "gagging clause") is void under the Act. The policy gives employees the opportunity to raise concerns outside the line management structure. Respect of the confidentiality of the employee or the individual raising a concern is upheld if they so wish. Nothing in this policy contravenes professional Codes of Conduct or an employee's terms and conditions.

The Policy

Hospice Commitments

Blythe House Hospicecare gives its full commitment to the following:

- Provision of the highest level of service to its patients and the public.
- Maintenance of the highest possible ethical standards.
- Within the context of the Public Interest Disclosure Act 1998, to encourage its employees, who in good faith, have serious concerns, to disclose such concerns without fear of victimisation, disciplinary action or dismissal.
- Where any concerns, disclosed in good faith, prove to be unfounded or mistaken, employees can be assured that no action will be taken against them.
- Whenever possible, to protect the identity of any employee raising concerns, if requested to do so, and not to disclose identity without consent. Should it not be possible to resolve the concern without revealing identity, for example, to give evidence, this will be discussed fully first.

- To treat concerns seriously and investigate them promptly.
- To consider disciplinary action in cases where an employee has maliciously raised concerns.

There are concerns which it may be more appropriate that they are disclosed outside of the usual management lines. Examples of these are as follows:

(This list should not be regarded as exhaustive)

- Malpractice or ill treatment of a patient/client criminal offence or planned criminal offences, suspected fraud.
- Disregard for legislation, e.g. diversity and equality, particularly health and safety, environmental damage or risk to the environment.
- Breach of Standing Financial Instructions.

5. Internal Procedure for Raising a Concern at Work

When a concern has been raised, it will be assessed as to what action should be taken. If the concern more properly falls within another Hospice policy or procedure the employee will be advised. If action is taken under this policy, the employee raising the concern will be kept informed, but there may be elements of the action that cannot be divulged for reasons of confidentiality to others.

Stage 1

Wherever possible, an employee should raise their concern in the first instance with their line manager. This can be done orally or in writing. Anonymous disclosures will be considered, but are not encouraged, as this will cause substantial difficulty in investigating the concern, in protecting the employee, or giving feedback on the action being taken.

If an employee feels unable to raise the concern with their manager, for whatever reason, then they should raise it orally or in writing to the CEO or deputy CEO.

If making contact by telephone and unable to speak directly, individuals should simply state that they wish to discuss a matter of concern under the Whistle Blowing Policy. Calls will be treated in strictest confidence and there is no requirement to give a name or any details of the matter of concern.

Stage 2

When an employee has discussed their concerns with their line manager/CEO or Deputy CEO a brief agreed summary of the discussion will be prepared and a course of action will be jointly considered.

If the concern involves the CEO the Chairman will be notified. The deputy CEO will then be appointed as investigating officer, or an investigating team will be appointed, depending on the type of concern being raised. Involvement of another agency can be invoked at any stage of the investigation. Appropriate records and written evidence will form part of the investigation and be retained. Any proposal to instigate legal proceedings will be discussed with the employee before any action is taken.

Stage 3

Following the investigation a verbal/written report will be submitted to the CEO or Chairman, as appropriate, by the investigating officer or team. The CEO or Chairman will brief the line manager or designated officer as to the outcome of the investigation. The line manager or designated officer will feed back to the individual raising the concern but not details of any proposed or actual disciplinary action to be taken.

If it is found there is a case to answer, any employees implicated in the investigation may be subject to disciplinary action.

If it is found there is no case to answer, the investigator or investigating team, in conjunction with the line manager or designated officer will ensure there are no reprisals to an individual who has raised the concern in good faith.

Right to Representation

Any employee raising concerns covered by this policy has the right to be accompanied by an accredited trade union representative or colleague employed by the Hospice throughout the process.

External Disclosures

The aim of the Hospice is to conclude satisfactorily any concerns by individuals by using the procedure detailed in this policy.

In the event of an employee feeling unable to use this procedure or not being satisfied after using it, the Hospice recognises the rights under the Public Interest Disclosure Act 1998 to make external disclosures to either "prescribed persons" or other individuals/bodies. Details are included in the Public Interest Disclosure (Prescribed Persons) Order 1999 and the Department for Business Enterprise & Regulatory Reform publication (BERR) *Guide to the Public Interest Disclosure Act 1998*.

Concerns may also be raised with the Blythe House Hospicecare's **Freedom to Speak Up Guardian**, Alistair Rogerson, Volunteer and Services Manager alistair.rogerson@blythehouse.co.uk 01298 816 997. The purpose of this important role is to act as an independent and impartial source of advice to staff at any stage of raising a concern.

If you have concerns but you aren't sure how to raise them or want advice about good practice, you can call the **NHS Whistleblowing Helpline**. You can call this free helpline on 08000 724 725, send an email or complete the online form. Everything you tell them is strictly confidential and anonymous. They offer legally compliant, unbiased support and guidance to ensure you can act in accordance with your values. This ensures you fully understand your options and legal rights specific to your employment situation. They produce very clear [guidance about raising concerns at work](#).

You can raise concerns about safeguarding issues, a concern with a dangerous activity or equipment. The best way is to speak up openly, but you can speak up confidentially or anonymously and should be thanked for doing so and treated

fairly. Blythe House Hospicecare encourages a culture where staff speak up.

You can also contact the CCG for support and their FSU guardian is:

Brigid Stacey
Chief Nursing Officer
NHS Derby and Derbyshire Clinical Commissioning Group

Based at: Cardinal Square, 10 Nottingham Road, Derby. DE1 3QT

T: 01332 868682

E: brigidstacey@nhs.net

W: www.derbyandderbyshireccg.nhs.uk

W: www.nhsstaywellderbyshire.co.uk

False or Malicious Allegations

If an allegation made in good faith is not confirmed by subsequent investigation, no action will be taken. In making a disclosure due care should be taken to ensure the accuracy of information. If an allegation is made that is false or malicious, these will be treated in the first instance in accordance with the Hospice's Disciplinary Policy. Firm legal advice may be sought by affected individuals or employees implicated in such allegations.

Independent Advice

Independent advice can be obtained from:

- Trade Unions/Professional Bodies
- The independent charity *Public Concern at Work* whose lawyers give free confidential advice about how to raise a concern. The address and telephone number are:

NHS Fraudline

0800 028 40 60

www.reportnhsfraud.nhs.uk

You can get free, independent and confidential advice from the Whistleblowing Helpline for NHS and Social Care on **08000 724725**.

You can also call the independent whistleblowing charity Public Concern at Work for free and confidential advice on **020 7404 6609**.

Other useful resources:

- http://freedomtospeakup.org.uk/wp-content/uploads/2014/07/F2SU_Executive-summary.pdf

- http://www.northderbyshireccg.nhs.uk/assets/governing_body/GBAC_Meetings_/Nov_2016/GBAC_Supporting_Policy_Papers_November_2016.pdf
- http://www.cqc.org.uk/sites/default/files/20160108_Whistleblowing_quick_guide_final_update.pdf

Record of Whistleblowing Concern

Name of employee / anonymous	Department
Name and contact of line Manager/ person receiving initial details of concern:	
Description of concern	
Does the employee have any personal interest in the concern? (Yes / No) If Yes, does the concern warrant investigation through the Whistleblowing Policy or any other HR Policy?	
Initial action taken by Manager receiving initial details of concern	
Details of person responsible for fully investigating the concern.	
Outcomes	

Review :	Yes	No
Issue Resolved Employee Treated Fairly / No Adverse Incidents Confidentiality Maintained Follow- Up Actions		
Organisational Lessons Learned (if any).		

Reviewed by (name) :

Signature:

Date:

Additional Comments: