WHISTLEBLOWERS

POLICY

Director Responsible: Director of Human Resources
Department: Human Resources
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CP: 33
Policy for Staff Reporting Concerns about Patient Care and Other Matters (Whistleblowers)
Date: 01.10.02
INTRODUCTION

1.1 This procedure is based on a combination of guidelines published by the NHS Management Executive on “Guidance for Staff on Relations with the Public and the Media”, previous Trust procedures for staff reporting concerns about patient care and the requirements of the Public Interest Disclosure Act 1999. It complements existing professional guidelines, for example, the UKCC Code of Professional Conduct and the GMC Guidance on Contractual Arrangements in Health Care.

1.2 The main aim of this procedure is to encourage openness and dialogue within the Trust, where the free expression by employees of their concerns are welcomed by managers as a contribution towards improving services. The Trust has established a framework for Personal Responsibility as a mechanism for addressing issues or concerns. This is the preferred approach of the organisation and is the route that should be used in all except the most serious or sensitive cases.

1.3 The quality of services provided to the public, maintaining high standards of patient care and exemplary clinical practice are of paramount importance to all employees of the Trust.

1.4 The procedure is also a major component of the Trust’s framework for Clinical Governance. It is designed to ensure that all staff have the opportunity to raise concerns about all aspects of care delivery.

1.5 The procedure should also be used to report concerns about other matters, eg Health and Safety issues, environmental damage, criminal activities, the inappropriate use of resources and the misuse of public assets etc.

1.6 Under no circumstances will employees who raise concerns in good faith, and who follow the appropriate channels laid down in this procedure when expressing their views about low standards of care or possible abuses, be penalised in any way for doing so. Where individuals are exercising Personal Responsibility in coming forward, the Trust will endeavour to support the person and avoid detriment.

1.7 Abuse of employees in any form will not be tolerated and disciplinary action will be taken against employees who make malicious/vexatious claims (see Harassment Policy).

1.8 Where the word ‘concerns’ is used in this procedure, this will refer to issues relating to clinical practice and other matters, as listed in paragraph 1.5.

GUIDELINES FOR EMPLOYEES

2.1 If you are uncertain about whether or not to raise an issue it will always be best to voice your concern rather than to remain silent. Delay in expressing concern could lead to a recurrence and/or make investigations more difficult. It is recognised that raising an issue may
place you in a difficult position in relation to colleagues. The Trust, recognises that this may be the case and will provide help and support through the investigation and any process which may follow eg from Staff Side Representatives, Staff Support Services, the Occupational Health Department, or from your Human Resources Manager. Ongoing support will also be provided following the resolution of the issue to ensure you suffer no detriment as a result of raising the concern.

2.2 As an employee of Leeds Mental Health Teaching NHS Trust you should bear in mind that you have not only a responsibility to raise any matters of concern, but also an obligation to safeguard all confidential information to which you have access, particularly information about individual service users, clients or their relatives, or about your working colleagues which is, under all circumstances, strictly confidential. Unauthorised breaches will be regarded as a most serious matter, which will always warrant disciplinary action.

3 WHEN TO RAISE CONCERNS

3.1 Concerns about the way in which care is provided may be general, involving clinical practice, or specific, relating to individual service users, or it may relate to other issues. It is important that all concerns are raised initially with your service manager, using the following guidelines. If, however, your concerns relate to your service manager then you should raise the matter with the next higher level manager or other appropriate manager eg Human Resources. Where you are uncertain of appropriate action, you may also seek advice from a staff representative.

3.2 Concerns about Care of Service Users

Certain service users are, for various reasons, unwilling or unable to represent their own interests. This places a special responsibility on you to care for patient’s total welfare and to report any instances where you consider that a patient has not been treated reasonably.

3.3 If it seems to you or someone alleges that a service user has, or may have:

- sustained injury or is at risk from injury at the hands of another person;
- suffered loss or damage to his/her personal property;
- been deprived of treatment or care, food, comforts, dignity or any other benefit to which he/she is entitled;
- been victimised or harassed in any way;

or where the quality of service falls substantially short of what can reasonably be expected;

THEN YOU SHOULD INFORM YOUR IMMEDIATE MANAGER STRAIGHTAWAY
3.4 **Raising concerns about other issues**
Matters relating to health and safety, the environment, suspected criminal activity or fraud should be reported to your line manager, or following the appropriate Trust policy, the responsible functional manager.

**Health & Safety:** Peter McGinnis, Director of Nursing – Telephone 295 2873  
**Fraud:** Local Counter Fraud Office – Telephone 295 2415  
National Fraud Hotline – Telephone 08702 400100  
**All suspected fraud must be reported to the Counter Fraud Office**  
**Service Users:** Nigel Fenny, Director of Mental Health – Telephone 295 2816

3.5 You should jot down details of the time, place and people involved in the incident for future reference. These examples given above are not meant to be exhaustive and it will be for you to judge whether an issue is sufficiently serious to be reported to management.

3.6 In all cases you should expect an initial response to your concerns within seven working days.

4 **HOW TO RAISE A CONCERN**

4.1 When you wish to raise an issue you should take it up with the person to whom you are responsible, ie your Supervisor/Head of Department. He or she will advise you what to do next. If you feel that the advice given by that person is inappropriate, or you feel unable to approach that person, you should refer the matter to the next most senior manager within your department.

4.2 If, for any reason, you feel unable to follow the step-by-step management structure or clinical management structure, you should approach the senior clinician/manager responsible for your area of work, or alternatively, a Human Resources Manager, Staff Side Representative, an Occupational Health Adviser, your professional head or Associate Medical Director, a Non-Executive Director or an Executive Director of the Trust who will give you advice.

5 **HELP AND ADVICE**

5.1 At any point in raising a concern you should feel free to involve your trade union or professional association representative, who will be able to give you useful advice on presenting your concerns. If you are in training you may also wish to have a tutor present to advise you and give support when your complaint is being discussed.

6 **CONFIDENTIALITY**

6.1 If you raise a concern on behalf of service users, this will be treated with the utmost respect. When concerns are raised in good faith the Trust Board and its Managers will do everything in their power to ensure that the individual raising them does not suffer as a result. It is vital that members of staff should not feel inhibited from voicing their concern on service users' behalf.

6.2 However, it would be unrealistic to assume that all such issues can remain in confidence. You must be aware that you may be asked to present evidence to substantiate any allegations you make and/or to make a written statement. In addition you may be asked to appear as a witness during any disciplinary proceedings that result from them.
7 GUIDELINES FOR MANAGERS

7.1 Managers have a particular responsibility to protect patients and to handle reported concerns in a way that will encourage employees to voice genuine misgivings, while at the same time protecting employees against unfounded allegations. It is recognised that for some employees raising a concern can be a difficult experience, therefore, managers should always treat concerns raised seriously, promptly and, where appropriate, seek advice from health care and functional professionals.

7.2 Where a concern expressed by a member of staff can be acted upon, action should be taken promptly and the employee notified quickly that action is being taken. In all cases the aim will be to give an appropriate initial written response within seven days. Where action is not considered practicable or appropriate, the individual employee should be given a prompt explanation of the reasons for this. They should also be told what further action is available to them.

7.3 Managers should encourage employees to consult with representative bodies, their Trade Union or Professional Association, particularly if an issue seems likely to remain unresolved without reference to the Chairman\Trust Board.

8 HEALTH SERVICE COMMISSIONER, THE MENTAL HEALTH ACT COMMISSION AND COMMUNITY HEALTH COUNCILS

8.1 You should be aware that, in addition to the advice available within the Trust described above, you may refer your complaint to the Health Service Commissioner (Ombudsman). The Health Service Commissioner has the power to investigate non-clinical complaints made by staff on patients' behalf, in cases where s/he is satisfied that the member of staff concerned is a suitable person to represent a patient unable to make the complaint himself. Staff may also register a complaint with the Mental Health Act Commission on behalf of patients who are compulsorily detained under the Mental Health Act 1983.

9 REFERENCE TO MEMBERS OF PARLIAMENT AND THE MEDIA

9.1 An employee who has exhausted the established procedures, including reference to the Trust Chairman, and who has taken account of advice which may have been given, might wish to consult his or her Member of Parliament in confidence.

9.2 An employee might also, as a last resort, contemplate the possibility of disclosing his or her concern to the media. Such action, if entered into unjustifiably, could result in disciplinary action and might unreasonably undermine the public confidence in the service provided by Leeds Mental Health Teaching NHS Trust. In view of these considerations, any employee contemplating making a disclosure to the media is advised to first seek further specialist guidance from professional or other representative bodies and to discuss matters further with his or her colleagues and, where appropriate, line and professional managers. In the light of this procedure, however, it is expected that all employee concerns can be addressed and dealt with without reference to the media.
10 SUMMARY OF THE PROCESS FOR RAISING CONCERNS

- An incident, event or practice gives you cause for concern.

- You report your concern to the person to whom you are responsible.

- The manager advises you on how to proceed.

- Together, you and your manager pursue the matter involving other managers as necessary - until the matter is resolved.

Alternatively, you can contact your professional head, Associate Medical Director, Human Resources Manager, Staff Side Representative, Occupational Health Adviser, Trust Executive or Non-executive Director, or the senior clinician/manager responsible for your area of work if you feel this is necessary.

In situations where an individual suspects fraud, they must report concerns to the Counter Fraud Office.