



## **Freedom to Speak Out Policy (policy and procedure for raising concerns/whistleblowing at work).** (This supercedes section 13 of the Staff Handbook).

### **1. Key principals**

- 1.1 Lindsey Lodge Hospice is committed to good governance and encourages a culture of honesty and openness recognising that employees have a valuable contribution to make in respect of both service provision and for the protection of patient safety and public interest.
- 1.2 The aim of this policy and associated procedures is to ensure that staff are confident they can raise any matters of genuine concern without fear of reprisal, in the knowledge that they will be taken seriously and that an appropriate investigation will be undertaken.
- 1.3 We encourage staff to raise their concerns under this procedure in the first instance.
- 1.4 Staff raising a genuine concern will not suffer a detriment or any form of retribution.
- 1.5 A whistleblower is a person who raises a genuine concern in good faith. If an individual has any genuine concerns related to suspected wrongdoing or danger affecting any of our activities (a whistleblowing concern) it should be raised under this policy.
- 1.6 If a staff member is in any doubt as to the ethics or legality of an activity, they are encouraged to discuss their concerns as soon as possible with their line manager, the Director of Nursing and Patient Services who is the Designated Whistleblowing Officer (DWO) or the Chief Executive.

### **2 Reason for this policy**

- 2.1 The policy and procedure reflects the provisions of The Public Interest Disclosure Act 1998, associated guidelines published by the CQC and complements existing professional guidelines for example the NMC code of conduct and GMC 'Duties of a Dr'. These provisions provide protection for workers who raise legitimate concerns about specified matters. These are called "qualifying disclosures". A qualifying disclosure is one made in good faith by an individual who has a reasonable belief that one of the following is being, has been or is likely to be committed or concealed:
  - a criminal offence, including safeguarding concerns.

- a miscarriage of justice.
  - an act creating risk to health and safety.
  - an act causing damage to the environment.
  - a breach of any other legal obligation.
  - or concealment of any of the above.
- 2.2 It is not necessary for the worker to have proof that such an act is being, has been, or is likely to be, committed - a reasonable belief is sufficient. The worker has no responsibility for investigating the matter. It is the Hospice's responsibility to ensure that an investigation takes place.
- 2.3 A worker who makes such a protected disclosure has the right not to be dismissed, subjected to any other detriment, or victimised, because he/she has made a disclosure.

### **3 Responsibilities.**

- 3.1 The Designated Whistleblowing Officer (DWO) who for the Hospice is the Director of Nursing and Patient Services, will in conjunction with the Chief Executive, be responsible for the effective application of this policy.
- 3.2 The Human Resources committee will undertake a high-level monitoring role on behalf of the Board, to ensure the policy is appropriately implemented, and to report and escalate significant matters as necessary, including reporting the matter to any appropriate government department or regulatory agency.
- 3.3 The role and responsibilities of line managers in operating this policy are:
- To ensure employees are aware of this policy and related others.
  - To brief employees on this policy during their induction.
  - To monitor procedures and performance within their team.
  - To take seriously any whistleblowing allegations made by staff.
  - To act promptly and follow the required reporting procedures.
  - To support and co-operate with investigations.
  - To ensure as far as possible that employees who make a disclosure are not subject to victimisation or intimidation by others.
  - Line managers are expected to take decisions, using their own judgment and acting reasonably and fairly, in order to resolve issues promptly and constructively.
- 3.4 The role and responsibilities of the Human Resources Officer is:
- To advise on the application of this policy to individual situations.
  - To support the DWO in instigating appropriate investigations.
  - To maintain a record of concerns raised and outcomes for reporting to HR Committee.

3.5 The role and responsibilities of employees are:

- To promote the values of openness and integrity and to support others to do the same.
- To ensure due care is taken of Hospice property and data.
- To report matters of concern promptly and appropriately.
- To co-operate with investigations.
- Not to victimise or intimidate colleagues who make allegations and to be aware that they are personally liable if they are found to have bullied or harassed a co-worker as result of them raising a concern.

#### 4 Guiding Principles

- 4.1 Lindsey Lodge Hospice will support individuals who have speaking out concerns and protect them from reprisals or victimisation. If a staff member comes forward with a concern that is genuinely held, it will not adversely affect their job security, position or career. This approach will also apply if a concern is raised in good faith which later turns out not to have been justified.
- 4.2 Confidentiality will be respected (please see para 7.10)
- 4.3 Lindsey Lodge Hospice will be fair to all parties involved and investigate carefully and thoroughly all elements of the issue.
- 4.4 If an employee tries to discourage a member of staff from coming forward to express a legitimate concern of a level of gravity that makes it suitable for whistleblowing, this may be treated as a disciplinary offence. Anyone who criticises or victimises a member of staff after voicing a legitimate concern may be treated as committing a disciplinary offence.
- 4.5 The assurances set out in 4.1 will not be extended to someone who maliciously raises a matter they know are untrue and the Hospice will take appropriate action in such cases.
- 4.6 Given the clear framework and processes set out in this document to enable individuals to raise concerns both internally and externally (including external regulatory agencies) there is never a justification for taking a concern to the media.
- 4.7 Staff should raise concerns with their Line Manager, or the Designated Whistleblowing Officer if they consider the interests of a patient / client are being damaged, and/or are aware of unlawful conduct or financial malpractice.

#### 5 Scope

5.1 This policy applies to all individuals working at all levels of the organisation, including the Chief Executive, line managers, employees, consultants, contractors, casual workers, agency staff and volunteers (collectively referred to as staff or workers in this policy).

5.2 What this policy includes:

This policy covers the reporting or disclosure of information which a member of staff raises as a protected disclosure which shows one or more of the following matters is either happening now, took place in the past, or is likely to happen in the future:

- A criminal offence.
- The breach of a legal obligation.
- A miscarriage of justice .

- A danger to the health or safety of any individual.
- Damage to the environment.
- Bribery.
- Deliberate covering up of information tending to show any of the above.

5.3 The speaking out/raising concerns/whistleblowing procedure might be used, for example, to report:

- The physical or emotional abuse of patients.
- Breach of organisational or statutory codes of practice.
- Financial crime such as fraud, theft, money-laundering, deception, etc.
- Breach of significant health and safety requirements.
- Abuse of position or business contacts for personal gain.
- Misuse of Hospice property for personal use.
- Unauthorised use of Hospice funds.
- Medical/clinical negligence.
- Disclosure of Hospice information or data to unauthorised individuals.
- A bullying culture (across a team or department rather than individuals instances of bullying which would be dealt with in accordance with the Hospice's grievance process).

5.5 What this policy does not cover -

This policy typically does not cover personal concerns regarding terms and conditions of employment, which should be addressed using the Grievance Procedure.

However, where an employee genuinely fears reprisals in response to raising a grievance about one of the matters outlined above, the Speaking Out Policy may be an appropriate alternative. If you are uncertain whether something is in the scope of this policy you should seek advice from the DWO, whose contact details are at the end of this policy.

## 6 Implementation Procedures

### 6.1 Reporting a Concern

An individual should raise concerns either verbally or in writing, to their line manager in the first instance. The individual should state that the Speaking Out Concerns /whistleblowing policy is being invoked. However where the matter is more serious, or the individual feels unable to raise with their line manager or believes the line manager has not adequately addressed the concern, the individual should contact one of the following:

- (a) The Designated Whistleblowing Officer (DWO) (the Director of Nursing and Patient Services)
- (b) The Chief Executive
- (c) Any member of the Hospice's Board

Alternatively the individual can contact any of the options set out in Appendix A.

6.2 The line manager, the DWO, or Chief Executive will respond within 5 working days, providing formal written confirmation of the nature of the disclosure and acknowledging receipt of it.

- 6.3 The line manager/DWO or Chief Executive, will arrange a meeting with the individual as soon as possible to discuss the concern. The individual may bring a workplace colleague or union representative to any meetings under this policy. The companion must respect the confidentiality of the disclosure and any subsequent investigation.
- 6.4 The individual who has been advised of the speaking out concern will take down a written summary of the concern and provide a copy after the meeting. The aim will be to give the individual an indication of how the hospice will propose to deal with the matter.
- 6.5 It is hoped that individuals will feel comfortable raising concerns openly but it is also appreciated that individuals may want to raise matters confidentially. If an individual wishes to raise a concern confidentially, we will make every effort to keep their identity secret. If it is necessary for anyone investigating the concern to disclose the identity (for example if we are required to do so by law) we will discuss this with you.

**External Disclosure:** The aim of this policy is to provide an internal mechanism for reporting, investigating and remedying any wrongdoing in the workplace. In most cases it is anticipated an individual should not find it necessary to alert anyone externally. The law recognises that in some circumstances it may be appropriate for an individual to report concerns to an external body such as a regulator. It will very rarely if ever, be appropriate to alert the media. We strongly encourage individuals to seek advice before reporting a concern to an external body. The independent whistleblowing charity, Public Concern at Work, operates a confidential helpline. They also have a list of prescribed regulators for reporting certain types of concern. Their contact details are at the end of this policy.

#### 6.6 Protection and support for individuals who raise concerns/whistleblowers

It is understandable that individuals who raise concerns/ whistleblowers are sometimes worried about possible repercussions. We aim to encourage openness and will support staff who raise genuine concerns in good faith under this policy, even if they turn out to be mistaken. Staff who raise genuinely-held concerns in good faith under this policy will not be dismissed or subjected to any detriment as a result of doing so. This includes where the allegations are not confirmed by subsequent investigation. Detriment includes dismissal, disciplinary action, threats or other unfavourable treatment connected with raising a concern. If an individual believes they have suffered such treatment, they should inform the DWO or HR Officer immediately. If the matter is not remedied the individual should raise it by formally using the hospice Grievance Procedure.

Staff who believe they or a colleague are being victimised as a result of making a disclosure under this policy should report it promptly to the DWO or the HR Officer.

## 7 Investigations and Reporting

- 7.1 The Hospice is committed to investigating concerns as fully and quickly as circumstances allow. The length and scope of the investigation will depend on the subject matter of the disclosure.
- 7.2 Once an allegation is received, the DWO/line manager/Chief Executive will acknowledge that the allegation has been made within the remit of the Raising Concerns/whistleblowing Policy and will carry out an initial assessment of the

allegation to determine whether there are grounds for a more in-depth investigation

- 7.3 The DWO or line manager will produce a preliminary report and recommendations for the Chief Executive/Chair of HR Committee and where appropriate provide a copy to the employee who made the disclosure.
- 7.4 If a more detailed investigation is considered necessary, the DWO/Chief Executive will appoint an investigator or an investigative team, to include people with relevant experience of the subject matter involved. The investigation may involve the worker and other individuals involved giving a written statement.
- 7.5 The investigator(s) will produce a report and submit it to an appropriately constituted Review Panel that will include, as a minimum, the DWO, the CEO and a member of the board. In the event that any of these individuals is implicated in the allegations, a suitable alternative will be identified. Where appropriate matters may be referred to the police, external auditor or other appropriate agency.
- 7.6 A relevant specialist may also be asked to join this panel if the subject matter demands it.
- 7.7 The role of the Review Panel is to review the evidence and establish whether any remedial action is required in relation to the alleged failure or breach. This might include disciplinary action against specific individuals, further training, and changes to organisational policy or procedure, or internal communications. The Review Panel will report its findings and recommendations to the HR Committee for approval and implementation.
- 7.8 The individual who raised the concern will be kept informed of the progress of the investigation by the DWO. On conclusion of any investigation, the individual who raised the concern will be told the outcome of the investigation and what the Review Panel has done, or proposes to do, about it. If no action is to be taken, the reason for this will be explained.
- 7.9 There is no right of appeal against the findings of the Review Panel. If on conclusion of any investigation the worker reasonably believes that the appropriate action has not been taken, he/she should report the matter to the proper authority. The legislation sets out a number of bodies to which qualifying disclosures may be made. Details of these bodies are provided at the end of this document.

Other possibilities include:

- If the problem involves a very senior member of staff of the organisation, contact the Chairman or another member of the board.
  - In the case of a criminal offence, the Police.
  - The Care Quality Commission.
  - The Charity Commission
- Details of external agencies are set out at the end of this document.

- 7.10 Confidentiality

The Hospice will make every effort to keep the identity of the employee making the allegations confidential, at least until a formal investigation is underway.

The Hospice cannot guarantee anonymity in the following situations:

- where there is a legal obligation to disclose the employee's identity.
- where the information is already in the public domain.
- on a strictly confidential basis for the purpose of obtaining advice from a professional adviser such as a lawyer or accountant.
- where required by the police.

## 8 Breach of policy

Any deviation in practice from the above policy and procedure will be deemed a breach of policy.

Any breach of this policy by Hospice employees may lead to formal disciplinary action.

## 9 Related Policies and Procedures

The Hospice Grievance Procedure .

Complaints, Concerns, Compliments, Comments Procedure and Policy

Duty of Candour statement

## 10 Review and Monitoring

The Hospice will review the effectiveness of this policy and local process at least annually at the HR committee, with the outcome published and changes made as appropriate.

### 10. 1 Monitoring Compliance and Effectiveness:

Element to be monitored	<ul style="list-style-type: none"><li>• Staff know how to raise a concern</li><li>• Staff feel confident about raising a concern without fear of mistreatment</li><li>• Nature of concerns raised</li><li>• Sharing the learning from the outcome of incidents raised</li></ul>
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## Appendix A

### Internal Contact Numbers

DESIGNATION	NUMBER	Email address
Designated Whistleblowing Officer (Director of Nursing and Patient Services).	01724 270835	Maureengeorgiou@nhs.net
Chair of Board	01724 270835	Paul.clark11@nhs.net
Chief Executive	01724 270835 ext 225	Karen.griffiths11@nhs.net
Chair of HR Committee	01724 270835	Michael.boughton@nhs.net

### External Contact Numbers

DESIGNATION	NUMBER	WEBSITE
Care Quality Commission (CQC) who offer guidance in how to escalate concerns about quality and safety with the CQC	Telephone: 03000 616161  Email: enquiries@cqc.org.uk	<a href="http://www.cqc.org.uk">www.cqc.org.uk</a>
the relevant Healthcare Regulatory Body i.e. NMC, GMC, GDC, HCPC or GPhC		<a href="http://www.gmc-uk.org">www.gmc-uk.org</a> <a href="http://www.hcpc-uk.co.uk">www.hcpc-uk.co.uk</a> <a href="http://www.nmc.uk.org">www.nmc.uk.org</a> <a href="http://www.pharmacyregulation.org">www.pharmacyregulation.org</a>
The Charity Commission	Telephone: 020 74046609	<a href="mailto:whistleblowing@charitycommission.gsi.gov.uk">whistleblowing@charitycommission.gsi.gov.uk</a>
The Audit Commission for England and Wales		<a href="http://www.auditcommission.gov.uk">www.auditcommission.gov.uk</a>
The Health & Safety Executive	Telephone: 03000 616161  Email: concerns@hse.gsi.gov.uk	<a href="http://www.hse.gov.uk">www.hse.gov.uk</a>
The Information Commissioner		<a href="http://www.ico.org.uk">www.ico.org.uk</a>
Member of Parliament		<a href="http://www.ukpolitical.info">www.ukpolitical.info</a>
The National Whistleblowing Helpline provides advice for staff on raising concerns and is also available to employers for advice about good policy and	Telephone: 08000 724 725	Email: enquiries@wbhelpline.org.uk



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<b>Lead Author of Policy: Karen Griffiths</b> <b>Responsible Sub-group HR</b> <b>RATIFICATION DATE BY TRUSTEES 13.06.17</b> Review interval				
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