


POLICY DOCUMENT

Policy Title:	Public Interest Disclosures Policy (Whistle-blowing)
Policy Group:	Human Resources
Policy Owner:	Human Resources Manager
Issue Date:	02/06/2020
Review Period:	3 years
Next Review Due	02/06/2023
Author:	S. O'Rourke
Cross References:	<p>Policies: Equal Opportunities and Diversity Grievance Protecting and safeguarding adults at risk Management Structure Chart Duty of Candour</p> <p>Also: Staff handbook Whistleblowing leaflet Freedom to speak up guardian</p>
Evidence:	<p>ACAS Public Concern at Work CIPD Raising Concerns at Work: Whistleblowing guidance for Worker and Employers in Health and Social Care</p>
How implementation will be monitored:	Induction procedure, employee signature on receipt of handbook and training
Sanctions to apply for breach:	Re-training, Disciplinary procedures
Computer File Ref.	O: risk management/ policies/ human resources
Policy Accepted by MT	2 nd June 2020
Sign-off by CEO	

Statement of Purpose: This policy describes the circumstances under which an employee or other worker should make known in a formal way a matter of serious concern. It also sets out the procedure for reporting the concern.

Policy Statement: Holy Cross Hospital (the Hospital) is committed to achieving the highest possible standards of openness and accountability. We expect anyone with any serious concerns about any aspects of our work to bring such concerns to our attention.

This policy applies where anyone, acting in the public interest (something affects others e.g the general public), is concerned that any of the following may be happening within the Hospital.

- 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 any legal obligations.
- A miscarriage of justice has occurred, is occurring or is likely to occur.
- The health and 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
- Any malpractice is being deliberately concealed

1. A protected disclosure is a statement by an employee or other worker about a concern fitting one of these descriptions that is made in accordance with the procedure described.

2. Provided that the concern is raised in the public interest, the Hospital will not cause those raising concerns to suffer any detrimental treatment as a result.

3. The policy supports but does not replace others such as the Protecting and safeguarding adults at risk policy or Grievance policy and these **should** be used where relevant. This Policy is concerned with the circumstances defined in the **policy statement** above. If the concern relates to the workers personal situation the Grievance Policy and Procedure should be used.

Definition

Legislation

The Public Interest Disclosure Act 1998 came into force in July 1999. It enables workers, who “blow the whistle” about wrongdoing to complain to an employment tribunal if they are dismissed or suffer any other form of detriment for doing so. Only employees can complain of unfair dismissal, but workers who are not employees (e.g. agency staff or self employed contractors) can complain that they have been subject to a detriment if their contracts are terminated because they have made a protected disclosure as defined above.

Open culture

The Hospital encourages openness and honesty in all dealings between managers, staff, volunteers, patients and their relatives, and all people and organisations with whom it engages in business and legal relations. The hospital recognises that effective and honest communications are essential to success and that many concerns can be dealt with informally.

Freedom to Speak Up Guardian

The Human Resources Manager is the designated Freedom to Speak Up Guardian for the hospital and has a key role in helping to raise the profile of raising concerns in their organisation, and provide confidential advice and support to staff in relation to concerns they have about patient safety and/or the way their concern has been handled.

The FTSU guardian does not get involved in investigations or complaints, but helps to facilitate the raising concerns process where needed, ensuring good organisational policies are followed correctly.

Raising Issues without fear of Victimisation

This policy provides guidance to all who work for or with the Hospital who may consider that they need to raise serious issues without fear of victimisation, subsequent discrimination or

disadvantages. It is additional to the Hospital complaint and grievance procedures and other reporting mechanisms.

Disclosing Information through appropriate Internal Channels

The aim of the Public Interest Disclosure Act 1998 is to encourage workers to disclose information through appropriate internal channels first, rather than going directly to an outside person or body. This policy is therefore concerned with the way in which to raise within the Hospital any major concerns about these issues.

Protected disclosures will as far as possible be treated with the utmost confidentiality

Where requested, protected disclosures covered by this policy will be treated in a confidential and sensitive manner but there may be circumstances where complete confidentiality may not prove possible. Maintaining confidentiality about the identity of the person raising the concern sometimes can hinder either an internal or external investigation.

Conditions in which disclosures are protected

In order to be classified as a protected disclosure, the person making it must:

- Be acting in the public interest
- Believe that the disclosure is substantially true
- Not act maliciously or make any personal gain
- Not be seeking any personal gain

Protection from any unfair discriminatory action by the Hospital

Provided the conditions in the above paragraph are met the Hospital will not take any discriminatory action against the worker raising the concern, even if the resulting action proves them to be mistaken.

However if the worker makes frivolous, malicious or vexatious allegations, or does so for personal gain, disciplinary action may be taken against them

Accuracy

In making a disclosure, care should be taken to ensure as much accuracy as possible.

Training

All staff will receive training on this policy at induction and through training up dates from time to time. This policy is also to be found in the staff handbook which is given to all employees.

Procedures:

Internal Reporting

In the event of any worker becoming aware of a situation described in the ***policy statement section***, there is a responsibility to report the malpractice to an appropriate manager within the Hospital

Where malpractice is known about or suspected, the worker should bring the matter to the immediate manager or supervisor who will have responsibility to respond appropriately.

However where there are concerns of appropriateness of this, he/she should write to:

The Chief Executive
Holy Cross Hospital
Haslemere
Surrey
GU27 2NQ
Clearly marking the envelope as Confidential

It is possible to make an anonymous protected disclosure but this is not as credible as a signed one. Such a disclosure will be investigated as fully as possible but this might prove to be difficult, particularly if there is no independent way of obtaining evidence.

It is important that as full information as possible is provided regarding the nature of the malpractice and any evidence supporting the disclosure. The following information would be particularly helpful.

The background and history of the concern (giving relevant dates where possible)
The reason why the worker is so concerned

If a concern is to be acted on, the worker will need to be able to demonstrate that there are reasonable grounds for it.

It is recognised that an individual might feel very worried about reporting suspected malpractice and, if necessary, such a person should seek the support of a fellow worker or, if a union member, a trade union representative.

Independent confidential advice can be sought from the charity PROTECT on 0203 117 2520.

Internal Management Action

If a concern is raised with a Senior Manager, that Manager will ensure that it is brought to the immediate attention of the Chief Executive, recognising his/her responsibilities to the worker as covered in this policy.

It may be decided, taking in to account the individual circumstances of the situation, that the Chief Executive will take responsibility for the investigation. In any event, the following processes will apply.

When the protected disclosure is received, the Manager or Chief Executive will undertake initial enquiries to determine whether an investigation is appropriate and, if so, what form it should take. In order to protect the individuals concerned, he/she will ensure that these initial enquiries are as confidential as possible.

The manager or the Chief Executive will seek further information he/she considers necessary from the worker making the disclosure and decide on any immediate management action to be taken, whether an investigation is required, and who should undertake it.

As appropriate, the matters raised may be:

- Resolved by agreed action without the need for an investigation
- Investigated by management or through the disciplinary process
- Referred to the police by the Chief Executive

- Referred to the appropriate external auditor by the Chief Executive
- Form the subject of an independent enquiry

The manager or Chief Executive will liaise with the person making the disclosure to ensure, as far as possible, that as investigations proceed, any difficulties arising from raising a concern are minimised by, for example

- The person raising the concern, if he/she wishes, being accompanied at meetings by a union or professional association representative or another person of their choice.
- Where practical or desirable, arranging meetings off-site if wished

Within 10 days of a concern being raised, the Manager or Chief Executive will write to the worker:

Formally acknowledging receipt of the concern

Indicating how he/she proposes to deal with the matter, and

Giving an estimate of how long it will take to provide a final response

In all cases, the aim will be to complete an internal investigation within 30 working days and, subject to any legal constraints, inform the individual who raised the concern of its outcome.

Support to you

Throughout this process:

You will be given full support from senior management

Your concerns will be taken seriously, and

The Hospital will do all it can to help you throughout the investigation

If appropriate, the Hospital will consider temporarily re-deploying you for the period of the investigation.

For those who are not Hospital employees, the Hospital will endeavour to provide appropriate advice and support wherever possible.

Taking concerns Outside the Hospital

This policy and procedure should ensure that concerns are dealt with promptly and effectively but, if a worker is not satisfied that concerns have been dealt with properly, then he/she is at liberty to raise the matter with appropriate external organisation such as the Care Quality Commission*, or the police. Independent advice from lawyers at the charity PROTECT (0203 117 2520) will be helpful.

Worker must make certain that they do not disclose confidential information and that all of the conditions set out in ***conditions in which disclosures are protected*** section above apply.

*Contact may be made with the Care Quality Commission via telephone 03000 616161, email enquiries@cqc.org.uk, or an online form from www.cqc.org.uk

Recording and Monitoring

Human Resources will maintain a register containing all concerns (within compliments & complaints database) that are brought to their attention. All managers allocated to look into a concern must ensure Human Resources is provided with sufficient details for the register.

Human Resources will review the register and produce an annual report for the Advisory Committee. The report will include a summary of the concerns raised, to which department they related, the post to which the concerns related (if not confidential) and any lessons learned. The report will not include any employee names. The aim of this is to ensure that:

- The Hospital and/or the relevant department learns from mistakes and does not repeat them, and
- Consistency of approach across the departments

The register together with the annual reports will be available for inspection by internal and external audit, after removing any confidential details.

Review

This policy has been reviewed for overt or implied discrimination within the scope of the Hospital's policies on equality and diversity and none was found.

The policy will be reviewed three yearly to ensure that the system described continues to provide an effective framework for Public Interest Disclosures.

As appropriate, the matters raised may be:

- Resolved by agreed action without the need for an investigation.
- Investigated by management or through the disciplinary process.
- Referred to the police by the Chief Executive.
- Referred to the appropriate external auditor by the Chief Executive.
- Form the subject of an independent enquiry.

The manager or Chief Executive will liaise with the person making the disclosure to ensure, as far as possible, that as investigations proceed, any difficulties arising from raising a concern are minimised by, for example

- The person raising the concern, if he/she wishes, being accompanied at meetings by a union or professional association representative or another person of their choice.
- Where practical or desirable, arranging meetings off-site if wished

Within 10 days of a concern being raised, the Manager or Chief Executive will write to the worker:

- Formally acknowledging receipt of the concern, indicating how he/she proposes to deal with the matter, and
- Giving an estimate of how long it will take to provide a final response.

In all cases, the aim will be to complete an internal investigation within 30 working days and, subject to any legal constraints, inform the individual who raised the concern of its outcome.

Taking Concerns Outside of the Hospital

Our policy and procedure should ensure that concerns are dealt with promptly and effectively but, if you are not satisfied that concerns have been dealt with properly, then you are at liberty to raise the matter with appropriate external organisation such as the Care Quality Commission, or the police.

Independent advice from lawyers at the charity Public Concern at Work (020 7404 6609) will be helpful.

You must make certain that you do not disclose confidential information and that all of the conditions set out in the **What is a Protected Disclosures** section above apply.



We have prepared this leaflet to outline the procedure for making a public interest disclosure. The full policy can be found in the policy and procedure manuals in each department.

We hope you find the information contained in the leaflet helpful. If you would like to discuss anything included in this leaflet, please feel free to come and see us in the Human Resources office.

We appreciate your feedback and value any comments you may wish to make about the design and content of this information leaflet.



Your ideas can help us improve our service!



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**Holy Cross Hospital
BLOWING
WHISTLE-
(PUBLIC INTEREST
DISCLOSURE POLICY)**



**WHAT DOES
THIS MEAN
TO ME?**

The Public Interest Disclosure Act (1998) (Whistle-blowing Policy)

Introduction

Holy Cross Hospital is committed to achieving the highest possible standards of openness and accountability. We expect anyone with any serious concerns about any aspects of our work to bring such concerns to our attention.

The Legislation

The Public Interest Disclosure Act 1998 and provides protection to workers from dismissal or detriment, who disclose information - "**blow the whistle**" - about certain kinds of wrongdoing/mispractice ("**a disclosure**") in the workplace. The aim of the PIDA is to encourage workers to disclose information through appropriate internal channels first, rather than going directly to an outside person or body. No service qualification for whistle-blowing protection is necessary.

The Hospital's Policy

The Hospital encourages openness and honesty in all dealings between managers, staff volunteers, patients and their relatives, and all people and organisations with whom it engages in business and legal relations.



The policy provides guidance to all who work for or with the Hospital who may consider that they need to raise serious issues, without fear of victimisation, subsequent discrimination or disadvantages. It is additional to the Hospital complaint and grievance procedures and other reporting mechanisms.

We hope that the following definitions and procedure will clarify what and how & when to "blow the whistle".



What is a 'Disclosure'?

Under PIDA a '**qualifying disclosure**' is defined as:

- 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 any legal obligations.
- A miscarriage of justice has occurred, is occurring or is likely to occur.
- The health and 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.
- Any malpractice is being deliberately concealed.

What is a Protected Disclosure?

A protected disclosure is a statement by an individual who has grounds to believe that the malpractice fitting one of the above descriptions may be happening within the Hospital. They must be:

- Acting in the public interest
- Believe that the disclosure is substantially true
- Not act maliciously or make any personal gain
- Not be seeking any personal gain

Malicious/incorrect reporting

If it is found that (1) a complaint was made maliciously; or, (2) an employee filing a complaint did so knowing the allegation to be false; or (3) where a complaint is made principally for the purpose of obtaining payment of personal gain, these will be viewed as serious disciplinary offences.

An employee who does not take reasonable steps to raise a matter through the designated internal channels before making a disclosure to external agencies may not be protected by this policy and may be subject to disciplinary action.

How Do I Make a Disclosure?

You have a responsibility to report the malpractice to an appropriate manager within the Hospital, who will ensure that it is brought to the immediate attention of the Chief Executive. If have you are concerned about the appropriateness of this, you should write directly to The Chief Executive (Clearly marking the envelope as Confidential).

You must give as full information as possible regarding the nature of the malpractice and any supporting evidence. If possible give the following information:

- the background and history of the concern (giving relevant dates where possible) and;
- the reason why you are so concerned.

Can I remain anonymous?

Yes, however an anonymous disclosure is not as credible as a signed disclosure, but will nevertheless be considered having regard to

- the seriousness of the issues raised;
- the credibility of the concern, and
- the likelihood of confirming the allegation through other suitable sources.

It may prove difficult to investigate fully, particularly if there is no independent way of obtaining evidence. If the concern is to be acted upon, you need to be able to demonstrate that there are reasonable grounds for it.

What happens next?

The Chief Executive will take responsibility for the investigation. In any event, the following processes will apply:

- When the protected disclosure is received, the Manager or Chief Executive will undertake initial enquiries to determine whether an investigation is appropriate and, if so, what form it should take. In order to protect the individuals concerned, he/she will ensure that these initial enquiries are as confidential as possible. The manager or the Chief Executive will seek further information he/she considers necessary from the person making the disclosure and decide on any immediate management action to be taken, whether an investigation is required, and who should undertake it.



FLOWCHART OF WHISTLEBLOWING PROCESS

WORKERS

This flowchart sets out the stages in raising a concern and shows the management levels for internal disclosure. In a small organisation, there may not be more than one or two levels of management to whom you can escalate your concerns. In these cases, you should consider escalating your concern to the regulator or other prescribed person at an earlier stage than is shown on the flowchart.

