

# MANAGEMENT OF PUBLIC INTEREST DISCLOSURE (WHISTLEBLOWING) POLICY

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**Arabic**

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**Bengali**

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**Cantonese**

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**Mandarin**

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**Polish**

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**Punjabi**

اگر اس معلومات سے متعلق آپ کے سوالات ہیں یا آپ کی کوئی رائے ہے یا آپ اس کا اپنی زبان میں ترجمہ کروانا چاہتے ہیں تو براہ کرم ہمیں 01244 650368 پر ٹیلی فون کریں۔ اپنی زبان کا نام اپنے ٹیلی فون نمبر کے ساتھ تین بار کہیں۔ ہم ٹیلی فون مترجم کے ذریعہ آپ کو ٹیلی فون کروانے کا انتظام کریں گے۔

**Urdu**

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## **SUMMARY**

1. The Public Interest Disclosure Act 1998 (PIDA), which came into force on 2nd July 1999, introduced specific rights for those who disclose information to a third party about an alleged wrong-doing in defined circumstances.
2. This policy covers the right and duty of members of the Clinical Commissioning Group and Clinical Commissioning Group employees to raise any matters of concern that they may have about health issues concerned with the delivery of care services to patients or clients of the Group
3. The policy also makes it clear that those raising concerns in good faith can do so without fear of reprisal or victimisation and demonstrates the Clinical Commissioning Group's commitment and support to those who may need to come forward to express their concerns.
4. Individuals covered by the Act include 'employees' (those working under a contract of employment) and all 'workers'. More specifically, the Act covers employees, apprentices, certain agency workers, home-workers, National Health Practitioners such as GPs, certain dentists, ophthalmologists and pharmacists. It will also cover a worker who works or worked under a contract, whether express or implied, whereby the worker undertakes to do or perform personally any work or services for another party to the contract whose status is not by virtue of the contract that of a client or customer of any profession or business undertaking carried on by the worker. The genuinely self-employed are not covered by the Act.
5. Trainees on work experience programmes where the training is provided under a contract of employment or by any university, college, school or other educational establishment run by that establishment, will also be covered by the PIDA 1998.
6. The policy has been drawn up in line with the PIDA 1998 and the NHS Guidance in HSC 1999/198.

## **INTRODUCTION**

7. West Cheshire Clinical Commissioning Group (the Clinical Commissioning Group) wishes to encourage a free and open culture in dealings between its members, officers, employees and all people with whom it engages. The Clinical Commissioning Group recognises that effective, timely and honest communication is essential to its success.

8. This policy is designed to provide guidance to all those who work within the Clinical Commissioning Group either as an employee (or in some other associated capacity with or within the Clinical Commissioning Group) who may from time to time feel that they need to express concerns relating to the Clinical Commissioning Group with someone in confidence. This policy does not replace any existing policy, for example the Grievance Procedure, and is designed to ensure that concerns relating to the wider public interest may be raised.
9. This policy does not replace professional or ethical responsibilities, rules, guidance and codes of conduct.
10. The Clinical Commissioning Group wishes to encourage disclosures to be made internally but recognises that there may be occasions when an individual feels this is not possible.

## **POLICY STATEMENT**

11. West Cheshire Clinical Commissioning Group is committed to achieving the highest possible standards of service and the highest ethical standards in public life and in all of its practices. The Clinical Commissioning Group therefore encourages freedom of speech to enable members and employees to raise concerns about malpractice at an early stage and preferably following this procedure.
12. The Council of Members and Governing Body are committed to this policy. Providing a person is acting in good faith, anyone raising a concern under this policy will not be at risk of losing their job or suffer any form of retribution as a result: it does not matter if a mistake is made. This assurance is not extended to someone who maliciously raises a matter they know to be untrue, and the Clinical Commissioning Group may choose to enact disciplinary measures in these circumstances.
13. The person making the allegation should make it clear that they wish the matter to be dealt with under this policy.
14. If the concern is for a patient/client formally detained against their will under the Mental Health Act, it is possible to refer the matter to the Mental Health Act Commission. This is a government agency set-up to oversee the care and management of detained patients.
15. Any unauthorised disclosure of personal information about any patient/client for whatever reason will be regarded as a most serious matter that will warrant action under the Disciplinary Policy and Procedure.

16. This policy should be used if a Clinical Commissioning Group employee or a member wishes to raise a genuine concern. If, however, an employee is aggrieved about their personal position, they should use the Grievance Procedure which can be obtained from their manager or a Human Resources representative. This Policy and Procedure is primarily for dealing with concerns where the interests of others, or the organisation itself, are at risk.
17. It is imperative that users of this policy understand that the commencement of an investigation does not presume guilt and that the reporting of concerns should not, accordingly, be delayed.
18. Should two or more people come to realise that they share similar concerns about an issue, care must be taken at once not discuss the matter further; nor should issues be discussed within groups. Adherence to this article will help to prevent potential challenges to the effect that concerns have been manufactured or exaggerated, thus running the risk of undermining the process.

## **SCOPE**

19. This policy applies to all employees and members of the Clinical Commissioning Group.

## **DESIGNATED OFFICER**

20. The Designated Officer is a named lay member of the Clinical Commissioning Group with specific responsibility for addressing concerns raised in confidence. The Officer, who will be notified of all matters raised under this policy, will be kept informed at all stages of the procedure and will ensure that the matter is dealt with as outlined by this policy.
21. Anyone can contact the Designated Officer at any stage via the Clinical Commissioning Group's headquarters via tel: 01244 650300 or [www.westcheshireccg.nhs.uk](http://www.westcheshireccg.nhs.uk).
22. The Designated Officer has a deputy who will ensure matters are taken forward appropriately in his/her absence.

## **DEFINITION OF A CONCERN**

23. The term 'concern' is used to describe circumstances where employees or members, individually or collectively, wish to raise an issue regarding the activities of the Clinical Commissioning Group or persons employed by the Clinical Commissioning Group.



24. Whilst this is not an exhaustive list, examples of incidents which may constitute a cause for concern are:
- Poor standard of patient care
  - Victimisation or harassment of a patient or colleague
  - Criminal acts
  - Unethical practices, not necessarily of a criminal nature
  - Serious maladministration
  - Dangerous acts (or omissions) which create a hazard to health, safety or the environment
  - Fraud\* or corruption
  - Non-compliance with a legal obligation
  - Miscarriage of justice
25. Some patients/clients may be unable or unwilling to represent their own interests: employees and members, therefore, have a special responsibility to report any instances where they consider a patient/client has not been treated appropriately.
26. Information to be provided to investigating officers is set out at Appendix A.

## **PROCEDURE**

27. It is imperative that users of this policy understand the following: the commencement of an investigation does not presume guilt.

### **Stage 1 - Informal**

28. All matters of concern should initially be addressed at an informal level, if at all possible, with the employee's line manager or, for Members, a member of the Governing Body excluding the Chair and Deputy Chair. This may be done verbally or in writing.
29. All concerns will be given full and sympathetic consideration. People will be treated with respect and understanding and it will be recognised that raising a concern within the auspices of this policy can be a difficult experience. If an individual does not feel confident in raising the issue with their line manager or a member of the Governing Body, as appropriate, in the first instance, Stage 2 of the process may be invoked.
30. On considering the concern raised, the manager or member of the Governing Body may advise that this is not the appropriate policy and procedure to use and refer the employee to other relevant policies, eg Safeguarding, Grievance, Harassment and Bullying or Fraud Response.

31. Where the manager or member of the Governing Body feels it is appropriate that the concern is dealt with under this policy and procedure they will immediately inform the Designated Officer, or the nominated Deputy in the Designated Officer's absence, and will keep him/her aware of actions being taken.
32. The manager or member of the Governing Body will convene a meeting to discuss the issue with the person raising the concern, who may wish to be accompanied by a representative from their Trade Union or Professional Organisation, or a colleague or friend not acting in a professional capacity. The manager or relevant member of the Governing Body may also wish to seek advice from other health care professionals.
33. The person raising the concern will, within 10 working days of the meeting, be given a full explanation of what action is to be taken and the reasons (where applicable) why action may not be considered appropriate, eg more appropriately dealt with under another policy.
34. For clear guidance on who should be contacted at each stage of the procedure see Appendix B.

## **Stage 2 – Accountable Officer/Chair or Deputy Chair of the Governing Body**

35. This stage is to be used:
  - where the matter remains unresolved after Stage 1
  - where the matter relates to the immediate line manager or a member of the Governing Body excluding the Chair or Deputy Chair or the individual does not feel confident in raising the issue with the persons identified
36. The employee should refer their concern in writing to the Accountable Officer; Members to the Chair or Deputy Chair of the Governing Body.
37. On considering the concern raised, the Accountable Officer /Chair/Deputy Chair of the Governing Body may advise that this is not the appropriate policy and procedure to use and refer the employee to other relevant policies, eg Safeguarding, Grievance, Harassment and Bullying or Fraud Response.
38. Where the manager feels it is appropriate that the concern is dealt with under this policy and procedure they will immediately inform the Designated Officer, or the nominated Deputy in the Designated Officer's absence, and will keep him/her aware of actions being taken.

39. The Accountable Officer /Chair/Deputy Chair of the Governing Body will convene a meeting to discuss the issue with the employee raising the concern who may wish to be accompanied by a representative from their Trade Union or Professional Organisation, or a colleague or friend not acting in a professional capacity. The Accountable Officer /Chair/Deputy Chair of the Governing Body may also wish to seek advice from other health care professionals.
40. Thorough and fair consideration will be given to the concerns and the employee or member will be treated with respect and understanding.
41. The person raising the concern will, within 10 working days of the meeting, be given a full explanation, in writing, of what action is to be taken and the reasons (where applicable) why action may not be considered appropriate, eg more appropriately dealt with under another policy.
42. For clear guidance on who should be contacted at each stage of the procedure see Appendix B.

### **Stage 3 – Deputy Designated Officer/Chair of the Council of Members**

43. If, after Stage 2, the matter remains unresolved or the concern is regarding the person mentioned at Stage 2, employees should raise their concerns in writing with the Deputy Designated Officer; Members with the Chair of the Council of Members, who will nominate an appropriate person to investigate the matter.
44. On considering the concerns raised, the nominated person may advise that this is not the appropriate policy and procedure to use and refer the employee to other relevant policies, eg Safeguarding, Grievance, Harassment and Bullying or Fraud Response.
45. If the nominated person feels it is appropriate that the concern is dealt with under this policy and procedure they will immediately inform the Designated Officer, or the nominated Deputy in the Designated Officer's absence, of the concerns raised and will keep him/her aware of actions being taken.
46. The nominated person will convene a meeting to discuss the issue with the employee raising the concern, who may wish to be accompanied by their Trade Union or Professional Organisation representative, or a colleague or friend not acting in a professional capacity, and then submit a report to the Designated Officer.
47. The person raising the concern will be sent an acknowledgment within 2 working days. The matter will be dealt with as swiftly as individual circumstances permit and within 20 working days the employee will be given a

full explanation in writing of what action is to be taken and the reasons, if applicable, why action is not considered appropriate.

48. Thorough and fair consideration will be given to the concerns and the employee or member will be treated with respect and understanding.
49. For clear guidance on who should be contacted at each stage of the procedure see Appendix B.

#### **Stage 4 - NHS Commissioning Board/Secretary of State for Health**

50. If after Stage 3, the matter remains unresolved or the concern is regarding the Deputy Designated Officer or the Chair of the Council of Members, the employee may raise their concerns in writing with the Designated Officer, NHS Commissioning Board or the Secretary of State for Health.
51. For clear guidance on who should be contacted at each stage of the procedure, see Appendix B.

#### **CONFIDENTIALITY**

52. The Clinical Commissioning Group will not tolerate the harassment or victimisation of anyone raising a genuine concern. However, it recognises that Clinical Commissioning Group employees or Members may nonetheless want to raise a concern in confidence under this policy and procedure. If an employee or Member asks that their identity be protected, the Clinical Commissioning Group will not disclose it without the employee's or Member's consent.
53. If the situation arises where the concern cannot be resolved without revealing the employee's or Member's identity (for instance because information is needed at an internal Clinical Commissioning Group enquiry, or to assist external enquiries) the Clinical Commissioning Group will discuss whether and how it can proceed. It should be remembered that if identity is withheld, it will be much more difficult for the Clinical Commissioning Group to look into the matter and give feedback, or to protect the employee's or member's position.
54. All NHS employees must fulfil their duty of confidentiality to both their patients/clients and to the Clinical Commissioning Group. Unauthorised disclosure of personal information about any patient/client or colleague will be regarded as a most serious matter, which will result in disciplinary action.

55. In all cases where employees or Members are considering disclosing confidential information (even on the basis that in their opinion such a step would be in the public interest) they should first seek specialist advice.

## **DISCLOSURE TO OUTSIDE AGENCIES**

56. Disclosure to agencies outside the Clinical Commissioning Group should only be made when internal procedures have been exhausted. Provided that the procedures have been followed, Clinical Commissioning Group employees or members making allegations should feel able to do so without fear of disciplinary or other action against them.
57. An employee or Member, having exhausted all the above stages without satisfaction and having sought advice from their appropriate union representative or professional organisation may wish to consult his or her Member of Parliament in confidence.
58. An issue may be raised directly with the Secretary of State for Health although the Clinical Commissioning Group encourages employees to use internal procedures if at all possible.
59. An approach to the media should only be considered after all the stages of this procedure have been exhausted. It should be considered only as a last resort. Such action, if entered into unjustifiably may unreasonably undermine public confidence and may result in disciplinary or other action.
60. Where an employee or Member raises a concern in good faith to a prescribed body, for example the Health and Safety Executive, Environment Agency, Inland Revenue, Serious Fraud Office, Data Protection Registrar, Financial Services Agency, and reasonably believes the information and any allegation in it are substantially true, they will remain protected under this policy.

## **REPRESENTATIVE AND PROFESSIONAL ORGANISATIONS**

61. When entering into this procedure all employees and members are encouraged to seek guidance from their Trade Union, Professional Organisation or appropriate statutory body, particularly if the issue remains unresolved at Stage 3.
62. If you are unsure whether to use this policy, or you want independent advice at any stage, you may contact the charity Public Concern at Work on 020 7404 6609. Their lawyers will give free confidential advice at any stage about how to raise a concern about serious malpractice at work.

## **AWARENESS RAISING**

63. In order for this procedure to be effective, the Clinical Commissioning Group believes it is important that all employees and members are aware of the processes, and that managers are trained in their use. Action to ensure this will be as follows:

- policy will be issued to all staff and members;
- copies will be available on the Clinical Commissioning Group's website;
- managers will keep a copy in an accessible file with other human resource policies and procedures, and be aware of the provisions;
- managers will explain the provisions to new employees as part of the local induction process;
- additional support will be given to people whose first language is not English, or who have a visual impairment or some other disability; and
- all contract specifications for the provision of health services will require that the provider has a Whistleblowing policy in place.

## **QUERIES**

64. Enquiries about the operation of this policy should be addressed to the Corporate Affairs Manager.

65. Review This policy will be reviewed biennially by the Quality Improvement Committee. Any new statutory provisions affecting the procedure will come into automatic effect.

## Appendix A

### Information to be provided to investigating officers

Whilst it is important that whistleblowers do not delay reporting their concern until they have the necessary proof to support their allegation, it would nonetheless be helpful to have as much of the following information as possible at the outset of the investigation:

- Name(s) of personnel suspected of inappropriate conduct; their job title(s) and work-base;
- The nature of the wrong-doing suspected along with the date(s) of incident(s). Copies of any file notes that may have been kept should be disclosed;
- Copies of any evidence that support the suspicion of wrong-doing;
- The degree to which individual(s) are thought to have suffered as a result of inappropriate conduct;

NB: The names of patients or any other identifying details should not be disclosed at this juncture without their consent – paragraph 8.3 refers

- The degree to which any (other) member(s) of staff are perceived to have witnessed events;

NB: The names of colleagues or any other identifying details should not be disclosed at this juncture without their consent – paragraph 8.3 refers

- The degree to which the person filing the report has challenged the individual(s) suspected of inappropriate conduct or raised the matter with their line or other senior manager;
- The outcome of any such dialogue and accompanying papers, as available.

## Appendix B

### Contact Guidance

Nature of Concern	Raise your concern with:	Take advice from:
<p>Stage 1</p> <ul style="list-style-type: none"> <li>Initial concern raised</li> </ul>	<p>Immediate Line Manager or a Member of the Governing Body excluding the Chair and Deputy Chair and/or Designated Officer, or the nominated Deputy in the Designated Officer's absence</p>	<p>Union/Professional Organisation and/or HR representative and/or Friend or Colleague</p>
<p>Stage 2</p> <ul style="list-style-type: none"> <li>Concern raised about immediate line or other manager or a Member of the Governing Body excluding the Chair/Deputy Chair</li> <li>Matter not resolved at Stage 1</li> </ul>	<p>Accountable Officer/Chair or Deputy Chair of the Governing Body and/or Designated Officer, or the nominated Deputy in the Designated Officer's absence</p>	<p>Union/Professional Organisation and/or HR representative and/or Friend or Colleague</p>
<p>Stage 3</p> <ul style="list-style-type: none"> <li>Concern raised about Accountable Officer or Chair/Deputy Chair of the Governing Body</li> <li>Matter not resolved at Stage 2</li> </ul>	<p>Deputy Designated Officer /Chair of the Council of Members and/or Designated Officer, or the nominated Deputy in the Designated Officer's absence (in the case of Members)</p>	<p>Union/Professional Organisation and/or HR representative and/or Friend or Colleague</p>
<p>Stage 4</p> <ul style="list-style-type: none"> <li>Concern raised about the Deputy Designated Officer or Chair of the Council of Members</li> <li>Concern raised about the Trust</li> </ul>	<p>Designated Officer and/or NHS Commissioning Board and/or Secretary of State for Health and/or Member of Parliament</p>	<p>Union/Professional Organisation and/or HR representative and/or Friend or Colleague</p>