WHISTLEBLOWING POLICY

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Chief Executive

Date: 8 September 2017
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<td>Inclusion of LCFS and DoF contact details.</td>
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<td>June 2016</td>
<td>Inclusion of Freedom to speak up: raising concerns (whistleblowing) policy for the NHS – April 2016</td>
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<td>June 2017</td>
<td>- Removal of having to raise concerns ‘in good faith’ (PIDA, 1998)</td>
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<td>- Procedure for raising concerns updated</td>
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# WHISTLEBLOWING POLICY

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BURTON HOSPITALS NHS FOUNDATION TRUST
WHISTLEBLOWING POLICY

1. INTRODUCTION

1.1 All of us at one time or another has concerns about what is happening at work. Usually these concerns are easily resolved. However, when they are about unlawful conduct, financial malpractice, dangers to the public or the environment, or the conduct of colleagues or contracts it can be difficult to know what to do.

1.2 The Trust is committed to the highest standards of openness, integrity and accountability. All persons working for, or with this organisation must feel safe and supported in order to express their concern. Speaking up about any concern is really important; in fact it is vital because it will help improve services for all patients and the working environment for staff.

1.3 The aim of the policy is to reassure individuals that it is safe and acceptable to speak up and to enable you to raise any concern you may have at an early stage and in the right way. Rather than wait for proof, we would expect you to raise the matter when it is still a concern. In accordance with the duty of candour, the Trust’s senior leaders and entire board are committed to an open and honest culture.

1.4 This document provides guidance where concerns are raised related to the conduct of individuals in a position of trust within the organisation which can be detrimental to the safety and wellbeing of children, young people and vulnerable adults (See Safeguarding section of this document).

1.5 If you wish to make a complaint about your employment or how you have been treated, please use the Trust’s Human Resources Policies - Grievance Policy, Equality & Diversity Policy, Bullying & Harassment Policy, Health and Safety Policy and Sickness Absence Policy which you can obtain from the Trust’s Intranet site, your manager, or Human Resources.

1.6 If you have a concern about financial misconduct or fraud, please see the Trust’s Anti-Fraud & Bribery Policy, or contact Human Resources or our Local Counter Fraud Specialist or Director of Finance.

1.7 If you have a concern about the Trust’s Foundation status, please contact NHS Improvement via email on enquiries@improvement.nhs.uk, telephone 03001232257 or write to: NHS Improvement, Wellington House, 133-155 Waterloo Road, London, SE1 8UG.

1.8. WHO IS COVERED IN THIS POLICY?

This policy and the protection it provides applies to all staff employed or who have worked for Burton Hospitals NHS Foundation Trust or for an independent organisation that provides NHS services. This includes locums, agency staff, bank staff, students, contractors, volunteers, governors or staff from other organisations.
working on our site. For issues raised by patients/visitors please refer to the Complaints Policy.

2. **GOOD CORPORATE CITIZEN**

It is in everyone’s interests in a healthy and transparent society that people feel safe to raise issues of genuine concern in a secure environment without the fear of retribution, so that they can be addressed, especially where public money and patient safety are concerned.

If you have concerns regarding the quality of care a patient has, or has not received, this would be an appropriate issue to raise through the Whistleblowing policy. Healthcare professionals may also have a professional duty to report concerns in line with their professional body. If in doubt please raise it.

3. **BACKGROUND**

3.1 Public Interest Disclosure Act 1998 (PIDA) amended the Employment Rights Act 1996 to provide protection for workers who raise legitimate concerns about risk, malpractice or wrongdoing which is harming service delivery. These are called ‘qualifying disclosures’. A qualifying disclosure is one made by an employee who acting in the public interest, reasonably believes that:

- a criminal offence;
- 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;

is being, has been, or is likely to be, committed. 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 organisation’s responsibility to ensure that an investigation takes place.

A worker who makes such a protected disclosure has the right not to be dismissed, or subjected to victimisation, because they have made the disclosure. This means that the continued employment and opportunities for future promotion or training of the worker will not be prejudiced. The victimisation of a worker for raising a qualified disclosure is a disciplinary offence.

3.2 If you are not sure whether to raise a concern, you can discuss the issue with your Line Manager, Freedom to Speak Up Guardian, trade union representative or the Director of Human Resources if you would like to.

3.3 Encouraging staff to raise concerns early on, as part of everyday practise, will help the Trust to facilitate informal and formal resolutions of concerns raised. For example, inviting open conversation about what went well and what didn’t go well
as part of any staff briefings, 1-1s, team meetings, etc. This will be key to fostering an open and transparent approach to dealing with some of the issues raised.

3.4 Alternative Employment
It may be necessary that, where deemed appropriate, efforts should be made to redeploy staff involved in the raising of a concern, regardless of whether they are the whistleblower or the accused.

4. ANONYMOUS ALLEGATIONS

4.1 When a concern is raised anonymously it is difficult to investigate and difficult to clarify ambiguity. The whistleblower is not held to account for raising the concern however this policy encourages staff to raise concerns as part of their professional role/responsibility. Protection of confidentiality as outlined in the PIDA is forfeit in these circumstances. For these reasons this policy does not encourage anonymity however if this is what the employee wants it will be upheld unless required to disclose it by law. If a whistleblower feels they cannot raise concerns through the internal or external routes detailed in the policy they can contact a Non-Executive Director.

5. FALSE ALLEGATIONS

5.1 Under PIDA if a whistleblower raises a concern under this policy, s/he will not be at risk of any form of retribution or victimisation provided s/he has acted in the public interest. The Trust will not tolerate the harassment or victimisation of anyone raising a concern. Nor will the Trust tolerate any attempt to bully employees into raising any such concern. This assurance does not extend to someone who raises a concern they know to be untrue. These cases will be dealt with under the Trust’s Disciplinary Policy – “If following an investigation it is shown that a concern has been raised deliberately, falsely and/or with malicious intent either internally or externally (i.e. the press), then it may be necessary to consider disciplinary action against the whistleblower who raised the concern, if employed by the Trust”. Provided the employee is acting honestly, it does not matter if they are mistaken or if there is an innocent explanation for their concerns.

6. SAFEGUARDING

6.1 Examples of concerns an individual may have about the conduct of individuals in a position of Trust within the organisation are:

- Unprofessional behaviour
- Bullying by staff
- Any form of abuse (physical, sexual, emotional or neglect)
- Personal contact with children, young people and vulnerable adults which is contrary to the organisations policies and codes of conduct
- Any form of racial abuse
- Inappropriate sexualised behaviour
• Knowledge about an individual’s personal circumstances which may indicate they could be a risk to children or unsuitable to work with children and vulnerable adults

Please note this list provides examples and is not exhaustive

7. CONFIDENTIALITY

All concerns will be treated in confidence, however, there may be a need for the whistleblower to give evidence e.g. if you have witnessed a crime or in regard of any disciplinary procedures which may ensue.

8. COUNSELLING

Whistleblowing puts a lot of pressure on the whistleblower, and they may need significant support. They should be offered counselling which they can self-refer for directly through Occupational Health.

9. MONITORING, REVIEW AND AUDITING

For monitoring and auditing purposes a log of all concerns received whether by Human Resources, Staff Side Official Representatives or Trust Auditors will be kept by the Director of Human Resources for a period of 12 months after the file is closed. This file will also be made available to the Freedom to Speak up Guardian in order to report to the National Guardian on all concerns that are raised. This ensures that a mechanism is created for the effective acknowledgement, monitoring and progress reporting of all such concerns.

The board will be given high level information about all concerns raised by staff through this policy and what is being done to address any problems. This will include similar high level information in the Trust’s annual report. The board supports staff raising concerns and wants staff to feel free to speak up.

This policy will be reviewed at least annually or earlier by joint agreement between management and staff side or if legislation dictates. Should there be a delay in the renewal of this policy it will remain in force until superseded.
Appendix 1

Procedure for the Management of Concerns Raised

1. Internal Process

1.1 Procedural stages – overview

There are four stages in the procedure for raising a concern:

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<th>Stage 1</th>
<th>Informal procedure - Initially through Line Manager</th>
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<tr>
<td>Stage 4</td>
<td>Reporting to an External Body</td>
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At all stages of the process the individual will have the right to be supported/accompanied by a work colleague or Union Representative.

In all cases staff have the right to discuss any concerns with the Freedom to Speak up Guardian or the Director of Human Resources.

1.2 Stage 1 - Informal

In the first instance, any concerns should be raised with the employees’ Line Manager, unless they reasonably believe their Line Manager to be involved in the wrong doing, or if for any other reason they do not wish to approach their Line Manager.

The Line Manager may ask the employee how they think the matter may best be resolved or advise that the matter is one for the grievance or bullying and harassment procedure. If the employee believes the Line Manager to be involved, or for any reason do not wish to approach their Line Manager, then they can contact the Trust’s Freedom to Speak Up Guardian. This is an independent and impartial source of advice which can be given to staff at any stage of raising a concern. If the employee remains concerned after this, they should proceed straight to stage 2.

If the concern relates to Safeguarding Children the named professional/named doctor for Safeguarding Children should be informed. Any concern regarding child protection must be referred to external agencies for investigation. If there are concerns that an adult working with children may have abused a child, or be unsuitable to work with children (refer to Managing Allegations against Staff who work with Children) the Local Authority Designated Officer (LADO) will be informed. Managers are encouraged to contact a LADO directly for discussion and advice.

Concerns relating to vulnerable adults, the Matron Safeguarding Vulnerable Adults or Adult Safeguarding lead should be informed. Referral to adult protection and the Police will need to be considered.
If the employee feels that the concern has not been resolved, they may proceed to stage 2 of the procedure.

It must be highlighted that if the concern raised is deemed too serious to be handled informally, then the formal stages of the policy should be utilised.

1.3 Stage 2 – Formal (Management level)

In the event that the informal procedure concludes and the employee is not satisfied with the outcome of stage 1; or the concern remains unresolved they have the right to raise the issues through the formal stages of the policy.

At this stage the employee must put their concern in writing or verbally to the next level of management from Stage 1. The manager must acknowledge receipt of the concern verbally within 2 working days, follow up in writing and aim to arrange a meeting with the employee within a further 5 working days, unless agreed as otherwise. This timescale may change to take into account any leave periods that the manager may have.

The initial meeting with the employee and the manager should seek to identify the concern and the progress made to date to resolve the concern. Where appropriate, the manager will investigate the concern or commission an independent investigation of the concerns. The investigation may involve the employee and other individuals involved providing a written statement. The manager (or person who carried out the investigation) will report the findings/outcomes of the investigation to the Director of Human Resources who will then take any necessary action, including reporting the matter to the Board of Directors and any appropriate government department or regulatory agency. If disciplinary action is required, this will be recommended within the report, following a discussion with Human Resources.

On conclusion of any investigation, the employee raising concerns will be told the outcome of the investigation and what action has been taken or is proposed, subject to the normal requirements to protect the confidentiality of colleagues. If no action is to be taken, the reason for this will be explained. Feedback will be in writing and will normally be within 21 calendar days of the concern being received.

If the employee does not feel the concern has been resolved at this stage of the procedure, they may choose to escalate their concern to Stage 3.

1.4 Stage 3 – Formal (Senior Level)

The employee will raise the concern with the next level of management from Stage 2.

The Senior Manager will meet with the employee to review the concern and consider the investigation that has already taken place; this should take place within 10 working days of the concern being escalated to this level. The purpose of the meeting will be to identify the reasons why the concerns remain unresolved and to consider appropriate action; which may include arranging for another manager to review the investigation or making further enquiries.
If it is considered not appropriate to approach Senior Management for any reason, the employee should approach the Freedom to Speak Up Guardian or the Director of Human Resources who will liaise with the Chief Executive about an investigation. If they do not consider it appropriate to approach either the Freedom to Speak Up Guardian or the Director of Human Resources for any reason, they may approach the Chief Executive directly, but will need to explain their grounds for not approaching either the Freedom to Speak Up Guardian or the Director of Human Resources.

The Chief Executive or the Director of Human Resources may ask how the individual raising the concerns think may be best to resolve or advise that the matter is one for the grievance or bullying and harassment procedure. Any approach at this stage will be treated with the strictest confidence and the employee's identity will not be disclosed without prior consent.

On conclusion of any investigation, the individual raising the concern will be told the outcome of the investigation and what action has been taken or is proposed, subject to the normal requirements to protect the confidentiality of colleagues. If no action is to be taken, the reason for this will be explained.

1.5 Stage 4 - External Body

If the employee considers that the concerns remained unresolved and it is believed the appropriate action has not been taken, then they have the right to pursue the matter to bodies external to the Trust. These include:

- NHS Improvement – for concerns around how the Trust is run
- Care Quality Commission – for quality and safety concerns
- NHS England – for concerns on general practices and service concerns
- Health Education England – for education and training in the NHS
- NHS Protect – for concerns about fraud and corruption
- For concerns relating to fraud: NHS Fraud and Corruption Reporting Line on 0800 020 4060 or online www.reportnhsfraud.nhs.uk
- NHS Whistleblowing Hotline – 08000 724 725
- Public Concern at Work - Tel: 020 7404 6609, Email: whistle@pcaw.org.uk
Appendix 2

Procedural Responsibilities

1.0 Employees

Employees will be responsible for:

- Reporting any concerns to a member of Trust staff as outlined in the procedure
- Reporting concerns with the reasonable belief that one of the categories of wrongdoing listed in the policy has occurred
- Following the internal reporting procedures set out in this policy before considering external reporting procedures
- Acting honestly and professionally in the interests of patients and service users

2.0 Managers

Managers have the responsibility to:

- Listen to staff concerns and consider the appropriate action to take to resolve the concerns being raised
- Take prompt action to resolve the concern or refer to another designated manager/officer
- Keep the member of staff informed during the process and/or proposed solutions
- Ensure staff that report concerns are supported throughout the process; and consider Occupational Health referral if necessary.

3.0 Human Resources

Human Resources have the responsibility to:

- Provide all parties with advice they request/require at all stages of the process and to ensure that the policy is applied fairly and consistently
- The Human Resources Director is responsible for informing the Board of Directors of formal concerns raised, as and when they arise.

4.0 Freedom to Speak Up Guardian

The Freedom to Speak up Guardian has the responsibility to:

- Treat a concern in confidence unless otherwise agreed
- Provide support around the progress of a concern
- Escalate to the Board any incidents that are being subjected to detriment for raising the concern
- Ensure timely feedback on how the concern is being dealt with
- Ensure access to personal support is given to those raising concerns
Guidance Flowchart for Raising Concerns at Work

Appendix 3

I have a concern about something that is happening at work and I would like to know what to do

Speak to your Line Manager

STAGE 1
Informal Stage – speak to your line manager and discuss the concern. Identify ways to resolve the issue

If unable to raise concern with line manager, then contact the Freedom Speak to Up Guardian

If you feel the concern is not resolved then you should proceed to Stage 2

STAGE 2
Formal Stage – speak to your next level of management and discuss the concern and enable investigation of the matter

Manager to notify Director of HR & Freedom to Speak up Guardian

If you feel the concern is not resolved then you should proceed to Stage 3

STAGE 3
Formal Stage (Senior Level) – speak to your next level of management. Raise concern and discuss why concern remains unresolved

If not appropriate to approach senior management then contact Freedom to Speak up Guardian/Director of HR

If you feel the concern remains unresolved and it is believed appropriate action has not been taken, you have the right to proceed to Stage 4

STAGE 4
External Disclosure – If you feel the matter has not been addressed you may raise your concern with an external body