

## Speak Out Safely (Raising Concerns About Patient Care) and Whistle Blowing Policy

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### THE TRUST'S POLICY STATEMENT

The Countess of Chester Hospital NHS Foundation Trust is committed to achieving the highest possible standards of patient care and the highest possible ethical standards in public life in all of its practices. To achieve these ends, the Trust encourages freedom of speech. It also encourages staff to use internal mechanisms for reporting any malpractices or illegal acts or omissions by its staff or former staff. Above all, the Trust encourages a culture whereby staff and all levels of management fully understand that it is safe and accepted to raise such matters internally. Staff will be supported in these circumstances at a high level within the Trust and a named point of contact who can provide support and advice will be given to the individual concerned.

This Policy has a dual aim in supporting staff in fostering an open culture to raise concerns in the workplace and also to provide clarity around the existing legal right for staff to raise concerns about safety, malpractice or other wrong doing without suffering any detriment.

The Policy is written to comply with the Public Interest Disclosure Act 1998 and the changes to this introduced following the Enterprise and Regulatory Reform Act 2013 (ERRA). These set out the protection for workers against detriment or dismissal who report malpractice by their employers or other third parties more commonly known as 'Whistleblowing'.

November 2013

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### PURPOSE

There is an expectation that anybody should be able to raise concerns at the earliest opportunity by the Trust creating an atmosphere where all staff can be open, honest and truthful in all their dealings with patients and with the public.

This Policy also supports staff by ensuring their concerns are fully investigated and that there is someone independent, outside of their team, to speak to. For the purposes of this Policy, the term 'whistleblowing' refers to the disclosure by workers of malpractice as well as illegal acts, miscarriages of justice, dangers to health and safety or deliberate concealing of information on any of the above.

The Countess of Chester NHS Foundation Trust is committed to openness, transparency and candour so that staff feel able to raise concerns and / or debate issues of concern about health care matters in a responsible way without fear of victimisation.

Statutory protection against detriment or dismissal for workers who 'blow the whistle' on wrong doing at work is provided by the **Public Interest Disclosure Act of 1998, reformed by the ERRA 2013.**

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## **FOLLOWING THE INVESTIGATION**

The Chief Executive will brief the designated officer as to the outcome of the disclosure. The designated officer will then arrange a meeting with the person who made the disclosure to give them feedback on any action taken. (This will not include details of any disciplinary action, which will remain confidential to the individual concerned).

If it is decided that there is no case to answer, and it is clear that the person who made the allegation had reasonable grounds for believing that it was true, he/she will be assured that under the Public Interest Disclosure Act they have the right to protection from any detrimental action by the Trust. This should be confirmed in writing.

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## **CONSIDERATION OF REFERRAL TO THE LOCAL AUTHORITY DESIGNATED OFFICER (DISCLOSURE AND BARRING SERVICE (DBS))**

In cases where there is concern with regards to patient care the Senior Manager informed of the allegations needs to consider referral of the matter to the Local Authority Designated Officer (LADO) in conjunction with the Head of Service. If the allegation is substantiated and the person is dismissed or the employer ceases to use the person's services, or the person resigns or otherwise ceases to provide his/her services, the manager and the local authority designated officer should discuss whether a referral to the DBS is required, or advisable, and the form and content of a referral. A referral must always be made if the employer thinks that the individual has harmed a child or poses a risk of harm to children. If the concern is attached to a vulnerable adult concern the Local Authority will be notified via instigation of the Safeguarding Vulnerable Adults referral contained within that Policy. Also, if the person is subject to registration or regulation by a professional body or regulator, for example by the General Social Care Council, General Medical Council, Ofsted etc. the designated officer should advise on whether a referral to that body is appropriate. If a referral is appropriate the report should be made within one month. This may also be discussed with the Trusts CoCH safeguarding team ext: **I&S**

In the above circumstances the Trust will contact the Safeguarding Adult Unit on **I&S** **I&S** to notify them of concerns and seek advice on the appropriate next steps, including notifying the Disclosure and Barring Service.

## **INFORMING PROFESSIONAL BODIES**

Complaints involving professional misconduct by a registered health care professional may be reported to the appropriate Statutory Body by the appropriate professional head.

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## CONFIDENTIALITY CLAUSES IN STAFF CONTRACTS

The Public Interest Disclosure Act prohibits confidentiality 'gagging' clauses in contracts of employment, and in Settlement/Severance Agreements which seek to prevent the disclosure of information in the public interest. Written Statements of Particulars and contracts issued to employees of the Countess of Chester Hospital NHS Foundation Trust will, therefore, draw specific attention to their rights under the Trust's Whistleblowing Policy.

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## OTHER CONTACTS

Local Staff Representatives – Royal College of Nursing, Royal College of Midwives, British Medical Association, UNISON, UNITE, UCATT, British Dental Association, British Dietetic Association, Chartered Society of Physiotherapists, British Orthoptic Society, Society of Radiographers.

In the NHS, there is also provision to report concerns to the DH via their Customer Service Centre (Tel. 0207 210 4850, or using a contact form via link: <http://www.dh.gov.uk/health/contact-dh/> )

or the NHS Counter Fraud Line on 0800 028 4060.

Provide access to an independent helpline offering confidential advice, e.g. the Whistleblowing Helpline on 08000 724725, email [enquiries@wbhelpline.org.uk](mailto:enquiries@wbhelpline.org.uk)

Website: [www.wbhelpline.org.uk/](http://www.wbhelpline.org.uk/)

Nursing and Midwifery Council – 020 76377181 [www.nmc-uk.org](http://www.nmc-uk.org)

General Medical Council – 0161 923 6602 [www.gmc-uk.org](http://www.gmc-uk.org)

Health and Care Professions Council – 0845 300 6184 – [www.hpc-uk.org](http://www.hpc-uk.org)

Care Quality Commission – 03000 616161 – [www.cqc.org.uk](http://www.cqc.org.uk)

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## MONITORING ARRANGEMENTS

<b>PROCESS FOR MONITORING</b>	An annual audit is undertaken to ensure compliance with the policy, current legislation and best practice from NHS Employers including analysis of outcomes and learning points from cases.
<b>RESPONSIBLE INDIVIDUAL:</b>	Deputy Director of HR & OD
<b>FREQUENCY OF MONITORING:</b>	Annual audit in addition to exception reporting
<b>RESPONSIBLE GROUP FOR REVIEW OF RESULTS:</b>	People and Organisational Development Committee
<b>RESPONSIBLE INDIVIDUAL FOR DEVELOPMENT OF ACTION PLAN:</b>	Nominated HR Business Partner
<b>RESPONSIBLE INDIVIDUAL FOR MONITORING OF ACTION PLAN AND</b>	Nominated HR Business Partner

<b>IMPLEMENTATION:</b>	
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## **SOURCES**

Being Open Policy. National Patient Safety Agency - May 2004  
Records Management NHS Code of Practice Department of Health 2006  
The NHS (Complaints) Regulations 2004 (SI 1768) and Amendment Regulations (2006)  
Working Together to Safeguard Children DCSF 2010  
The Health and Social Care (Community Health and Standards) Act 2003  
Nursing Times – Speak Out Safely Campaign 2013  
Francis Report 2013  
Enterprise & Regulatory Reform Act 2013  
NHS Employers – Guidance for Employers 2013  
Whistleblowing Helpline.org.uk  
Nursing and Midwifery Council Raising Concerns Guidance 2013

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## **REVIEW**

This Policy will be reviewed every three years in consultation with the Trust's Partnership Forum (PF). It can, however, be reviewed earlier if the need arises, for example, changes to Employment Law or a requirement to vary or improve procedures.

**Flowchart see below**