

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

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

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.**

expressing concern could lead to recurrence, and/or make investigations more difficult.

If the concern raised involves a patient safety incident, the "Being Open" guidelines in which the Trust makes the following commitments to its patients, will also apply:-

- Apologise for the harm caused
- Explain, openly and honestly, what has gone wrong
- Describe what we are doing in response to the mistake
- Offer support and counselling services that might be able to help
- Provide the name of a person to speak to
- Give updates on the results of any investigation.

PROCESS FOR RAISING CONCERNS

WHEN TO EXPRESS A CONCERN

There is a responsibility on all staff to provide a high standard of care, and to report all instances where this has not been met, or is a breach of Codes of Professional Practice.

PROCESS FOR ENSURING STAFF ARE NOT TREATED DIFFERENTLY AS A RESULT OF RAISING A CONCERN

The Trust will ensure that any concerns raised are treated seriously and dealt with in a sympathetic manner. Disciplinary action will not be enacted unless it is found that the complaint is malicious in nature.

PROCESS TO BE FOLLOWED TO EXPRESS A CONCERN

When staff wish to express their concern about patient care they should normally do so to their line manager.

The Manager with whom the concern has been raised will need to decide whether to investigate the matter personally or to request another manager to carry out the investigation and to report back on the findings. The latter course of action will apply particularly where there is the possibility of disciplinary action and the Manager who first received the expression of concern is empowered to impose disciplinary sanctions.

If, for any reason, staff feel unable to follow this approach, they should contact their Staff Representative, Head of Service, Professional Manager/Lead or an Executive Director of the Trust.

Staff must also be aware that they may have to give evidence at some future stage if there is a formal enquiry, disciplinary hearing and/or police enquiry.

Before the investigation proceeds, the Manager with whom the concern was raised must decide whether it is necessary at this stage to exclude from work any individual(s) involved in the incident or event(s) on which concerns have been raised. The Trust's Disciplinary

There may be times, however, when the matter is extremely sensitive and needs to be handled in a different way and when it is not felt appropriate to use normal Management reporting channels. In those instances, the provisions of the **Whistleblowing Policy** may be more appropriate. Examples may be:-

- Suspicion or evidence of malpractice or ill treatment of a patient by a senior member of staff or repeated ill treatment of a patient, despite a complaint being made.
- Suspected fraud.
- Suspicion of sexual abuse/assault /harassment towards staff/patients including contact, verbal or other forms.
- Breach of the Trust's standing financial instructions/standing orders.
- Showing undue favour over a contractual matter or to a job applicant.
- Information on any of the above has been, is being, or is likely to be concealed.

This list is not exhaustive and should be read in conjunction with the "subject matter" listed earlier in this Policy

DESIGNATED OFFICERS

The Trust has nominated the following as 'designated officers', any of whom can be used as the initial point of contact for disclosures made under this Policy:-

| TITLE | TELEPHONE |
|---|------------------------|
| Ian Harvey, Medical Director | Irrelevant & Sensitive |
| Mark Brandreth, Director of Planning, Partnership and Development | |
| Alison Kelly, Director of Nursing & Quality | |
| Debbie O'Neill, Chief Finance Officer | |
| Sue Hodgkinson, Acting Director of Human Resources | |
| Andrew Higgins, Chair of Quality, Safety and Patient Experience Committee - Senior Independent Non Executive Director | |
| Hayley Cooper, Staffside Chair and RCN representative | hayley.cooper2@ I&S |

Duties, Roles and Responsibilities of the Designated Officer

(Excluding disclosures of **Alleged Fraud or Corruption** – see below)

On being informed of the issue of concern, the designated officer will arrange an initial interview with the person making the disclosure to establish details. This interview can, if requested, be held at a venue of the person's choice.

The person making the disclosure will be re-assured about their right to protection from possible reprisals or victimisation. An explanation of timescales will be provided so that the

person making the disclosure has clear expectations of possible actions and this may include agreement for a review or update meeting, if appropriate. They also have the right to representation (see page 10 of this Policy)

The person making the disclosure will be asked whether or not he/she wishes to make either a written or verbal statement. In either case, the designated officer will write a summary of the interview which will be agreed by both parties.

DISCLOSURES OF ALLEGED FRAUD OR CORRUPTION

Where fraud or corruption is alleged or suspected, responsibility for the investigation of such cases has been delegated to the Trust's Local Counter-Fraud Specialist in accordance with the guidance issued by the Secretary of State. Such investigations will be conducted in strict accordance with the detailed requirements of the NHS Counter-Fraud and Corruption Manual.

If there is evidence of a criminal act, any referral to the Police must be an agreed course of action between the Chief Finance Officer and the NHS Counter Fraud and Security Management Service.

DUTIES, ROLE AND RESPONSIBILITIES OF THE TRUST CHAIRMAN AND THE CHIEF EXECUTIVE

The designated officer will report to the Trust's Chief Executive. If the disclosure concerns the Chief Executive, the Chairman will decide on how the investigation will proceed. This may include an external investigation. The Chief Executive will be responsible for the commission of all other investigations.

If the disclosure concerns the Chairman of the Trust, it should be made to the Chief Executive or the Senior Independent Non Executive Director. If the disclosure is made to the Chief Executive, he must report the matter to the Senior Independent Non Executive Director.

HELP, ADVICE AND SUPPORT TO STAFF

If appropriate, staff are advised to consult their Trade Union/Staff representative at the earliest opportunity for advice and support. Staff making a complaint, or being complained about will be under considerable pressure. Management will give support to all staff at all stages. Any member of the Trusts Partnership Forum (management or staff representatives) will provide direction to any staff member (whether in a Union or not) on the process of raising concerns or whistleblowing or refer them onto someone who can assist.

Staff expressing a concern and the person(s) who may be the subject of the concern have the right to have a Union/Staff representative or workplace colleague with them when meeting with Management. Alternatively, a fellow employee may accompany them.

Managers should consider the [Supporting Staff Guidelines](#) (link) and talk these through with the staff member.

It is recognised that it can be a difficult time for all those involved in these issues and therefore, support is offered by our Occupational Health department on 01 [redacted] I&S. They will be able to discuss the most appropriate support available and if they feel this would be of benefit refer onto Staff Counselling. Whilst they cannot become involved in or advise on the issues in question, their role is to offer confidential welfare support or advice in regard to personal circumstances. The HR Business Partner / Specialist team are always there to provide procedural advice and can be contacted on 01 [redacted] I&S.

INVESTIGATING THE DISCLOSURE (EXCLUDING FRAUD OR CORRUPTION DISCLOSURES)

The designated officer will be responsible for managing the investigation, which should be completed as quickly as possible. Anyone who can provide information or evidence to assist the investigation should be interviewed. The investigating officer will record their evidence and obtain their signed agreement to the accuracy of the record.

If a written statement from an individual is requested, the reason for the request **and** the possible use of the statement **must** be made clear, particularly if it may lead to appearance as a witness at a subsequent hearing or appeal.

Staff should write statements in their own words without prompting from the Manager and they should be given a copy of their statement. All statements must be signed and dated.

Staff will have the opportunity to consult their representative before making a written statement, should they so wish.

Staff whose conduct is being investigated, have the right to be made aware of all relevant information obtained in the course of the investigation.

If necessary the investigation will be carried out under the terms of strict confidentiality, i.e. by not informing the subject of the disclosure until (or if) it becomes appropriate to do so. This may be appropriate in cases of suspected fraud or when there would be the possibility of irreparable damage to the working relationship of the people concerned. In certain cases, however, such as allegations of ill treatment of patients, exclusion from work on full pay may have to be considered immediately. **Protection of patients is paramount in all cases.**

The designated officer will submit a written report to the Chief Executive setting out the findings of the investigation.

If, as the result of the investigation, the Chief Executive decides that there is a case to be answered by the person(s) against who the disclosure has been made, the Trust's Disciplinary Procedure will be invoked. If there appears to be evidence of a criminal act, the Chief Executive will consult the Police before invoking the Disciplinary Procedure.