

# **Raising a Serious Concern Policy**

## Document Control Table

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HR 36 Whistleblowing Policy (Nov 2011)	September 2015	Karen Anderson	Full review and reformat, and change of title (following change in regulations)
POL 07 v1 (September 2015)	August 2017	Karen Anderson	Minor changes: - update to list of Associated Documents
POL 07 v2 (October 2017)	November 2017	Giles Tomsett	Minor changes: - inclusion of trustee email address - inclusion of guidance around the StCH approach should the concern focus on a doctor

## Associated Documents

Duty of Candour  
 Disciplinary Policy and Procedure  
 Grievance Policy and Procedure  
 Complaints Policy and Procedure  
 Equal Opportunities Policy  
 Problem Solving Procedure (Volunteering)  
 Dignity Policy  
 Adult and Child Safeguarding policies  
 Incident Management Policy

## References

Francis, R. 2013. <i>Report of the Mid Staffordshire NHS Foundation Trust Public Inquiry</i> .
Section 17 of the Enterprise and Regulatory Reform Act 2013
The Public Interest Disclosure (Prescribed Persons) (Amendment) Order 2013
Equality Act 2010
Employment Protection (Consolidation) Act 1978
Data Protection Act 1998
Employment Rights Act 1996
Public Interest Disclosure Act 1998
Care Quality Commission
General Medical Council
The Medical Profession (Responsible Officers) Regulations 2010
NMC. The Code: standards of conduct, performance & ethics for nurses and midwives <a href="http://www.nmc.org.uk/globalassets/sitedocuments/standards/the-code-a4-20100406.pdf">http://www.nmc.org.uk/globalassets/sitedocuments/standards/the-code-a4-20100406.pdf</a> [accessed online September 2015]
Department of Health. 2013. <i>A promise to learn– a commitment to act (Berwick report into NHS patient safety)</i>
NHS and Department of Health investigations into Jimmy Savile. 2014 and 2015 <a href="https://www.gov.uk/government/collections/nhs-and-department-of-health-investigations-into-jimmy-savile">https://www.gov.uk/government/collections/nhs-and-department-of-health-investigations-into-jimmy-savile</a> [accessed online September 2015]

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## 1. Policy Statement

St Catherine's Hospice is committed to a culture of good governance (as outlined within its Integrated Governance Framework) and to providing a fair and effective mechanism for workers to raise serious concerns responsibly. This policy sets out the guiding principles ensuring that issues are dealt with in a fair, timely and consistent way.

The right to 'raise a serious concern' applies to all members of staff, volunteers and those contractors working for the Hospice, henceforth referred to throughout as 'colleagues'. This policy also applies to students undertaking training at the Hospice, suppliers and those providing services under a contract with the Hospice.

We, the Trustees and the Senior Management Team, would like to assure colleagues that it is safe and acceptable to speak up and raise concerns they may have, at an early stage. Indeed, the Charity's reputation for excellence can only be sustained if colleagues can feel free to do so as a final resort to seeing their concerns addressed. This policy makes it clear that colleagues can raise a concern without fear of victimisation, subsequent discrimination or disadvantage.

This policy has been developed in response to the Public Interest Disclosure Act 1998, whereby employees and workers who raise legitimate concerns about a specific matter, or 'protected disclosures', are protected from being treated badly or dismissed. This policy has been updated to take account of the issues raised by the Francis Report 2013, Berwick Report 2013 and Savile Report 2015.

## 2. Purpose and Scope

The purpose of this policy is to encourage and enable colleagues to raise concerns in a constructive and positive manner, rather than overlooking a problem or 'blowing the whistle' outside the organisation before the Charity can address the matter(s).

This policy must be used where individuals have serious concerns that the interests of others or the Hospice itself are at risk.

This policy applies to all staff and all volunteers.

This policy aims to:

- Encourage individuals to feel confident about raising serious concerns, and to question and act upon concerns about practice;
- Provide avenues for individuals to raise those concerns and receive feedback on any action taken;
- Reassure individuals that they will be protected from possible reprisals or victimisation if there is a reasonable belief that the disclosure is in the public's interest.
- Provide direction for doctors and clinical staff who have a duty to raise a concern where they believe a patient or care is being compromised by the practice of colleagues, systems, policies or procedures in the Hospice.

The Raising a Serious Concern Policy is intended to include serious concerns that fall outside the scope of other procedures. These may include, but are not limited to:

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- Healthcare matters, eg suspected negligence, mistreatment or abuse of patients, issues relating to the quality of care or other unethical conduct, safeguarding concerns;
- Professional or clinical practice or competence of colleagues or other workers
- Treatment of other staff, volunteers or workers, including suspected harassment, discrimination or victimisation, or conduct which is an offence or a breach of law
- Health and safety risks, including risks to the public as well as others;
- Damage to the environment;
- The inappropriate or unauthorised use of Hospice funds or other resources;
- Suspicion or knowledge of theft, fraud, corruption, bribery or other financial malpractice;
- Criminal offences or miscarriages of justice;
- Deliberate attempt to conceal any of the above.

The policy is not designed to address concerns that fall within daily occurrences, such as one-off equipment failures or staffing levels, concerns such as these should be raised with the appropriate manager and/or via an incident reporting system.

It does not address individual or collective issues, which are more properly dealt with by other Hospice policies and procedures. There are existing procedures in place to enable individuals to lodge a grievance relating to their own employment, a complaint relating to their own volunteering duties, or a complaint received from a service user.

Please refer to the related Hospice policies and procedures listed at the beginning of this policy.

Where an issue or concern raised during the Raising Concern process may also fall into other policies and procedures (eg disciplinary, incident reporting, serious untoward incident) the designated senior managers, in conjunction with the HR team, will confirm which policy applies.

### **3. Responsibility/Accountability**

**Chief Executive and Trustees of the Quality Committee are responsible for:**

- Ensuring the Hospice has clear, up to date and robust policies and procedures in place including procedures for liaison with or reporting to external bodies where there is a statutory responsibility to raise concerns externally. This also include liaison with the appropriate Responsible Officer where a concern relates to the performance of a doctor

**The Human Resources Team (HR), the Registered Manager (Director of Care Services) and the other members of the Senior Management Team (SMT) are responsible for:**

- Compliance with this policy and regulations
- Ensuring the policy is updated as necessary if any relevant legal or regulatory changes require this
- Reporting to or liaison with external bodies or personnel as appropriate to their role and the role of a colleague about whom concerns are raised

The HR Team will maintain a record of serious concerns raised and the outcomes (in a form that maintains confidentiality) and will report as necessary to the Chief Executive.

**Hospice managers are responsible for:**

- Ensuring that all staff and volunteers are familiar with, and have access to, this policy

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- Complying with all St Catherine's Hospice policies and procedures
- Ensuring concerns raised are taken seriously and responded to in a timely way
- Identifying where concerns raised are of a safeguarding nature and making a safeguarding referral to the local authority where appropriate
- Evaluating the basis of any concern brought to their attention and escalating within the time frames detailed below.

**Human Resources Department is responsible for:**

- Ensuring new staff and volunteers are made aware of this policy and how they can access it
- Advising managers and individuals in the application of the policy and procedures
- Monitoring the application of the policy to ensure it is applied in a fair and consistent way
- Keeping records, monitoring the number and nature of claims made, concerns raised, actions taken, and reporting this to the Board of Trustees
- Ensuring appropriate training is in place.

**All colleagues are responsible for:**

- Raising their serious concern as soon as possible in an objective and factual way in accordance with this policy and procedure
- Cooperating with any investigation or enquiry, if appropriate, including being available for interview (notice will be given), providing a statement and/or documentation
- Maintaining confidentiality of service users, staff and volunteers, and others involved.

Clinical professionals such as doctors and nurses and allied health practitioners have a duty to adhere to their codes of professional practice where they believe patient safety is at risk, or that patient care or dignity is being compromised.

## **4. Protecting those who raise concerns**

The Hospice is committed to good practice and high standards and aims to be supportive of those who raise serious concerns. The Hospice will not tolerate any harassment or victimisation (including informal pressures) because a colleague has raised such a concern, and will take appropriate action to protect and support individuals when they raise a concern of this nature in good faith.

This support does not extend to someone who has maliciously raised a matter he/she knows to be untrue. If an individual makes an allegation frivolously, maliciously or for personal gain, disciplinary action may be taken which may result in dismissal.

The Hospice also recognises that there are circumstances when the person raising the serious concern may prefer to disclose the concern in confidence in the first instance. If this is the case, an individual must declare this at the outset. If the individual has asked the Hospice not to disclose his/her identity, the Hospice will not do so without consent unless it is required by law.

There may be occasions when the Hospice is unable to resolve concerns or take action without revealing the identity of the person who raised the concern, for example where personal evidence is essential. On such occasions the Hospice will discuss this with the individual(s) and agree how the matter can proceed.

**NB** Should colleagues make an anonymous disclosure it may well be much more difficult for the Hospice to investigate the matter, and in some circumstances the Hospice may not be able to give feedback or investigate the concern raised if anonymity is paramount.

## **5. Procedure**

### **How to Raise a Serious Concern**

As a first step individuals should raise a serious concern with their immediate manager. This depends, however, on the gravity and sensitivity of the issues involved, and who is suspected of wrongdoing. For example, if the individual believes that his/her line manager is involved, she/he should approach a member of the SMT, the Chief Executive, or a senior member of the HR team.

Concerns may be raised verbally or in writing to your manager, the Chief Executive or a member of SMT, a senior member of the HR team or via our Trustees. With this latter option trustees can be contacted via the continually monitored (by Trustees themselves) email address of: **TrusteesContact@stch.org.uk**

If an individual wishes to make a written report they are invited to use the following format:

- The background and history of the serious concern (giving relevant dates, specific details or examples);
- The reason why there is a particular concern about the situation.

If the concern is raised verbally, a written note will be taken in line with the format above.

The earlier the concern is raised, the easier it is to take action. Whilst individuals are not expected to prove an allegation, they will need to demonstrate to the person contacted that there are reasonable grounds for the concern and that there is belief that the disclosure is in the public interest.

### **How the Hospice will respond**

The person to whom the serious concern is reported will refer it to the Chief Executive if appropriate (or in their absence, the nominated deputy or, if appropriate, the matter will be referred to the Chair of the Board Effectiveness sub committee – for example if the serious concern is about the Chief Executive) within two working days. Where appropriate, the matters raised may:

- Be investigated by a manager or senior manager, through internal audit or through the disciplinary process;
- Be referred to the police;
- Form the subject of an independent inquiry

In the event of a concern regarding the performance of a doctor, the management of this process will be dealt with in close liaison with the Responsible Officer and in line with the guidance provided in 'Protecting patients, supporting professionalism, improving quality: addressing concerns about medical practice'.

In order to protect those reporting the serious concern and those alleged to be involved in wrongdoing, initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it should take. The overriding principle the Hospice will have in mind is to ensure patient or individual safety and acting in the public interest.

Some concerns may be resolved by agreed action without the need for investigation. If urgent action is required this will be taken before any investigation is conducted.

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Within five days of a concern being raised, the Chief Executive (or nominated deputy or Chair of the Board Effectiveness sub committee) will write to the person who has raised the concern to:

- Acknowledge that the concern has been received;
- Indicate how the Hospice proposes to deal with the matter;
- Give an estimate of how long it will take to provide a final response;
- Update on whether initial enquiries have been made;
- Provide information on support available;
- Inform whether further investigations will take place, if so by whom, and if not, why not.

The amount of contact between the person considering the issues and the individual concerned will depend on the nature of the matters raised, the potential difficulties involved and the clarity of the information provided. Where a meeting is arranged, this can be off-site if preferred. A union representative or a colleague can accompany individual concerned at any meeting.

The Hospice will take steps to minimise difficulties which colleagues may experience as a result of raising a concern. For instance, if an individual is required to give evidence in disciplinary or criminal proceedings, the HR team will arrange for them to receive advice about the procedure.

The Hospice accepts that colleagues raising the concern need to be assured that the matter has been addressed. Thus, where an individual has disclosed their identity, and subject to legal constraints, they will be informed of the outcome of any investigation within 28 days of the matter being raised. Such information must be kept confidential unless advised otherwise.

### **Appeals Process**

This policy is intended to provide colleagues with an avenue within the Hospice to raise concerns. The Hospice hopes colleagues will be satisfied with the outcome. If they are not satisfied with the manner in which concerns have been managed because:

- there is evidence of prejudice or bias, or
- the procedure has not been properly followed, or
- there is further evidence which has become available since the matter/concern was raised, or
- appropriate action has not been taken

then colleagues may appeal to the Chief Executive or, if about the SMT, to the Chair of the Board Effectiveness sub committee who will ensure that concerns are passed to the appropriate person for review; this may include another Trustee.

If colleagues remain dissatisfied with the outcome of the investigation and/or do not feel that the appropriate action has been taken, they should report the matter to the proper authority. The legislation sets out a number of bodies to which a disclosure may be made. These are given under the External Contact list in this policy.

### **Unauthorised disclosure of confidential information**

If the matter is taken outside the Hospice, individuals must ensure that they do not disclose information which should properly remain confidential. This will need to be confirmed with the person or the organisation that the person who raised the concern contacts.

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Unauthorised disclosure of information, particularly information relating to the care and treatment of individual patients, will be regarded as a most serious matter and will normally warrant disciplinary action up to and including dismissal.

### **Internal Contact List**

Advice or guidance about how to pursue matters of concern may be obtained from any of the people named below:

- SMT members
- HR team
- Volunteer Development Manager
- Quality and Risk Manager
- Trustees

## **6. External Contact List**

If an individual has used the appropriate internal procedures (including appeal) and is not satisfied with action taken in relation to his/her concerns and feels it is right to take the matter outside the Hospice, further possible contact points are given below. It is stressed that the list below is not exhaustive, and individuals are free to contact any organisation which they feel will be able to deal properly with their concerns.

- Care Quality Commission: 03000 616 161
- Charity Commissioner: 03000 669 197
- Health and Safety Executive: [www.hse.gov.uk/contact](http://www.hse.gov.uk/contact)

If you would like independent advice, please contact the independent charity:

**Public Concern at Work on 020 7404 6609** or [www.pcaw.org.uk/advice](http://www.pcaw.org.uk/advice)

## **7. Monitoring, Review and Compliance**

Records will be kept of all concerns raised under this policy, the response and subsequent action taken. Records will be held by the HR department. They will remain confidential and retained in accordance with the Data Protection Act.

The HR Team will provide quarterly reports to SMT and Board Effectiveness sub committee on any ongoing matters (and share with the full Board if appropriate) and also provide an annual report for Trustees at the end of each financial year.

This Policy will be reviewed every two years, or when changes in Government legislation necessitates, whichever is the sooner.

## 8. Equality Impact Assessment

The equality impact assessment is used to ensure we do not inadvertently discriminate as a service provider or as an employer.

To be completed and attached to any procedural document when submitted to the appropriate committee for consideration and approval.

		Yes/No	Comments
1.	Does the policy/guidance affect one group more or less favourably than another on the basis of:		
	Race	No	
	Ethnic origins (including gypsies and travellers)	No	
	Nationality	No	
	Gender	No	
	Culture	No	
	Religion or belief	No	
	Sexual orientation including lesbian, gay and bisexual people	No	
	Age	No	
	Disability (e.g. physical, sensory or learning)	No	
	Mental Health	No	
2.	Is there any evidence that some groups are affected differently?	No	
3.	If you have identified potential discrimination, are any exceptions valid, legal and/or justifiable?	NA	
4.	Is the impact of the policy/guidance likely to be negative?	No	
5.	If so, can the impact be avoided?	NA	
6.	What alternatives are there to achieving the policy/guidance without the impact?	NA	
7.	Can we reduce the impact by taking different action?	NA	

If you have identified a potential discriminatory impact of this procedural document, please refer it to the Information Governance Committee, together with any suggestions as to the action required to avoid/reduce this impact.

For advice in respect of answering the above questions, please contact any one of the following:

- Caldicott Guardian
- Senior Information Risk Owner (SIRO)
- Quality and Risk Manager