



# Whistleblowing

Policy and Procedure

Human Resources Directorate

## **Whistleblowing**

### **1. Definition**

- 1.1 The term “whistleblowing” in this document refers to the disclosure by staff, whether to their manager or another designated person within London Ambulance Service NHS Trust or externally to certain appropriate bodies, of concerns about malpractice, illegal actions or omissions at work in order for them to be investigated and, if appropriate, acted upon.
- 1.2 This policy and procedure takes into account the requirements of the Public Interest Disclosure Act 1998, which protects workers who make disclosures about matters of concern where those disclosures are made in accordance with the provisions of the Act.
- 1.3 Exceptionally, a disclosure to a body other than the employer or those listed in the Act may be protected. Disclosures to the police may be an example in this category. In such circumstances the following tests must apply:
- The disclosure is made in good faith
  - The whistleblower has reasonable belief that the information disclosed, and any allegation contained in it, is substantially true
  - The disclosure is not made for purposes of personal gain
  - In all the circumstances of the case, it is reasonable for the disclosure to be made
  - The additional conditions outlined in Appendix 2 are met
- 1.4 Staff may access confidential advice from the charity Public Concern at Work before deciding whether to raise a concern. Contact details are provided at Appendix 1.
- 1.5 This policy and procedure also extends to other individuals who have an employment relationship with the organisation, such as agency staff, consultants, contractors and their staff.

### **2. Policy Statement**

- 2.1 London Ambulance Service NHS Trust is committed to achieving in all its practices the highest possible standards of service for staff, patients, the public and its Commissioners. In order to achieve this staff are encouraged to use all internal mechanisms to report malpractice, or any illegal acts or omissions which may adversely affect the provision of high quality care.

- 2.2 As a publicly funded body it is similarly committed to the highest standards of personal integrity for staff at all levels and from all disciplines. Reported concerns will be taken seriously and investigated.
- 2.3 The Trust has a range of policies and procedures relating to standards of behaviour at work, including those which cover discipline, grievance, harassment, recruitment and selection, and counter fraud. Staff are encouraged to use the provisions of these procedures when appropriate.
- 2.4 The Trust guarantees that staff who raise concerns responsibly and reasonably will be protected against victimisation.

### **3. Whistleblowing Procedure**

3.1 It is recognised that staff may wish to raise issues or concerns which do not relate directly to their own employment situation, when procedures such as those listed at 2.3 may be more appropriate. Examples may include:

- Ill-treatment of a patient
- An actual or potential criminal offence
- Suspicion of fraud
- Disregard for legislation, particularly in relation to Health and Safety at Work
- Breach of standing financial instructions
- Breach of a code of conduct
- Actual or likely damage to the environment
- Showing undue favour over a contractual matter or to an applicant for employment

In such cases the Whistleblowing Procedure should be utilised, albeit that, dependent upon the outcome of any investigation or inquiry, action under other procedures may follow. The above list should not be regarded as exhaustive. The Whistleblowing Procedure is also to be applied in situations in which information on any of the above or similar concerns has been, is being or is likely to be concealed.

3.2 London Ambulance Service NHS Trust will not tolerate any harassment or victimisation of a whistleblower, including informal pressures. Any such behaviour will be treated as a serious disciplinary offence to be dealt with under the formal Disciplinary Procedure.

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- 3.3 It is recognised that staff may wish to seek advice from and be represented by trade union representatives when using the provisions of the policy. The role of accredited representatives is acknowledged and endorsed.
- 3.4 This procedure has been approved by the Trust Board, which has confirmed the Director of Human Resources and Organisation Development as the designated officer to whom concerns may be referred. Contact details are included at Appendix 1. Staff are, however, encouraged to raise concerns with their immediate line manager in the first instance. Where this is not possible, for example where that manager is the person complained of, staff should approach his/her superior in turn. If that fails or is also problematic, staff may still approach the Director of Human Resources, who may involve the Chief Executive, in the first instance. The Chief Executive may determine that an external inquiry is required.
- 3.5 Should the concern relate to the Chief Executive the matter should be raised with the Chairman of the Trust Board, who will decide how to proceed.
- 3.6 The Trust recognises its accountability within the NHS. In circumstances where it is felt inappropriate to raise the matter with the Trust's designated officer, complainants may also contact the NHS Counter Fraud Service and the Department of Health. Contact details are included at Appendix 1.

## **4. Procedure on receipt of a complaint or report**

- 4.1 On receipt of a complaint or report, the line manager or designated officer will arrange to meet the complainant to confirm details of the concern. Although every effort will be made to safeguard the confidentiality of those concerned, the complainant must be advised that it may be necessary at some stage to disclose their identity in order to progress and conclude the matter. Unless corroborating evidence is identified, it is unlikely to be possible for anonymous complaints to be taken forward.
- 4.2 In cases of suspected fraud it may be necessary to not divulge the complaint until evidence has been gathered or the investigation is underway. In such cases the advice of the Trust's Counter Fraud Specialist should be obtained. Contact details are available at Appendix 1.
- 4.3 Should patient care be compromised it is likely that the suspected perpetrator will be suspended from duty pending the investigation. Protection of patients is paramount.

- 4.4 The line manager or designated officer will formally acknowledge in writing the nature of the concern, and keep the staff member informed of the progress of the investigation as far as is possible. Consideration should also be given to what, if any, additional support the complainant may require.
- 4.5 If the investigation indicates that there is a case to answer the Disciplinary Procedure will apply, and it may also be necessary to involve or refer the matter to external bodies such as the police or other enforcing authorities.
- 4.6 Where it is found that there is no case to answer but there was a genuine concern and no malicious intent, the line manager or designated officer will ensure that there is no victimisation or harassment of the staff member who raised the concern.
- 4.7 Only where false allegations are made maliciously will it be necessary to consider disciplinary action against the whistleblower. Such occurrences will be regarded as misconduct which may lead to consideration of dismissal.
- 4.8 Feedback on the outcome of any investigation or disciplinary procedure short of dismissal will not include confirmation of the precise nature of formal action against the individual complained of, which should remain confidential to the individual.
- 4.9 The investigating officer should arrange to see the complainant to advise of the outcome of the investigation within ten days of its conclusion, and should subsequently write in formal confirmation.
  - 4.9.1 If the whistleblower remains dissatisfied with the outcome of the investigation, they have the right to draw the matter to the attention of the prescribed authorities detailed at Appendix 2.

## **5. Monitoring arrangements**

- 5.1 On conclusion of the investigation into a complaint, an anonymised summary of the matter and its outcome will be submitted to the appropriate Human Resources Officer, who will ensure that details are included in regular employee relations episode monitoring procedures.

# Appendix 1

## Contact Details and Further Assistance

### 1. External Contacts

**Department of Health**  
Skipton House  
80 London Road  
London SE1 6LH  
Telephone 020 7972 2000

**Audit Commission**  
1 Vincent Square  
London  
SW1P 2PN  
Telephone 020 7630 1019

**NHS Counter Fraud Service**  
8th Floor  
Coventry Point  
Market Way  
Coventry CV1 1EB  
Telephone 08702 400 100

### 2. Trust Contacts

**Trust Board**  
Director of Human Resources and Organisation Development  
London Ambulance Service NHS Trust  
220 Waterloo Road  
London SE1 8SD  
Telephone 020 7921 5100

**Local Counter Fraud Specialist**  
Bentley Jennison Internal Audit and Risk Management  
62-64 Bromham Road  
Bedford MK40 2QG  
Telephone 01234 218181

### 3. Further Assistance

Public Concern at Work is a charitable body with a number of years' experience of running a confidential helpline for employees with serious concerns about malpractice. The helpline is open during normal office hours and is staffed by lawyers.

Public Concern at Work  
Suite 306  
16 Baldwins Gardens  
London EC1N 7RJ  
Telephone: 020 7404 6609

## Appendix 2

### **Prescribed bodies**

The following are amongst the prescribed bodies under the legislation to whom disclosures of information may be made:

1. Health and safety risks: HSE and local authority
2. Environmental issues: the Environment Agency
3. Fraud and fiscal irregularities: Serious Fraud Office, Inland Revenue, Customs and Excise
4. Public sector finance: National Audit Office, Audit Commission
5. Trade unions: Certification Officer
6. Others: Data Protection Registrar, Charity Commission, Occupational Pensions Regulatory Authority

### **Disclosure other than to the employer or to prescribed bodies** (see Section 1.3 above)

The additional conditions to be met are:

- a) That at the time of the disclosure the whistleblower reasonably believes that he/she will be subjected to a detriment by the employer if the disclosure is made to the employer in accordance with the Act.
- b) That, in a case where no person is prescribed for the purposes of the Act in relation to the relevant failure, the whistleblower reasonably believes that it is likely that evidence relating to the relevant failure will be concealed or destroyed if the disclosure is made to the employer
- c) That the whistleblower has previously made a disclosure of substantially the same information, to the employer or to a prescribed body.

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