

Northern Ireland



# **WHISTLE BLOWING**

## **GUIDELINES FOR DOCTORS AND DENTISTS IN TRAINING**

February 2009

## **Introduction**

The NI Medical and Dental Training Agency seeks to foster a climate of openness and a culture where it is safe and acceptable to raise concerns about inappropriate behaviour. To achieve this aim, the Agency wishes to encourage doctors and dentists in training within the Northern Ireland Deanery to report genuine concerns without fear of reprisal or victimisation. Employers must support employees who raise concerns and take all reasonable steps to ensure they are not victimised.

These guidelines set out the process by which trainees can voice their concerns without fear of recrimination and are intended to provide an effective system of support.

### **What is whistleblowing?**

Someone “blows the whistle” when they tell their employer, a regulator, a customer, the police or the media about a dangerous or illegal activity that they are aware of through their work.

Whistleblowing can inform those who need to know about health and safety risk, potential environmental problems, fraud, corruption, deficiencies in the care of vulnerable people, cover-ups and many other problems. Often it is only through whistleblowing that this information comes to light and can be addressed before real damage is done.

### **What is the difference between making a complaint and blowing the whistle?**

When someone blows the whistle they are raising a concern about danger or illegality that affects others. The person blowing the whistle is usually not directly, personally affected by the danger or illegality and consequently the

whistleblower rarely has a personal interest in the outcome of any investigation into their concern. For this reason the whistleblower is not expected to prove the malpractice.

This is different from a complaint where the individual making the complaint is personally affected. This could involve, for example, a breach of individual employment rights or bullying and harassment. The person making the case has a vested interest in the outcome and is expected to be able to prove their case.

For these reasons it is not in anyone's interest if an organisation's whistleblowing policy is used to pursue a personal grievance.

## **Public Interest**

The Public Interest Disclosure (Northern Ireland) Order 1998 provides employees with protection against victimisation should they reasonably and in good faith report such concerns. The act is designed to promote responsible whistleblowing while at the same time protecting individuals who make disclosures or misconduct or malpractice. It is not designed to protect individuals who have a personal grievance against their employer.

Trainees should ensure that they are familiar with their Trust policy regarding whistleblowing. Employers have an obligation to support employees who raise concerns and should take all reasonable steps to ensure that they are not victimised. The victimisation of staff is regarded as a serious offence and will be dealt with under the Trust's disciplinary procedures.

Concerns around issues that are in the public interest should be raised with an appropriate officer of the Trust so that they can be dealt with effectively and in a spirit of openness. The Trust's Whistleblowing Policy should be followed if a trainee reasonably believes that any of the following either has

occurred, is in the process of occurring, or is likely to occur:

- misconduct or poor practice which could place service users at risk of harm
- knowledge of any employee's behaviour which may pose a risk to children or vulnerable adults, or any service user
- financial malpractice including fraud or suspected fraud
- belief that a criminal offence has been committed or is likely to be committed
- dangers to health and safety including disregard for legislation
- failure to comply with any legal duty (including breach of contract, negligence or breach of administrative law)
- damage to or the risk of damage to the environment
- the concealing of information regarding any of the above

## **Employer Responsibilities**

All those with managerial or supervisory responsibilities should recognise that raising a concern under whistleblowing can be difficult for their employees.

They should:

- take any concerns reported to them seriously, and consider them fully, fairly and sympathetically
- take appropriate action promptly, as laid down in the Trust's Whistleblowing policy
- seek advice from appropriate departments where necessary
- ensure employees raising a concern are kept fully informed of progress through the procedure, and are not victimised/harassed as a result
- ensure documentation relating to concerns raised under the Trust's Whistleblowing Policy, is maintained, stored securely and remains confidential

## **Trainee Responsibilities**

The General Medical Council's guidance on Good Medical Practice states that doctors have an obligation to *“act without delay if you have a good reason to believe that you or a colleague may be putting patients at risk”*.

Trainees raising a concern under whistleblowing have a responsibility to:

- raise the concern immediately rather than waiting for proof or investigating the matter yourself
- raise concerns in good faith, with a true belief that wrongdoing or malpractice have or may have occurred
- not to raise concerns with any malicious intent

## **Confidentiality and Anonymity**

Whilst it is possible to raise such matters anonymously trainees should not feel inhibited in identifying themselves and are encouraged to do so as it makes the concern easier to investigate. The Trust is required to make every effort not to disclose their identity without their consent.

If a situation arises where a concern cannot be investigated or resolved without revealing the trainee's identity, or if there is a legal imperative to disclose the identity, the Trust should discuss this with the trainee and decide how the issue will be progressed. This might be where evidence is needed in court or for an internal disciplinary hearing or where urgent action is needed in order to protect service users or employees from harm.

## **How to Raise a Concern**

Trainees are encouraged to raise any concerns with their educational supervisor/programme director in the first instance but where this is not

appropriate they should contact the Director of Medical Education. There may be circumstances when it may be appropriate to raise the concerns initially with the Northern Ireland Medical and Dental Training Agency through the Head of School or Postgraduate/Associate Dean.

Any concern raised should be factual and cover the following:

- What has occurred (or thought to have occurred)
- When it occurred
- Where it occurred
- Who was involved
- Have patients/staff/the public been put at risk as a result?
- Has it happened before?
- Are there any other witnesses?
- Is there any supporting information?
- How the matter came to light
- Has it been raised with anyone else? If so, details of when/whom

## **The Investigation**

The whistleblower will be informed of the method by which the concern will be progressed and will be advised if his/her further involvement will be required. Advice will be given as to whether the concerns expressed should be dealt with in a more appropriate context such as under the Trust's disciplinary, grievance or complaints procedure or harassment and bullying policy.

The trainee may wish to discuss or seek advice from an independent source such as the BMA and may wish to have a representative or colleague present during any meetings or interviews held in connection with the concerns raised. In most circumstances the trainee is expected to raise matters of concern internally within the Trust.

On completion of the investigation, providing there are no legal constraints, the trainee will be informed of the outcome of the investigation.

## **Independent Advice**

Trainees may wish to seek independent advice from an experienced organisation before blowing the whistle. Free confidential advice is available from the independent charity Public Concern at Work. Their helpline can be contacted on 02074046609 or by e-mailing [helpline@pcaw.co.uk](mailto:helpline@pcaw.co.uk). The helpline provides practical advice on whether or how to raise a concern about a danger or illegality that has been witnessed at work. It will help identify how best the concern can be raised while minimising the risk to the individual and maximising the opportunity for any wrongdoing to be addressed.

Trainees also have the right to consult or seek guidance and support from their professional organisation at any time or seek legal advice of their own choice at their own expense.

## **Support for trainees accused of inappropriate behaviour or malpractice**

It is important that trainees accused of wrong doing have access to the right help and support. The Northern Ireland Medical and Dental Training Agency, in keeping with its policy on the *“Management of Doctors and Dentists in Difficulty”*, will ensure the provision of pastoral support and counseling.

Any decision to refer the trainee to the National Clinical Assessment Service or the General Medical Council/General Dental Council will be taken jointly by the employing authority and the Agency and the trainee will be kept informed.



