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Department of
Health

An Roinn Sláinte

Männystrie O Poustie

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‘YOUR RIGHT TO RAISE A CONCERN’

(WHISTLEBLOWING)

SOUTHERN HSC TRUST POLICY ON RAISING CONCERNS

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1. Introduction

All of us at one time or another may have concerns about what is happening at work. The Southern Health & Social Care Trust (the Trust) wants you to feel able to raise your concerns about any issue troubling you with your managers at any time. It expects its managers to listen to those concerns, take them seriously and take action to resolve the concern, either through providing information which gives assurance or taking action to resolve the concern. However, when the concern feels serious because it is about a possible danger, professional misconduct or financial malpractice that might affect patients, colleagues, or the Trust itself, it can be difficult to know what to do.

The Trust recognises that many issues are raised by staff and addressed immediately by line managers – this is very much encouraged. This policy and procedure is aimed at those issues and concerns which are **not resolved, require help to get resolved or are about serious underlying concerns.**

Whistleblowing refers to staff reporting suspected wrongdoing at work, for example, concerns about patient safety, health and safety at work, environmental damage or a criminal offence, such as, fraud.

You may be worried about raising such issues and may think it best to keep it to yourself, perhaps feeling it is none of your business or that it is only a suspicion. You may also feel that raising the matter would be disloyal to colleagues, to managers or to the organisation. It may also be the case that you have said something but found that you have spoken to the wrong person or raised the issue in the wrong way and are not sure what to do next.

Remember that if you are a healthcare professional you may have a professional duty to report a concern. **If in doubt, please raise it.**

2. Aims and Objectives

The Trust is committed to running the organisation in the best way possible. The aim of the policy is to promote a culture of openness, transparency and dialogue which at the same time:

- reassures you that it is safe and acceptable to speak up;
- upholds patient confidentiality;
- contributes towards improving services provided by the Trust;
- assists in the prevention of fraud and mismanagement;
- demonstrates to all staff and the public that the Trust is ensuring its affairs are carried out ethically, honestly and to high standards;
- provides an effective and confidential process by which you can raise genuine concerns so that patients, clients and the public can be safeguarded.

The Trust's roles and responsibilities in the implementation of this policy are set out at **Appendix A**.

3. Scope

The Trust recognises that existing policies and procedures which deal with conduct and behaviour at work (Disciplinary, Grievance, Working Well Together, Harassment at Work, the Complaints Procedure and the Accident/Incident Reporting Procedure) may not always be appropriate to extremely sensitive issues which may need to be handled in a different way.

This policy provides a procedure for all staff of the Trust, including permanent, temporary and bank staff, staff in training working within the Trust, independent contractors engaged to provide services, volunteers and agency staff who have concerns where the interests of others or of the organisation itself are at risk. **If in doubt - raise it!**

Examples may include:

- malpractice or ill treatment of a patient or client by a member of staff;

- where a potential criminal offence has been committed, is being committed or is likely to be committed;
- suspected fraud;
- breach of Standing Financial Instructions;
- disregard for legislation, particularly in relation to Health and Safety at Work;
- the environment has been, or is likely to be, damaged;
- a miscarriage of justice has occurred, is occurring, or is likely to occur;
- showing undue favour over a contractual matter or to a job applicant;
- research misconduct; or
- information on any of the above has been, is being, or is likely to be concealed.

If you feel that something is of concern, and that it is something which you think the Trust should know about or look into, you should use this procedure. If, however, you wish to make a complaint about your employment or how you have been treated, you should follow the Trust's Grievance procedure, Harassment at Work procedure or Working Well Together procedure which can be obtained from your manager. This policy complements professional and ethical rules, guidelines and codes of conduct and freedom of speech. It is not intended to replace professional codes and mechanisms which allow questions about professional competence to be raised. (However such issues can be raised under this process if no other more appropriate avenue is apparent).

4. Suspected Fraud

If your concern is about possible fraud or bribery the Trust has a number of avenues available to report your concern. These are included in more detail in the Trust's Anti-Fraud Policy & Fraud Response Plan and Anti-Bribery Policy and are summarised below.

Suspensions of fraud or bribery should initially be raised with the appropriate line manager but where you do not feel this is not appropriate the following officers may be contacted:

- Director of Finance & Procurement
Mrs Helen O'Neill (Acting)

- Fraud Liaison Officer (FLO)
Mrs Fiona Jones

Employees can also contact the regional HSC fraud reporting hotline on **0800 096 33 96** or report their suspicions online to www.reportthehealthfraud.hscni.net These avenues are managed by Counter Fraud and Probity Services (CFPS) on behalf of the HSC and reports can be made on a confidential basis.

The Trust's Fraud Response Plan will be instigated immediately on receipt of any reports of a suspicion of fraud or bribery.

The prevention, detection and reporting of fraud and bribery and other forms of corruption are the responsibility of all those working for the Trust or under its control. The Trust expects all staff and third parties to perform their duties impartially, honestly, and with the highest integrity.

5. Our Commitment to You

5.1 Your safety

The Trust Board and Senior Management Team, the Chief Executive, managers and the trade unions/professional organisations are committed to this policy. If you raise a genuine concern under this policy, you will not be at risk of losing your job or suffering any detriment (such as a reprisal or victimisation). The Trust will not tolerate the harassment or victimisation of anyone who raises a genuine concern.

The Trust expects you to raise concerns about malpractices. If any action is taken that deters anyone from raising a genuine concern or victimises them, this will be viewed as a disciplinary matter.

Provided you are acting in good faith, it does not matter if you are mistaken or if there is an innocent explanation for your concerns, you will be protected under the law. However, it is not uncommon for some staff to maliciously raise a matter they know to be untrue. In cases where staff maliciously raise a matter they know to be untrue, protection under the law cannot be guaranteed and the Trust reserves the right to take disciplinary action if appropriate.

5.2 Confidentiality

With these assurances, the Trust hopes that you will raise concerns openly. However, we recognise that there may be circumstances when you would prefer to speak to someone in confidence first. If this is the case, you should say so at the outset to a member of staff in Human Resources.

The Trust is committed to maintaining confidentiality for everyone involved in a concern. This includes the person raising the concern and the person(s) whom the concern is about. Confidentiality will be maintained throughout the process and after the issue has been resolved.

If you ask for your identity not to be disclosed, we will not do so without your consent unless required by law. You should however understand that there may be times when we will be unable to resolve a concern without revealing your identity, for example, where personal evidence is essential. In such cases, we will discuss with you whether and how the matter can best proceed.

5.3. Anonymity

Remember that if you do not disclose your identity, it will be much more difficult for us to look into the matter. It will also not be possible to protect your position or give you feedback. So, while we will consider anonymous reports in the exact same manner as those which are not anonymised, these arrangements are not best suited to deal with concerns raised anonymously.

If you are unsure about raising a concern you can get independent advice from Public Concern at Work (see contact details under Independent Advice).

6. Raising a concern

If you are unsure about raising a concern, you can get independent advice at any stage from your trade union/professional organisation, or from one of the organisations listed in Section 7. You should also remember that you do not need to have firm evidence before raising a concern. However, you should explain as fully as possible the information or circumstances that gave rise to the concern.

6.1 Who should I raise a concern with?

Option 1: In many circumstances the easiest way to get your concern resolved will be to raise it with your line manager (or lead clinician or tutor). But where you do not think it is appropriate to do this, you can use any of the other options set out below.

Option 2: If raising it with your line manager (or lead clinician or tutor) does not resolve matters, or you do not feel able to raise it with them, please raise the matter with another senior person you can trust. This might be another manager / professional lead or a Senior HR representative and again you may wish to involve a Trade Union representative or colleague.

The Head of Employee Relations, Mrs Siobhan Hynds is the designated HR representative for Raising Concerns

If exceptionally, the concern is about the Chief Executive, then it should be made (in the first instance) to the Chair, who will decide on how the investigation will proceed.

Option 3: If you still remain concerned after this, you can contact:

- Mrs Vivienne Toal - Director of Human Resources & Organisational Development who is the lead director for Raising Concerns

- Dr Ahmed Khan – Acting Executive Medical Director
- Mrs Heather Trouton – Interim Executive Director of Nursing, Midwifery & AHPs
- Mr Paul Morgan – Executive Director of Social Work
- Mrs Helen O’Neill – Acting Executive Director of Finance
- Mr John Wilkinson – Lead Non-Executive Director for Raising Concerns on Trust Board – contactable through the Office of the Chair, Trust HQ.

All these people are required to receive training in dealing with concerns and will give you information about where you can go for more support.

Option 4: If for any reason you do not feel comfortable raising your concern internally, you can raise concerns with external bodies (see paragraph 7 below).

6.2 Independent advice

If you are unsure whether to use this policy, or if you require confidential advice at any stage, you may contact your trade union/professional organisation.

Advice is also available through the independent charity Public Concern at Work (PCaW) on 020 7404 6609.

6.3 How should I raise my concern?

You can raise your concerns with any of the people listed above, in person, by phone or in writing. A dedicated email address is also available: raising.concerns@southerntrust.hscni.net.

Whichever route you choose, please be ready to explain as fully as you can the information and circumstances that gave rise to your concerns.

If in writing or email, you should set out the background and history of the concerns, giving where possible:

- names,

- dates,
- places, and
- the reasons why you are particularly concerned about the situation.

If you do not feel able to put the concern in writing, you can of course raise your concern via telephone or in person. A statement can be taken of your concern which can be recorded for you to verify and sign.

6.4 Supporting you

It is recognised that raising concerns can be difficult and stressful. Advice and support is available from the Head of Employee Relations or a nominated deputy throughout any investigation process. The Head of Employee Relations will not undertake an investigation role in the whistleblowing case but will provide support to throughout the process, ensuring that feedback is provided at appropriate stages of the investigation. The Trust also provides independent support services to all employees through its Employee Assistance Programme - Inspire; this service is free to all employees and is available 24/7. Contact details are: 0808 800 0002.

The Trust will take steps to minimise any difficulties which you may experience as a result of raising a concern. For example if you are required to give evidence at disciplinary proceedings, the Head of Employee Relations will arrange for you to receive advice and support about the process. If you are dissatisfied with the resolution of the concern you have raised or you consider you have suffered a detriment for having raised a concern, this should be raised initially with the Head of Employee Relations.

7. Raising a concern externally

The Trust hopes this policy reassures you of its commitment to have concerns raised under it taken seriously and fully investigated, and to protect an individual who brings such concerns to light.

Whilst there may be occasions where individuals will wish to report their concerns to external agencies or the PSNI, the Trust would hope that the robust implementation of this policy will reassure staff that they can raise such concerns internally in the first instance.

However, the Trust recognises that there may be circumstances where you can raise a concern with an outside body including those listed below:

- Department of Health;
- A prescribed person, such as:
 - General Chiropractic Council, General Dental Council, General Medical Council, General Osteopathic Council, Health & Care Professional Council, Northern Ireland Social Care Council, Nursing and Midwifery Council, Pharmaceutical Society Northern Ireland, General Optical Council
 - The Regulation and Quality Improvement Authority;
 - The Health and Safety Executive;
 - Serious Fraud Office,
 - Her Majesty's Revenue and Customs,
 - Comptroller and Auditor General;
 - Information Commissioner
 - Northern Ireland Commissioner for Children and Young People
 - Northern Ireland Human Rights Commission

Disclosure to these organisations/persons will be protected provided you honestly and reasonably believe the information and associated allegations are substantially true.

We would wish you to raise a matter with the external agencies listed above than not at all. Public Concern at Work or your Trade Union representative will be able to advise you on such an option and on the circumstances in which you may be able to contact an outside body safely.

8. The Media

You may consider going to the media in respect of concerns if you have done all you can by raising them with the Trust or an external body and you feel they have not been properly addressed. Your professional regulatory body, if applicable, will be able to provide guidance / advice in this situation. You should carefully consider any information you choose to put into the public domain to ensure that patient/client confidentiality is maintained at all times. The Trust reserves the right to take disciplinary action if patient/client confidentiality is breached.

Communications with the media are coordinated by the Communications Department on behalf of the Trust. Any member of staff approached by the media should direct the media to our Communications Department in the first instance.

9. Conclusion

While we cannot guarantee that we will respond to all matters in the way that you might wish, we will strive to handle the matter fairly, impartially and properly. By using these whistleblowing arrangements you will help us to achieve this.

Please note, this document has been developed to meet best practice and comply with the Public Interest Disclosure (NI) Order 1998 (the Order) which provides employment protection for whistleblowing.

The Order gives significant statutory protection to staff who disclose information reasonably in the public interest. To be protected under the law an employee must act with an honest and reasonable belief that a malpractice has occurred, is occurring or is likely to occur. Disclosures may be made to certain prescribed persons or bodies external to the Trust listed in the Order. The Order does not normally protect employees making rash disclosures for example to the media, when the subject could have been raised internally.

10. Equality, Human Rights & DDA

The Southern Health & Social Care Trust confirm this policy has been drawn up and reviewed in the light of Section 75 of the Northern Ireland Act (1998) which requires the Trust to have due regard to the need to promote equality of opportunity.

This policy has been screened for equality implications as required by Section 75 and Schedule 9 of the Northern Ireland Act 1998. Equality Commission guidance states that the purpose of screening is to identify those policies which are likely to have a significant impact on equality of opportunity so that greatest resources can be devoted to these.

Using the Equality Commission's screening criteria, no significant equality implications have been identified. The policy will therefore not be subject to an equality impact assessment.

Similarly, this policy has been considered under the terms of the Human Rights Act 1998, and was deemed compatible with the European Convention Rights contained in the Act.

11. Alternative Formats

This document can be made available on request on disc, larger font, Braille, audio-cassette and in other minority languages to meet the needs of those who are not fluent in English.

12. Sources of advice in relation to this document

The Director of Human Resources & Organisational Development should be contacted with regard to any queries on the content of this policy.

APPENDIX A

Roles and Responsibilities

The Trust Board and Senior Management Team of the Southern Health & Social Care Trust

- To listen to our staff, learn lessons and strive to improve patient care;
- To ensure that this policy enables genuine issues that are raised to be dealt with effectively
- To promote a culture of openness and honesty and ensure that issues are dealt with responsibly and taken seriously
- To ensure that employees who raise any issues are not penalised for doing so unless other circumstances come to light which require this, e.g. where a member of staff knowingly raises an issue regarding another member of staff which they know to be untrue.
- To share learning, as appropriate, via the Trust's lessons learned arrangements

Lead Non-Executive Director (NED)

- To provide assurance to Trust Board that there are robust arrangements in place in relation to raising and handling concerns
- To have responsibility for oversight of the culture of raising concerns within the Trust.

Director of Human Resources & Organisational Development

- To take responsibility for ensuring the implementation of the whistleblowing arrangements
- To ensure that any safety issue about which a concern has been raised is dealt with properly and promptly and escalated appropriately through appropriate management levels / professional lines
- To ensure that all awareness and training requirements arising from this policy are delivered
- To establish a network of advocates, during the implementation of this policy

All Directors & Managers

- To ensure staff are familiar with and have access to the Raising Concerns Policy and Procedure
- To recognise that raising a concern can be a difficult experience for some staff and to treat the matter in a sensitive and confidential manner
- To respond quickly to concerns and take all concerns seriously and in confidence, wherever possible
- To seek immediate advice from HR on the handling of any concern raised, and other professionals within the Southern Health & Social Care Trust where appropriate
- To ensure that staff are supported following the raising of a concern so as not to suffer detriment
- To foster an environment in which their teams are engaged in the delivery of high quality and safe services and feel secure to raise concerns as a matter of good practice
- To create an open and safe atmosphere (in team meetings, appraisals etc.) where staff feel their views, regarding the effective and safe delivery of care and services to our service users, will be welcomed and be seen as an opportunity to learn and to consider how services can be improved
- To ensure feedback/ learning at individual, team and organisational level on concerns and how they were resolved.

Head of Employee Relations

- To ensure Medical Director, Director of Nursing & AHPs, or Director of Social Work is informed, if the concern raised deems this to be appropriate in order to ensure the safety of patients and clients.
- To oversee any investigation undertaken and provide support to the individual raising the concern throughout the process, ensuring that feedback is provided at appropriate stages of the investigation.
- To intervene if there are any indications that the person who raised a concern is suffering any recriminations.
- To work with Directors and Managers to address the culture and tackle the obstacles to raising concerns.

All Members of Staff

- To recognise that it is your duty to draw to the Trust's attention any matter of concern
- To adhere to the procedures set out in this policy
- To maintain the duty of confidentiality to patients and the Trust and consequently, where any disclosure of confidential information is to be justified, you should first, where appropriate, seek specialist advice for example from a representative of a regulating organisation such as the Nursing & Midwifery Council or the General Medical / Dental Council.

Role of Trade Unions and other Organisations

- All staff have the right to consult and seek guidance and support from their Professional Organisations, Trade Union or from statutory bodies such as the Nursing & Midwifery Council, the General Medical Council, Health & Care Professions Council and the Northern Ireland Social Care Council.

APPENDIX B

SOUTHERN HSC TRUST PROCEDURE FOR RESPONDING TO CONCERNS

HOW WE WILL DEAL WITH THE CONCERN

Stage 1

- 1) Any manager / Director to whom a concern is raised must arrange to meet with the employee to discuss the detail of the concern **without delay**.
- 2) The manager / Director should be clear on the range of other Trust policies and procedures in the event that the concern raised might be more appropriately dealt with under another policy / procedure e.g. Grievance Procedure, Working Well Together Procedure, Maintaining High Professional Standards (Medical & Dental staff).
- 3) The manager / Director should establish the background and history of the concerns, including names, dates, places, where possible, along with any other relevant information. The manager should also explore the reason why the employee is particularly concerned about the matter. The manager should document a summary of the discussion.
- 4) The manager should explain that they will need to seek advice from their Assistant Director / Director, providing there are no specific objections raised by the employee regarding protection of their confidentiality in this regard. If there are concerns expressed as to who should be made aware, then the manager / Director should seek advice immediately from the Director of HR or Head of Employee Relations.
- 5) ALL whistleblowing concerns must be notified by the Assistant Director / Director to the HR Director's office for logging and decision on best course of action to address the concern.
- 6) If the concern is raised with the Director of HR, s/he will refer the concern to the Head of Employee Relations to arrange to meet with the employee to discuss the detail of the concern.

It may be necessary with anonymous allegations to consider whether it is possible, based on limited information provided in the complaint, to take any further action. Where it is decided that further action cannot be justified, the reasons for this decision should be documented and retained by the HR Director's Office.

Stage 2

Once the issue(s) of concern has been established, the approach to independently investigating the concern will be discussed and agreed by an Oversight Group, chaired by the Director of HR and an Executive Director, depending on the nature of the concern. The Director of HR will advise the relevant operational Director that a concern has been raised and the nature of it. The Director of HR will withhold the identity of the individual raising the concern, if requested.

A record should be made of the decisions and/or agreed actions which should be signed and dated. Agreed Terms of Reference for any investigation should be established.

The Director of HR will ensure that the Head of Employee Relations is aware of the concern (if not previously aware) to ensure any necessary support can be provided to the employee raising the concern.

Stage 3

Within a prompt and reasonable timescale of the concern being received, the Head of Employee Relations must meet with the employee to:

- Acknowledge that the concern has been received
- Discuss if confidentiality is to be / can be maintained throughout investigation, and ensure this is documented using the ***Record of Discussion Regarding Confidentiality***
- Discuss how the matter will be dealt with and by whom
- Outline the support available
- Provide an estimate as to how long it will take to provide a final response.

A summary of the discussions will be followed up in writing.

Stage 4

A proportionate investigation – using someone suitably independent (usually from a different part of the organisation), will be undertaken and conclusion reached within a reasonable timescale. The investigation will be objective and evidence-based, and a report of the findings will be produced.

Stage 5

The Oversight Group will consider the report and determine any action required, based on the findings, including any lessons to be learned to prevent problems recurring.

Stage 6

The HR Director will ensure that feedback to the individual raising the concern is provided.

If You Remain Dissatisfied

If you are unhappy with the response you receive when you use this procedure, remember you can go to the other levels and bodies detailed in the Trust's Policy. While we cannot guarantee that we will always respond to all matters in the manner you might wish, we will do our best to handle the matter fairly and properly.

RECORD OF DISCUSSION REGARDING CONFIDENTIALITY

Name of individual raising concern

SUMMARY OF DISCUSSION REGARDING CONFIDENTIALITY

Please record a summary of the discussion with the individual raising a concern regarding maintaining their confidentiality under the Trust's Raising Concerns (Whistleblowing) Policy

CONSENT TO REVEAL IDENTITY

Does the individual wish to their identity to remain confidential during any whistleblowing investigation?

YES / NO

Who has the individual given consent for their name to be revealed to as part of the whistleblowing investigation?

Is the individual aware that should further action be required following a whistleblowing investigation in the form of disciplinary action for example, that their identity may have to be revealed following discussion with them and that they may have to provide a witness statement?

YES / NO

INFORMATION STORAGE

Summary of discussion regarding how information will be held and investigation undertaken to ensure identity is protected.

Signed by individual raising concern(s):

Date:

Signed by Trust representative :

Date: