

CODE OF CONDUCT FOR STAFF: WHISTLEBLOWING

This single Code of Conduct for staff incorporates the following:

Part 1: The Standards of Business Conduct

Detailed instructions to support these Standards and working with suppliers of clinical products.

Part 2: The Fraud Policy

All staff, including permanent post-holders, Bank staff, Agency staff, Locums, other temporary staff and Honorary Consultants are required to adhere to the Code of Conduct – any advice on the application of this Code should be sought from your Line Manager/Head of Department/Director.

This Code of Conduct forms part of the NHS Board's standard contract of employment for all staff and will be formally reviewed again in April 2108. The Whistleblowing section has been **extracted** from the main Code of Conduct Policy for ease of reference.

13. NHSGG WHISTLEBLOWING POLICY

13.1 Introduction

13.1.1 This section deals with the disclosure internally or externally by staff who have concerns about patient safety, malpractice, as well as illegal acts or omissions at work, commonly known as “whistleblowing”. NHS Greater Glasgow & Clyde (NHSGG&C) wishes to ensure that its employees have the opportunity and confidence to raise such concerns. Through a Whistleblowing Policy, employees are encouraged to be open and are guaranteed to have their concerns considered. NHSGG&C believes that a responsible attitude to Whistleblowing assists in promoting a healthy workplace culture built on openness and accountability. Integral to achieving this is to encourage staff to raise any serious concern they may have about patient safety, malpractice, misconduct, wrongdoing or serious risk as early as possible.

13.1.2 The Whistleblowing Policy should be used by any member of staff to raise a qualifying disclosure under the Public Interest Disclosure Act 1998. This Policy is available to all staff, including full-time, part-time, temporary, agency and bank workers and ex-staff of NHSGG&C (all referred to as staff within this Policy) who have concerns about patient safety, malpractice, misconduct, wrongdoing or serious risk. Staff have a responsibility to protect patients from risk of harm posed by another colleague's conduct, performance or health by taking immediate steps to ensure their concerns are dealt with or raised for appropriate investigation. NHSGG&C promotes a culture in which staff can raise concerns openly and safely.

13.1.3 Staff may have concerns about what is happening at work. Usually these are easily resolved at a local level. However, when the concern feels serious because it is about a possible patient safety issue, malpractice, misconduct, wrongdoing or serious risk that might affect patients, colleagues or the organisation itself, staff are encouraged to raise such issues in the first instance with their Line Manager.

13.2 Legal Framework

13.2.1 The Public Interest Disclosure Act 1998 (PIDA) is designed to protect the public by providing a remedy for individuals who suffer a detriment by any act or any deliberate failure to act by their employer for raising a genuine concern, whether it be a risk to patient safety, malpractice, misconduct, wrongdoing or serious risk. These are called “qualifying disclosures”. A qualifying disclosure is one made in good faith by a member of staff who had a reasonable belief that one of the following is being, has been, or is likely to be, committed:

- a criminal offence;
- a miscarriage of justice;
- an act creating risk to health and safety;
- an act causing damage to the environment;
- a breach of any other legal obligation; or
- concealment of any of the above.

13.2.2 The Public Interest Disclosure Act’s tiered disclosure regime promotes internal and regulatory disclosures, and encourages workplace accountability and self-regulation.

13.2.3 Under the Act, workers who act honestly and reasonably are given automatic protection for raising a matter internally. In NHS GG&C, an internal disclosure can go up to the highest level. Protection is also readily available to those who make disclosures to prescribed regulators – see Section 13.13.

13.2.4 The Whistleblowing Policy authorises all staff, not just health and medical professionals, to raise a concern. Legal protection is important if staff are to be encouraged to raise a concern about wrongdoing or malpractice. NHS GG&C wishes to promote an open culture that recognises the potential for staff to make a valuable contribution to the running of public services, and to the protection of the public interest.

13.2.5 Where an individual is subjected to a detriment by their employer for raising a concern or is dismissed in breach of PIDA, they can bring a claim for compensation under PIDA to an Employment Tribunal.

13.3 Policy Statement

13.3.1 NHS GG&C is committed to achieving the highest possible standards of service and the highest possible ethical standards in public life in all of its practices. To achieve these ends, it encourages staff to use internal mechanisms for reporting any malpractice or illegal acts or omissions by its staff. The Board wishes to create a working environment which encourages staff to contribute their views on all aspects of patient care and patient services. All staff have a duty to protect the reputation of the service they work within.

13.3.2 The Board will not tolerate any harassment or victimisation of staff using this Policy, and may treat this as a serious disciplinary offence, which will be dealt with under the Board’s Disciplinary Policy and Procedure.

13.3.3 The Director of Human Resources is responsible for ensuring implementation of the Whistleblowing Policy.

13.4 Key Principles and Values

- 13.4.1 When raising a concern the best way to raise it is to do so openly. Openness makes it easier for the organisation to assess the issue, work out how to investigate the matter, understand any motive and get more information.
- 13.4.2 A member of staff raises a concern confidentially if they give their name on the condition that it is not revealed without their consent. If NHSGG&C is asked not to disclose someone's identity, we will not do so without that person's consent unless otherwise required by law. Staff should however understand that there may be times when NHSGG&C will be unable to resolve a concern without revealing someone's identity, for example where personal evidence is essential. In such cases, it will discuss with the member of staff whether and how the matter can best proceed if staff do not disclose their identity. It will be much more difficult for NHSGG&C to look into the matter.
- 13.4.3 A member of staff raises a concern anonymously if they do not give their name at all. If this happens, NHSGG&C will assess the anonymous information as best it can, establish whether there is substance to the concern and whether it can be addressed. If no-one knows who provided the information, it will not be possible to reassure or protect them.
- 13.4.4 There may be occasions when a concern is raised either with an ulterior motive or maliciously. In such a case, the organisation cannot give the assurances and safeguards included in the policy to someone who is found to have maliciously raised a concern that they also know to be untrue. NHSGG&C will look at the concern and examine whether there is any substance to it. Every concern will be treated as made in good faith, unless it is subsequently found not to be. However, if it is found that the individual has maliciously raised a concern which they know is untrue, disciplinary proceedings may be commenced against that individual.

13.5 Other Policies and Procedures

- 13.5.1 Whistleblowing concerns generally relate to patient safety, malpractice, misconduct, wrongdoing or serious risk, and may be something which adversely affects patients, the public, other staff or the organisation itself. A grievance differs from a Whistleblowing concern as it is a personal complaint regarding an individual's own employment situation. A Whistleblowing concern is where an individual raises information as a witness whereas a grievance is where the individual is a complainant. Grievances are addressed using the Board's Grievance Policy and Procedure. It should be noted, however, that matters related to bullying and harassment are addressed by the Board's Dignity at Work Policy.
- 13.5.2 Examples of such matters that should be raised under this Whistleblowing Policy include:
- patient safety, malpractice or ill treatment of a patient by a member of staff;
 - repeated ill treatment of a patient, despite a complaint being made;
 - an unacceptable standard of patient/clinical care;
 - a criminal offence is believed to have been committed, is being committed or is likely to have been committed;
 - suspected fraud;
 - disregard for legislation, particularly in relation to health and safety at work;
 - the environment has been, or is likely to be, damaged;

- breach of standing financial instructions;
- showing undue favour over a contractual matter or to a job applicant;
- a breach of a code of conduct;
- information on any of the above has been, is being, or is likely to be concealed.

13.6 Role of Trade Unions and Professional Organisations

13.6.1 NHS GG&C recognises staff may wish to seek advice on whether to use this Policy, require confidential advice at any stage and be represented by their trade union/professional organisation when using the provisions of this Policy, and acknowledges and endorses the role trade union/professional organisation representatives/officers play in this area.

13.7 Procedure to be Followed in Raising a Concern

13.7.1 If staff have concerns in relation to the issues of the kind referred to above in paragraph 13.5.2, then they should follow the procedure set out below.

13.7.2 STEP ONE - if a member of staff has a concern about patient safety, malpractice, misconduct, wrongdoing or serious risk at work, they are encouraged to raise these with their Line Manager in the first instance. This may be done verbally or in writing.

13.7.3 STEP TWO – if a member of staff feels unable to raise the matter with their Line Manager or does not think that this would effectively address the concern, or where this action has been tried but has not led to action that addresses the action or addresses it within a reasonable period of time for whatever reason, they should then raise the matter with:

- a designated list of Senior Managers who have been trained to deal with any issues from staff raised under the Whistleblowing arrangements – namely -

Dr Linda de Caestecker, Director of Public Health;
Tel No 0141 201 4606
Email linda.decaestecker@ggc.scot.nhs.uk

Mr William Edwards, Director of eHealth
Tel No 0141 201 4616
Email william.edwards@ggc.scot.nhs.uk

- Address for the Directors - JB Russell House, NHS Board Corporate Headquarters, Gartnavel Royal Hospital site, 1055 Great Western Road, Glasgow G12 0XH.

13.7.4 The designated Senior Managers have been given special responsibility for dealing with Whistleblowing concerns. If the matter is to be raised in confidence, then the staff member should advise the designated Senior Manager at the outset so that this can be taken into account when reviewing and investigating the concern raised.

13.7.5 STEP THREE - if Steps One and Two have been followed and the member of staff still has concerns, or if they feel that the matter is so serious that they cannot discuss it with any of the above, they should contact the nominated Non Executive Member (or deputy) of the NHS Board - Contact Details via –Tel No. 0141 201 4407. The

nominated Non Executive Member of the NHS Board will receive appropriate professional support where relevant from the Medical Director, Nurse Director or any relevant Corporate Director.

13.8 Handling Concerns Raised – Steps One and Two

13.8.1 Once a concern has been raised at Step ONE or TWO, it will be acknowledged in writing within three working days. The Line Manager or designated Senior Manager will confirm with the individual concerned whether or not the matter is being raised in confidence and they will give consideration as to how the concern may be actioned appropriately. This may involve:

- an informal review – for matters not viewed as serious and have the potential to be resolved with normal line management action; ;
- an internal inquiry – for matters that require more serious consideration and there is a likely need to interview staff in order to gather facts and details of the case; or
- a formal investigation – for matters where there is a serious concern that there may have been a breach affecting patient safety, malpractice or an illegal act or omission and formal statements require to be taken from staff.

13.8.2 The Line Manager or the designated Senior Manager will determine which of the three processes to be followed depending on the circumstances of the concern raised and let the member of staff know how it will be taken forward as quickly as possible (and within a week of receiving the concern).

13.8.3 The member of staff raising the concern will be advised who will be handling the matter, how they can contact them and what further assistance may be needed. The Line Manager or the designated Senior Manager will write to the member of staff giving a summary of the concern raised to ensure clarity on what issues are to be taken forward and advise the member of staff how they propose to handle it, and providing a timeframe for feedback. If the concern has been misunderstood, or there is any information missing, the member of staff has the opportunity at this stage to highlight this.

13.8.4 When raising a concern, it will be helpful to know how the member of staff thinks the matter might best be resolved. If the member of staff has any personal interest in the matter, they should confirm this at the outset. If it is felt that the concern falls more properly within the scope of one of the other of the Board's policies, this will also be explained to the member of staff.

13.8.5 The Line Manager or the designated Senior Manager will give feedback on the outcome of the informal review, internal inquiry or formal investigation. However, it should be noted that it may not be possible to give details of the precise actions taken, where this would infringe a duty of confidence owed to another person. While it cannot be guaranteed that all matters will be responded to in the way that the member of staff might wish, NHSGG&C will strive to handle the matter fairly and properly.

13.8.6 If at any time throughout the informal review, internal inquiry or formal investigation it becomes evident that formal disciplinary action may be a possible outcome, the

informal review, internal inquiry or formal investigation will be conducted in accordance with the provisions of the Board's Disciplinary Policy and Procedure. Should it be thought necessary to suspend a member of staff during the course of any such informal review, internal inquiry or formal investigation, the procedure outlined in the Disciplinary Policy and Procedure will be followed.

13.8.7 The informal review, internal inquiry or formal investigation will be concluded without unreasonable delay. The Board will endeavour to complete the process within 28 days. However, dependent on the complexity of the concerns raised there may be a requirement for flexibility with regard to timescales. The timescales for completion and issuing feedback should be reasonable and communicated to all parties and regular updates provided if the intended timescale is not adhered to.

13.8.8 Employees have a right throughout the procedure and processes of this policy to be represented by their Trade Union/Professional Organisation representative (including full-time Trade Union Officers) or accompanied by a fellow member of staff, friend or relative not acting in a legal capacity.

13.9 Handling Concerns Raised – Step Three

13.9.1 Once a concern has been raised at Step THREE, it will be acknowledged in writing within three working days. The nominated Non Executive Director (or Deputy) will confirm with the individual concerned whether or not the matter is being raised in confidence and they will give consideration as to how the concern may be actioned appropriately. This may also involve (definitions for each are given in paragraph 13.8.1):

- an informal review;
- an internal inquiry or
- a formal investigation.

13.9.2 The Non Executive Member of the NHS Board will determine which process should be followed in considering the matter(s) raised and let the member of staff know as quickly as possible (and within a week of receiving the concern). The process will follow that for Steps One and Two. However if the Non Executive Member decides that an initial interview is required to assess the concerns raised, then a date for that interview will be organised within a week of deciding such an interview is necessary. The interview should be held as soon as possible and every attempt should be made to hold it within one month of deciding to have the interview. The Non Executive Member of the NHS Board will be provided with administrative support for the interview in order that a brief summary of the interview is written up and this should be agreed by both parties. The Non Executive Member of the NHS Board will determine thereafter what further investigation is required and will ensure the Board's policies are adhered to. The Non Executive Member of the NHS Board shall secure appropriate professional/corporate advice from the Medical Director, Nurse Director or any relevant Corporate Directors.

13.9.3 The Non Executive Member of the NHS Board will arrange to write to the concerned member of staff to give feedback on any action taken. (This will not include details of any disciplinary action, which will remain confidential to the individual concerned). The feedback will be provided without unreasonable delay.

- 13.9.4 The informal review, internal inquiry or formal investigation will be concluded without unreasonable delay. The Board will endeavour to complete Step THREE of the process within 42 days. However, dependent on the complexity of the concerns raised there may be a requirement for flexibility with regard to the timescales. The timescales for completion and issuing feedback should be reasonable and communicated to all parties and regular updates provided if the intended timescale is not adhered to.
- 13.9.5 If the result of the investigation is that there is a case to be answered by any individual, the Board's Disciplinary Policy and Procedure will be used.
- 13.9.6 Where there is no case to answer, but the member of staff held a genuine concern and was not acting maliciously this will be accepted and fully acknowledged. The staff member will suffer no reprisals.
- 13.9.7 Only where malicious allegations are made, will it be considered appropriate to act against the concerned member of staff under the terms of the Disciplinary Policy and Procedure.
- 13.9.8 There may be occasions due to the complexity of an inquiry or formal investigation where it will not be possible to report back promptly. In these circumstances, the concerned member of staff must be made aware in advance of any delays and kept regularly informed of progress. The outcome of the inquiry or formal investigation will however still be communicated in writing to the staff member.
- 13.9.9 Employees have a right throughout the procedure and processes of this policy to be represented by their Trade Union/Professional Organisation representative (including full-time Trade Union Officers) or accompanied by a fellow member of staff, friend or relative not acting in a legal capacity.

13.10 Complaints About Chief Executive

- 13.10.1 If the concern raised is about the Chief Executive, then it should be made to the Board Chair (Contact Details - John Brown jjbrown@ggc.scot.nhs.uk), who will decide on how the investigation will proceed, taking account of the processes described within this Policy.

13.11 External Contracts

- 13.11.1 While NHSGG&C believes that this Policy gives the reassurance needed to raise a concern internally, it is also recognised that there may be circumstances where a member of staff feels they need to properly report a concern to an outside body. NHSGG&C would rather staff raised a matter with the appropriate regulator than not at all. Trade unions/professional organisations will be able to advise on such a course of action.
- 13.11.2 A Whistleblowing Alert and Advice Services (AALS) has been established to provide an additional level of support to staff who wish to raise a concern about practices within NHS Scotland. Public Concern at Work will receive staff's calls and will offer free, confidential advice on how best to take forward any concerns. Contact Public Concern At Work on Freephone – 0800 008 6112.

13.12 Equal Opportunities

13.12.1 NHSGG&C is committed to the promotion of Equal Opportunities and to this end this Policy applies to all its staff irrespective of age, race, colour, religion, disability, nationality, ethnic origin, gender, gender reassignment, sexual orientation or marital status, domestic circumstances, social and employment status, HIV status, political affiliation or trade union membership.

13.12.2 All staff will be treated in a fair and equitable manner. As requested and where appropriate in connection with this Policy, reasonable adjustments with regard to access to premises/facilities will be made. In addition to making all policy documents available in large print, Braille and in alternative formats/languages, this also extends to the provision of interpreters/translators including signers for the deaf and hard of hearing.

13.13 Monitoring of Policy

13.13.1 The Board is responsible for this Policy and will arrange to have it reviewed and presented to the Audit Committee every three years. In addition, the operation of the Policy will be monitored by the Area Partnership Forum, and if members of staff have any comments or questions, these should be brought to the attention of trade union/professional organisation representatives.

13.14 Further Information

13.14.1 Further information may be available from:

- BSI Code of Practice on Whistleblowing Arrangements Organisations can download a free copy of the 2008 British Standards Institution's Code of Practice on Whistleblowing Arrangements from www.pcaw.co.uk/bsi
- Public Concern at Work For information about the Public Interest Disclosure Act 1998, please visit: www.pcaw.co.uk/law/uklegislation.htm
- NHSScotland Counter Fraud Service (CFS) Fraud Hotline on - 08000 15 16 28 cfs.scot.nhs.uk
- Health Improvement Scotland Elliott House 8-10 Hillside Crescent Edinburgh EH7 5EA Call 0131 623 4300 www.healthcareimprovementscotland.org
- Audit Scotland 110 George Street Edinburgh EH2 4LH Tel: 0845 146 1010 www.audit-scotland.gov.uk/
- General Chiropractic Council 44 Wicklow Street London WC1X 9HL www.gccuk.org Tel: 020 7713 5155