

# Thames hospice

## Policy and Procedure: WHISTLEBLOWING

Date	Author/Reviewer	Approved by	Doc name	Comment	Responsible Committee	Next Review
November 2017	Jackie Geeson and Juliana Luxton	SMT and HR Committee	HR-P-0002	<b><u>November 2017</u></b> Section 5.3.2 updated. Section 6 updated.	HR Committee	January 2019
January 2017	Jackie Geeson			<b><u>January 2017</u></b> Minor changes to format only		
January 2015	Jackie Geeson			<b><u>January 2015</u></b> Reviewed and updated Jackie Geeson Director of HR		
October 2010	Kathryn Hathaway			<b><u>October 2010</u></b> New Policy		

### **Policy Summary**

This document sets out our procedure in relation to ensuring staff are confident to raise any matters of genuine concern without fear of reprisal and in the knowledge that they will be taken seriously and matters investigated appropriately.

## **1 Purpose of policy**

- 1.1 Thames Hospice is committed to good governance and encourages a culture of integrity, honesty and openness in which employees understand their responsibilities and management can demonstrate their accountability.
- 1.2 The aim of this policy and its associated procedures is to ensure that staff are confident they can raise any matters of genuine concern without fear of reprisal, in the knowledge that they will be taken seriously and that a proper and independent investigation will be undertaken.
- 1.3 We encourage staff to raise their concerns under this procedure in the first instance.
- 1.4 Staff raising a genuine concern will not suffer a detriment or any form of retribution.
- 1.5 A whistleblower is a person who raises a genuine concern in good faith. If you have any genuine concerns related to suspected wrongdoing or danger affecting any of our activities (a whistleblowing concern) you should report it under this policy.
- 1.6 If a staff member is in any doubt as to the ethics or legality of an activity, they are encouraged to discuss their concerns as soon as possible with their line manager and/or the Director of Human Resources or the Designated Whistleblowing Officer (DWO.)

## **2 Reason for this policy**

- 2.1 The Public Interest Disclosure Act 1998 provides protection for workers who raise legitimate concerns about specified matters. These are called "qualifying disclosures". A qualifying disclosure is one made in good faith by an individual who has a reasonable belief that one of the following is being, has been or is likely to be committed or concealed:
  - a criminal offence, including safeguarding concerns.
  - 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.
- 2.2 It is not necessary for the worker to have proof that such an act is being, has been, or is likely to be, committed - a reasonable belief is sufficient. The worker has no responsibility for investigating the matter - it is the organisation's responsibility to ensure that an investigation takes place.

- 2.3 A worker who makes such a protected disclosure has the right not to be dismissed, subjected to any other detriment, or victimised, because he/she has made a disclosure.

### **3 Responsibilities**

#### **3.1 The Designated Whistleblowing Officer (DWO)**

This is the Head of Governance and Quality, and together with the Director of Human Resources, they are responsible for the implementation of this policy and for reporting relevant information to the Board via the HR Committee.

#### **3.2 HR Committee**

Undertakes a high-level monitoring role on behalf of the Board. To ensure the policy is appropriately implemented, and to report and escalate significant matters as necessary including reporting the matter to any appropriate government department or regulatory agency.

#### **3.3 The role and responsibilities of managers in operating this policy are:**

- To ensure employees are aware of this policy and related others.
- To brief employees on this policy during their induction.
- To monitor procedures and performance within their team.
- To take seriously any whistleblowing allegations made by staff.
- To act promptly and follow the required reporting procedures.
- To support and co-operate with investigations.
- To ensure as far as possible that employees who make a disclosure are not subject to victimisation or intimidation by others.

- 3.3.1 Managers are expected to take decisions, using their own judgment and acting reasonably and fairly, in order to resolve issues promptly and constructively.

#### **3.4 The role and responsibilities of the Human Resources department are:**

- To advise on the application of this policy to individual situations.
- To provide communication and training to reinforce this policy.
- To support the DWO in instigating appropriate investigations.
- To assist in dealing with the outcome of investigations including, for example, training, communication, disciplinary action, etc.

#### **3.5 The role and responsibilities of employees are:**

- To promote the values of openness and integrity and to support others to do the same.
- To ensure due care is taken of Hospice property and data.
- To report matters of concern promptly and appropriately.
- To co-operate with investigations.
- Not to victimise or intimidate colleagues who make allegations.

## **4 Guiding Principles**

- 4.1 Thames Hospice will support whistleblowers and protect them from reprisals or victimisation. If a staff member comes forward with a concern that is genuinely held, it will not adversely affect their job security, position or career. This approach will also apply if a concern is raised in good faith which later turns out not to have been justified.
- 4.2 Confidentiality will be respected in all cases.
- 4.3 Thames Hospice will be fair to all parties involved and investigate carefully and thoroughly both sides of the issue.
- 4.4 If an employee tries to discourage a member of staff from coming forward to express a legitimate concern of a level of gravity that makes it suitable for whistleblowing, this may be treated as a disciplinary offence. Anyone who criticises or victimises a member of staff after voicing a legitimate concern may be treated as committing a disciplinary offence.
- 4.5 Persons who deliberately abuse this process by raising allegations that they know are untrue may be subject to disciplinary action.
- 4.6 Given the readiness of the organisation to allow its staff to blow the whistle to legitimate regulatory agencies, there is never any justification for taking a concern to the media.
- 4.7 Staff should raise concerns with their Line Manager, the Director of Human Resources or the Designated Whistleblowing Officer if they consider the interests of a patient / client are being damaged, and/or are aware of unlawful conduct or financial malpractice.

## **5 Scope**

- 5.1 This policy applies to all individuals working at all levels of the organisation, including Directors, senior managers, employees, consultants, contractors, casual workers, agency staff and volunteers (collectively referred to as staff in this policy).
- 5.2 This policy does not form part of any employee's contract of employment and may be changed at any time.
- 5.3 What this policy includes:
  - 5.3.1 This policy covers the reporting or disclosure of information which a member of staff raises as a protected disclosure which shows one or more of the following matters is either happening now, took place in the past, or is likely to happen in the future:
    - A criminal offence.
    - The breach of a legal obligation.
    - A miscarriage of justice.

- A danger to the health or safety of any individual.
- Damage to the environment.
- Bribery.
- Deliberate covering up of information tending to show any of the above.

5.3.2 The whistleblowing procedure might be used, for example, to report:

- The physical or emotional abuse of patients.
- Breach of organisational or statutory codes of practice.
- Financial crime such as fraud, theft, money-laundering, deception, etc.
- Harassment, bullying or intimidation of a colleague.
- Breach of significant health and safety requirements.
- Abuse of position or business contacts for personal gain.
- Misuse of Thames Hospice property for personal use.
- Unauthorised use of Hospice funds.
- Medical/clinical negligence.
- Disclosure of Thames Hospice information or data to unauthorised individuals.
- Concerns they have regarding Thames Hospice's fundraising practice.

#### 5.4 What this policy does not include

5.4.1 This policy typically does not cover personal concerns regarding terms and conditions of employment, which should be addressed using the Grievance Procedure.

5.4.2 However, where an employee genuinely fears reprisals in response to raising a grievance about one of the matters outlined above, the Whistleblowing Policy may be an appropriate alternative. If you are uncertain whether something is in the scope of this policy you should seek advice from the Director of Human Resources or the DWO, whose contact details are at the end of this policy.

## **6 Implementation Procedures**

### 6.1 Reporting a Concern

6.1.1 Your concerns should be reported either verbally or in writing, and sent to your line manager in the first instance. You should state that the Whistleblowing Policy is being invoked. However where the matter is more serious, or you feel that your line manager has not addressed your concern, or you prefer not to raise it with them for any reason, you should contact one of the following:

- (a) The Designated Whistleblowing Officer (DWO)
- (b) The Director of Human Resources
- (c) The Chief Executive

6.1.2 The line manager, DWO, Director of Human Resources or Chief Executive will respond within 5 days, providing formal written confirmation of the nature of the disclosure and acknowledging receipt of it.

- 6.1.3 We will arrange a meeting with you as soon as possible to discuss your concern. You may bring a workplace colleague or union representative to any meetings under this policy. Your companion must respect the confidentiality of your disclosure and any subsequent investigation.
- 6.1.4 We will take down a written summary of your concern and provide you with a copy after the meeting. We will also aim to give you an indication of how we propose to deal with the matter.
- 6.1.5 We hope that staff will feel able to voice whistleblowing concerns openly under this policy. However if you want to raise your concern confidentially, we will make every effort to keep your identity secret. If it is necessary for anyone investigating your concern to know your identity, we will discuss this with you.
- 6.1.6 We do not encourage staff to make disclosures anonymously. Proper investigation may be more difficult or impossible if we cannot obtain further information from you. It is also more difficult to establish whether any allegations are credible and have been made in good faith. Whistleblowers who are concerned about possible reprisals if their identity is revealed should come forward to their manager, the Director of Human Resources or the DWO and appropriate measures can then be taken to preserve confidentiality. If you are in any doubt you can seek advice from Public Concern at Work, the independent whistleblowing charity, who offer a confidential helpline. Their contact details are at the end of this policy.
- 6.1.7 Protection against recrimination for staff worried about disclosing their identity is discussed later in the section entitled Protection and Support for Whistleblowers.

## 6.2 External Disclosure

- 6.2.1 The aim of this policy is to provide an internal mechanism for reporting, investigating and remedying any wrongdoing in the workplace. In most cases you should not find it necessary to alert anyone externally.
- 6.2.2 The law recognises that in some circumstances it may be appropriate for you to report your concerns to an external body such as a regulator. It will very rarely if ever be appropriate to alert the media. We strongly encourage you to seek advice before reporting a concern to anyone external.
  - 6.2.2.1 An individual member of staff can escalate concerns about our fundraising practice to the Fundraising Regulator in the event that internal consideration is not possible. Contact the Fundraising regulator on 0300 999 3407, or by email: [enquiries@fundraisingregulator.org.uk](mailto:enquiries@fundraisingregulator.org.uk)
- 6.2.3 The independent whistleblowing charity, Public Concern at Work, operates a confidential helpline. They also have a list of prescribed regulators for reporting certain types of concern. Their contact details are at the end of this policy.

6.2.4 Regardless of the process chosen, the employee must act in good faith and must not act for personal gain.

### 6.3 Protection and Support for Whistleblowers

6.3.1 It is understandable that whistleblowers are sometimes worried about possible repercussions. We aim to encourage openness and will support staff who raise genuine concerns in good faith under this policy, even if they turn out to be mistaken.

6.3.2 Staff who raise genuinely-held concerns in good faith under this policy will not be dismissed or subjected to any detriment as a result of doing so. This includes where the allegations are not confirmed by subsequent investigation. Detriment includes dismissal, disciplinary action, threats or other unfavourable treatment connected with raising a concern. If you believe you have suffered such treatment, you should inform the DWO or the Director of Human Resources immediately. If the matter is not remedied you should raise it formally using our Grievance Procedure.

6.3.3 Staff who believe they or a colleague are being victimised as a result of making a disclosure under this policy should report it promptly to the DWO or the Director of Human Resources.

6.3.4 Victimisation of an employee who makes a bona fide allegation will be treated as a disciplinary matter.

### 6.4 Investigations and Reporting

6.4.1 Thames Hospice is committed to investigating disclosures as fully and quickly as circumstances allow. The length and scope of the investigation will depend on the subject matter of the disclosure.

6.4.2 Once an allegation is received, the DWO will acknowledge that the allegation has been made within the remit of the Whistleblowing Policy and will carry out an initial assessment of the allegation to determine whether there are grounds for a more in-depth investigation or whether the disclosure is based on erroneous information.

6.4.3 The DWO will produce a preliminary report and recommendations for the HR Committee and where appropriate provide a copy to the employee who made the disclosure.

6.4.4 If a more detailed investigation is considered necessary, the DWO will appoint an investigator or an investigative team, to include people with relevant experience of the subject matter involved. This may include using a suitably qualified external consultant where it is difficult to identify an available in-house resource. The investigation may involve the worker and other individuals involved giving a written statement.

- 6.4.5 The investigator(s) will produce a report and submit it to an appropriately constituted Review Panel that will include, as a minimum, the DWO, the Director of Human Resources and the CEO. In the event that any of these individuals is implicated in the allegations, a suitable alternative will be identified by the CEO.
- 6.4.6 A relevant specialist may also be asked to join this panel if the subject matter demands it.
- 6.4.7 The role of the Review Panel is to review the evidence and establish whether any remedial action is required in relation to the alleged failure or breach. This might include disciplinary action against specific individuals, further training, and changes to organisational policy or procedure, or internal communications. The Review Panel will report its findings and recommendations to the HR Committee for approval and implementation.
- 6.4.8 The whistleblower who raised the concern will be kept informed of the progress of the investigation by the DWO. On conclusion of any investigation, the whistleblower will be told the outcome of the investigation and what the Review Panel has done, or proposes to do, about it. If no action is to be taken, the reason for this will be explained.
- 6.4.9 If the Review Panel conclude that a whistleblower has made false allegations maliciously, in bad faith or with a view to personal gain, the whistleblower will be subject to disciplinary action.
- 6.4.10 There is no right of appeal against the findings of the Review Panel.
- 6.4.11 If on conclusion of any investigation the worker reasonably believes that the appropriate action has not been taken, he/she should report the matter to the proper authority. The legislation sets out a number of bodies to which qualifying disclosures may be made. These include:
- HM Revenue & Customs.
  - The Financial Conduct Authority (formerly the Financial Services Authority).
  - The Competition and Markets Authority.
  - The Health and Safety Executive.
  - The Environment Agency.
  - The Independent Police Complaints Commission.
  - The Serious Fraud Office.
- 6.4.12 Other possibilities include:
- If the problem involves a very senior member of staff of the organisation, contact the Chairman or other Trustee Committee Chair.
  - In the case of a criminal offence, the Police.
  - The Care Quality Commission.
  - The Office of Fair Trading.
  - The Environment Agency.

## 6.5 Confidentiality

6.5.1 Thames Hospice will make every effort to keep the identity of the employee making the allegations confidential, at least until a formal investigation is underway. A similar degree of confidentiality is expected in return from the employee. There may, however, be circumstances where keeping the whistleblower's identity confidential is not possible. A request for anonymity may also prevent a proper investigation being carried out.

6.5.2 The organisation cannot guarantee anonymity in the following situations:

- where there is a legal obligation to disclose the employee's identity.
- where the information is already in the public domain.
- on a strictly confidential basis for the purpose of obtaining advice from a professional adviser such as a lawyer or accountant.
- where required by the police or under anti-money-laundering arrangements.

6.5.3 If there are other situations where the organisation is required to reveal the employee's identity, for example in relation to disciplinary or legal proceedings, this will be discussed first with the employee.

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### Public Concern at Work

Helpline: 0207 4046609

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[www.pcaw.co.uk](http://www.pcaw.co.uk)

## **7 Breach of policy**

- 7.1 Any deviation in practice from the above policy and procedure will be deemed a breach of policy.
- 7.2 Any breach of this policy by Thames Hospice employees may lead to formal disciplinary action. Any breach of this policy by Thames Hospice volunteers may lead to formal action under the Problem Solving Policy and Procedure.

## **8 Related Policies and Procedures**

- 8.1 Bullying and Harassment Policy.
- 8.2 Grievance Policy.
- 8.3 Health and Safety Policy.
- 8.4 Complaints Policy.