
Whistleblowing Policy

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1. STATEMENT OF INTENT

- 1.1. Barking & Dagenham Primary Care Trust is a local public service, funded from public money, based firmly within the community that it serves. The Trust recognises its public duty to ensure that all activities in which it is involved are carried out in a way that promotes the highest standards of patient care and business practice.
- 1.2. The PCTs reputation as an exemplary employer within the Borough is a considerable asset and therefore it is always concerned to protect this reputation, and to make sure that its affairs are seen to be conducted in a proper and legal fashion.
- 1.3. Accordingly, the PCT is committed to providing an environment for staff and patients based upon the fundamental public service principles of openness, honesty and integrity. Putting these principles into practice depends on the co-operation and contribution of all staff, and this policy provides a framework for Trust staff and others to confidentially share concerns that they might have about unacceptable or unsafe practices.
- 1.4. This policy seeks to:
 - Support staff and others who wish to make genuine disclosures about any practice or activity which potentially places the PCT, its patients, or its staff at risk (“whistleblow”)
 - Encourage freedom of speech by providing a confidential means of raising concerns about potential malpractice at an early stage and in the right way
 - Ensure that whistleblowing does not result in victimisation or reprisals against staff who make their concerns known in good faith
 - Provide reassurance to staff that the reporting of genuinely held concerns is in the interests of patients, clients, staff, the PCT, and the public generally
 - Offer staff the protection contained in the Public Interest Disclosure Act (1998)

2. PROTECTION of STAFF

Staff who raise a concern about possible malpractice are protected in two ways. Firstly, statutory protection against victimisation is provided by the Public Interest Disclosure Act (1998). Secondly, the PCT undertakes that no reprisals will be taken against individuals who raise genuine concerns, and also guarantees where possible, staff anonymity.

Statutory protection

- 2.1. The Public Interest Disclosure Act (1998) encourages people to raise concerns about malpractice in the workplace, and requires employers to respond by addressing the message, not acting against the messenger. It does this by preventing an employer from taking disciplinary action against, or victimising, a member of staff who genuinely raises a concern.
- 2.2. In addition to employees, the Act covers trainees, agency staff, contractors, home workers, and every professional in the NHS, including GPs and Dentists.

- 2.3. A disclosure in good faith to a manager or the employer will be “protected” (ie any reprisals taken by the employer will be unlawful) if the whistleblower has a reasonable suspicion that the alleged malpractice has occurred, is occurring or is likely to occur. The Act also protects disclosures made in good faith to outside bodies where the whistleblower has a reasonable belief that their allegation(s) are substantially true.

Confidentiality

- 2.4. For the PCT, confidentiality is of over-riding importance. All concerns will be dealt with in confidence as a matter of course, and the PCT gives an assurance to anyone raising a genuine concern that confidentiality will be maintained.
- 2.5. In addition, individuals may wish to keep their *identity confidential*, and where possible, the PCT will not disclose your identity. If the situation arises where we are not able to resolve the concern without revealing your identity (for instance because your evidence is needed in court), we will discuss with you how we can proceed.
- 2.6. In any event, your confidentiality will not be disclosed without your consent. If an individual does not tell us who they are, it will be more difficult for us to look into the matter or to protect their position, and hence, makes it impossible to give feedback. However, the PCT will consider anonymous reports but cannot guarantee to fully investigate them.

Freedom from reprisal

- 2.7. The PCT will not tolerate the harassment or victimisation of anyone raising a genuine concern. If a genuine concern is raised under this policy, individuals will not be at risk of losing your job or suffering any form of retribution as a result. The PCT Board is committed to this policy, and the public interest principle which it promotes, providing individuals are acting in good faith, it does not matter if a mistake is made.
- 2.8. However, it should be noted that an assurance cannot be extended to someone who maliciously raises a matter knowing it to be untrue – in these circumstances the Trust may take disciplinary action (where appropriate and necessary) which may result in summary dismissal.

3. SCOPE OF THIS POLICY

Type of concerns covered

- 3.1. Often, concerns about what is happening at work are easily resolved. It can, however, be more difficult to know what to do when concerns involve more serious issues such as:
- unlawful conduct
 - financial malpractice
 - breaches of codes of conduct
 - ill-treatment of patients/clients
 - abuse to clients
 - disregard of health and safety rules
 - dangers to the public or the environment
 - any other similar matter

- 3.2. It is not possible to be prescriptive about all types of concern which might arise, but it is better that matters are raised when still a concern, rather than waiting for proof.

Staff included

- 3.3. All staff employed by the PCT, contracts (including GPs and Dentists) and those working under service level agreements are covered by this policy.

Grievance procedure

- 3.4. This procedure is primarily for concerns where the interests of others or of the organisation itself are at risk. Therefore, staff who are aggrieved about their personal position should use the Grievance Procedure, where details can be obtained from the Human Resources Department.

4. HOW TO RAISE A CONCERN

Directly employed staff

- 4.1. There is an informal and a formal procedure available to Barking & Dagenham PCT staff. The informal procedure requires the individual to report their concerns to your line manager. The formal procedure requires the individual to report their concern direct to the Director of Strategy.
- 4.2. It is our aim to deal with the concern in a timely manner and as near to the source of concern as possible. For this reason we encourage individuals to follow the informal route first, but if you feel uncomfortable speaking to your line manager, or the informal approach proves ineffective, individuals should use the formal route.
- 4.3. Whichever procedure is used, the PCT makes it the responsibility of all managers to take such concerns seriously, and to consider them fully and sympathetically.

Staff not directly employed

- 4.4. Staff who are not directly employed by the PCT, but involved with its activities either through contracting of services, agency work, or working as part of a Partnership arrangement, can raise concerns about possible malpractice within an operation for which the PCT has a responsibility.
- 4.5. In situations, where there is no line manager to approach informally within the PCT, individuals should use the formal procedure by reporting the detail of their concern, directly to the Director of Strategy.

- 4.6. As long as a disclosure is not made for personal gain, and that there is a reasonable belief that the information and any allegation are substantially true, individuals have the full protection of the Public Interest Disclosure Act against any kind of victimisation.

All staff

- 4.7. The decision to raise a concern can be a difficult experience and therefore a number of sources of support will be made available to individuals. A confidential counselling service is available to all staff through the Occupational Health and a confidential telephone service. The PCT would also advise staff to seek independent, specialist advice from an early stage where financial assistance from the PCT considered (where appropriate and necessary). However, staff must seek support and/or assistance from a professional organisation, trade union, or statutory body such as the NMC, GMC, or Council for Professions Allied to Medicine in the first instance, before engaging in advice requiring additional costs.

5. PROCEDURE FOR HANDLING WHISTLEBLOWING CASES

Informal Procedure

- 5.1. If there is a concern about malpractice, this must be raised initially with your line manager. This can be done verbally or in writing.
- 5.2. Within **48 hours** of receiving notification of the concern the line manager must acknowledge receipt of the concern and advise on what action is to be taken, or advise on whether additional time is required to decide on the appropriate course of action. Individuals must also be given an idea of the timescale of action, which will not normally exceed **one week**, unless there are exceptional circumstances.

Formal Procedure

Stage 1

- 5.3. If an individual feels unable to raise the matter with their line manager, and wishes to take it further, or are not employed directly by the PCT, individuals should contact:
- Director of Strategy
Clock House
East Street
Barking
IG11 8EY
0208-532-6368
- 5.4. Alternatively, if your concern is about fraud or corruption, you may wish to contact:
- Local Counter Fraud Specialist
Clock House
East Street
Barking
IG11 8EY

- 5.5. In either case you may ask for your identity to be kept confidential and we will respect your wishes.
- 5.6. The Director of Strategy will arrange for your concern to be appropriately investigated and will formally report back to you within **one week** where there are allegations of fraud. The Local Counter Fraud Specialist will respond within **one week** explaining planned further action.
- 5.7. As part of the investigation the individual will probably be asked to attend a meeting with the investigating officer, and although this would not be obligatory it would clearly help in reaching a conclusion. A colleague or trade union representative may accompany you to any discussion or meeting, which would be held in the strictest confidence.

Stage 2

- 5.8. If these channels have been followed and you still have concerns, or you feel that the matter is so serious that you cannot raise or discuss it in the ways suggested above, one of the Non-Executive Directors appointed by the Secretary of State has been nominated by the Board and can be contacted at:

- The Clock House
East Street
Barking
IG11 8EY
0208-532-6250

- 5.9. The non-executive director will respond to your concerns as soon as reasonably practicable and within **not more than four weeks** of being informed.

6. INDEPENDENT SUPPORT AND ADVICE

- 6.1. You may be unsure about whether to use this procedure, or worried about the implications or consequences of raising concerns about malpractice. It is likely to be a stressful time. We recognise that anyone contemplating making a disclosure may wish to seek practical or moral support, and the PCT very much supports all staff in seeking such assistance. There are a number of confidential and independent sources of help available for staff.

Counselling

- 6.2. A confidential counselling service is available to all staff and may be accessed through the Occupational Health Service (OHS). Neither the OHS, which is based at Oldchurch Hospital, nor the counselling service is part of the PCT. Local appointments can be arranged.
- 6.3. You may seek counselling at any time and the service includes pre-disclosure support - you do not need to delay until contact has been made with the PCT under this procedure. Access is by self-referral to the Occupational Health Service on 01708-708496.

Specialist advice

- 6.4. The independent charity, Public Concern at Work, specialises in this area of employment practice. Their lawyers can give you free and confidential advice at any stage about how to raise a concern about serious malpractice at work. The charity can be contacted on 0207-404-6609 or by email at helpline@pcaw.co.uk.
- 6.5. The PCT would advise all staff to make early contact with Public Concern at Work if contemplating making a disclosure under this policy.

Professional advice

- 6.6. For advice on any professional issues arising from your concerns you should approach either your professional organisation (such as RCN, BMA), or the statutory body (such as the Nursing and Midwifery Council, General Medical Council, Council for Professions Allied to Medicine) which governs your profession.

Trade union support

- 6.7. Your trade union will be able to provide advice and, if required, organise an officer to accompany and represent you at any investigative meeting that you are invited to attend.
- 6.8. Your attendance at any meeting held during the course of this procedure is entirely voluntary.

7. EXTERNAL CONTACTS

Seek advice

- 7.1. If you think that your concerns have not been properly addressed by this procedure, even following involvement of the non-executive director, you may feel that you need to voice them externally. Before making your concerns known outside the PCT you should seek specialist advice about whether and how to do this. Public Concern at Work will be able to advise you on the legalities of such an option, and on the circumstances in which you may be able to contact an outside body safely.

Patient confidentiality

- 7.2. It is particularly important to seek appropriate advice if you are thinking about disclosing information about patients or clients. All NHS staff have a duty of confidentiality to patients and unauthorised disclosure of personal information, even when thought to be in the patient's best interests, is a serious matter, and is not necessarily protected under the Act.

8. MONITORING

- 8.1. This Policy and Procedure will be monitored and reviewed regularly by the Director of Strategy with the support of the JNCC

9. INFORMATION RELATING TO THIS POLICY

1.1 Review Process

This document will follow the formal Policy review process used with-in the Barking and Dagenham PCT as outlined in the documents listed below.

C0002.1 – s outlined in the Procedure for Issuing Policies, Procedures, Protocols and Guidelines Including Amendments and review, and

C0002.2 – Management of Polices, Procedures, Clinical Protocols and Guidelines Policy

Review Process	Review Date	Changes Made
Risk Management Committee		
JNCC		
Audit Committee		

9.1. Related Documented

This document should be read in conjunction with the following documents:

Policy Number	Policy Title

If you identify other documents that should be included on this list please contact the document Owner:

Policy Number	Documents Owners

9.2. Version Control

Version control of the policies will be indicated by the version number located on the title page of the document.

The major number 1.0 indicates sign off and acceptance of the document by the board.

The minor number 0.1 indicates draft versions.

Both minor and major version changes are identified below:

Version #	Changes made by	Description
2.0	Gillian Bobb-Semple	
2.1	Tosca Fairchild	Updating contents

WHISTLEBLOWING POLICY AND PROCEDURE

APPENDIX

MANAGEMENT GUIDANCE

A. Introduction

1. This management guidance supplements the whistleblowing policy and procedure and outlines some of the key operational and practical issues that come into play when a whistleblowing incident occurs.

B. Overall responsibility for whistleblowing cases

2. Overall responsibility for whistleblowing cases rests with the Director of Strategy who, for the purposes of the PCT's whistleblowing arrangements will also act as the 'Co-ordinator'.
3. To create a focus and ownership for whistleblowing within the organisation, the 'Co-ordinator' needs to operate at director level to ensure there is a link and influence at Board level and will demonstrate to the individual whistleblower the PCT's commitment to pursue and to take their accusations seriously.

C. The Project Team

4. In order to strategically manage and progress a whistleblowing incident, an investigatory team will be formed. This team will be multi-faceted in order to acquire the range of knowledge and skills to deal with such cases.
5. Wherever possible, and subject to resource limitations, the team should involve a member of the functional area in which the whistleblower operates e.g. primary care – nursing, health visiting etc. This is to give the project team guidance and support in clarifying normal operational protocols and good practice.
6. The whistleblower must be informed of all members of the Project Team and their respective roles and the likely context for any direct contact between the whistleblower and the Project Team member.
7. The team must also do its utmost to protect the anonymity of the individual where it is feasible, practical and reasonable to continue to do this. If it is not possible to protect the

anonymity of the individual, this must be made known to the individual, at the earliest opportunity

Size of Team

8. The size and personnel required to form a project team dealing with whistleblowing incidents will be dependent upon nature and whistleblowing incident involved. However, it is unlikely that a team will comprise of less than three people (i.e. The Co-ordinator, a Case Manager and a Contact Officer as a minimum – see later notes on these roles).

Where possible, the team should be as small as possible to ensure a sufficient level of discretion and yet large enough to deal adequately with all the issues involved and with the right level of expertise.

9. The team should also be sufficiently influential within their own 'normal' work areas to be able to bid to bring in additional resources to aid the investigation team as and when required.

Day-to-day project management of a whistleblowing incident

10. The Case Manager must be given responsibility for the day-to-day management and progress of the project (but under the overall strategic direction of the Co-ordinator). For the purposes of the whistleblowing incident, this team member will be designated the 'Case Manager'.

Conflict of interest

11. In the interests of natural justice, those involved in any project team must not have any conflict of interest through personal relationships with either those being investigated or with the whistleblower.
12. Direct investigation of the matters raised should not be carried out by the person who may have to make a judgement on the findings of the investigation. There will therefore need to be clear boundaries within the project team if the Co-ordinator is to make the decision based upon an investigation led by the Case Manager. If the Co-ordinator is heavily

involved in the investigation, then to fulfil the requirements of natural justice, the decision needs to be taken by another nominated Director.

Clinical Leadership Team

13. Under the overall supervision and co-ordination of the Director of Strategy (the Co-ordinator), staff within their team may also need to be closely involved. Appropriate training must be provided to the staff concerned in order to be part of an investigation. These staff will help where necessary and appropriate on the day-to-day progress of each case.

Counter Fraud Team and other fraud investigations

14. In some whistleblowing cases it may be necessary for the Counter Fraud Team, to be involved where an element of the case falls within their remit likewise, some circumstances may also dictate a need to liaise with the police and judicial authorities. In such circumstances, the counter Fraud Team must be involved but do not dictate the process.

Additionally, it must be noted that fraud investigations will continue to be carried out independently where there is no whistleblowing dimension although, where there is both whistleblowing and fraud, then the investigations will run parallel but under the overall management of the 'Co-ordinator'. In such situations, it is an essential requirement for the Counter Fraud Team to be members of the whistleblowing team in order to feed in relevant material and information.

Note Not every whistleblowing case will involve fraud. It may be a whistleblowing issue concerning health and safety or regulated clinical practice. It is also accepted that a fraud investigation may start in numerous ways that may not involve any element of whistleblowing.

HR involvement

15. Where there are potential issues round the whistleblower's employment and continued employment in their current jobs, the HR team *must* be involved at the earliest stage and must be included in the project team. This is likely to be the case for most whistleblowing scenarios, but not all. It is feasible that a person with only remote contacts with a particular

person or work team may blow the whistle on their activities and in those circumstances there may be little or no need for HR involvement.

Other experts

16. Depending on the case, other experts may need to be called in to work with the project team for example the involvement of IT experts, particularly in scenarios where computers and technology may have been used in the alleged wrongdoing or have been used to remove evidence or audit trails. For similar reasons, finance experts/accountants/auditors or HR professionals may also be required. In difficult cases, the involvement of the Counter Fraud team will be critical because of their valuable experience in dealing with complex investigations.

Trade Union and professional bodies' involvement

17. Possible liaison with the whistleblower's trade Union representatives (and/or representatives of their professional body) must be discussed with the whistleblower as soon as possible. The benefits of their involvement should be explained to them.

If the whistleblower is happy with such contact then communication must take place at the earliest opportunity with the whistleblower's local trade union representative or professional body representative.

18. In certain exceptional scenarios, it may be beneficial to include these representatives within the whistleblowing team itself. This will ensure a joined up approach to the welfare and best interests of the whistleblower during what will undoubtedly be a stressful time for them.
19. In project meetings where confidential aspects relating to the investigation are to be discussed, it is recognised that this may lead to a conflict of interest for the trade union (e.g. if they are also the trade union for the person being investigated). In these circumstances, the representatives must be stood down and excused from these particular discussions.
20. All such representatives need to be reminded of their accountability to the project team and the importance of confidentiality and the need to avoid potential conflicts of interest. Where such conflict of interest exists, then the representative must withdraw from the Project Team.

D. Communications between the team and the whistleblower

The Contact Officer

21. One person within the team should be allocated to the whistleblower as the focal point, or main point of contact. It is suggested that this person is called the Contact Officer. They will be the main resource for support and advice to the individual concerned (again provided there is no conflict of interest). They will also provide the main link between the whistleblower and the whistleblowing project team as and when new issues arise.
22. It is important that any person carrying out this difficult role receives appropriate training and support. Due to the potential “reflected” stress such liaison could create for the Contact Officer in supporting the whistleblower, it is recommended that the Contact Officer role does not rest with one individual for every whistleblowing case.
23. Consideration needs to be given to the level of the Contact Officer compared to the operational level of the whistleblower. This matter should be discussed with the whistleblower to see if they feel comfortable liaising with more senior managers, or whether they might find it easier to confide in someone who is operating at a similar level to themselves within the organisation.
24. All potential Contact Officers should receive training in basic counselling.

E. Counselling

25. It must be recognised that whistleblowing places considerable pressure on the whistleblower and emotionally they may require significant support. They should be regularly offered counselling. There are three main options for providing this. Either (i) an outside counsellor commissioned by the PCT on an ad hoc basis, (ii) a person who is part of a commissioned service that provides other counselling services on a regular basis to the PCT or (iii) an internal counsellor who understands the PCT’s methods of working but is one step removed from the whistleblowing project team. The decision as to which is the best option in each circumstance will depend upon the needs of the individual balanced against the cost and availability of resources.

E. Planning the project and supporting the staff member

Plan of Action

26. The project team must agree at the outset a project plan for dealing with the whistleblowing situation. The plan must have sufficient flexibility to be able to deal with unforeseen eventualities such as the unavailability of individuals for interview and the difficulties in obtaining appropriate documents and other evidence in support of the whistleblowing allegations. Key project milestones and timescales must be highlighted and communicated to all members of the project team. An outline of the plan and likely timescales should also be communicated to the whistleblower.

Frequency of Contact

27. Contact with the whistleblower must be diarised and regular contact made to ensure the individual is kept up-to-date and their well being monitored. The arrangement for making contact need not necessarily be one way. The whistleblower can and should be encouraged to initiate the contact if that is the easier route. However, these contacts must be direct and followed up by the Contact Officer as soon as possible. Throughout this process, the whistleblower must be continually informed of the availability of other support and counselling and be encouraged to be honest about the status of their working environment so that alternative work placements can be sought if it is apparent that this is required. In such circumstances, the HR team must be informed immediately and the whistleblowing context made clear where the individual will be placed on the redeployment register to facilitate finding them alternative work. If HR is already part of the project team, then the HR representative will normally initiate this process. If HR are not part of the project then they should be contacted immediately.

Progress updates

28. The individual member of staff must be kept informed of progress on the whistleblowing inquiry. There must also be direct contact with the whistleblower with the aim of reassuring them and supporting them in what will undoubtedly be a difficult period of their working lives. Such support may be even more important when the police are involved and the whistleblower may be involved in a long drawn out criminal process.

29. The whistleblower must be informed of the outcome of the whistleblowing investigation. They should again be offered counselling and support and an opportunity to discuss the impact of the investigation on their working arrangements. In many instances there will not be any repercussions or consequences. In others, the whistleblower may feel unable to return to their normal place of work because of the difficulties the investigation has created.

Finding alternative work

30. In circumstances where the whistleblower indicates that they would want to work elsewhere, then provided the whistleblower has acted in good faith, all effort should be made to find them alternative employment within the PCT and at a similar grade and status. In this regard, whistleblowers should be treated with priority – even above that afforded to potentially redundant employees who may be on the redeployment list. If finding suitable alternative employment is proving difficult, the whistleblower should be consulted about other options such as opportunities working for other PCTs or similar organisations.

Links with other employers

31. The PCT may enter into reciprocal arrangements for establishing opportunities for whistleblowers employed by similar organisations. Equality of opportunity requirements in the various organisations may mean that the individual has to apply for permanent positions. To overcome this, the PCT will consider temporary secondments to other organisations to facilitate the placement of the whistleblower. This will only be for as long as it takes to highlight appropriate vacant positions in the PCT. *[NB it should be clear that in reaching any reciprocal agreement, the caveat must be that it is stated in writing by the current employing organisation that the organisation believes that the whistleblower acted in good faith].*

Providing emotional support

32. The whistleblower must be made to feel confident and supported that their concerns are being treated seriously. They must not be allowed to feel isolated, unwanted or unappreciated. At this period of their working life, issues that would normally be fairly

mundane or straightforward can appear to the whistleblower to be much more important and more serious. This is where it is crucial that some form of basic counselling training is given to Contact Officers so that they can help the whistleblower to place such things in proper perspective.

Limits and boundaries to supporting the whistleblower

33. Members of the whistleblowing team should ensure that boundaries are maintained to avoid any accusations that they have provided advice that could be construed as being against the PCT's best interests. This is undoubtedly a difficult role as there needs to be a balance struck with the need to provide support for the individual making the whistleblowing claims. Staff involved must be reminded that they need to be wary of accidentally making comments in a supporting and empathetic role that may be seen as creating a potential conflict of interest or making an admission of liability on behalf of the PCT.

Links with external support agencies

34. Links with charitable bodies such as Public Concern at Work should also be developed and the individual encouraged to make contact with such organisations themselves. Referrals to Occupational Health may also be necessary. The whistleblower should receive formal communication of all of the counselling and support options and be regularly reminded of their availability throughout the project's lifetime. Records of these offers should be recorded on file, and preferably such offers should be in written form.

Support for partners and family

35. Consideration should also be given to the impact upon an individual whistleblower's private life. If and where appropriate, the offer of counselling should be opened up to the whistleblower's partner if it is apparent that the whistleblowing itself is creating additional friction or stress within the relationship. Although in most scenarios it is unlikely that the partner will wish to avail themselves of counselling opportunities, where it is apparent that difficulties have been created because of the whistleblowing, such counselling should be offered by the PCT and authorised via the whistleblowing Case Manager. Other close family members living with the whistleblower may also be considered for counselling but this is at the discretion of the Case Manager.

G. Miscellaneous management guidance

Whistleblower's sickness

36. If the whistleblower becomes ill with stress or anything that can be related to the whistleblowing incident, then they should be communicated with in writing, laying out the further options for ensuring that they are kept in the communication loop (e.g. telephone, letter, e-mail, via trade union/friends etc). The individual should be asked to indicate which of these methods is acceptable – or asked to highlight other options. This continued need for contact will be particularly important when alternative jobs are being sought.
37. As soon as a whistleblower goes sick for matters related to the whistleblowing (usually anxiety or stress), then the Payroll service should be advised that full pay is to continue for the foreseeable future. The individual will still be recorded as sick and will still need to provide proper documentation in support of their sickness (e.g. sickness certificates). It is suggested that another categorisation be used for recording this sickness.
38. Careful consideration should also be given to how this sickness is reported to future employers. While the PCT owes a duty of care to report the actual level of sickness, it should be provided with the caveat that given the unique circumstances, it ought to be put to one side for determining the person's normal sickness record.

End of Documents