Corporate Governance

Whistleblowing Policy (Concern at Work)

1. Policy statement
1.1 The NHS Business Services Authority (NHSBSA) is committed to the principle of public accountability. The NHSBSA is an open and supportive place to work and take employees, including agency and contract staff raising concerns very seriously. The NHSBSA understand the importance and the need to provide a robust system for staff to raise concerns and will ensure that those raising the concern are not discriminated against or suffer a detriment as a result of making such a disclosure.

1.2 The NHSBSA acknowledge and agree that “Whistleblowers are a vital safety net in our society and can prevent and detect damage and disaster. We all need to listen to them”\(^1\). The NHSBSA believe that this policy will create an early warning system to address problems before they escalate as well as reinforcing an open, honest and supportive place to work. The NHSBSA believe the system to raise concerns needs to be easy to understand and as free from bureaucracy as possible.

1.3 The NHSBSA is committed to supporting any member of staff who is worried about any areas of poor practice, attitudes or inappropriate behaviour within the NHSBSA. The NHSBSA believe in encouraging openness and transparency in all we do, therefore there will be no negative comeback for individuals who have acted responsibly in highlighting issues. Bullying and oppressive behaviour is unacceptable and will not be tolerated.

1.4 This policy does not apply to raising grievances about individual employees. This policy is primarily for NHSBSA employees, agency and contract staff to raise concerns where the interests of others or of the NHSBSA itself are at risk. If you are in doubt as to whether your concern should be raised under the whistleblowing policy or under the grievance procedure, or under both, the NHSBSA encourages you in the first instance to raise your concern under this policy. A decision will then be made on how the concern should be dealt with and under what policy.

2. Principles
2.1 This policy applies to all NHSBSA employees, any agency and contract staff whilst they are working at the NHSBSA, and is in accordance with the Authority’s Equality and Diversity Policy.

2.2 This policy incorporates the requirements of the Public Interest Disclosure Act 1998

\(^1\) Public Concern at Work and the University of Greenwich, Whistleblowing: the inside story – a study of the experience of 1,000 whistleblowers, May 2013.
(PIDA) and follows best practice as highlighted in the National Audit Office Report ‘Making a whistleblowing policy work, March 2014. In addition this policy was reviewed following the publication of the Sir Robert Francis Report in 2015, all his recommendations were reviewed and where deemed appropriate incorporated in to the NHSBSA Whistleblowing Policy.

2.3 This policy aims to:
- Encourage NHSBSA employees, agency or contract staff to feel confident in raising any concerns regarding the practice of the NHSBSA.
- Provide avenues for NHSBSA employees, agency or contract staff to raise those concerns.
- Ensure that NHSBSA employees, agency or contract staff receive a response to their concerns and feedback on any action taken.
- Reassure NHSBSA employees, any agency or contract staff that they will be protected from possible reprisals, subsequent discrimination, victimisation or disadvantage if they have a reasonable belief that they have made any disclosure in the public interest.

2.4 In applying this policy, the NHSBSA will have due regard for the need to eliminate unlawful discrimination, promote equality of opportunity, and provide for good relations between people of diverse groups, in particular on the grounds of the following characteristics protected by the Equality Act (2010); age, disability, gender, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, and sexual orientation, in addition to offending background, trade union membership, or any other personal characteristic.

2.5 NHSBSA is not listed as a prescribed person therefore external people making disclosures about their place of work, not the NHSBSA, may not be provided with the necessary legal protection if they raise their concern direct with the NHSBSA. See section 4.9 of this document for further information.

3. Whistleblowing / concern at work

3.1 A Whistleblower is defined as an NHSBSA employee, agency or contract staff who raises a concern about wrongdoing or malpractice in the workplace that has a public interest aspect to it. Officially this is called ‘making a disclosure in the public interest’. GOV.UK defines whistleblowing as “when a worker reports suspected wrongdoing at work”. These wrong doings cover a range of issues such as things that aren’t right, are illegal or if anyone at work is neglecting their duties, including:
- someone’s health and safety is in danger
- damage to the environment
- a criminal offence
- the company isn’t obeying the law (like not having the right insurance)
- covering up wrongdoing

3.2 The way an NHSBSA employee, agency or contract worker can ‘blow the whistle’ on wrongdoing depends on whether they feel they can tell their employer (i.e. the NHSBSA).
  i. The worker should review the contents of this document, NHSBSA Whistleblowing policy.
  ii. If they feel they can tell their employer, the NHSBSA, then they should use one of the NHSBSA whistleblowing methods to report their concern.
iii. If they cannot tell their employer (i.e. the NHSBSA), they should contact a prescribed person or body (see section 4.9 of this document).

3.3 PIDA offers protection in certain circumstances: PIDA gives protection where you disclose otherwise confidential information you reasonably believe shows one of the following has or is likely to occur:
- Criminal offence
- A breach of a legal obligation
- A miscarriage of justice
- Endangerment of an individual’s health and safety
- Environmental damage

3.4 In order to make a protected disclosure² you must be able to show that:
- The disclosure is believed to be in the public interest
- You reasonably believe that the information disclosed is true
- You reasonably believe the disclosure was made to the right person or body.
- You would otherwise be victimised or the evidence concealed or destroyed if the information is not disclosed.

4. Process for raising and reporting concerns
4.1 NHSBSA employees, agency or contract staff are asked to consider the above and if as a result they believe they have a genuine concern then it is their duty to report the issue.

4.2 NHSBSA employees, agency or contract staff can make a protected disclosure under PIDA³ to:
- Their employer via the dedicated NHSBSA Whistleblowing reporting systems (see 4.5)
- A legal advisor
- A Government Minister
- A prescribed person (see sections 4.8 and 4.9 of this policy).

4.3 NHSBSA employees, agency or contract staff can raise their concern internally via one of the dedicated NHSBSA Whistleblowing reporting systems, either in writing or verbally. This can be in confidence without providing your name and contact details and arrangements can be put in place to ensure that those wishing to remain anonymous can receive updates / outcome of investigations.

4.4 Whilst some concerns can be resolved quickly and informally the NHSBSA will record all concerns received as formal concerns and act upon them accordingly. This will ensure that all concerns are recorded, dealt with appropriately and swiftly.

4.5 NHSBSA employees, agency or contract staff wishing to raise a concern internally and in writing can do this in confidence in a variety of ways.
- Complete and submit via email, or the internal post system, The Concern at Work Referral Form (appendix 2 within this policy) providing any additional documentation. Please note, staff do not need to provide contact details on

the referral form should they wish to remain anonymous, however please ensure as much information as possible is provided.

- Verbally via the dedicated whistleblowing line, 0191 203 5118, this line has an answer machine facility.
- Face to Face with the NHSBSA Fraud Specialist. See appendix 1 for their contact details

4.7 This policy is intended to provide NHSBSA employees and any agency or contract staff with an opportunity within the Authority to raise concerns. If, however they are not satisfied with any action taken and feel it is right to take the matter outside the Authority then they can disclose their concern to a ‘prescribed person’. They should ensure that they do not disclose information which should properly remain confidential, therefore NHSBSA employees and any agency or contract staff will need to confirm this with the person or organisation they decide to contact.

4.8 A prescribed person is described as:

“Someone who is independent of the worker’s organisation, but has an authoritative relationship with them, such as a regulatory or legislative body. The prescribed person is particularly important where there is internal resistance to addressing the concern raised, either deliberate or through inertia, or where the concerns are embedded within an organisation, systematically supported within its operations or occur at the highest levels.”

4.9 If you decide to blow the whistle to a prescribed person rather than the NHSBSA you must make sure that you have chosen the correct person or body for your issue. The Department of Business, Innovation and Skills maintain a list of all prescribed persons and the sector that they cover. Please see the following link for a full list including contact details:


NHS Protect are a ‘prescribed person’ under PIDA. This means NHS Protect provide you, the whistleblowers with a mechanism to make a public interest disclosure in relation to NHS fraud or security where you will potentially qualify for the same employment rights as if you had made a disclosure to the your employer (NHSBSA). Such disclosures are legally called ‘protected disclosures’.

4.10 You could also blow the whistle to a legal adviser, in the course of obtaining legal advice, or to a member of the House of Commons about any matter specified in the Public Interest Disclosure (Prescribed Persons) Order 2014. You can get the contact details for any Member of Parliament at the following link:

http://www.parliament.uk/mps-lords-and-offices/.

5. Process for investigating concerns

5.1 The Corporate Governance Fraud Team consists of two Fraud Specialists (FS) who are responsible for the day to day oversight and the reporting of all whistleblowing referrals. To clarify where you feel confident in reporting your concern internally, to your employer (NHSBSA) these should be reported directly to the NHSBSA FS via

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Making a whistleblowing policy work, National Audit Office, March 2014
the NHSBSA whistleblowing reporting methods detailed in appendix 1).

5.2 Access to mentoring, advocacy advice and counselling is available to staff who report concerns. If you report a concern please request information regarding this support, either at the time of reporting or throughout the process and the necessary information will be provided to you.

5.3 All concerns are reported and recorded on a secure spread sheet only accessible by the NHSBSA FSs and anonymous regular reports from this spread sheet are provided to the Audit and Risk Committee. All progress and updates are stored and monitored within the spread sheet to provide an audit trail, as well as ensuring patterns and trends are identified.

5.4 When a concern is received it will be assessed to ensure the concern is a whistleblowing concern and not a grievance. If the concern is not a whistleblowing concern then it will be referred to the appropriate person and handled under an alternative policy and recorded accordingly.

5.5 The NHSBSA FS will review the concern to establish the facts and respond to the person who raised the concern within ten working days advising what action will be taken and within what timescales.

5.6 The NHSBSA FS will commence an investigation ensuring the relevant services are included. For example if the concern involves a member of staff mishandling volumes of information then the Local Security Management Specialist (LSMS) may be asked to assist in the investigation utilising their specialist knowledge in security of data. If it was a concern relating to the health and safety of staff then a member of the Safety, Health and Environment (SHE) team would assist the NHSBSA FS in the investigation.

5.7 If the concern relates to one of the NHSBSA FSs then the concern should be reported to Head of Internal Governance and the Non-Executive member of the Audit and Risk Committee. See appendix 1 for their contact details.

6. Assurance process

6.1 The Audit and Risk Committee will oversee the NHSBSA Whistleblowing Arrangements as defined by the UK Corporate Governance Code:

“The audit committee should review arrangements by which staff of the company may, in confidence, raise concerns about possible improprieties in matters of financial reporting or other matters. The audit committee’s objectives should be to ensure that arrangements are in place for the proportionate and independent investigation of such matters and for appropriate follow-up action”

6.2 The policy and procedure will be revised periodically by the NHSBSA FS and Trade Unions giving due consideration to legislative changes. Any proposed changes will be presented to the Audit and Risk Committee for approval.

6.3 The NHSBSA is an open and supportive place to work, to reinforce this statement the Corporate Secretary has been designated to review the investigations conducted by

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5 Financial Reporting Council, The UK Corporate Governance Code, September 2012
the NHSBSA FS. In addition a nominated non-Executive member of the Audit and Risk Committee has been tasked as the Whistleblowing Champion. The non-Executive member of the Audit and Risk Committee is responsible for monitoring the Whistleblowing process, ensuring all reported concerns are resolved fully.

6.4 The NHSBSA FS work independently and report direct to the Audit and Risk Committee in relation to Whistleblowing referrals received, type of allegation and the action taken by the NHSBSA FS. This demonstrates the NHSBSA’s commitment to an open and supportive place to work, where staff can raise concerns in confidence knowing that they will be investigated fully without interference from NHSBSA management.

6.5 To ensure an open and supportive culture the NHSBSA will publish internally via The Loop and The Hub the number and type of whistleblowing referrals received during the NHSBSA’s financial year. This will include the case type, quantity by case type and outcome, ensuring there is no risk that the whistleblowers identity will be revealed.

6.6 To ensure measures are in place for all NHSBSA employees, including vulnerable groups such as agency and temporary workers, the NHSBSA has created an LMS package to be completed by all NHSBSA employees, agency and contract staff. The LMS Bribery, Fraud and Corruption package provides information on what whistleblowing is and guidance on how to raise a concern. This LMS package is completed by all staff, permanent and temporary, who will be employed for three months or longer. In addition all fraud awareness and FrED awareness presentations delivered by the NHSBSA FSs will include information on how to whistleblow and the process of investigating a whistleblowing concern. A dedicated Whistleblowing page has been created on The Hub and regular articles are placed in The Loop to ensure temporary staff, employed for less than three month are provided with information on how to raise a concern.

6.7 The NHSBSA is transparent in the way we exercise our responsibilities in relation to the raising of concerns, including the use of settlement agreements. It is not normal practise to use settlement agreements in relation to the raising of concerns, however should NHSBSA People and Organisational Development / Finance process any of these types of settlements then this will be included in the Whistleblowing update to the Audit and Risk Committee.
Appendix 1: Corporate Team Contact Details

Whistleblowing concerns can be reported by one of the following methods:

**Dedicated Whistleblowing reporting systems:**
- **Email:** Whistleblowing.NHSBSA@nhs.net
- **Tel no:** 0191 203 5118
- **Internally no:** 500 5118 (internal to the business with exception of NHS Pensions staff in Fleetwood)

If you would like to speak to the NHSBSA Fraud Specialist please contact:

**Name:** Lisa McAlister

**Tel no.** 0191 244 6866
**Internal number** 500 6866
**Mobile number** 07810 658 419
**Email** lisa.mcalister@nhs.net

**Name:** Stephen Hedley

**Tel no.** 0191 203 5204
**Internal number** 500 5204
**Mobile number** 07920 871 492
**Email** stephen.hedley@nhs.net

**Post:** NHSBSA Fraud Specialists; First Floor, Office 8, Corporate Governance, NHSBSA Stella House, Goldcrest Way, Newburn Riverside, Newcastle upon Tyne, NE15 8NY

If your concern relates to a member of Fraud Team please contact:

**Name:** Gordon Wanless

**Title** Head of Internal Governance
**Tel no.** 0191 203 5484
**Internal number** 500 5484
If you have any concerns regarding the progress of a whistleblowing concern you have raised please contact:

**Name**  Malcolm Green  
**Title**  Non-Executive member of the Audit and Risk Committee  
**Tel no.**  0191 244 6468  
**Email**  malcolm.green1@nhs.net

Post:  Corporate Team, First Floor, NHSBSA, Stella House, Goldcrest Way, Newburn Riverside, Newcastle upon Tyne, NE15 8NY

If you have any concerns regarding the progress of a whistleblowing concern you have raised please contact:

**Name**  Mark Dibble  
**Title**  Corporate Secretary and Head of Governance  
**Tel no.**  0191 244 6468  
**Internal number**  500 6468  
**Email**  Mark.Dibble@nhs.net

**Name**  Malcolm Green  
**Title**  Non-Executive member of the Audit and Risk Committee  
**Tel no.**  0191 244 6468  
**Email**  malcolm.green1@nhs.net
Appendix 2 – Concern at Work Referral Form

Person reporting the concern

Name: 

Organisation/job role: 

Contact details: 

This concern is in relation to

Name: 

Organisation/job role: 

Location: 

Referrals should only be made when you can substantiate your suspicions with one or more reliable pieces of information.

Suspicion (please provide as much information as possible)

Please provide details of anyone else you know who has knowledge of this

Please attach any available additional information.

Signed ........................................... Date ...........................................

A member of the NHSBSA Corporate Governance - Fraud Team will undertake to acknowledge receipt of this referral direct to you within ten working days unless otherwise requested.