

## WHISTLE-BLOWING POLICY

**Please be aware that this printed version of the Policy may NOT be the latest version. Staff are reminded that they should always refer to the Intranet for the latest version.**

<b>Purpose of Agreement</b>	This policy guides employees on the actions to take if they have a genuinely held concern about the actual or prospective improper actions of a colleague or process
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Include details of when the document was last reviewed.

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## SOLENT NHS TRUST

## WHISTLE-BLOWING POLICY

**1. INTRODUCTION & PURPOSE**

- 1.1 The Public Interest Disclosure Act 1998 protects workers from detriment as a consequence of disclosing wrongdoings on the part of their employer.
- 1.2 The Public Interest Disclosure Act 1998 has become known as the Whistle-blowers Act because it protects workers who suffer detriment or are dismissed as a result of blowing the whistle – disclosing wrongdoings of their employers, provided that the informer goes through the correct channels. The provisions of the Act are now incorporated into the Employment Rights Act 1996.
- 1.3 Such issues are thankfully rare in the Trust. However, if you have a well founded concern, the Solent NHS Trust “Whistle-blowing” Policy enables you to raise it in an appropriate and effective way.
- 1.4 You may be worried about raising such issues or keep the concerns to yourself, perhaps feeling it is none of your business or that it is only a suspicion. You may feel that raising the matter would be disloyal to colleagues, managers or the organisation. You may feel that your job will be at risk if you do raise concerns. You may have already spoken to someone without success or raised the issue in the wrong way and are not sure what to do next. Either way, the Trust has introduced this policy to enable you to raise concerns at an early stage and in the right way.
- 1.5 We would rather that you raised the matter when you have a genuine concern rather than wait for proof. Therefore you must be able to show that in your reasonable belief the disclosure relates to one of a list of specified wrongdoings as listed in 3.1.

**2. SCOPE AND DEFINITIONS**

- 2.1 The Policy is designed to protect those raising a genuine concern from suffering a detriment and/or unfair dismissal in compliance with the Public Interest Disclosure Act 1998. Providing that concerns and allegations are made lawfully, without malice and in the public interest, employees will not be disadvantaged by the raising of a concern.
- 2.2 This policy applies to all directly and indirectly employed staff within the Trust and other persons working within the organisation in line with our Equal Opportunities Policy.
- 2.3 A Whistle-blower is a witness not a complainant. Someone who when faced with an acute dilemma does not stay silent or look the other way but raises the matter with their employer or takes their concerns outside the organisation.
- 2.4 The Trust encourages an open culture in all its dealings between staff, managers, and all people with whom it comes into contact. The procedure below provides guidelines to all Trust staff who feel they need to raise certain issues relating to the

Trust, in confidence. Where individuals have an employment grievance, this policy will not apply. In these circumstances please use the Trust's Grievance Policy.

Other policies which might be more appropriate to use are:

- Dignity at Work Policy
- Incident Reporting Procedure

### **3. WHEN DOES THE POLICY APPLY?**

3.1 A protected disclosure is a disclosure made by a worker which, in the reasonable belief of the worker, tends to show that:

- A criminal offence (for example taking bribes to authorise false invoices, or to fix prices) has been, is being or is likely to be committed
- A failure to comply with a legal obligation (for example employing an overseas worker without the required work permit).
- A miscarriage of justice has occurred , is occurring or is likely to occur
- The endangering of an individual's health and safety (for example re-labelling out of date food or mistreating *or* neglecting a patient).
- Damage to the environment i.e. by the illegal dumping of clinical waste, or the environment is likely to be endangered
- A deliberate concealment of information tending to show any of the above

This list is not exhaustive.

### **4. THE TRUST ASSURANCE TO YOU**

#### **4.1 Your Protection:**

4.1.1 The Trust is committed to this policy. If you raise a genuine concern, you will not be at risk of compromising your position as a result. Provided that you are acting in good faith, not motivated by personal gain or reasonably believe that information disclosed is substantially true, it does not matter if you are mistaken. The Trust does not of course extend this assurance to someone who acts from an improper motive and raises a matter they know to be untrue.

#### **4.2 Your Confidence:**

4.2.1 The fear of being labelled a trouble-maker or disloyal, fear of victimisation are powerful disincentives against raising issues about genuine concerns.

4.2.2 The Trust will not tolerate the victimisation of anyone who raises a genuine concern. Such victimisation may be subject to disciplinary action.

4.2.3 You may decide that you want to raise a concern in confidence. Therefore, if you ask for your identity to be protected, it will not be disclosed without your consent.

Where it is not possible to deal with the concern without revealing your identity (for instance because your evidence is needed in Court), there will be a discussion as to whether and how we can proceed.

- 4.2.4 This policy does not cover the situation where information about malpractice is received anonymously; discretion will be used in the investigation of such information.

## **5. HOW DO YOU RAISE YOUR CONCERN INTERNALLY?**

5.1 The whistle blowing procedure has the following stages:-

1. If you have concern about a matter as defined in Section 3.1 we hope that you will feel able to raise it first with your line manager, a more senior manager or HR Business Partner. This may be done verbally or in writing. A form can be found in Appendix 4. It will help if you state the facts of the matter clearly and remember to give details of how you can be contacted.
2. If you feel unable to raise the matter with someone in your immediate line management, for whatever reason, you should refer it to a more senior manager or director
3. If you feel that the matter is so serious that you cannot discuss it with any of the above please contact either the Director of HR & Organisational Development, or the relevant Non-Executive Director of The Trust (See Appendix 1).

### *5.2 Clinical Concerns*

Staff who wish to raise clinical concerns should do so immediately by notifying the Medical Director (See Appendix 1) in writing. Alternatively you may contact one of the individuals named in paragraph 5.1.3. You will receive written acknowledgement of your concern.

### *5.3 Fraud*

If your concern is about suspected fraud and/or corruption please contact either the Director of Finance (See Appendix 1) or the Local Counter Fraud Specialist for the Trust. Alternatively, you can contact the Director of HR and Organisational Development, or the Chairman of The Trust.

Examples of acts of fraud:

- The deliberate falsification of expenses, claims and receipts;

Examples of corruption;

- Bribing another in order to gain election to a particular office

- 5.4 All the above measures are covered under Stage 1 of The Public Interest Disclosure Act stages in Appendix 2.

## 6. HOW WILL THE TRUST HANDLE THE MATTER?

- 6.1 Once you have told the Trust of your concern it will look into it to assess initially what action should be taken through an informal investigation. You will be told:
- Who is handling the matter.
  - How you can contact them.
  - Whether your further assistance may be needed.
- 6.2 When you raise the concern you may be asked how you think the matter might be best resolved. If you do have any personal interest in the matter, we do ask that you tell the Trust at the outset. If your concern falls more properly within the Grievance Procedure you will be advised.
- 6.3 Whilst the purpose of this policy is to enable the Trust to investigate possible malpractice and take appropriate steps to deal with it, you will be given as much feedback as the Trust properly can. Please note, however, that the Trust may not be able to tell you the precise action it takes where this would infringe a duty of confidence owed to someone else.
- 6.4 Appendix 2 and 3 fully explains the process and flow of how the concern is handled. Please refer to these appendices.

## 7. EXTERNAL CONTACTS – What are Prescribed Regulators and How Can They Help Me?

- 7.1 Provision is made for disclosures to bodies which are ‘prescribed’ under the Act. Whilst the Trust hopes this policy gives you the reassurance you need to raise a concern internally, it would rather you raised a matter with the appropriate regulator than not at all. Provided you are acting in good faith and you have evidence to back up your concern, you can also contact an appropriate agency from the list below.
- 7.2 Disclosures to one of these agencies will be protected as long as any allegation is substantially true:

<b>External agencies</b>	
Counter Fraud Service National Fraud Reporting Line ( <i>individuals may report anonymously if preferred</i> )	080 0028 4060
NHS Whistle-blowing helpline	080 0072 4725 enquiries@wbhelpline.org.uk
Department of Health (Customer Service Centre)	020 7210 4850 dhmail@dh.gsi.gov.uk
Public Concern at Work	020 7404 6609 helpline@pcaw.org.uk

<b>Wider disclosures</b>	
Care Quality Commission	030 0061 6161 enquiries@cqc.org.uk
National Patient Safety Agency	<a href="http://www.nrls.npsa.nhs.uk/report-a-patient-safety-incident/">www.nrls.npsa.nhs.uk/report-a-patient-safety-incident/</a>
The Audit Commission for England and Wales	020 7828 1212
The Charity Commissioners for England and Wales	0845 300 0218
Food Standards Agency	020 7276 8829
Financial Services Authority	0845 606 1234
Health & Safety Executive	030 0003 1647

7.3 The above measures are covered under Stage 2 of The Public Interest Disclosure Act stages in Appendix 2.

## **8. WHERE CAN I GET INDEPENDENT ADVICE?**

8.1 If you are unsure whether to use this procedure or if you want independent advice at any stage you may contact:

- The Independent Charity Public Concern At Work on 020 7404 6609

8.2 This Charity specialises in providing free and confidential legal advice on how to raise a concern about serious malpractice at work. Public Concern At Work will also help to advise on whether a circumstance can be properly reported to an additional outside body such as the Police.

## **9. CAN I MAKE A WIDER *PUBLIC* DISCLOSURES?**

9.1 If all other avenues have been exhausted, it would be considered your legal right for you to take the matter to a Member of Parliament, the Police or Non-Prescribed Regulators if the subject of the disclosure is serious enough to warrant wider disclosure because:

- You believe you would be victimised if you raised the matter internally
- You reasonably believed a cover up was likely
- You had already raised the matter internally and were not satisfied with the outcome and your concern is not made for personal gain.

9.3 These measures are covered under Stages 3 and 4 of The Public Interest Disclosure Act stages in Appendix 2.

**10. CAN I MAKE APPROACHES TO THE MEDIA?**

- 10.1 Raising your concerns externally before you have voiced your concerns internally first may weaken the protection given to you under the Public Interest Disclosure Act 1998. Also, no-one should generate public anxiety by making a public statement on the basis of un-researched or unchecked rumour without first having these genuine concerns checked out through the appropriate Trust management channels.
- 10.2 However, if internal procedures have been exhausted and after genuine attempts to have your concerns heard if you are still convinced that something is seriously wrong, there is no Trust restriction on approaching the media in these circumstances. The Trust does ask that where it is anyone's intention to 'go public' that they inform the Trust's Head of Communications, prior to the act.
- 10.3 Where staff do not follow this procedure their actions may be dealt with under the Trust's Disciplinary Policy.
- 10.4 These measures are covered under Stage 4 of The Public Interest Disclosure Act stages in Appendix 2.

**11. CAN I TAKE LEGAL ADVICE?**

- 11.1 If you are concerned about malpractice you can also get independent and confidential advice about the Act from a solicitor or lawyer. Disclosures to solicitors and lawyers are protected.

**12. CONFIDENTIALITY OF INFORMATION**

- 12.1 The Trust aims to be an open and reasonable organisation, but it still has legal responsibilities to keep information about others secure.
- 12.2 Your contract of employment with the Trust includes a requirement for confidentiality in the use of information to which you have access. This covers medical, personal, financial and business information about patients, clients, staff other individuals and organisation. If you choose to raise a concern with anybody external to us, you will need to bear in mind this responsibility. If you feel there is a conflict with the necessary reporting of this concern, please seek advice to protect yourself and the Trust's obligations.

**13. IF YOU ARE DISSATISFIED**

- 13.1 The Trust aims to act upon all its' employee concerns, and handle them fairly, appropriately and in accordance with legislative requirements. If you feel that a concern has not been resolved in this way please let the HR Business Partner Team know, so that it can be reviewed and considered for next time.

## **14. TRAINING**

- 14.1 Solent NHS Trust recognises the importance of appropriate training for staff. For training requirements and refresher frequencies in relation to this policy subject matter, please refer to the Training Needs Analysis (TNA) on the intranet.

## **15. EQUALITY IMPACT ASSESSMENT**

- 15.1 The Trust is committed to treating people fairly and equitably regardless of their age; disability; gender reassignment; marriage and civil partnership; pregnancy and maternity; race; religion or belief; sex; or sexual orientation. An equality impact assessment has been carried out for this policy, which is attached at appendix 5, and no significant issues have been identified.
- 15.2 This policy has also been assessed and meets the requirements of the Mental Capacity Act 2005.

## **16. MONITORING THE EFFECTIVENESS OF THIS POLICY**

- 16.1 The effectiveness of this policy will be monitored by the HR Business Partner Team. Cases that are received will be reviewed to ensure the correct procedures are being adhered to, and where changes to procedures or processes are required following any investigation these will be implemented as soon as practicably possible.
- 16.2 The Audit and Corporate Risk Committee, the nominated sub-committee of the Assurance Committee, will monitor the number of complaints received and the action taken following any investigation. The Workforce Development Group, will have an overview of the workforce statistics collated.

## **17. REVIEW OF POLICY**

- 17.1 This document may be reviewed at any time, but should automatically be reviewed in the context of changing legislative requirements or on a 2 yearly basis.

## **18. LINKS TO OTHER POLICIES**

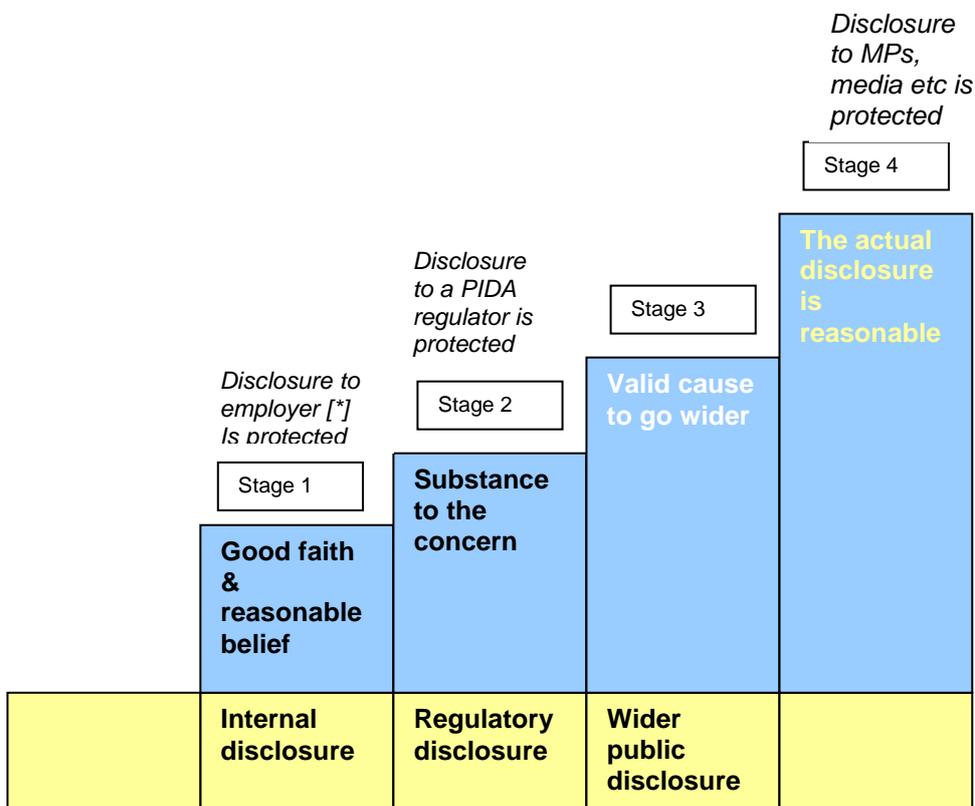
- 18.1 This policy links to the following policies:
- Grievance Policy
  - Complaints Policy
  - Disciplinary Policy
  - Investigation Policy
  - Dignity at Work Policy
  - Management of Allegations of Abuse Under safeguarding Procedures Policy
  - Managing Performance of Medical and Dental Staff Policy
  - Being Open Policy
  - Fraud Corruption anti bribe policy
  - Health and Safety Policy
  - Reporting Adverse Incidents Policy
  - Physical Security Policy

- Serious Incidents Requiring Investigation Policy

### SOLENT NHS TRUST CONTACTS WITHIN THIS POLICY

Title	Name	Email	Telephone Number
Chief Executive	Dr Ros Tolcher	<a href="mailto:Ros.Tolcher@solent.nhs.uk">Ros.Tolcher@solent.nhs.uk</a> or <a href="mailto:Ros.Tolcher@nhs.net">Ros.Tolcher@nhs.net</a>	023 8060 8815
Non-Executive Director	Elizabeth Bailey	<a href="mailto:Liz.Bailey@solent.nhs.uk">Liz.Bailey@solent.nhs.uk</a> or <a href="mailto:elizabeth.bailey2@nhs.net">elizabeth.bailey2@nhs.net</a>	023 8060 8814
Director of HR and Organisational Development	Julie Pennycook	<a href="mailto:Julie.Pennycook@solent.nhs.uk">Julie.Pennycook@solent.nhs.uk</a> or <a href="mailto:Julie.pennycook@nhs.net">Julie.pennycook@nhs.net</a>	023 8060 8821
Director of Finance	Michael Parr	<a href="mailto:Michael.Parr@solent.nhs.uk">Michael.Parr@solent.nhs.uk</a> or <a href="mailto:michaelparr@nhs.net">michaelparr@nhs.net</a>	023 8060 8943
Medical Director	Tony Snell	<a href="mailto:Tony.Snell@solent.nhs.uk">Tony.Snell@solent.nhs.uk</a> or <a href="mailto:tonysnell@nhs.net">tonysnell@nhs.net</a>	023 8060 8727
Company Secretary	Rachael Cheal	<a href="mailto:Rachael.Cheal@solent.nhs.uk">Rachael.Cheal@solent.nhs.uk</a> or <a href="mailto:Rachael.cheal@nhs.net">Rachael.cheal@nhs.net</a>	023 8060 8814

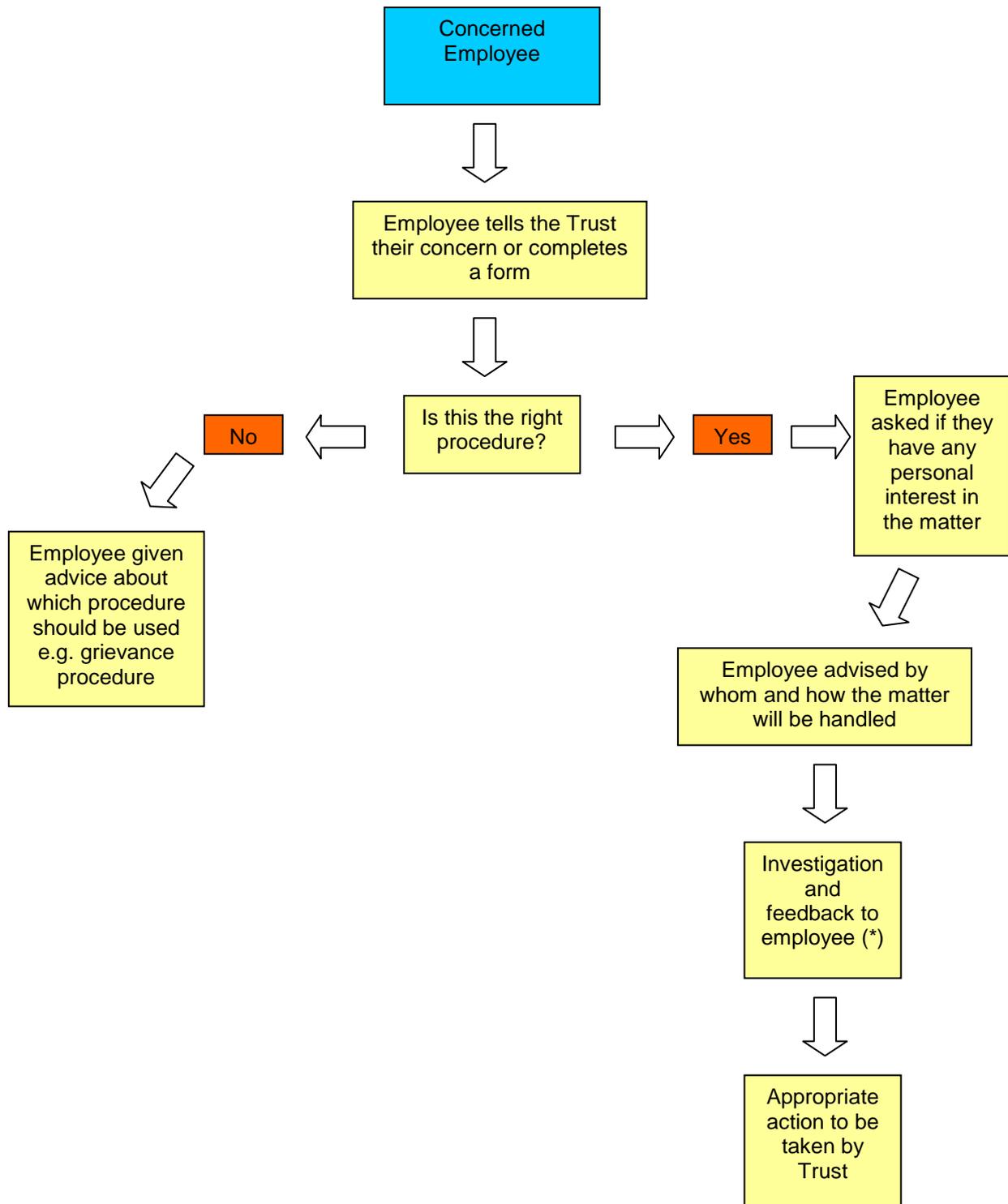
Figure 1 – The Public Interest Disclosure Act (PIDA) stages



\* or the liable third party

As illustrated above the employee reasonably suspects there is wrong doing and makes an internal disclosure (raises the matter within the organisation) in good faith (the first stage). As to external disclosures, Figure 1 shows that disclosures to prescribed regulators (the second stage) are protected where the employee reasonably believes that the information and any allegation in it are substantially true. The third and fourth stages relate to wider disclosures (to an MP or the media, for example), and these can only be protected where there is justifiable cause for going wider and where the particular disclosure is reasonable.

## Flow Chart: How the Trust will handle the matter



(\*) Please note that when dealing with possible malpractice the Trust will give you as much feedback as it can. The Trust may not be able to tell you the precise action it takes where this could infringe a duty of confidence to someone else.

**WHISTLE-BLOWING DISCLOSURE FORM**

<b>Employee to complete:</b>  <b>Name:</b>  <b>Contact number:</b>  <b>Department:</b>  <b>Line Manager:</b>	<b>Employee to complete where appropriate:</b>  <b>Representative/ Companion Name:</b>  <b>Representative contact number:</b>  <b>Union Name:</b>  <b>Line Manager contact number:</b>
<b>Date completed by Employee:</b>	<b>Date received by Manager:</b>
<b>What is the concern about? (please give full details – it would help if you could supply dates/times/other witnesses)</b>	

<b>Name:</b>	
	<b>Plan of action to progress matter: This should be completed by the manager receiving the disclosure and should include details of agreed deadlines and key contacts. A copy should be forwarded to the relevant HR support.</b>
<b>Signature of person making disclosure:</b>	
<b>Signature of manager receiving disclosure:</b>	
<b>Date:</b>	

## EQUALITY IMPACT ASSESSMENT

### Impact Assessment Template

#### Step 1 – Scoping; identify the policies aims

Question	Answer
1. What are the main aims and objectives of the policy?	To ensure that there is a fair and consistent approach to managing concerns raised by staff within the Trust
2. Who will be affected by it?	All staff
3. What are the existing performance indicators/measures for this? What are the outcomes you want to achieve?	To ensure that there is a fair and consistent approach to managing concerns raised by staff within the Trust
4. What information do you already have on the equality impact of this policy?	This policy standardises the current procedures in place
5. Are there demographic changes or trends locally to be considered?	No
6. What other information do you need?	None

#### Step 2 - Assessing the Impact; consider the data and research

Question	Yes	No	Answer (Evidence)
1. Could the policy discriminate unlawfully against any group?		x	The policy ensures all staff are treated in a consistent manner
2. Can any group benefit or be excluded?		x	The policy ensures all staff are treated in a consistent manner
3. Can any group be denied fair & equal access to or treatment as a result of this policy?		x	The policy ensures all staff are treated in a consistent manner
4. Can this actively promote good relations with and between different groups?	x		Due to the consistency of approach everyone will be treated equally
5. Have you carried out any consultation internally/externally with relevant individual groups?		x	None required
6. Have you used a variety of different methods of consultation/involvement?		x	None required

If there is no negative impact – end the Impact Assessment here.

**Step 3 - Recommendations and Action Plans**

Question	Answer
1. Is the impact low, medium or high?	Low
2. What action/modification needs to be taken to minimise or eliminate the negative impact?	None
3. Are there likely to be different outcomes with any modifications? Explain these?	No

**Step 4- Implementation, Monitoring and Review**

Question	Answer
1. What are the implementation and monitoring arrangements, including timescales?	The policy will be monitored following each grievance for its effectiveness
2. Who within the Department/Team will be responsible for monitoring and regular review of the policy?	HR Business Partner Team

**Step 5 - Publishing the Results**

Question	Answer
How will the results of this assessment be published and where? (It is essential that there is documented evidence of why decisions were made).	They will be included within the policy