

The Mercian Trust

Whistleblowing Policy

Policy Owner	The Mercian Trust
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1. Introduction

1.1 The Mercian Trust is committed to operating with honesty and integrity and expects all its staff to operate on that basis. All staff at one time or another have concerns about what is happening at work. More often than not, these concerns are relatively minor and can be easily resolved. Openness, probity and accountability are vital components of public service. Employees who discover lapses in these areas must be encouraged to come forward and disclose their concerns to someone who can be trusted to take action. This process is known as 'Whistleblowing'. These issues will be taken seriously and treated in a confidential manner.

1.2 The Public Interest Disclosure Act 1998 makes it automatically unfair to dismiss someone on the grounds that they undertook a 'protected disclosure' (i.e. a disclosure made in good faith with a reasonable belief that there has been malpractice or impropriety), and compensation in these circumstances is unlimited. In order for staff to be protected under this law they must take reasonable steps to raise the matter internally first before going outside the organisation and reporting their concerns such as to the press.

1.3 The policy applies to all staff within The Mercian Trust regardless of length of service and those contractors working for the Trust or on Trust premises, including temporary and agency staff, it also covers suppliers and those providing services under a contract with the Trust in their own premises.

1.4 In this policy 'Whistleblowing' means the reporting by employees of suspected misconduct, illegal acts or failure to act within the Trust that has come to their attention during their work.

1.5 This policy does not deal with any complaints relating to an employee's own treatment at work or own contract of employment. Those matters should be raised under the Trust's Grievance procedure, as appropriate. An exception to this will be when the matter of concern arises from the employee's own treatment at work that is arising from the whistleblowing matter they have raised previously.

1.6 This policy does not form part of an employee's contract of employment and is not intended to have contractual effect. The Trust reserves the right to amend its content at any time.

2. What is the Policy for?

2.1 The policy has been introduced to:

- encourage employees to feel confident in raising serious concerns and to question and act upon concerns about practice
- provide avenues for staff to raise those concerns and receive feedback on any action taken
- ensure that staff receive a response to their concerns and that they are aware of how to pursue them if they are not satisfied
- reassure staff that they will be protected from possible reprisals or victimisation if they have reasonable belief that there is malpractice or impropriety and have made a disclosure in good faith

3. Examples of areas covered

3.1 The Policy is intended to cover the following areas of concern:

- lapses in child protection provision;
- conduct which is an offence or a breach of the law/statutory powers;
- disclosures related to miscarriages of justice;
- health and safety risks, including risks to the public as well as other employees
- damage to the environment;
- unauthorised use of public funds including action against Standing Orders or Financial Regulations;
- possible fraud and corruption;
- any other unethical conduct or improper conduct; or
- concealment of any of the above.

3.2 Or it may be something that:

- makes an employee feel uncomfortable in terms of known standards; or
- is against Trust policies and procedures.

3.3 The policy is not intended to replace the complaint or employee grievance or any other established procedures.

4. When to raise a concern

4.1 There is a duty for employees to report such wrong doings where they become aware of or suspect that unauthorised or irregular activity is taking place. Employees may, however, be worried about raising such issues or may want to keep the concerns to themselves, perhaps feeling that it is none of their business or that it is only a suspicion. Additionally, there might be a feeling that raising the matter would be disloyal to colleagues, managers or the organisation. There is also the danger of saying something but finding out the wrong person has been notified or that the issue has been raised in the wrong way.

4.2 This policy has been put in place to enable employees to raise their concerns about such malpractice at an early stage and in the right way. It is better that the matter is raised when it is a concern rather than wait for proof. Employees are encouraged to use this policy if ever there is an occasion when an issue is troubling or is of concern. The whistle blowing policy is primarily for concerns where the interests of others or the Trust itself is at risk

4.3 The Trust is committed to this policy. Any employee raising a genuine concern under this policy will not be at risk of losing their job or suffering any form of retribution as a result. Provided it is an act of good faith, it does not matter if an employee is mistaken. Of course, this assurance is not extended to anyone who maliciously raise a matter they know is not true.

4.4 The Trust will not tolerate the harassment or victimisation of anyone raising a genuine concern. However, we recognise that someone might want to raise a concern in confidence under this policy. If an employee asks to have their identity protected, it will not be disclosed without their consent. If the situation arises where we are not able to resolve the concern without revealing an employee's identity (for instance because their evidence is needed in court) this will be discussed fully with them as to whether and how we can proceed.

5. Anonymous allegations

5.1 This Policy encourages you to put your name to your allegation whenever possible. If you do not tell us who you are it will be much more difficult for us to protect your position or to give you feedback. This Policy is not ideally suited to concerns raised anonymously.

Concerns expressed anonymously are much less powerful, but they may be considered at the discretion of the Trust. In exercising this discretion, the factors to be taken into account would include:

- the seriousness of the issue raised;
- the credibility of the concern; and
- the likelihood of confirming the allegation from other sources.

6. Untrue allegations

6.1 If you make an allegation in good faith and reasonably believing it to be true, but it is not confirmed by the investigation, the Trust will recognise your concern and you have nothing to fear. If, however, you make an allegation frivolously, maliciously or for personal gain, appropriate action that could include disciplinary action may be taken.

7 How the Trust will respond

7.1 Initial enquiries will be made to decide whether an investigation is appropriate and what form it should take. Some concerns may be resolved by agreed action without the need for investigation.

7.2 Within ten working days, the person to whom the concern has been referred to will write to the member of staff:

- acknowledging that the concern has been received;
- an indication of how the matter will be dealt with
- giving an estimate of how long it will take to provide a final response;
- telling the member of staff whether any initial enquiries have been made;
- supplying information on staff support mechanisms, which may include confidential counselling; and
- informing the member of staff whether further investigations will take place and if not, why not.

7.3 The Trust will respond to concerns. Where appropriate the matters raised may:

- be investigated by Senior Management or the Trustees and lead into the disciplinary process; and/or
- be referred to Audit; and/or
- be referred to the police

7.4 The amount of contact between the person considering the issues and the employee will depend on the nature of the matters raised, the potential difficulties involved, and the clarity of the information provided. If necessary, the Trust will seek further information from the employee. Where any meeting is arranged, off-site if requested, the employee may be accompanied by a work colleague who may be a trade union/professional representative.

7.5 The Trust accepts that all staff need to be assured that the matters will be properly investigated. Subject to legal constraints, staff who have raised the concern will be informed of the outcomes of any investigation.

7.6 Any attempt to victimise a person who has reported a concern under this procedure will be dealt with under the Disciplinary Procedure.

8 How to raise a concern

8.1 Concerns can be raised by phone or in writing. Any concern should be raised at the earliest opportunity. The more information that can be supplied, including dates, times, details and names, the greater the opportunity to establish the facts. Although staff will not be expected to prove beyond doubt the truth of the allegation, they will need to demonstrate to the person contacted that there are reasonable grounds for concern.

8.2 Staff should normally raise concerns with their immediate manager. However dependent upon the seriousness and sensitivity of the issues involved and who is suspected of the malpractice, for example, if you believe that senior management is involved, you should approach any of the following as appropriate:

- The CEO
- The Principal within the Academy the staff member is based,
- The Chair of Governors

8.3 You should seek advice from your trade union/professional body. You may also seek external advice from Audit, the Citizens Advice Bureau, the police or “Public Concern at Work” (0207 404 6609).

8.4 Concerns are better raised in writing. This sets out the background and history of the concern.

8.5 Remember, malpractice affects everyone and is unacceptable. Blowing the whistle on it is one way of stamping it out - for good.

9. Record Keeping

9.1. Whistleblowing disclosures will be held on a confidential, secure file within the Trust along with a record of the outcome and any records of meetings held or other documents compiled during the process.

9.2. Details of all whistleblowing disclosures and investigations are retained for 6 years plus the current year from the close of the case, except where separate retention rules apply, e.g. child protection records.