

WHISTLE BLOWING REPORT

Paper title:	Ensuring an Open Culture		
Date	1 March 2013		
Paper Author:	Mark Gwilliam	Sponsoring Director:	Mark Gwilliam
Response required from the Board : (Note/Approve/Discuss)	The Board is asked to consider the attached letter from the RT Hon Jeremy Hunt, MP and Secretary of State for Health. The Board is asked to approve this report .		
Executive comment:	This report outlines the arrangements in place within the Trust for ensuring an open NHS culture, including the arrangements for staff to raise concerns, and how the Trust ensures that the clauses in contracts of employment and compromise agreements entered into with departing employees are within the spirit of the guidance contained in the letter.		
Summary of paper:	<p><u>Ensuring an Open NHS Culture</u></p> <p><u>Sheffield Teaching Hospitals NHS FT – ‘Position Statement’</u></p> <p>On 15 February 2013, the RT Hon Jeremy Hunt, MP and Secretary of State for Health wrote to all Chairs of NHS Foundation Trusts in England to ask that they ensure that there are arrangements in place for staff to raise concerns and further to ensure that confidentiality clauses in contracts (and compromise agreements for departing employees) are fully compliant with requirements of Health Services Circular 1999/198: The Public Disclosure Act 1998: Whistleblowing in the NHS. The following outlines the position within Sheffield Teaching Hospitals NHS Foundation Trust.</p> <p>Raising concerns – The Trust’s Policies and Procedures</p> <p>The Trust Board fully supports a culture and environment which encourages staff to feel able to raise appropriate concerns about health care and employment matters without the fear of blame or discipline.</p> <p>The Trust has a Whistle Blowing policy in place which seeks to ensure this and provides guidance in relation to raising and dealing with such concerns. Via this policy, the Trust recognises an individual’s right and duty to raise genuine concerns they have about malpractice, patient safety, financial impropriety or any other serious risk they consider to be in the public interest. The policy outlines the mechanisms which staff can use to report such concerns and also how any concerns have about confidentiality will be dealt with.</p> <p>This policy is currently undergoing a review to reflect changes to national guidance including the NHS Employers ‘Speaking Up’ Charter. Once the changes have been finalised, the updated policy will be re-launched supported by a robust awareness campaign.</p> <p>The above policy is complemented by an Incident Management Policy which outlines the responsibilities of all staff for reporting incidents (actual and ‘near miss’ incidents). The policy also outlines the Trust’s ‘fair blame’ approach to incident investigation, which focuses on what went wrong and not ‘who went wrong’. The Trust has a good record for reporting and acting</p>		

on incidents. Learning from incidents is shared with staff via a number of mechanisms. Further mechanisms for sharing lessons learnt are currently being explored.

Contracts entered into between staff and the Trust

The Trust enters into a variety of contracts with staff, for example, contracts of employment with a range of staff incorporating the applicable national terms and conditions, apprenticeships and honorary contracts. No contract entered into between the Trust and its staff contains any confidentiality provision which would prevent the member of staff raising issues as outlined in the "Raising concerns – The Trust's Policies and Procedures" section above.

Compromise agreements

A compromise agreement is a contract, regulated by statute, between an employer and its employee (or ex-employee) under which the employee receives consideration, often a negotiated financial sum, in exchange for agreeing that he or she will have no further claim against the employer as a result of any breach of a statutory obligation by the employer.

Only in exceptional circumstances would the Trust facilitate an employee's exit from the organisation by means of a compromise agreement. Compromise agreements are in line with the requirements of the Health Services Circular 1999/198: The Public Disclosure Act 1998: Whistleblowing in the NHS and do not prevent ex-employees from raising genuine concerns about patient safety at the time that the agreement is entered into or at any point in the future. None of the compromise agreements contain any clause that would prevent the raising of genuine concerns about patient safety and in fact the agreements expressly note that the raising of concerns under the Public Interest Disclosure Act 1998 is not excluded.