

AGENDA ITEM NO: 11.0.

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Report Title:	Whistleblowing Policy		
Paper Prepared By:	Kevin Parkinson	Date of Paper:	July 2017
Executive Sponsor:	Kevin Parkinson	Responsible Manager:	Kevin Parkinson
Committees where Paper Previously Presented:	Executive Committee, 27 June 2017		
Background Paper(s):			
Summary of Report:	Recommending Whistleblowing policy outlining the roles and responsibilities for the adherence to the obligations placed on Morecambe Bay CCG in relation to whistleblowing concerns.		
Recommendation(s):	The Governing Body are requested to agree to recommendation from Executive Committee to adopt the policy.		
			Please Select Y/N
Identified Risks:			N
Impact Assessment: (Including Health, Equality, Diversity and Human Rights)			N
Strategic Objective(s) Supported by this Paper:			Please Select (X)
To Improve the health of our population and reduce inequalities in health			X
To reduce premature deaths from a range of long term conditions			X
To develop care closer to home			X
To commission safe, sustainable and high quality Hospital Health Care			X
To commission safe, sustainable and high quality Mental Health Care			X
To improve capacity and capability of primary care services to respond to the changing health needs of our population			X
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Morecambe Bay
Clinical Commissioning Group

NHS Morecambe Bay Clinical Commissioning Group Whistleblowing Policy

July 2017

DOCUMENT CONTROL

Title:	The Whistleblowing Policy for NHS Morecambe Bay Clinical Commissioning Group
Purpose:	Policy outlining the roles and responsibilities for the adherence to the obligations place on NHS Morecambe Bay Clinical Commissioning Group in relation to whistleblowing concerns
Author:	Sharon Brock (AFS)
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Responsible committee / director:	Governing Body
Lead officer:	Kevin Parkinson Chief Finance Officer/Director of Governance
Target audience:	All CCG employees, managers, Executive Leads, CCG members, Members of the CCG Governing Body and Membership council, and contractors.
Date ratified:	
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1 Introduction

- 1.1 NHS Morecambe Bay Clinical Commissioning Group (CCG) is committed to achieving the highest possible standards of quality, openness and accountability in all its practices. To achieve these aims the CCG welcomes staff raising concerns about health care, safety, malpractice, theft, fraud, bribery or corruption. The CCG also encourages its staff to use internal mechanisms to report any illegal acts or omissions by employees or ex-employees.
- 1.2 As professionals, employees have a responsibility to raise concerns under their own professional code of practice, in accordance with the terms of their registration. Failure to do so may be a breach of that code. It is the responsibility of all staff to ensure that if they become aware that the actions of other employees or officers of the CCG, or anyone working for it, with or connected to it, might compromise this objective, they will be expected to raise the matter. Patient/service user safety and prevention of incidents is a paramount principle and all workers have a duty to report bad or inappropriate practice, or mistreatment (following the Duty of Candour principle).
- 1.3 The CCG is committed to the principles of public accountability, including ensuring its own responsibilities under the referenced Duty of Candour, are adhered to. The Duty of Candour is a contractual requirement on NHS organisations to be open with the public, patients and their families and to provide them with information on any investigations and lessons learned when things go wrong or are inappropriate, with their healthcare.
- 1.4 The contractual Duty of Candour, which forms part of the Government's approach in ensuring that the NHS is accountable and transparent, is an enforceable duty of NHS providers, who the CCG commissions services from. This is also particularly important to the primary care community in ensuring the best clinical practice is safeguarded.
- 1.5 This policy is intended to ensure compliance with the 'Seven Principles of Public Life' (also known as the 'Nolan Principles') as defined by the Committee for Standards in Public Life:

1. Selflessness

Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other benefits for themselves, their family or their friends.

2. Integrity

Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.

3. Objectivity

In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

4. Accountability

Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

5. Openness

Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands it.

6. Honesty

Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

7. Leadership

Holders of public office should promote and support these principles by leadership and example.

These are also attached at Appendix 1, but further information can be obtained via *The Committee on Standards in Public Life* website which can be accessed using the following link: <http://www.public-standards.org.uk>

- 1.6 In line with the above principles and requirements, the CCG encourages all individuals to raise any concerns or issues that they may have about the conduct of others in the organisation, independent contractors, or organisations with which the CCG has a relationship/contract. The explicit aim of this policy is to provide an internal and transparent mechanism for reporting, handling efficiently and effectively, investigating and remedying concerns and inappropriate actions in the workplace. It is recognised that employees may need to raise concerns on a confidential basis and the procedures detailed in this policy aim to facilitate this, so that staff can do so without fear of reprisal, harassment or victimisation. Employees are encouraged to raise concerns at an early stage so that any potential harm or damage can be minimised.
- 1.7 The CCG is committed to listening to whistleblowers, following best practice in complying with NHS and UK legal requirements, to investigating thoroughly genuinely held concerns and issues which are raised, and to protecting and safeguarding those who raise such concerns.
- 1.8 As a result of the evolving NHS environment and arrangements, especially as primary care becomes even more fundamental and intrinsically linked into decision making and service provision, it is vital that this policy remains fit for purpose, is regularly reviewed and refreshed and reflects the new policy guidance in respect of primary care conflicts of interest and for the potential risks of fraud, bribery and corruption.
- 1.9 NHS England has recently consulted upon and then issued guidance to refresh national and local NHS expectations and policy updates on whistleblowing. This guidance is headed "Freedom to Speak Up in Primary Care". This policy reflects the latest NHS England requirements at the time of approval.

- 1.10 The ultimate aim of this policy is to promote a culture within NHS Morecambe Bay Clinical Commissioning Group which promotes honesty and accountability, maintains safeguarding and enables individuals to report any genuine non malicious concerns they have in confidence.

2. Scope

- 2.1 This policy applies to members of the public, patients and other stakeholders as well as to all CCG members, CCG Governing Body, committee and subcommittee members, Membership Council and employees of NHS Morecambe Bay Clinical Commissioning Group and should also be used by interim, agency staff, contractors, volunteers or others performing any role on behalf of NHS Morecambe Bay Clinical Commissioning Group, to raise concerns. The importance of this policy is fully recognised by the CCG.
- 2.2 It is important to recognise that there is a difference between making a disclosure which is in the public interest and a personal grievance, or some other complaint, for example; a grievance tends to be about employment rights, personal treatment regarding a personal issue. Whistleblowing should be focused on serious malpractice, inappropriate actions or wrongdoing which affects others more widely.
- 2.3 As indicated at 1.9, this policy reflects the latest consultation outcomes and guidance issued by NHS England. It is important for the CCG to ensure it fully complies with these duties to meet NHS England requirements. Compliance with this policy will allow the required NHSE prescribed organisation status.

3. Policy Statement

- 3.1 NHS Morecambe Bay Clinical Commissioning Group is absolutely committed to maintaining an honest, open culture within the organisation, so as to best fulfil its duties and objectives.
- 3.2 It is the responsibility of each individual member of the groups listed in section 2.1 above to report any reasonable suspicions to one of the Designated Officers listed in Section 8.12 of this policy. No individual will suffer any detrimental treatment as a result of reporting reasonably held, non-malicious suspicions.
- 3.3 Wherever possible, concerns should be discussed and resolved informally. Where informal mechanisms do not resolve the concern, this policy provides a formal procedure within which to address the concern(s) raised. Where a concern relates to safeguarding then the Safeguarding Children and Vulnerable Adults Policy takes precedence.

4. Whistleblowing

- 4.1 For clarity, whistleblowing is the popular term used when someone who works, is appointed by, or did work for an organisation raises a concern about that organisation, with someone who has the power/authority to take corrective action. This concern could be a possible fraud, bribe, crime, danger,

safeguarding issue or other serious risk that could threaten patients, customers, colleagues, shareholders, the public or the organisation's own reputation.

- 4.2 For employees and others appointed by NHS Morecambe Bay Clinical Commissioning Group it is vitally important for concerns to be raised and investigated as this could have serious consequences to patient safety, the welfare of staff, and the reputation of, or the financial stability of the Clinical Commissioning Group or the wider NHS. This for example, could include failure to safeguard patients, maladministration of medicines, inappropriate levels of training to staff, or lack of policies and procedures that could present significant risks or harm.
- 4.3 Apart from the obvious internal needs for the CCG to be aware of the concerns of a whistleblower, there are also other outside agencies (e.g. NHS England, a regulator, the police, the Local Authority or the media) who would have a legitimate interest to investigate an underlying public interest concern. The CCG is committed to ensuring the widest possible engagement and awareness of all related issues and requirements, and will continue to engage with and communicate extensively with all parties. Close working arrangements are in place with NHS England to ensure that interrelated primary care issues are reported, assessed, mitigated and resolved.
- 4.4 An individual raising a workplace concern or 'whistleblower', is viewed as a witness who is putting the organisation on notice of a perceived risk or safeguarding issue, in order that appropriate action can be taken to address the concern raised. The procedures and the opportunities to raise those issues and concerns are set out in this policy at section 8. An action based flow chart is also attached at Appendix 3.
- 4.5 Whistleblowing is an aspect of good citizenship in that the individual is speaking up for the public, or an organisation at risk, who or which, is usually unaware of the problem and therefore unable to do anything to protect themselves. It would be wrong for someone with a genuine concern to wait for a problem to reach a critical point before raising their concern with an appropriate person.
- 4.6 As an indication of the potential issues that may apply and as an early warning system, whistleblowing can help alert employers to risks such as:
- Malpractice or ill treatment of a patient or service user by any member of staff/contractor;
 - Repeated ill treatment of a patient or service user, despite a complaint being made;
 - A criminal offence has been committed, is being committed or is likely to be committed;
 - Suspected fraud, corruption or abuse of position;
 - Disregard for legislation, particularly in relation to health and safety at work;
 - The environment has been, or is likely to be damaged;
 - Breach of Prime Financial Policies and/or Standing Orders;
 - Showing undue favour over a contractual matter or to a job applicant;
 - A breach of a professional code of conduct;

- Safeguarding issues;
- Information on any of the above has been, is being or is likely to be concealed;
- Financial irregularity;
- Unethical practice;
- Negligence; and
- Maladministration.

This list is not exhaustive, but is provided as a guide and supplements the general principles of safety and service provision referenced as part of the introduction to this policy.

- 4.7 Once the facts of the incident/s become known to a senior member of NHS Morecambe Bay Clinical Commissioning Group they are required to progress the concern. If it is decided that the concern would be more suitably dealt with via another policy, e.g. NHS Morecambe Bay Clinical Commissioning Group's Anti-Fraud, Bribery and Corruption Policy or Safeguarding Children and Vulnerable Adults Policy, then this will be discussed with the individual who raised the concern before progressing the issue through the appropriate policy. In the event that the conduct complained of is potentially of a criminal nature, then this will be discussed with the Anti-Fraud Team in line with the Anti-Fraud, Bribery and Corruption policy before further action is taken. Where the event is of a Safeguarding nature then discussions will take place with the respective Local Authority. Should the concern be of a primary care nature, recognition and the impact of the Conflicts of Interest policy should be made.
- 4.8 If the individual believes the matter has not been dealt with appropriately they should then use this policy to determine the next course of action.
- 4.9 Whistleblowing arrangements and the CCG's policy are an integral part of the CCG's formal constitutional requirements. The CCG's Constitution will continue to be updated to reflect the revisions to these key policies and procedures in conjunction with NHS England's processes and procedures.

5. Whistleblowing Policy

- 5.1 NHS Morecambe Bay Clinical Commissioning Group promotes equality and diversity. It is our aim to ensure that all patients, service users and staff feel valued and are treated in a fair and equitable manner.
- 5.2 As indicated, all employees have a right and a duty to raise concerns when they have a genuine suspicion that something is wrong, whether or not proof is available. It is in the interest of both employees and the CCG that concerns are resolved effectively, as this will help maintain and improve the quality of the services provided. This policy sets out how those concerns can be raised, how they will be managed, investigated and resolved.
- 5.3 In general, employees should feel comfortable in raising concerns openly, where those involved know what the issue is, and who has raised it. This openness makes it easier for the organisation to investigate the issue as efficiently as possible and assess what actions need to be taken. Speaking up

in such instances will make a difference and the CCG will listen. If in doubt, individuals should raise the matter.

- 5.4 It is appreciated that in many cases, however, the individual raising the concern will want to do so in confidence. If this is requested, NHS Morecambe Bay Clinical Commissioning Group will not disclose that individual's identity without their consent. If the situation arises where the CCG is not able to resolve the concern without revealing the identity of the person raising the concern (for instance if their evidence is needed in court), then NHS Morecambe Bay Clinical Commissioning Group will discuss with the person raising the concern, at that point, how the concerns can proceed. Where anonymity is requested by the person providing the information, NHS Morecambe Bay Clinical Commissioning Group will take all reasonable steps to respect the confidence of the person providing the information.
- 5.5 The CCG will consider, at its discretion, any concerns which are submitted anonymously, (not to be confused with a request for anonymity). However, if an individual does not provide their contact details, it can hinder any investigation into the concern, and it will be impossible to provide feedback. Ideally, all concerns should be raised in person directly to the relevant Designated Officer to ensure that the procedures and safeguards in this policy can be applied (see Sections 6 and 8).
- 5.6 It is important to note that any provision in any agreement between a worker and their employer which seeks to prevent the worker from making a whistleblowing disclosure is in breach of the Public Interest Disclosure Act 1998 and therefore any such "gagging order" is unenforceable.

6. LEGAL CONTEXT

- 6.1 The Public Interest Disclosure Act 1998 ('the Act'), as amended by the Enterprise and Regulatory Reform Act 2013, provides a framework of legal protection for individuals who disclose information which exposes malpractice and matters of similar concern in the public interest. This policy seeks to implement and support these legal rights. This policy is intended to complement professional and ethical guidelines of bodies such as the NMC, HCPC and GMC, as well as other professional organisations.

This policy is to be used where an individual has a reasonable belief that their disclosure is in the public interest. "Public Interest" is not defined in the legislation, but generally means a concern of wider public importance rather than a personal or individual issue. The Act gives protection to members of staff who report their employer for breaking the law or for serious matters of malpractice as outlined below. In order to qualify for the protection, a complainant must have reasonable belief that the disclosure is made in the public interest.

- 6.2 The Act explicitly protects employees from victimisation or any reprisal as a result of speaking up, which could include dismissal for raising concerns reasonably and responsibly about matters in the public interest. NHS Morecambe Bay Clinical Commissioning Group will not tolerate the harassment, or victimisation of anyone raising a genuine concern under this policy and any

such acts will be dealt with as a disciplinary matter. (This does not apply in cases when someone maliciously raises an issue knowing it to be untrue). Issues and concerns raised will be handled by the CCG in an appropriate and confidential manner.

6.3 As well as being in the public interest, the disclosure must be covered by one of the following six categories known as “qualifying disclosures” for the complainant to be protected. They must have reason to believe that:

- a criminal offence has been committed, is being committed or is likely to be committed;
- a person has failed, is failing or is likely to fail to comply with a particular legal obligation;
- a miscarriage of justice has occurred, is occurring or is likely to occur;
- the health or safety of any individual has been, is being or is likely to be endangered;
- the environment has been, is being or is likely to be damaged;
- Information indicating the occurrence of any of the above has been, is being or is likely to be deliberately concealed.

The above list would cover, for example, risks to patients (including those of a safeguarding nature) and financial malpractice.

6.4 The Act also protects disclosures made to “prescribed bodies” where the individual reasonably believes that the information or any allegation is substantially true. The disclosure must not be made for personal gain. Prescribed bodies relevant to NHS bodies include the National Audit Office, the Health and Safety Executive, the Information Commissioner, the Care Quality Commission, Monitor and HMRC.

Further information on the Public Interest Disclosure Act can be found at the following link: <http://www.pcaw.co.uk/>

7. Responsibilities

7.1 Responsibilities of the CCG

- To monitor this policy and the related procedures and address any concerns/issues that are raised as a result;
- To provide points of contact for staff who wish to raise or escalate concerns under the provision of this policy and who feel it is inappropriate to raise the matter through their Line Manager;
- To support appropriate investigations, communicate with all appropriate parties, ensure resultant disclosures and identify actions and any learning necessary as a result of any outcome;
- To make available appropriate learning resources, including those available and indicated as ‘best practice’ through NHS England.

7.2 Responsibilities of CCG Managers

- Ensure staff are familiar with and have access to the policy;

- Ensure staff understand how to raise a concern, and take all concerns seriously and in confidence, wherever possible;
- Provide senior management support, advice and oversight.
- Consider staff concerns carefully and in a positive supportive manner and (where necessary) undertake an appropriate investigation.
- Understand with respect the difficult position that the individual staff member may be in.
- Seek appropriate advice from one of the Designated Officers named in paragraph 8.12.
- Take prompt action to resolve the concern, or refer it on to one of the Designated Officers named in paragraph 8.12.
- Keep the member of staff informed about the ongoing processes and/or proposed solution, providing any advice and support required.
- Regularly review situations that have been reported to them and engaged and communicate with all appropriate parties
- Ensure individuals who genuinely report concerns are not penalised or discriminated against in any way and that they have a named individual to go to if they feel that they are being bullied or harassed as a result of reporting their concern.

In addition managers have a responsibility to:

- Foster an environment in which their teams are engaged in the delivery of high quality and safe services;
- Create an open and safe atmosphere where staff feel their views regarding the effective and safe delivery and service to our service users, will be welcomed and be seen as an opportunity to learn and consider how services can be improved. Equally, there is a need to share good news stories and celebrate successes.

7.3 Responsibility of CCG Employees

- To familiarise themselves with the policy;
- Ensure that the best standards, quality and safety of care are achieved;
- Be open and contribute freely their views on all aspects of the health service;
- Report their concerns to a member of the CCG's staff as outlined in this policy (particularly if they consider that something is happening which might compromise the above mentioned standards of care);
- Raise concerns in the public interest with a true belief that poor standards have occurred.

8. Raising a Concern and how they will be investigated

- 8.1 All parties who reasonably believe they have a concern(s) which relates to one of the areas outlined in section 4.6 (these being examples rather than a definitive list) are encouraged to raise that concern at the earliest opportunity.
- 8.2 It is encouraged that individuals use the procedures laid out in this policy document, prior to reporting the issue to any external routes that may be available. The

availability of those other external procedures are however indicated within this policy.

- 8.3 In certain instances it is recognised that individuals may be reluctant to raise their concerns, particularly if the conduct or action of a colleague is involved. This may be true particularly where the concern is about a member of staff in a senior position, or from a different discipline or profession.
- 8.4 As indicated, the CCG is keen to ensure that staff feel able to raise such concerns confidentially and without fear of any subsequent action or reprisals being taken against them. If however, a member of staff feels that they have been discriminated against as a direct result of raising their concern, they should report the discrimination, using the CCG's Grievance Policy.
- 8.5 If an individual raises an issue/concern and asks the CCG to protect their identity by keeping confidence, the CCG will not disclose it without their consent. If the situation arises where the CCG is unable to resolve the concern without revealing the individual's identity (for instance because evidence is needed in court), the CCG will discuss with the member of staff how and whether they can proceed.
- 8.6 Any potential issues/concerns relating to fraud, bribery or corruption allegations must be raised in line with any CCG guidelines around fraud, bribery and corruption and this is to be referred to the CCG's Local Anti-Fraud Specialist. In the first instance staff should raise any concern with one of the Designated Officers named in paragraph 8.12 who will make a decision on whether to contact the Local Anti-Fraud Specialist.
- 8.7 *Under no circumstances should individual managers investigate any alleged fraud concerns or corruption issues.***
- 8.8 Under this policy there is no requirement for individuals alleging "malpractice" to prove their case is true, only that it is honestly raised. All notifications will be taken seriously and managers will be supportive of staff recognising that raising a concern is often a difficult experience. In all cases, individuals have the right to discuss their concerns with the Chief Officer. However, staff are encouraged to use the internal procedures (informal and formal) as laid out within this policy, in the first instance.
- 8.9 Whilst pursuing the aim of openness and transparency it is imperative that patient confidentiality is maintained and that confidence in the services provided by the CCG are not unreasonably undermined. Similarly, as individuals have certain obligations and loyalties to the CCG as their employer; it is important that the employer/employee relationship is not compromised.
- 8.10 Employees may also contact their staff side representative for confidential advice about how and when to raise any concern at work.
- 8.11 As outlined within this policy, wherever appropriate, concerns should be discussed and resolved informally. This involves raising the concern for example with one of the Designated Officers or the line manager. However, if this concern involves a potential criminal, fraudulent, bribery related or corrupt act, then this concern should be reported immediately to the Local Anti-Fraud Specialist. In the event that the matter involves a potential safeguarding concern, a referral should be made to the

Local Authority, as well as reporting the concern to the CCG's Chief Nurse and the Designated Nurse for Safeguarding. This type of referral must not be delayed by the necessity to discuss the concern with a line manager or a CCG Designated Officer.

- 8.12 However, if an individual is not satisfied that a concern has been dealt with adequately at this informal stage, or feels unable to raise it with their line manager, the concern should be raised formally with one of the following Designated Officers:

- **Clinical matters**

Chief Nurse	Margaret Williams
Telephone	01524 519321
Email	margaret.williams@morecambebayccg.nhs.uk

- **Financial Matters and all other matters not covered elsewhere in 6.2**

Chief Finance Officer	Kevin Parkinson
Telephone	01524 519219
Email	kevin.parkinson@morecambebayccg.nhs.uk

- **HR or Staffing Matters**

Chief Operating Officer	Hilary Fordham
Telephone	01524 519369
Email	Hilary.fordham@morecambebayccg.nhs.uk

- **Medicines Management Matters (including controlled drugs)**

Head of Medicines Management	Graham Atkinson
Telephone	01524 519453
Email	Graham.atkinson@morecambebayccg.nhs.uk

- **Fraud Bribery or Corruption Matters**

Local Anti-Fraud Specialist	Sharon Brock
Telephone	0151 285 4500/07798 580173
Email	Sharon.brock@miaa.nhs.uk

- **Safeguarding Matters**

Designated Nurse (Safeguarding)	Jane Jones
Telephone	01524 518957
Email	jane.jones@morecambebayccg.nhs.uk

- 8.13 The CCG cannot condone abuse of this policy and procedures and if, following investigation a member of staff is found to have raised concerns maliciously, the matter will be dealt with under the CCG's Disciplinary Policy. Staff not directly employed by the NHS Morecambe Bay Clinical Commissioning Group (e.g. GPs, or those working under service level agreements) should also report their

concerns to one of the above officers. The primary care community are also covered by these requirements and duties.

- 8.14 The identified Designated Officers will have the responsibility to ensure that there is appropriate communication and support both for the individual making the referral and possibly for those individuals against whom the allegations have been made (if applicable).
- 8.15 If significant concerns remain after raising the issue with a Designated Officer or in the event that these officers are themselves the subject of the concerns being raised (i.e. not as a matter of routine) the Chief Officer (01524 519457), Chair of the Governing Body (01524 519457) or any NHS Morecambe Bay Clinical Commissioning Group Lay Member (01524 519307) may be contacted.
- 8.16 The person that you report your concerns to is likely to ask you for the following information:
- What has happened?
 - When did it occur?
 - Where did it occur?
 - Who was involved?
 - Has it happened before?
 - Are there any other witnesses?
 - Is there any supporting information?
 - How did you become aware of the situation?
 - Do you have any personal interest in the matter?
 - Has the matter been raised with anyone else? If so, who?
 - Are you prepared to make a written statement?
 - Do you wish to retain confidentiality/remain anonymous?
- 8.17 Please try and have as much information available when reporting your concern, in order to give the fullest picture possible of the situation and your concerns, to allow correct and due process and investigation of the concerns to be taken forward.

9. Support / Advice in Raising a Concern

- 9.1 If you are unsure whether or not your concern should be raised, or would like some independent advice or support at any stage, you can contact:

Public Concern at Work, on 0207 404 6609
or <http://www.pcaw.org.uk/about/contact-us>

This is an independent authority who can give free and confidential advice at any stage on how to raise a concern about serious malpractice at work.

- 9.2 You have the right to seek guidance and support from your professional organisation or trade union, or from statutory bodies such as the GMC.

10. Raising Concerns Externally

- 10.1 Whilst it is hoped that this policy gives staff the reassurance they need to raise concerns internally, it is recognised that there may be exceptional circumstances where an employee can or should properly report matters to outside bodies such as regulators (e.g. the Care Quality Commission, the Health and Safety Executive, the Department of Health, the Environment Agency the NHS Protect Fraud and Corruption Hotline (**0800 028 40 60**), the police or their MP).
- 10.2 The NHS Employers organisation provides guidance to support the development of whistleblowing policies and procedures in the NHS. They work closely with the Royal Mencap Society, who have announced as the new service provider of the national NHS whistleblowing helpline from 1st January 2012. The helpline number is **08000 724 725**. Other advisory bodies include the Whistleblowing Charity, Public Concern at Work (PCaW), telephone number 020 7404 6609 or the Citizens Advice Bureau.
- 10.3 Employees may also refer matters to the Health Service Ombudsman who may investigate complaints by staff on behalf of a patient; provided that he is satisfied there is no-one more appropriate, such as an immediate relative to act on the patient's behalf.
- 10.4 Although NHS Morecambe Bay Clinical Commissioning Group does not seek to prevent individuals raising concerns externally, we would strongly recommend that you 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 can safely contact an outside body.

11. Review

- 11.1 Given the importance and the critical nature of this policy, its duties and requirements, it will be subject to annual review by the CCG and reflective of any further intermediate policy changes, or recommendations indicated by NHS England or other relevant bodies.

12. Communications and Training

- 12.1 The CCG will ensure the widest possible communications of this policy (and by all means possible e.g., website, team briefs, practice bulletins etc), ensuring that all individuals involved recognise their importance, duty and responsibilities in ensuring the aims objectives and principles are achieved. It will be made clear across the Morecambe Bay Clinical Commissioning Group services and the wider economy what arrangements and procedures are in place and available should the necessity to apply this policy arise.
- 12.2 The CCG will continue to promote this policy and to provide appropriate induction and training facilities; this will include access to available NHS England learning resources.

13. Additional Information

- 13.1 Appendix 2 to this policy provides more detailed information and further guidance on the procedures to be followed and to be adopted when notifications of concerns are received by the CCG.
- 13.2 Appendix 3 shows in diagrammatic form the process to be adopted and procedures to be followed upon receiving and then actioning a notified concern.

14. Conclusion

- 14.1 All CCG members, CCG Governing Body and Committee and sub-committee members, Membership Council members and employees of NHS Morecambe Bay Clinical Commissioning Group, have a duty to follow the Public Service Values and ensure in particular that they maintain the standards of honesty and accountability.
- 14.2 NHS Morecambe Bay Clinical Commissioning Group wishes to encourage anyone having reasonable suspicions or concerns in relation to the CCG or the services it commissions to report them. This policy provides the support and procedures to enable that to happen as necessary.

Appendix 1 – The ‘Seven Principles of Public Life’

The ‘Seven Principles of Public Life (also known as the ‘Nolan Principles’) were defined by the *Committee on Standards in Public Life (1995) and are:*

Selflessness - Holders of public office should take decisions solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family or their friends.

Integrity - Holders of public office should not place themselves under any financial obligation to outside individuals or organisations that might influence them in the performance of their official duties.

Objectivity - In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

Accountability - Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

Openness - Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

Honesty - Holders of public office have a duty to declare any private interests relating to their public duties and take steps to resolve any conflicts arising in a way that protects the public interest.

Leadership - Holders of public office should promote and support these principles by leadership and example.

Further information can be obtained via The Committee on Standards in Public Life website which can be accessed using the following link:

<http://www.public-standards.gov.uk>

Appendix 2 – Management and further procedural Guidance

1.0 Victimisation of a Whistleblower (All managers to note)

- 1.1 We encourage and support people to speak out and disclose areas of concern and will not tolerate whistleblowers being victimised for doing so, particularly feeling pressurised into leaving their jobs. Where an employee is victimised after having made a genuinely held disclosure under the Public Interest Disclosure Act, upon which NHS Morecambe Bay Clinical Commissioning Group's Whistleblowing Policy is based, then the victimised employee can bring a claim at an Employment Tribunal against the Clinical Commissioning Group. Quite apart from the moral and legal obligations, this sanction will provide a strong incentive for all employers, to protect their staff from victimisation when disclosing their concerns in whistleblowing cases.

2.0 Informal Procedure

- 2.1 If an employee or individual has a genuinely held concern that they feel should be addressed, they should feel able to raise it first with their manager. The manager should reassure the employee at this point that they will not be at risk of losing their job or suffer from reprisals as a result of raising a genuine concern. If due to the circumstances of the concern the employee considers this ill-advised, the employee should seek advice from one of the NHS Morecambe Bay Clinical Commissioning Group's designated officers as referred in Section 8 of this policy
- 2.2 Where the issues cannot be resolved informally and the individual employee feels that their concerns have not been addressed then they should raise their concerns formally in accordance with this policy.
- 2.3 When approached about a whistleblowing concern, a manager to whom the report is made, should make every effort to resolve the matter informally, seeking, as necessary, advice from the designated officers listed in the Whistleblowing Policy.
- 2.4 In cases of suspected fraud or corruption, the individual raising the concern should be advised to contact the Local Anti-Fraud Specialist for the CCG. The contact details are as follows:

Anti-Fraud Specialist
Telephone
Email

Sharon Brock
07798 580173/0151 285 4500
Sharon.brock@miaa.nhs.uk

Concerns can also be raised via - NHS Protect Fraud & Corruption Reporting Line on **0800 028 4060**

3.0 Formal Procedure

- 3.1 When a concern is raised through the Whistleblowing Policy, the Designated Officer should be immediately notified of the concern raised. Where another

employee is notified of the concern, they should liaise with the appropriate Designated Officer to consider the nature and implications of the concern. The employee should be reassured at this point that they will not be at risk of losing their job or suffer from reprisals as a result of raising a genuine concern.

3.2 Anonymous allegations should always be considered, but supporting evidence is essential to back the allegation.

3.3 The individual raising the concern should be asked for the following information:

- What has happened?
- When did it occur?
- Where did it occur?
- Who was involved?
- Has it happened before?
- Are there any other witnesses?
- Is there any supporting information?
- How did they become aware of the situation?
- Do they have any personal interest in the matter?
- Has the matter been raised with anyone else? If so, who?
- Confirmation that they are prepared to make a written statement?
- Do they wish to retain confidentiality/remain anonymous?

3.4 Once this information relating to the concern has been obtained, the Designated Officer will decide whether the concern is a matter to be dealt with through the Whistleblowing Policy or it would be more appropriately dealt with via another policy, e.g. NHS Morecambe Bay Clinical Commissioning Group's Anti-Fraud, Bribery and Corruption Policy or NHS Morecambe Bay Clinical Commissioning Group Safeguarding Children and Vulnerable Adults Policy. This may be discussed with the individual who raised the concern. However, sufficient information must have been considered before a decision is taken.

3.5 If the concern is to be investigated through the Whistleblowing Policy, and there are no other factors to consider, then a formal interview should be arranged with the individual raising the concern. This should be held within 5 days of receipt of the concern wherever possible. The employee should be informed of this and advised that they may be accompanied by a friend, colleague or union representative (not acting in a legal capacity) if they wish, to support them. They should also be advised that another member of NHS Morecambe Bay Clinical Commissioning Group will need to be present during the interview in order to take comprehensive notes and that they will be given a copy of these notes. The individual raising the concern should be assured at this point that the interview will be held in the strictest confidence.

3.6 The individual should feel comfortable in raising their concern openly. If the individual reporting their concern asks for their identity to be concealed they must be advised that NHS Morecambe Bay Clinical Commissioning Group will not disclose their identity without their consent. They should be informed that if the situation arises where the Clinical Commissioning Group is not able to resolve the concern without revealing their identity (for instance if their evidence

is needed in court) that this will be discussed with them at that point to determine their desire for anonymity.

3.7 The interview notes of the meeting with the member of staff raising the concern should include the following information:

- Who was present at the interview, names and job titles;
- Full details of all issues discussed at the interview. (Where allegations concern patients they should be anonymised in the notes, using patient id or initials and DOB if available);
- Summary and next steps;
- Recommendations.

A copy of the notes will be sent to the individual raising the concern as soon as possible after the interview, asking them to check the notes for accuracy. The Designated Officer and the individual raising the concern should both sign the finalised notes and should each retain a copy.

3.8 Interviews must only be electronically recorded (e.g. by tape or digitally) with the explicit consent of the individual reporting the concern and the manager acting on behalf of the NHS Morecambe Bay Clinical Commissioning Group. A comment about the electronic recording should be made at the beginning of the recorded interview. Under no circumstances should the interview be electronically recorded covertly by either party as this may be deemed a breach of the Data Protection Act and Human Rights Act. If this method of recording the interview is agreed by both parties, a copy of the recording should be provided to both parties as soon as practicable after the interview.

3.9 The production or any agreed interview notes should be agreed within the meeting and should not delay the need to commence preliminary investigations.

3.10 Where it is appropriate, the Designated Officer will be responsible for investigating the allegation and may seek advice or specialist knowledge (in confidence) as necessary. Individuals providing this specialist knowledge can be asked to attend any meeting if the Designated Officer considers it necessary. Investigations should commence within 5 days of the formal interview wherever possible.

3.11 Where concerns have been raised directly with the Chief Officer, Chair of the Governing Body or a Lay Member, he/she shall liaise with the Designated Officer who will investigate the concern raised on their behalf. If the Designated Officer may be implicated the Chief Officer will assign another Senior Manager to investigate the concern.

3.12 An investigation file should be set up to include all documentation relating to the case. This file should contain the following:

- A master copy of the notes from the interview.
- Copies of all correspondence relating to the concerns, from the initial letter raising the concern to correspondence exchanged with the employee.
- Details of any verbal communications to be kept in a daily log,

particularly in relation to notifying the employee of all steps to be taken, any delays and the reasons why.

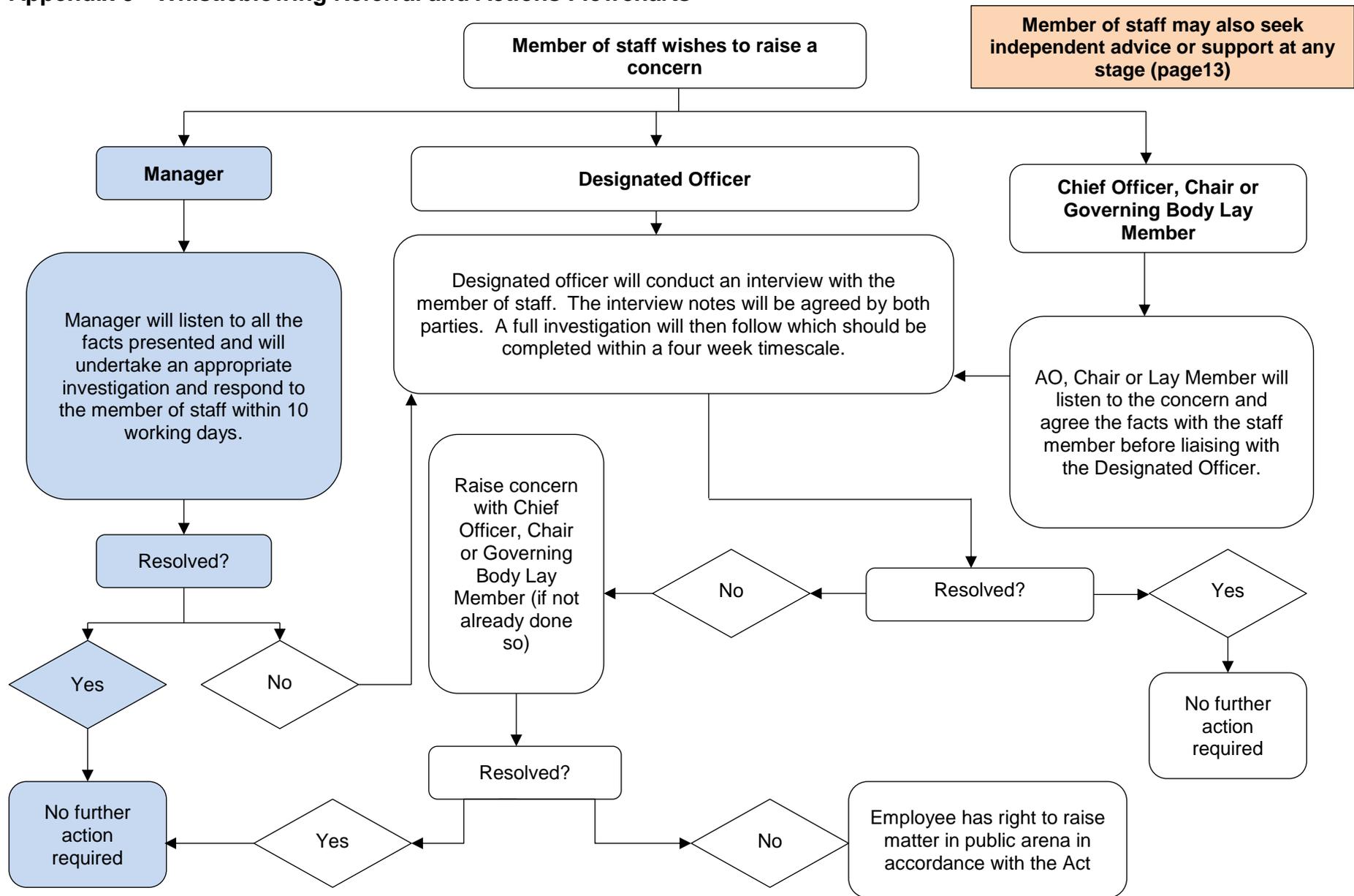
- An index of any evidence presented by the employee, referenced appropriately with individual references for each separate piece of evidence.
- All evidence presented (original if possible, where not possible copies).

The file should be clearly marked “Confidential” and must be kept in a secure, locked cabinet.

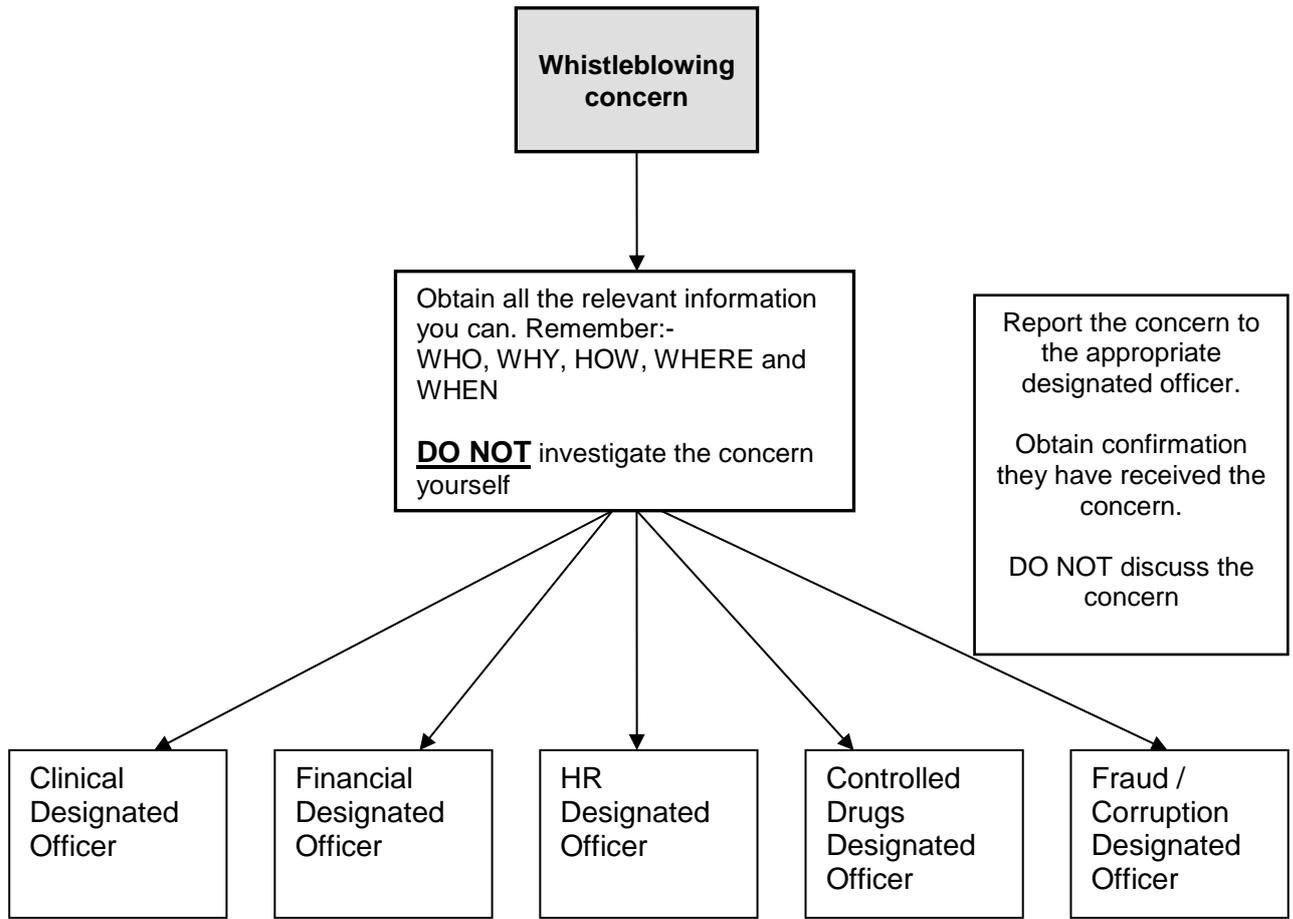
- 3.13 The Designated Officer should seek to complete the investigation within a four weeks’ timescale. If it is likely that the investigation will exceed this timescale, this should be communicated to the individual raising the concern. However, it is recognised that in complex matters, or where potential witnesses are not freely available, that the four week timescale may be impracticable, if this is the case the investigation must be completed as soon as possible.
- 3.15 The Designated Officer is responsible for ensuring that there is adequate communication and support for the individual raising the concern and only if appropriate, for those individuals against whom the allegations have been made. It is important that the individual raising the concern is, where possible, kept informed of the progress of the investigation and when it is likely to be concluded, in order to reassure them that the Clinical Commissioning Group is taking their concern seriously and acting appropriately.
- 3.16 The investigation may require involvement of other employees who may be informed of the concern and interviewed, unless it would prevent a correct investigation from taking place. Any employee or individual interviewed will have the right to be accompanied by a union representative, full time union official, work colleague or other person not acting in a legal capacity.
- 3.17 Once the investigation has been completed, a report will be produced and the Designated Officer will make the appropriate recommendations. Recommendations may include no further action, disciplinary action, a referral to one or more of the professional bodies, or civil or criminal proceedings. The individual raising the concern must be informed of the outcome, unless there are special reasons for not doing so. If there is evidence to suggest that criminal activity has occurred, is occurring or is likely to occur, the Local Anti-Fraud Specialist, or the NHS Local Security Management Specialist and/or the Police will be informed.
- 3.18 Where there is no case to answer, but it is clear that the individual raised a genuine concern and was not acting maliciously, the Designated Officer should ensure that the individual reporting the concern suffers no reprisals.
- 3.19 Any employee who is not satisfied that their concern is being dealt with correctly by the Designated Officer has the right to escalate their concern in confidence to the Chief Officer, Chair of the Governing Body or a Lay Member of NHS Morecambe Bay Clinical Commissioning Group. A further interview will be held by a Senior Manager assigned by the Chief Officer, and the Chief Officer will decide if further investigation is required and, if so, assign a Senior Manager to

undertake it. The individual raising the concern will be informed of the Chief Officer's decision within 5 days.

Appendix 3 - Whistleblowing Referral and Actions Flowcharts



Receiving a Concern (Non Designated Officer)



Receiving a Concern (Designated Officer)

