

Whistleblowing Policy

Applicable Health and Social Care Act 2008 (Regulated Activities) Regulations:-

- 13 - Safeguarding service users from abuse and improper treatment
- 20 - Duty of candour

Lead Directors: Managing Director

Lead: Compliance Manager

Policy approved by: Care Quality and Performance Management
Group

Date policy approved: 7th August 2014

Implementation date: Immediately

Last reviewed: April 2022

Next review date: April 2025

n.b. All policies are liable to early review if legislation or other circumstances change




Equality Statement

Nightingale Hospital values diversity and is committed to ensure that the needs of different groups, including people of different race, religion, belief systems, age, gender, disability and sexual orientation, are met fully and effectively. All Hospital policies have been designed with this commitment in mind; however, if any service user or staff member identifies a need for revision or improvement, this can be brought to our attention by completing the Initial Screening Equality Impact Form attached to this policy.

Safeguarding is Everybody's Business

All Nightingale Hospital employees have a statutory duty to safeguard and promote the welfare of children and vulnerable adults. If any staff member has concerns they should raise them with their Charge Nurse and / or the Compliance Manager.

Document control sheet

Policy Title	Whistleblowing Policy	
Purpose of policy	The purpose of this policy is to set out the Hospital's policy regarding 'whistleblowers' who disclose information in the public interest.	
Lead Director	Managing Director	
Lead	Compliance Manager	
Date	8 th June 2022; 16 th December 2022	
Reviews / Revisions	June 2022: This policy was previously part of the 'Open and Honest' policy, but it was felt it needed to stand alone. December 2022: Added Orpea's online tool and corporate policy update	
Checked by	Lesley Galasso Compliance Manager	
Approved by CQ&PMG	Dr. David Oyewole Medical Director	
Responsible Signatory	Akthar Hussain Managing Director	

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Policy

Nightingale Hospital takes the issue of malpractice or wrong-doing in any form very seriously and therefore seeks to ensure that staff, acting in good faith, who genuinely believe that malpractice is evident, are able to bring it to the attention of the senior management without fear of detriment or victimisation, in accordance with the Public Interest Disclosure Act 1998.

This policy covers any 'qualifying disclosure' under the Public Interest Disclosure Act 1998, meaning any disclosure of information which, in the reasonable belief of the worker making the disclosure, tends to show one or more of the following—

- (a) that a criminal offence has been committed, is being committed or is likely to be committed,
- (b) that a person has failed, is failing or is likely to fail to comply with any legal obligation to which he is subject,
- (c) that a miscarriage of justice has occurred, is occurring or is likely to occur,
- (d) that the health or safety of any individual has been, is being or is likely to be endangered,
- (e) that the environment has been, is being or is likely to be damaged, or
- (f) that information tending to show any matter falling within any one of the preceding paragraphs (a) - (e) has been, is being or is likely to be deliberately concealed.

Where the malpractice or wrong-doing is covered by the Public Interest Disclosure Act as outlined above, staff should feel that they are able to pursue their concerns outside the traditional management structure in accordance with the following procedure. Where concerns fall outside the scope of this policy, staff should take up the issue with their immediate line manager.

Nightingale Hospital encourages employees to identify themselves when making allegations about malpractice or wrongdoing. However, it is acknowledged that individuals may not always feel able to do this. In these cases, Nightingale Hospital would wish to receive the allegation, but the reporter should be aware that it will be more difficult to investigate because of their anonymity.

Nightingale Hospital reserves the right to impose penalties through the Disciplinary Policy for malicious allegations made with the sole intention of causing harm or disrepute to Nightingale Hospital or another individual.

Equally, any acts of victimisation or harassment directed against anyone making a complaint covered by this policy will be considered a disciplinary matter by the Company and could lead to the dismissal of the individual concerned.

PROCEDURE

Making an Internal Disclosure

Where a member of staff genuinely believes that malpractice covered by one or more of the categories of qualifying disclosure as outlined above has occurred, is occurring, or may occur, they should inform either:

- **Their Line Manager**
- **The Managing Director**
- **Or any other Manager**

Where the complaint relates to the employee's line manager, they may report their allegation to any manager, but this should usually be done using the 'grandparent' principle (i.e. the manager's manager).

Although there can be no guarantee of anonymity, all reports/complaints will be treated in the strictest confidence.

When making a complaint it is important that as much information as possible is given so that further investigation can be made. If the information concerns the health and safety of individuals the reporter should also inform the Health & Safety Officer as it is part of their role to raise such matters with management.

The Manager to whom the complaint / disclosure is made must:

- . establish that the complaint / disclosure is made in good faith;
- . ensure that the complaint / disclosure falls into one of the categories previously defined;
- . inform the Managing Director;
- . investigate the allegations to establish the facts;
- . if necessary and appropriate, inform the relevant regulatory body responsible;
- . report back to the person who made the initial allegation so that they are aware of the action being taken, and inform them of their rights under the Public Interest Disclosure Act 1998.
- . inform the reporter of the outcome of the investigation.

Taking the Disclosure to an Outside Regulatory Body

Where the reporter genuinely believes that the information given has not been fully addressed by Nightingale Hospital they may disclose the information to a prescribed Regulatory Body and they will retain protection under the Act, provided that:

- . the information is given in good faith;
- . they believe the information and allegations are substantially true;
- . the information is not given for personal gain;
- . the information falls within the prescribed Regulatory Body's jurisdiction;
- . in all circumstances it is reasonable for the disclosure to be made.

In these circumstances the reporter must also inform Nightingale Hospital in writing of their intention giving their reasons for further disclosure.

For a disclosure to be considered reasonable, regard is given to:

- . the identity of the person to whom the information is given.
- . the potential seriousness of the allegation.
- . the likelihood of recurrence.
- . the issue of protecting patient confidentiality.
- . whether the complaint / disclosure has first been notified to the employer in accordance with this procedure.

Orpea oversight and whistleblowing platform

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- investigate the allegations to establish the facts.
- if necessary and appropriate, inform the relevant regulatory body responsible.
- report back to the person who made the initial allegation so that they are aware of the action being taken and inform them of their rights under the Public Interest Disclosure Act 1998.
- inform the reporter of the outcome of the investigation.

2) Making an Internal Disclosure via the **ORPEA Whistleblowing platform**
(<https://orpea.signalement.net/>)

The member of staff can report facts that he has personally known, or he has witnessed and related to:

- Misconducts or situations that are contrary to the ORPEA Code of Conduct and regarding in particular:
 - Conflict of interests.
 - Corruption.
 - Influence peddling.
- Misconducts regarding:
 - A crime or an offence.
 - Health and safety.
 - Risking or damaging the environment.
 - A serious and clear breach of an international commitment ratified by UK;
 - A serious and clear breach of a unilateral act of an International Organization.
 - A serious and clear breach of the Law or a Regulation.
 - A threat or a serious damage for the general interest.

- Violation of the obligations defined by the regulations.

NB: The following topics are excluded from the scope of this reporting procedure:

- The Medical secrecy
- The National Defense secrecy
- Professional confidentiality between a lawyer and his client

The member of staff shall only report data which are relevant, adequate, and directly linked to the scope of the whistleblowing procedure:

- No value judgment or biased comment on people's behavior shall be considered.
- The member of staff shall report facts of which he has personal knowledge, in good faith, clearly and succinctly.

The member of staff shall only fulfill the following data when reporting his alert:

- His identity, functions and contact details.
- The identity, the function of the individual(s) on whom the alert is made.
- The reported facts.
- The relevant documents, if any (file, picture, or any other useful evidence) to support the alert.

Confidentiality shall be guaranteed all along the treatment of the reporting. In rare cases, the member of staff identity shall be revealed to the Judicial Authority but shall be subject to his prior consent.

Exceptionally, the member of staff can file report anonymously, being specified that:

- Shall not be considered and shall be immediately rejected, any anonymous reporting not stating serious facts and/or not detailing enough the facts.
- If facts are serious and detailed enough, the reported alert shall be dealt with, but its instruction will be longer and less effective, as the interaction between member of staff and the referent in charge of its treatment shall be more complex.

Appendix

Equality Impact Form

The Equality Impact Assessment is a tool that supports Nightingale Hospital to ensure its policies, and the ways it carries out its functions, do what they are intended to do for everyone fairly. Equality Impact Assessment is the process by which Nightingale Hospital seeks to meet its legal requirements in conjunction with the Equality Act 2010 and to narrow the health inequalities that exist between people from different ethnic backgrounds, people with disabilities, men and women (including transgendered people), people with different sexual orientation, people in different age groups, people with different religions or beliefs and people from different social and economic groups.

Policymakers must screen all policies for their impact on people from each of the groups listed in point 1 below.

If you have identified a potential discriminatory impact of this procedural document which has not been mitigated within the document, please refer it to the Managing Director who acts as the Diversity Manager and arrange to complete a full Equality Impact Assessment.

Your name	
Department	
Name of Policy	
Date of submitting this form	

Please answer these questions:

1	Does the Policy promote equality on the basis of	Yes/No	What / Where is the evidence to suggest this?
	Race, ethnic origins (including gypsies and travellers), and nationality		

Gender (male, female and transgender)		
Age		
Religion, beliefs and culture		
Disability (mental, physical, learning difficulties)		
Sexual orientation (lesbian, gay and bisexual)		
Marriage or Civil Partnership		

	Pregnancy / maternity leave		
2	Is there evidence that some groups are affected differently? Is the impact of the Policy likely to be negative?		
3	Is there a need for additional consultation e.g. with external organisations and / or service users and carers		
4	If you have identified potential discrimination, are any exceptions legal and justifiable		
5	Can we reduce the impact by modifying the Policy? How?		

This section is to be agreed and signed by the Managing Director in agreement with the visiting Diversity Consultant where appropriate

Recommendation

Full Impact Assessment required NO YES

Name: _____ Position: _____

Signature: _____ Date: _____