

Whistleblowing

1 Introduction

- 1.1** The Heart of Mercia Trust (HoM), in common with other public bodies, has a duty to conduct its affairs in a responsible, legal, and transparent way, and is subject to the standards of public life enunciated in the report of the Nolan Committee. This report identified seven principles of public life, namely, selflessness, integrity, objectivity, accountability, openness, honesty, and leadership.
- 1.2** The Trust is committed to operating in an ethical and principled way. The aim of this policy and procedure is to provide employees with a means for raising genuine concerns of suspected bribery, breaches of the law and other serious wrongdoings.
- 1.3** The Trust encourages employees to raise genuine concerns about suspected wrongdoing at the earliest practicable stage. This policy and procedure are intended to provide safeguards to enable employees to raise concerns about malpractice in connection with the Trust. It reflects the requirements of the Public Interest Disclosure Act (1998) and the amendments introduced in the Enterprise and Regulatory Reform Act (2013).
- 1.4** This policy and procedure also aim to encourage employees to raise genuine concerns through internal trust procedures without fear of adverse repercussions being taken against them. The law allows employees to raise such concerns externally and this policy informs employees how they can do so. However, a failure to raise a concern under this procedure may result in a disclosure losing its protected status under the law.
- 1.5** This policy and procedure also seek to balance the need to allow a culture of openness against the need to protect other employees against vexatious allegations or allegations which are not well-founded.
- 1.6** The principles of openness and accountability which underpin legislation protecting whistle-blowers are reflected in this policy and procedure. The Trust is also committed to ensuring compliance with the Bribery Act (2010).
- 1.7** Learners at academies of the Trust are also encouraged to raise genuine concerns about suspected wrongdoing by making a complaint to student support services. This policy and procedure are designed solely for the use of employees of the Trust.

2 Aims

- 2.1** This policy (commonly known as “whistleblowing”) is intended to provide a structure for the handling of allegations of suspected malpractice by employees of the Trust, including apprentices, casual employees, home-based casual employees, employees of sub-contractors and agency staff.
- 2.2** Employees might be unsure whether it is appropriate to raise their concern under this policy or whether it is a personal grievance, which is more appropriate to raise under the Trust’s grievance procedure. Any employee in this situation is encouraged to approach the Director of Governance in confidence for advice.

2.3 The policy is designed to assist in investigating, and where appropriate, acting upon, a complaint by any person or persons within the Trust who become aware of information which they reasonably believe tends to show one or more of the following matters, whether it is by the Trust management in its wider sense, or a member of staff of the Trust:

1. a criminal offence has been committed, is being committed or is likely to be committed.
2. an individual has failed, is failing or is likely to fail to comply with any legal obligation to which they are subject.
3. a miscarriage of justice has occurred, is occurring or is like to occur.
4. the health or safety of any individual has been, is being, or is likely to be, endangered.
5. the environment has been, is being, or is likely to be, damaged.
6. administrative malpractice.
7. financial malpractice.
8. fraud.
9. academic or professional malpractice.
10. improper conduct or unethical behaviour.
11. information tending to show any of the above, is being, or is likely to be, deliberately concealed.

This list is not intended to be exhaustive.

2.4 These procedures are in addition to the grievance procedures agreed by Trust staff, which should be used to raise grievances about an employee's personal employment situation.

3 Procedure for making a disclosure.

3.1 Employees may raise concerns verbally or in writing with the following senior postholders of the Trust so that any appropriate action can be taken. These are:

- The Chief Executive.
- The Director of Governance.
- Academy Principals/Heads.

3.2 Employees with a concern about a senior postholder should raise it directly with the Chair of the Trust or the Chair of the Audit Committee so that any appropriate action can be taken.

3.4 If the matter is raised verbally, which may assist in protecting confidentiality, a full note of the allegation will be made by the designated person (as detailed in 3.1 or 3.2 and Section 7) but this will not identify the complainant.

3.5 When an employee makes a disclosure, the appropriate person (as detailed in 3.1 or 3.2 and Section 7) within the Trust will acknowledge its receipt, in writing, **within 7 working days**. All communications with the employee making the disclosure should be in writing and sent to the employee's home address rather than through the internal email system.

3.6 When an employee makes a disclosure, the appropriate person within the Trust (as detailed in 3.1 or 3.2 and Section 7) should notify the internal/external auditors.

3.7 For further guidance in relation to this policy and procedure, or concerning the use of the disclosure procedure generally, employees should speak in confidence to the Director of Governance.

4 Safeguards for employees making disclosure.

- 4.1** The Public Interest Disclosure Act (1998) and the Enterprise and Regulatory Reform Act (2013) protect employees who, out of a sense of public duty, want to reveal suspected wrongdoing or malpractice. UK law allows employees to raise what it defines as a ‘protected disclosure’.

To be a protected disclosure, a disclosure must relate to a specific subject matter (see Section 2.3) and the disclosure must also be made in an appropriate way (see Section 3).

A ‘protected disclosure’ must, in the reasonable belief of the employee making it, also be made in the public interest. A protected disclosure must consist of information and not merely be allegations of suspected malpractice.

- 4.2** An employee making a disclosure under this procedure can expect their matter to be treated confidentially by the Trust and, where applicable, their name will not be disclosed to anyone implicated in the suspected wrongdoing, without their prior approval.
- 4.3** The Trust will take all reasonable steps to ensure that any report of recommendations, or other relevant documentation, produced by the Trust does not identify the employee making the disclosure without their written consent, or unless the Trust is legally obliged to do so, or for the purposes of seeking legal advice.
- 4.4** No formal disciplinary action will be taken against an employee on the grounds of making a disclosure made under this policy or procedure. This does not prevent the Trust from bringing disciplinary action against an employee where the Trust has grounds to believe that a disclosure was made maliciously or vexatiously, or where a disclosure is made outside the Trust without reasonable grounds.
- 4.5** An employee will not suffer dismissal or any detrimental action or omission of any type (including informal pressure or any form of victimisation) by the Trust for making a disclosure in accordance with this policy and procedure. Equally, where a worker is threatened, bullied, pressurised, or victimised by a colleague for making a disclosure, disciplinary action will be taken by the Trust against the colleague in question under the appropriate HoM disciplinary policy.

5 Procedure for investigation of a disclosure

- 5.1** The designated person hearing the complaint is under an obligation to respect the confidentiality of the complainant and prompt a full investigation. They will acknowledge the concern expressed in writing (as detailed in Section 3.5), and then report in writing the outcome of the investigation and details of any proposed action to the complainant (subject to third party rights).
- 5.2** All allegations should be investigated expeditiously and, if possible, within **10 working days** of the allegation being made. The complexity and gravity of the allegation, however, may necessitate a longer time scale. If so, the concerned employee will be kept updated as to the progress of the investigation and an estimated timeframe for its conclusion.
- 5.3** Without revealing the identity of the complainant, the person, or persons against whom the allegation is made must be informed of the allegation and the evidence supporting it and must be allowed to respond to the allegation before the investigation is concluded.
- 5.4** The identity of any person making an allegation under the above paragraphs will be kept confidential until a formal investigation is launched. Thereafter, the identity of the person making the allegation

will be kept confidential unless this is incompatible with a fair investigation, or unless there is an overriding reason for disclosure.

5.5 During the investigation, the Trust will then determine whether it believes that the disclosure is wholly without substance or merit. If the Trust considers that the disclosure does not have sufficient merit to warrant further action, the employee will be notified in writing of the reasons for the Trust's decision and advised that no further action will be taken by the Trust under this policy and procedure. Considerations to be taken into account when making this determination may include the following:

- if the Trust is satisfied that an employee does not have a reasonable belief that suspected malpractice is occurring; or
- if the matter is already the subject of legal proceedings or appropriate action by an external body; or
- if the matter is already subject to another appropriate Trust procedure.

5.6 When an employee makes a disclosure which has sufficient substance or merit warranting further action, the Trust will take appropriate action. Possible actions could include internal investigation; referral to the Trust's auditors; or referral to relevant external bodies such as the police, ESFA, OFSTED, the Health and Safety Executive or the Information Commissioner's Office.

5.7 If, following investigation, a complainant is not satisfied that their concerns have been appropriately addressed, they may raise it in confidence with the Chair of the Trust Board or the Chair of Audit Committee who will follow the procedures outlined above.

6 Procedure for appeal

6.1 If the complainant remains dissatisfied with the outcome of the investigation for the following reasons, they have a right of appeal:

1. they believe that procedures have not been properly followed.
2. they believe that the decision is one which no reasonable person could have reached.

6.2 The complainant must submit their appeal to the Chair of the Trust Board or the Chair of Audit Committee **within 10 working days** upon receipt of the outcome of the investigation.

6.3 The Chair of the Trust Board or the Chair of Audit Committee will then appoint an independent person to hear the appeal. This would be a person or persons not employed by the Trust who holds, or has held, judicial office or is an experienced practicing barrister or solicitor. One member of the Trust and one member of senior staff (against whom no complaint has been made) will sit with the appointed person on the appeal panel.

6.4 The Trust will endeavour to hear an appeal **within 10 working days** of receipt. If there is a delay beyond this, the complainant will be notified and informed of the anticipated timeframe.

6.5 If the Trust finds the allegation unsubstantiated, or to have been handled in a satisfactory manner by senior staff, the employee may still pursue the matter with an external agency (normally the Regional Schools Commissioner). This recourse should only be used when internal procedures have been exhausted.

6.6 Deliberately false and malicious accusations will be dealt with under the Trust disciplinary procedures.

7 Summary of roles and responsibilities within the Whistleblowing procedures:

	If	Report to
7.1	an employee has a whistleblowing concern about another member of staff they should report this to:	A senior postholder as detailed below: <ul style="list-style-type: none"> • Chief Executive of the Trust • Academy Principals/Heads • Director of Governance who will follow the procedures in Section 5
7.2	following investigation, the complainant above is not satisfied that their concerns have been appropriately addressed, they may raise it in confidence with:	Either: <ul style="list-style-type: none"> • Chair of the Trust Board • Chair of Audit Committee who will follow the procedures in Section 5
7.3	an employee has a whistleblowing concern about a senior postholder of the Trust they should report this to:	Either: <ul style="list-style-type: none"> • Chair of the Trust Board • Chair of the Trust Audit Committee who will follow the procedures in Section 5
7.4	the conclusions arrived at in scenarios 7.2 or 7.3 above mean the complainant still remains dissatisfied with the outcome of the investigation they have a right of appeal as detailed in Section 6. This appeal must be submitted to:	Either: <ul style="list-style-type: none"> • Chair of the Trust Board • Chair of the Trust Audit Committee who will then appoint an independent person to hear the appeal as detailed in Section 6

8 Disclosure to external bodies

- 8.1** This policy and procedure have been implemented to allow employees to raise disclosures internally within the Trust. An employee has the right to make a disclosure outside of the Trust where there are reasonable grounds to do so and in accordance with the law.
- 8.2** Employees may make a disclosure to an appropriate external body prescribed by the law. This list of 'prescribed' organisations and bodies can be found in information on the GOV.UK website: <https://www.gov.uk/whistleblowing>
- 8.3** Employees can also make disclosures on a confidential basis to a practising solicitor or barrister.
- 8.4** The NSPCC whistleblowing helpline is available for employees who do not feel able to raise concerns regarding child protection failures internally. Employees can call 0800 028 0285 or email: help@nspcc.org.uk
- 8.5** If an employee seeks advice outside of the Trust, they must be careful not to breach any confidentiality obligations or damage the Trust's reputation in so doing.

9 Accountability

- 9.1** The Trust will keep a record of all concerns raised under this policy and procedure (including cases where the Trust deems that there is no case to answer and therefore that no action should be taken) and will report to the Audit Committee on an annual basis as appropriate.

10 Further assistance for employees

- 10.1** An employee making a disclosure may want to confidentially request counselling or other support from the Trust’s occupational health service. Any such request for counselling or support services should be addressed to the Trust’s HR Director. Such a request would be made in confidence.
- 10.2** Employees can also contact the charity ‘Protect’ (formerly known as ‘Public Concern at Work’) for confidential advice on whistleblowing issues.



Contact details are as follows:

The Green House
244-254 Cambridge Heath Road
London E2 9DA

Free, confidential whistleblowing advice line: 020 3117 2520
Mon, Tue, Thur: 9:30am – 1pm, 2pm – 5:30pm.
Wed, Fri: 9:30am – 1pm
Website: protect-advice.org.uk
Protect advice e-mail: whistle@protect-advice.org.uk

11 Equality Impact

- 11.1** The Trust’s responsibilities towards promoting equality, diversity and inclusion have been considered when drafting this policy.

Date of review	Date agreed	LGBs	Trust Board	Review date	Comments
20/07/23	September 2023	Autumn 2023	12/10/23	July 2024	A recommendation from an external auditor was responded to in the review of the policy in July 2023.