

## Managing Allegations against Staff Policy and Procedure

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POLICY AUTHOR	Director of Human Resources

### EXECUTIVE SUMMARY

This policy summarises the general principles relating to the management of allegations made against staff. It includes, but is not restricted to, allegations of abuse directed towards children and vulnerable adults. It includes a procedure to be followed, which cross-refers to other relevant Trust policies and procedures.

**If you require this document in another format such as large print or please contact the Governance Support Team on 01903 845735 or email [HSCG@sussexpartnership.nhs.uk](mailto:HSCG@sussexpartnership.nhs.uk)**

Did you print this document yourself?

Please be advised that the Trust discourages the printing and retention of hard copies of policies and can guarantee that the policy on the Trust website is the most up-to-date version.

As a contingency a full set of up-to-date Trust policies are held by the Governance Support Team based at Trust HQ, Swandean

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## **1.0 Introduction**

### **1.1 Purpose of Policy**

The purpose of this policy is to ensure a consistent and effective response to any formal complaints, expressions of anxiety or other circumstances giving ground for concern, concerning the conduct of Sussex Partnership NHS Foundation Trust (the Trust) workers, in particular, though not exclusively, where these relate to the abuse of children or vulnerable adults. The Trust aims to respond effectively and sensitively to any such concerns. Allegations against staff can be difficult to deal with and therefore this policy and procedure is intended to assist staff in ensuring they are dealt with effectively and fairly.

### **1.2 Scope of Policy**

This policy and procedure applies to all the Trust's employees, bank and agency workers and volunteers. Separate Trust policies cover specific aspects of allegations of staff misconduct, such as employee support and wellbeing, raising matters of concern, harassment and bullying, investigation, suspension and disciplinary action, and these should be referred to as appropriate. Reference may also need to be made to the pan-Sussex Child Protection and Safeguarding Procedures and Multi-Agency Policy and Procedures for Safeguarding Adults at Risk which apply to the staff of all agencies who work with children and vulnerable adults respectively. This policy also needs to be read in conjunction with the Complaints Management Policy and Procedure as an allegation against a member of staff which relates to the delivery of services by the Trust may be raised in the form of a complaint and, in any case, will usually need to be treated as such.

Allegations may be made by colleagues, service users, their relatives and carers, or members of the general public. Examples of types of allegation that may be made against staff are:

- clinical malpractice, including the poor treatment, neglect or abuse of a patient or service user;
- financial malpractice, including fraud or suspected fraud, bribery and corruption;
- a breach of professional standards of conduct;
- concerns about health and safety in the workplace, including dangers to patients/service users, staff and the environment and non-compliance with legislation; and
- unlawful conduct or any failure to comply with a legal duty.

### **1.3 Principles**

The Trust recognises that proper procedures and safeguards need to be in place so that allegations of misconduct against members of staff, whether made by colleagues, service users or members of the public, are dealt with promptly and effectively, so that actual misconduct is identified and appropriate sanctions applied, whilst at the same time the risk of unfounded allegations against staff is minimised. This policy, and related policies that deal with actual or alleged misconduct by

members of staff (referred to in paragraph 1.2 above), are evidence of the Trust's commitment to dealing with such issues promptly and effectively.

## **2.0 Duties**

### **2.1 Executive Director of Corporate Services**

The Executive Director of Corporate Services is the sponsor of this policy and is responsible for its implementation.

### **2.2 Executive Director of Nursing & Quality**

The Executive Director of Nursing & Quality is the Trust lead regarding allegations relating to children.

### **2.3 Strategic Director of Social Care & Partnerships**

The Executive Director of Social Care & Partnerships is the Trust lead regarding allegations relating to vulnerable adults.

### **2.4 Director of Human Resources**

The Director of Human Resources is responsible for regularly reviewing the effectiveness of the policy and for drafting any amendments that may be required.

### **2.5 Other Directors, Senior Managers and Heads of Department**

Other directors, deputy and assistant directors, senior managers and heads of department are responsible for:

- the effective implementation of this policy within their directorates;
- providing resources for putting this policy into practice within their directorates; and
- ensuring that this policy is followed within their directorates.

### **2.6 Human Resources Managers and Advisers**

Human Resources managers and advisers are responsible for providing support and advice to managers and supervisors in the implementation of this policy and for ensuring the policy is reviewed and updated in accordance with any changes in the relevant legislation or nationally negotiated terms and conditions of employment.

### **2.7 All Managers and Supervisors**

Managers and supervisors must familiarise themselves with the provisions of this policy and associated policies and procedures that may be used in dealing with the various consequences of an allegation being made against a member of staff.

Further details of managers' responsibilities are given in Section 3 below.

## **2.8 All Staff**

All staff have a right and a duty to raise any serious matters of concern that they may have about the delivery of care to service users, even though this may involve making allegations about the conduct of colleagues. They should therefore raise any such concerns with their line manager, an appropriate alternative manager or direct to Human Resources. Employees who are making an allegation against a colleague should be made aware of the Raising Matters of Concern (Whistleblowing) Policy.

Members of staff should be supportive of colleagues who report any untoward incidents or concerns and have a duty to co-operate with any investigation that may be carried out in response to an allegation against a colleague. They should also:

- ensure their availability for investigation interviews when requested;
- if allegations are made against them, give a clear and concise account of their version of events, supplying any supporting evidence where necessary;
- if an allegation is made against a colleague and they are invited to an investigation interview, give an honest and first hand account of events, supplying supporting evidence where necessary; and
- maintain confidentiality throughout the whole process.

## **3.0 Procedure**

### **3.1 Allegation against a Member of Staff**

#### **3.1.1 Employee**

An allegation against a member of staff may be made by a colleague, a service user or their relatives or carers, or a member of the general public and may be made in person, in writing, or by telephone. The person raising the concern may or may not be willing to be identified, or the allegation may be made anonymously. The Trust employee receiving the allegation should obtain as much information as possible and, if they are not the line manager of the employee against whom the allegation has been made, should immediately notify the line manager. They should also notify Human Resources, who will appoint a named HR representative to liaise with the Investigating Officer who will be appointed by the Case Manager. (See Appendix 1 for further information on management roles in the operation of this policy.)

#### **3.1.2 Agency Worker**

In the case of an allegation against an agency worker it may be necessary to immediately terminate that worker's assignment. The agency should be notified of the reason and any disciplinary action will then be the responsibility of the agency to deal with in accordance with the contractual terms between the worker and the agency. Details of the allegation should be passed to the agency worker's line manager and dealt with as set out in paragraph 3.1.1 above. Depending on the outcome of the Trust's own investigation, it may be necessary to inform outside bodies of the Trust's concerns about the worker in accordance with paragraph 3.6 below.

#### **3.1.3 Volunteer**

In the case of an allegation against a volunteer it may be necessary to immediately terminate the volunteer's assignment. The Volunteer Service Manager should be notified. Details of the allegation should be passed to the volunteer's line manager and dealt with as set out in paragraph 3.1.1 above. If disciplinary action is needed, this will be in accordance with the procedure set out in the Volunteer Service Policy and Procedures. Depending on the outcome of this action, it may be necessary to inform outside bodies of the Trust's concerns about the volunteer in accordance with paragraph 3.6 below.

#### **3.1.4 Bank Worker**

In the case of an allegation against a Bank worker it may be necessary to immediately terminate that worker's assignment. The HR Bank Officer should be notified and details of the allegation should be passed to the worker's line manager and dealt with as set out in paragraph 3.1.1 above. Depending on the outcome of the Trust's investigation, it may be necessary to inform outside bodies of the Trust's concerns about the worker in accordance with paragraph 3.6 below.

### **3.2 Initial Process**

If the allegation against a member of staff is made by a member of the public and relates to the delivery of services by the Trust, the line manager of the employee against whom the allegation is made should complete a Concern and Complaint Alert in accordance with the [Complaints Management Policy and Procedure](#) and forward this to the appropriate senior manager designated by that procedure. In other cases, the line manager should notify their own senior manager. This manager will normally become the Case Manager and will determine the course of action for dealing with the case. If for some reason that senior manager should not become the Case Manager (e.g. they may have already been involved in the incident giving rise to the allegation or they may be related to the employee against whom the allegation has been made) the case should be reported to the appropriate director who will appoint an alternative manager as Case Manager. The Case Manager will appoint an Investigating Officer, usually the line manager of the employee against whom the allegation has been made unless there are good reasons to appoint an alternative manager, to make further investigations and compile a report in accordance with the Trust's Investigation Policy. The Case Manager will also consider whether the employee against whom the allegation has been made should be suspended from their post in accordance with the Suspension Policy, redeployed to an alternative role, or retained in post, possibly with a restriction on the range of their duties. (See Appendix 1 for further information on management roles in the operation of this policy.)

Depending on the nature of the allegation, the Case Manager should notify the appropriate Executive, Strategic or Service Director to agree any specific immediate responses and should notify the Executive Director for Nursing in cases of allegations regarding children or the Strategic Director for Social Care if the allegations relate to vulnerable adults. In consultation with the director, the Case Manager should consider whether the Trust should contact external bodies such as:

- the Local Authority Designated Officer under the provisions of the appropriate local authority's Child Protection and Safeguarding Procedures (allegations of abuse directed at a child);
- the appropriate local authority's Adult Social Care department (allegations of abuse directed at a vulnerable adult);
- the NHS Fraud and Corruption Reporting Line - 0800 028 40 60 (fraud or corruption); and/or
- the police – 101 for non-emergencies, 999 in an emergency.

If the allegation relates to matters that have already been, or are likely to be, publicised outside the Trust, the director will notify the Trust's Head of Communications with brief details, taking account of the need for confidentiality relating to the employee against whom the allegation has been made and the identity of the complainant.

### **3.3 Investigation**

An investigation should take place in accordance with the Investigation Policy and Procedure.

### **3.4 Suspension**

If suspension is judged appropriate, this should be done in accordance with the Suspension Policy and Procedure.

### **3.5 Disciplinary Action**

If the result of the investigation is that disciplinary action is appropriate in relation to the employee against whom the allegation was made, this should be carried out in accordance with the Disciplinary Policy and Procedure (except in the case of a volunteer for whom a specific policy and procedure is available – see paragraph 3.1.3 above). If the decision is that no further action is to be taken, the employee must be notified in accordance with the provisions of the Investigation Policy and Procedure. They should also be offered support and debriefing as appropriate.

### **3.6 Other Necessary Action**

Depending on the outcome of the investigation and any disciplinary action, the Trust may need to notify the employee's professional body and/or the [Disclosure and Barring Service](#) (DBS), into which the Independent Safeguarding Authority was merged in 2012. The professional body notification is the responsibility of the appropriate Executive or Strategic Director i.e. Nursing in the case of a nurse, Medical in the case of a doctor and Therapies in the case of a qualified therapist. Human Resources is responsible for notifications to the DBS.

### **3.7 External Investigations**

In some circumstances, external bodies such as the safeguarding authorities and the police will conduct their own investigations. These should not be confused with the Trust's own investigation and possible disciplinary action but Trust staff should cooperate as far as is reasonably possible with external investigations. This applies

to agency staff and contractors also. In most circumstances, the Trust's disciplinary action can, and should, continue in parallel with any external investigations.

### **3.8 Employee in Custody**

If the employee against whom the allegation has been made is in custody, either on remand or following sentence, reference should be made to the Criminal Offences section of the Disciplinary Policy and Procedure.

### **4.0 Development, Consultation and Ratification**

This new policy has been developed by Human Resources in consultation with staff side and management groups prior to ratification at the HR Executive Group.

### **5.0 Equality and Human Rights Impact Analysis**

An equality and human rights impact analysis has been completed which recorded that this policy will have a neutral impact.

### **6.0 Monitoring Compliance**

The Human Resources Department will maintain statistics of all disciplinary hearings and appeals and monitor trends to ensure they reflect the diversity of the workforce. This will be reported regularly to the Trust Board.

The effectiveness of this policy will result in full compliance with statutory regulations to ensure the safety of the Trust's staff and service users.

This policy will be subject to review one year from implementation date.

### **7.0 Dissemination and Implementation of Policy**

This policy will be circulated to employees by means of the Partnership Bulletin, disseminated through team meetings, and will be placed on the intranet, Partnership Online, and the Trust website. New staff will be made aware of all the Trust's policies as part of their induction. Paper copies will be made available by line managers for those without access to the intranet. This policy will be specifically brought to the attention of staff against whom an allegation is made.

### **8.0 Document Control Including Archive Arrangements**

It will be the responsibility of the sponsor and author of this policy document to ensure that it is kept up to date with any changes to legislation and national or local policy. This policy will be managed in accordance with the Policy for the Development and Management of Procedural Documents.

### **9.0 Reference Documents**

This policy is to be read in conjunction with the following policies:

- Complaints Management Policy and Procedure

- Dignity at Work (Harassment and Bullying) Policy and Procedure
- Disciplinary Policy and Procedure
- Disciplinary Procedure for Medical Staff
- Employee Support and Wellbeing Policy
- [Hampshire, Isle of Wight, Portsmouth and Southampton Safeguarding Children Procedures](#)
- [Kent Safeguarding Children Board Procedures](#)
- Investigation Policy and Procedure
- Raising Matters of Concern (Whistleblowing) Policy
- Suspension Policy and Procedure
- [Sussex Child Protection and Safeguarding Procedures](#)
- [Sussex Multi-Agency Policy and Procedures for Safeguarding Adults at Risk](#)
- [Volunteer Service Policy and Procedures](#)

## **10.0 Appendix**

1. Management Roles in the Operation of the Managing Allegations against Staff Policy and Procedure

**Appendix 1**

**Management Roles in the Operation of the Managing Allegations against Staff Policy and Procedure**

<b>Role</b>	<b>Responsibilities etc</b>	<b>Seniority Level</b>
Line manager	<p>The immediate line manager of the employee concerned may hold informal meetings under the sickness, grievance and disciplinary policies.</p> <p>When an investigation is required, the line manager may be the Investigating Officer if they have had no previous involvement in the matter under investigation. The line manager will usually present the management case at a formal hearing.</p>	Any level of manager
Investigating Officer	<p>The Investigating Officer is appointed by the Case Manager (see below) to determine the facts of a case and report back. The Investigating Officer may be the line manager if they have had no previous involvement in the matter under investigation; otherwise the Investigating Officer will be another manager at the same or higher level as the line manager.</p>	A manager at Band 7 or above (eg Ward Manager)
Case Manager	<p>The Case Manager takes overall responsibility for a case. They appoint the Investigating Officer and may also be the Suspending Manager (see below), where suspension has been found necessary. The Case Manager may be the line manager, if the employee concerned is fairly senior, or, more usually, the line manager's manager, but cannot be the Investigating Officer.</p> <p>The Case Manager receives the Investigating Officer's report and decides whether a formal hearing is required. The Case Manager will liaise with HR and/or the appropriate Service Director to determine an appropriate manager to be the Hearing Chair.</p>	Matron or equivalent, or a higher grade (Band 8a and above)
Suspending Manager	<p>Where a decision over suspension needs to be taken, the Case Manager will normally also assume the role of Suspending Manager but in an emergency the most senior manager available can take on this responsibility. Where an incident that may require the suspension of an employee occurs out of normal working hours, the on-call manager should be consulted.</p>	Normally Matron or equivalent, or a higher grade (Band 8a and above) but can be a lower graded manager in an emergency.