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SECTION 1:

GENERAL INFORMATION

Frequently Asked Questions

1. What is Whistleblowing?

Whistleblowing is speaking out and raising a concern when you have witnessed something unethical / illegal or have concerns of malpractice in the workplace, which you think it is in the public interest to know. 'In the public interest' means it must affect others, i.e. the general public. It is important to be aware that 'public interest' does not necessarily mean that a large number of people need to be affected or interested.

The types of malpractice that whistleblowing legislation covers are: - criminal offences; failure to comply with a legal obligation; miscarriages of justice; threats to people's health & safety and damage to the environment. The legislation also covers a deliberate attempt to cover-up any of these acts.

Personal grievances or dissatisfaction in respect of employment issues are not considered to be whistleblowing, unless the particular case is in the public interest. Issues that affect you personally e.g. breach of employment rights or bullying, should be addressed via the NIAS Grievance Procedure or other appropriate HR Policies.

As a Whistleblower, when you speak out and raise a concern you are protected by legislation (Public Interest Disclosure (NI) Order 1998). This means you should not be treated unfairly or suffer any form of a detriment because of you 'blowing the whistle'.

Blowing the Whistle is formally known as 'Making a Disclosure in the Public Interest'.

This Whistleblowing Toolkit is a guidance document for Staff, Managers and Investigating Officers and should be read in conjunction with the NIAS Whistleblowing Policy via...\NIAS-Whistleblowing-Policy-2018(2).pdf.

2. Whom does the Whistleblowing Policy apply to?

The NIAS Whistleblowing Policy applies to ALL staff within the Trust including permanent, temporary and bank staff; staff in training working within The Trust; independent contractors engaged to provide services; volunteers and agency staff who have concerns where the interests of others, or of the organisation itself, are at risk.

Whistleblowing does not apply to patients, clients or service users.

3. Why should I Blow the Whistle/Make a Disclosure in the Public Interest?

Blowing the whistle means that if you reasonably believe one or more of the following acts has occurred; is in the process of occurring; or is likely to occur you can inform those who need to know. The following list is not exhaustive:-

- Misconduct or poor practice, which could place service users at risk of harm.
- Knowledge of any employee's behaviour, which may pose a risk to children or vulnerable adults, or any service user.

- Breach of Trust's standing financial instructions.
- Showing undue favour over a contractual matter.
- A criminal offence has been committed or is likely to be committed.
- Dangers to health and safety including disregard for legislation.
- Failure to comply with any legal duty (including breach of contract, negligence or breach of administrative law).
- Damage to or the risk of damage to the environment.
- The concealing of information regarding any of the above.

You can raise your concern at any time, if you believe that the disclosure tends to show past, present or likely future wrongdoing. It may only be through blowing the whistle that such information comes to light and can be addressed, before any real damage may be done. Blowing the whistle also provides the organisation with opportunities for learning and an ability to take actions to support improvement.

It is in the public interest that the legislation protects Whistleblowers. This encourages individuals to speak up if they believe there is malpractice in an organisation.

4. Is Whistleblowing the same as making a Complaint?

Making a complaint is very different to Whistleblowing. When someone lodges a complaint, they are saying they have personally been poorly treated, and the complainants are seeking redress for themselves. The person making the complaint, therefore, has a stake in the outcome of the complaint and, for this reason, is expected to be able to 'prove' their case.

Whistleblowing is about reporting a concern that you have a reasonable belief in. The whistleblower is not usually directly or personally affected by the danger or illegality, rather they are simply trying to alert others.

Whistleblowing is governed by the Public Interest Disclosure (NI) Order 1998 and the Employment Act (NI) 2016 (Commencement No. 1) Order (NI) 2017.

Complaints from service users are made via http://www.nias.hscni.net/about-the-trust/how-to-make-a-complaint/

5. What is the difference between a Grievance and Whistleblowing?

Personal grievances and complaints about employment issues are not usually regarded as a protected disclosure as when someone raises a grievance, this tends to be an issue, problem or complaint about their work, working conditions or employment rights. The person wishes to complain to management about their treatment and they have a personal interest in ensuring the issue is addressed. A personal grievance e.g. bullying, harassment, discrimination are not covered by whistleblowing legislation, unless the particular case is in the public interest. Issues relating to employment matters should therefore be addressed via the appropriate employment policies and procedures.

6. Raising a concern anonymously

Concerns raised anonymously can often be difficult for the Trust to adequately address as insufficient details may be provided in the disclosure. This therefore can often impede the robustness of an investigation and establishment of the facts, as the ability of an Investigating Officer may be limited in e.g. being able to ask follow up questions. In addition the ability to provide feedback to the Whistleblower is limited if they remain anonymous.

It is for these reasons that the Trust encourages anyone wishing to raise a concern not to do so anonymously. The Trust does, however recognise that you may wish to make a disclosure confidentially. Where this is the case your identity can be protected (refer to Section 7).

7. Raising a concern confidentially

The Trust recognises that there may be circumstances when you would prefer to speak to someone in confidence and have your identity withheld. If you ask the Trust not to disclose your identity and ask that the matter be dealt with in confidence, the Trust will respect your request.

You should note, however that there may be circumstances in which, because of the nature of the disclosure or investigation, it may be necessary to reveal your identity e.g. legal or police investigations. Where this is the case, we will discuss this with you in advance and seek your input as to how best this can be managed prior to making any disclosure of your identity.

We will give you feedback on any outcome of the investigation and/or proposed remedial action, and be sensitive to any concerns you may have because of any steps taken under this procedure. We may not be in a position to share all details of an outcome with you, where this could infringe upon any rights or duties we owe to other parties.

(**Appendix 1** "Request for Confidentiality/Anonymity Declaration" provides a template for completion to facilitate the management of a request for anonymity to be protected).

8. Raising a concern with an external organisation rather than the Trust

Ideally, you should feel comfortable in making a disclosure to the Trust and feel confident that your concerns will be taken seriously and fully investigated. There are a number of routes via which you can raise your concerns with the Trust i.e. via your line manager; member of the HR Team; Director of Human Resources or the Non-Executive Director with responsibility for oversight of the Trust's Whistleblowing Policy.

It is acknowledged, however that there may be circumstances when you may feel unable to raise your concerns via any of these internal routes. If this is the case, you can make a disclosure to the following outside bodies, without losing your rights under whistleblowing legislation.

- Department of Health
- A prescribed person, such as:
 - General Chiropractic Council, General Dental Council, General Medical Council, General Osteopathic Council, Health & Care Professional Council, Northern Ireland Social Care Council, Nursing and Midwifery Council, Pharmaceutical Society Northern Ireland General Optical Council
- The Regulation and Quality Improvement Authority
- The Health and Safety Executive
- Serious Fraud Office
- Her Majesty's Revenue and Customs
- Comptroller and Auditor General
- Information Commissioner
- Northern Ireland Commissioner for Children and Young People
- Northern Ireland Human Rights Commission

The Trust would prefer you to raise your concerns with any of the external agencies listed above, rather than not raise them at all.

9. Raising a concern with a media organisation rather than the Trust

If you choose to bypass the routes available for you to make a disclosure (directly to the Trust or via outside bodies referred to in Sections 8 and 13) and instead approach the media with your concerns, it is likely you will lose your right to protection under Whistleblowing legislation. The exception to this is a case where the wrongdoing is exceptionally serious and where you reasonably believe that the Trust will subject you to 'detriment' or conceal/destroy evidence if you were to raise your concerns via the routes available to you.

10. Use of confidential information when making a disclosure

It is important to be mindful of the need to avoid a breach of privacy and confidentiality regarding personal information when making a disclosure. Details of the condition or treatment of any patient or client should not be given without their explicit consent or consent from their legal/personal representative. The same principle applies to an individual's personnel records. The requirement to comply with General Data Protection Regulations (GDPR) must be considered and complied with at all times.

11. What about harassment or victimisation following the raising of a concern?

The Public Interest Disclosure (Northern Ireland) Order 1998 provides for protection against victimisation should you have a reasonable belief in your concerns and raise them in good faith.

The Trust will not tolerate the harassment or victimisation of anyone who raises issues under its Whistleblowing Policy. Harassment or victimisation will be treated as a serious

offence and may be viewed as gross misconduct, which will be dealt with under the Trust's disciplinary procedure.

12. What happens when you have concerns about someone who is employed by another organisation e.g. in a multidisciplinary team?

If you have concerns about someone's practice, and they work for another HSC employer, you may wish to approach the person directly on an informal basis. If this is not possible or appropriate, you should report these concerns to your own line manager and they will raise your concerns with the manager of the person about whom you have concerns.

13. How do I raise a concern?

For your disclosure to be protected by whistleblowing legislation, you must make it to the right person and in the right way. There are four routes via which you can legitimately raise a concern within the Trust:-

- a) Informally with your line manager.
- b) Informally with your Trade Union Representative.
- c) Formally with the Director of Human Resources or NIAS Non-Executive Director.
- d) With an external body listed in Section 8.

To assist in raising your concern you are entitled to representation from Trade Union / colleague or companion.

Appendix 2 illustrates the process for progressing a concern raised under the Whistleblowing Policy.

14. How is a concern investigated?

Once a concern is raised with the Director of Human Resources or the NIAS Non-Executive Director, and a formal investigation is deemed necessary, an independent Investigating Officer will be appointed. Terms of Reference will outline the scope of the investigation and will relate directly to the concern raised.

The role of the Investigating Officer is to be fair, objective and impartial so that they can establish the facts of the matter and reach a conclusion. The Investigating Officer will collect evidence and conduct interviews relevant to the concern raised using best practice in their methodology and practices.

Following completion of the investigation, the Investigating Officer will submit an Investigation Report to the Director of Human Resources or the NIAS Non-Executive Director outlining the findings, conclusions and recommendations of the investigation.

An audit trail of evidence gathered, with accurate records of all stages of the process will be held in line with the Trust's Records Management Policies.

15. How is a Whistleblower's Anonymity protected?

Where you have requested your anonymity to be protected, the Trust will acknowledge this in writing and at the outset will agree with you who your details can be shared. In addition, it will be agreed for what purpose your details will be shared e.g. it may be necessary to share your details with an Investigating Officer in order for the Investigating Officer to meet with you to seek further information from you. An audit trail will be maintained showing details of who your identity has been shared with and for what purpose.

Only those who are privy to the whistleblower's concern will have access to any documents provided by them or which are created within the investigation, thus further protecting anonymity.

All documents will be stored securely; password protected, and have restricted access. Any written documentation will be anonymised as appropriate.

If it is proving that anonymity is affecting a full and fair investigation, we will liaise with you and agree an appropriate way forward.

Should you wish to request protection of anonymity/confidentiality you will be required to complete 'Request for Protection of Confidentiality, Declaration Form' (Appendix 1 refers).

16. What happens if I leave my job with the Trust but wants to pursue my concern?

If someone has raised a concern and then subsequently leaves the Trust's employment, they could still be given protection under Public Interest Disclosure (Northern Ireland) Order 1998. However, if someone chooses to leave their employment and then decides to pursue a concern, it is unlikely that they would be protected under the legislation.

The Trust will, however continue to progress the matter and conclude it in order that the facts of the case can be established and appropriate action taken to address the issue of concern if necessary.

17. Does the Whistleblowing Policy apply to workers of organisations with whom the Trust contracts services?

The Trust's Whistleblowing policy defines the scope of the policy. Section 3 of the policy states the following: -

"This policy provides a procedure for all staff of The Trust, including permanent, temporary and bank staff, staff in training working within The Trust, **independent contractors engaged to provide services**, volunteers and agency staff who have concerns where the interests of others or of the organisation itself are at risk".

SECTION 2: INFORMATION FOR STAFF

Tips for Raising a Concern

1 Follow internal procedures

Read and understand the Your Right to Raise a Concern (Whistleblowing) Policy'

The Policy is available via NIAS Sharepoint or notice boards.

2 Understand your rights and the support that is available

Seek advice about your rights to protection under the Public Interest Disclosure Act, speak to HR or your TU rep or https://protect-advice.org.uk

3 Be specific

When submitting your concern, identify the particular professional code/guidance/policy or protocol you believe is being compromised. Be specific about the issues you are worried about and focus on the facts, it may help to write it down first.

4. Visualise an outcome
Set out what you think should
be done as well as
highlighting the problem.
Offer possible
solutions to put things right
wherever you can.

5 Communicate in a professional manner

Setting a professional tone to your story will keep you focused, refer to what you have written down this will help you provide the relevant information

6 Wherever possible, raise the concern with the support of your colleagues

Do colleagues share your concerns? If so, raising your concerns collectively is likely to be more effective. However even if it just you, if you have a concern--you should still raise it.

7 Confidentiality

Concerns may be raised anonymously but you need to be aware that this may hinder the investigation.

If you request anonymity, we will take all steps to protect your identity however should legal investigations commence, we may be required to release your identity to the relevant body

8 Keep a paper trail

At the beginning and throughout the process keep a note of all relevant conversations and copies of any written communications you have sent and received

9 Managing expectations

It is helpful to meet your manager or other nominated person to discuss what will happen next.

10 If you receive assurance of action in response, keep these on record

If you feel that your concern has not been dealt with in an appropriate way, or your concern has been ignored, place that on the record too – always approach this in a professional manner.

Section 3 Information for Managers

Tips on what to do when an employee reports a concern

LISTEN CAREFULLY TO THE INDIVIDUAL RAISING THE CONCERN

- Commit to taking the matter seriously
- Thank the person for raising the matter (even if you think they may be mistaken)
- Acknowledge how they may be feeling, that it may be difficult or stressful and offer reassurance
- Respect the worker's belief that they are raising a genuine concern in the public interest and treat it as being reasonable
- Avoid prejudging whether this is correct or valid until an appropriate investigation has taken place

RESPOND POSITIVELY AND CLEARLY

- Reassure the person that the concern will be looked at promptly and (where appropriate) investigated thoroughly and fairly as soon as possible
- Manage expectations of the individual discuss the next steps, reasonable timeframes, and arrangements for feedback on the outcome
- Request confirmation from the person on whether they wish to remain anonymous and explain next steps
- Respect a worker's request for confidentiality and concerns about their job or career, but explain where there may be limits on confidentiality
- Offer advice about the type of support available to them (e.g. relevant contacts they
 can speak to such as, HR, Trade Union, counselling (Inspire), occupational health,
 or where they can seek independent advice such as the Protect UK's
 whistleblowing charity (https://protect-advice.org.uk/contact-protect-advice-line/ or
 Citizen's Advice Bureau)
- Be clear with them what they should do and who they should contact if they
 experience any reprisals or unacceptable behaviour as a consequence of them
 making the disclosure e.g. bullying, harassment or victimisation, from managers or
 colleagues
- Give the individual a copy or refer them to the Trust's Whistleblowing Policy.

SEEK APPROPRIATE ADVICE AND/OR SUPPORT WHERE REQUIRED

- If you are uncertain about how to proceed with a concern refer to 'Your Right to Raise a Concern (Whistleblowing) Policy'.
- Seek advice from Human Resources, who will be able to support and guide you on next steps.
- In seeking advice it is important that an individual's request for their identity to be
 protected is respected and that their anonymity is protected at all times unless you
 have agreed with them with whom you can share their identity and for what
 purpose.

ASSESS HOW SERIOUS AND URGENT THE ISSUE IS

- Depending upon the nature of the concern, agree with the individual how best to deal with the issue raised and whether it falls under the Whistleblowing policy or some other procedure, such as the Trust's Grievance Procedure.
- Take the disclosure seriously and don't dismiss it as an exaggeration or being trivial unless there is clear evidence to support this assessment.
- Decide whether the assistance of, or referral to, senior managers or a specialist function (eg HR/Finance) is desirable or necessary. If the individual has requested that their anonymity be protected ensure that this is respected when any advice is being sought.
- Where there are grounds for concern, take prompt action to investigate or if the concern is potentially very serious or wide-reaching make sure this is immediately escalated to the most appropriate person within the organisation to undertake further investigations.

MAINTAIN GOOD COMMUNICATION WITH THE INDIVIDUAL WHO RAISED THE CONCERN

- Keep the individual advised and informed on progress.
- Update on any changes or delays in process.
- Give feedback on the outcome to the individual.
- Explain any action to be taken (or not), but maintain confidentiality where this involves other parties.
- Explain any mistaken perceptions or misunderstandings that may have occurred.
- Ideally feedback should be given face to face and followed up in writing including details of any organisational learning identified.

ACT FAIRLY

- Be clear on any action taken or not taken and the reasons for this.
- Never ignore evidence of wrongdoing.
- When an individual makes a disclosure they should not suffer any form of a
 detriment as a consequence. Regular checks on the individual's welfare should be
 made to ensure they are not suffering any disadvantage, harassment or
 victimisation as a consequence of raising a concern.

KEEP CLEAR CONCISE RECORDS TO SHOW HOW YOU HANDLED THE CONCERN RAISED

- Document all date(s), what was said, any response which is given and by whom.
- Keep a record/log of all concerns raised (can be anonymised).
- Note the nature of the concern
- Complete the Proforma attached at Appendix 3 and return to the Director of Human Resources within 12 weeks of the concern being raised together with all documentation for safe, secure, retention of documents. Do not retain any documents, which may breach the confidentiality of the staff member raising a concern.

SECTION 4 Information for Investigating Officers

Tips on Conducting an Investigation

ROLE OF THE INVESTIGATING OFFICER

The role of the Investigating Officer is to establish the facts of the matter raised by ensuring that a fair process of investigation has been carried out. In doing so Investigating Officers should: -

- Ensure any investigation is carried out fairly and thoroughly.
- Keep an open mind and remain neutral you may not want to believe all that you hear, but it is important to remain objective.
- Focus on the information that is being disclosed, not on the employee who is raising the concern.
- Not let personal views influence the assessment of the issues.
- Recognise any strong emotions you may have and ask for help if you need it (it is not unusual to have feelings of anger, shock or distress).
- Ask questions that challenge and test the credibility of the information being provided.

Appendix 4 provides illustration of the process to be followed when investigating a matter under the formal procedure.

INVESTIGATION PLAN/PREPARATION

An Investigation Plan is a useful tool for an Investigating Officer to ensure a thorough and structured approach to the investigation. The plan enables the Investigating Officer to concentrate on and consider the following: -

- What facts need to be established.
- What evidence needs to be gathered and sources of evidence e.g. witness statements, electronic records etc.
- Persons to be interviewed and planned order of interviewees.
- Timescales in which the investigation should be completed.
- Policies and Procedures to review and follow.

INVESTIGATION MEETINGS

As part of the gathering of evidence an Investigating Officer may need to meet with potential witnesses. In meeting with potential witnesses the following should be considered:-

- Order that individuals should be interviewed. It is good practice for the individual
 raising the concern to be met with first in order that the Investigating Officer can
 clarify the issue being raised and also get all relevant information to proceed.
- Practical arrangements for investigation meetings and consideration of any special arrangements or adjustments required e.g. interpreting services.

- Release from work for individuals required to participate in the investigation and liaison with line managers to keep them informed.
- Interview technique to be used.
 - Use of the 5W technique Why? What? Who? When? and Where?
 - Use of the PEACE method of interviewing (planning and preparation, Engage and explain, Account, Closure, Evaluation) and ensure interviews and questions follow a logical sequence.
 - Focus on the facts presented without leading a witness or missing out on facts.
 - Use of an open-ended questions to establish the facts and use of closed questions when a definite yes/no answer if required.
 - Use of probing questions to test the strength of the interviewee's account and challenge any inconsistencies in an inquisitive way but not interrogative.
 - Avoidance of interrogative; leading and multiple questions.
- Arrangements for ensuring that an accurate record of the meeting is kept and shared and agreed with the interviewee.
- Arrangements for establishing an audit trail of evidence gathered, with accurate records of all stages of the investigation.

Investigating Officers should be prepared for things such as data subject access requests being made, under personal information rights afforded by the Data Protection Act (1998).

Appendix 5 provides an Aide Memore for an Investigation Interview.

REPORTING INVESTIGATION FINDINGS

Upon concluding an investigation, an Investigating Officer is required to produce a report of their findings, having weighed up the evidence and drawn conclusions on the matter based on the facts they have been able to establish. The investigation report should cover all the facts that were established and also facts that weren't established, for the avoidance of any accusations of bias and filtering of evidence to suit the findings.

The investigation report should be presented in a professional framework with an Introduction, Terms of Reference, Key parties and Methodology, Issues, Facts and Evidence with findings, and Conclusions drawn from evidence with Recommendations.

Investigators in drafting and submitting their report will be aware of the need to comply with data protection requirements and to ensure witness & whistleblower anonymity and redacted witness statements. Advice should be sought from the Trust's Information Governance Department and/or Data Commissioner.

Further guidance on conducing employment investigations is available from the Labour Relations Agency, as follows:-

Advisory Guide - Conducting Employment Investigations.pdf (lra.org.uk)



DECLARATION (1)



I hereby confirm that I have asked for my identity to be protected

APPENDIX 1 NIAS Whistleblowing Toolkit

YES / NO (delete as appropr

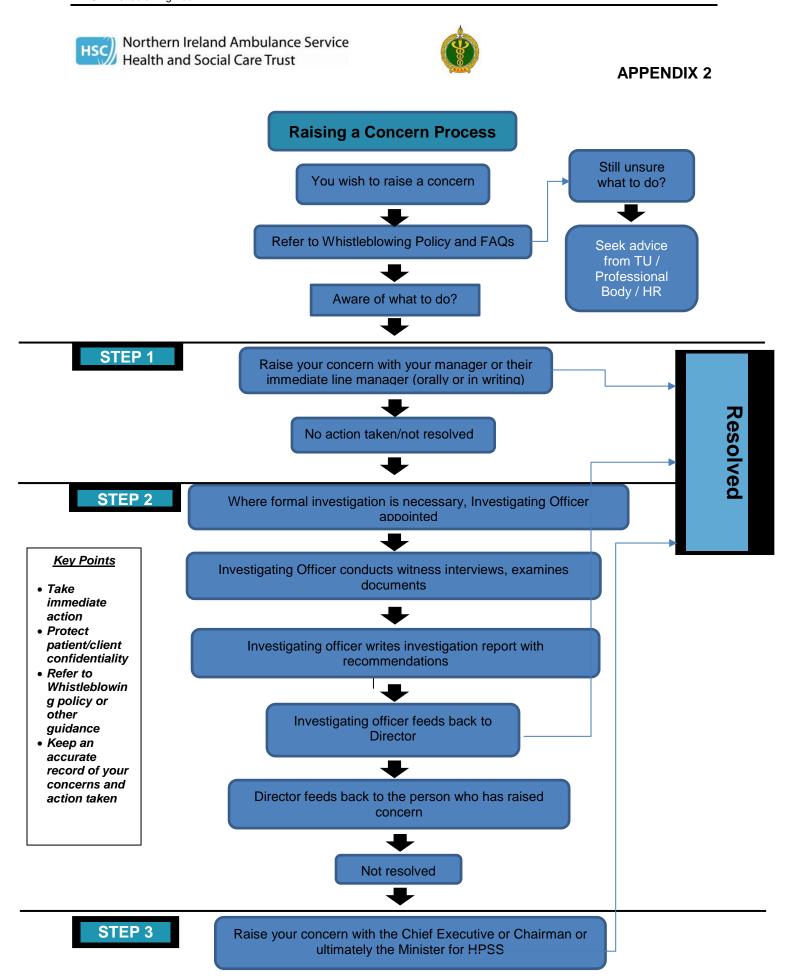
YOUR RIGHT TO RAISE A CONCERN (WHISTLEBLOWING) POLICY

REQUEST FOR PROTECTION OF CONFIDENTIALITY / ANONYMITY DECLARATION FORM

You have raised a concern in confidence with the NIAS HSC Trust under its Whistleblowing Policy and have asked for your identity to be protected. The Trust hereby declares that it will not disclose your identity without your consent unless required by law. You should however understand that there may be times when we will be unable to resolve a concern without revealing your identity, for example, where personal evidence is essential. In such cases, we will discuss with you whether and how the matter can best proceed.

throughout the investigation p resolved. I understand that the identity by law. I further under unable to resolve my concern will discuss with me whether a	e Trust may be required to destand that in the event the Twithout revealing my identite	lisclose my Frust is y, the Trust		
DECLARATION (2)	mu identitu kaina akanad w	ith the fellowing individually for the		
purposes as outlined:-	my identity being snared w	ith the following individual's for the		
Name	Reason	YES/NO		
Signature:				
Name: (PRINT)	DATE:			
SECURITY OF INFORMATION DECLARATION				

The Trust will take all steps possible to protect the confidentiality of the process through to its conclusion, including the identity of the person raising the concern, in accordance with its Information Governance policies and procedures and General Data Protection Regulations (GDPR). This will include ensuring investigation files, emails, reports and any other correspondence are stored securely, password protected, access restricted to relevant personnel only and written documentation anonymised as appropriate.



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PROFORMA FOR CONCERNS RAISED

Director / Executive Director

Return completed to HR Directorate within 12 weeks of issue being raised)

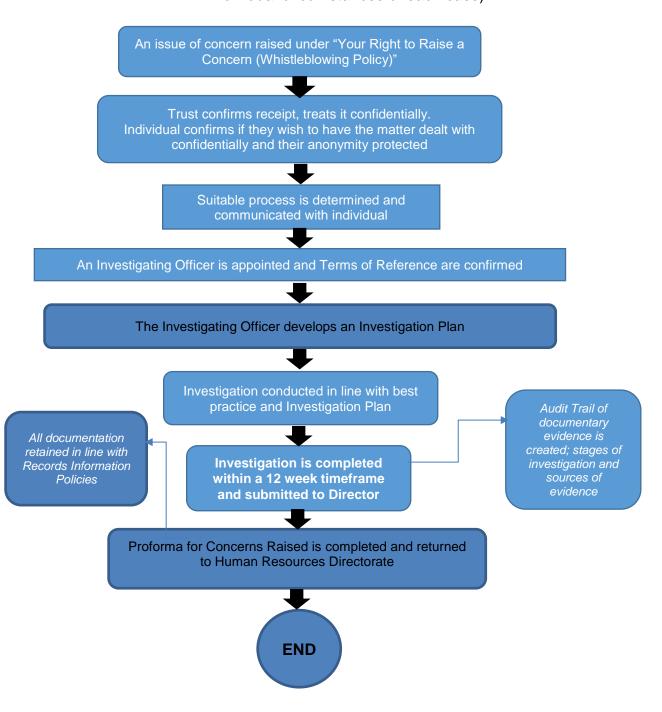
return completed to fire	torate within 12 weeks of issue being fail	<u> </u>
Date WB concerns received		
Details of concerns raised (bullet points)		
Appointed Investigating Officer		
Terms of Reference		
Details of outcome of the findings of the investigation (bullet points)		
Lessons learnt from investigation (bullet points)		
How have these lessons been shared within Directorate and the Trust		
Response due by		
Feedback given to whom and when		
'Follow Up' Action Plan completed	YES / NO / NOT APPLICABLE	
Responsible Officer		
Review Date		
Signed off by relevant Director	Signature:	Date
Signed off by relevant Executive Director	Signature:	Date





Formal Procedure: Investigation of Concerns Flowchart

(This flowchart serves as a guide only; there may be variations to it depending on the individual circumstances of each case).







APPENDIX 5

Raising a Concern – Investigation Interview– 'Aide Memoire'

Introductory processes - Explain the purpose of the interview, reiterate the capacity in which the interviewee is attending (witness to or subject of the investigation). Reiterate that your role is one of fact finder rather than decision maker, remind them of the requirements of confidentiality, clarify role of representative or accompanying individual, indicate approximately how long it will last, ask the interviewee if they understand and if they have any questions before the interview begins.

Begin interview with questions which are - open-ended but not too broad, in chronological and sequenced order, focus and probe further where answers are vague or lacking in detail, progress through questions, periodically verify accuracy, ask if interviewee needs a comfort break, progress through questions verifying that scribe/recording mechanism is ok.

Close interview by accurately summarising the evidence provided for in the witness statement and again verify accuracy, indicate arrangements regarding requests for copies, acquire signature (if copy of statement can be provided there and then), remind interviewee of duty of confidentiality, ask interviewee if they have any questions before interview termination, thank interviewee for participation and co-operation, end interview.

Name of Investigator:	
Interview relating to:	
(detail issue)	
Name of interviewee:	
Names of those present:	
Date:	
Time:	
Location:	

Issues to be addressed in the investigation

What are the facts?	
Are the facts disputed? (different versions of events?)	
What are the sources of evidence?	
How much time has passed since the alleged incident? Or is it still a current situation?	

Is the interviewee a witness?	
Do the facts speak for themselves?	