### Speak up, Speak out Policy
(formerly Whistleblowing)
(Public Interest Disclosure)

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<td>Executive Director of HR and Governance</td>
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Trust Policy Foreword

South Western Ambulance Service NHS Foundation Trust (SWASFT) has a number of specific corporate responsibilities and obligations relating to patient safety and staff wellbeing. All Trust policies need to appropriately include these.

Health and Safety - SWASFT will, so far as is reasonably practicable, act in accordance with the Health and Safety at Work etc. Act 1974, the Management of Health and Safety at Work Regulations 1999 and associated legislation and approved codes of practice. It will provide and maintain, so far as is reasonable, a working environment for employees which is safe, without risks to health, with adequate facilities and arrangements for health at work. SWASFT employees are expected to observe Trust policy and support the maintenance of a safe and healthy workplace.

Risk Management - SWASFT will maintain good risk management arrangements by all managers and staff by encouraging the active identification of risks, and eliminating those risks or reducing them to the lowest level that is reasonably practicable through appropriate control mechanisms. This is to ensure harm, damage and potential losses are avoided or minimized, and the continuing provision of high quality services to patients, stakeholders, employees and the public. SWASFT employees are expected to support the identification of risk by reporting adverse incidents or near misses through the Trust web-based incident reporting system.

Equality Act 2010 and the Public Sector Equality Duty - SWASFT will act in accordance with the Equality Act 2010, which bans unfair treatment and helps achieve equal opportunities in the workplace. The Equality Duty has three aims, requiring public bodies to have due regard to: eliminating unlawful discrimination, harassment, victimization and any other conduct prohibited by the Act; advancing equality of opportunity between people who share a protected characteristic and people who do not share it; and fostering good relations between people who share a protected characteristic and people who do not share it. SWASFT employees are expected to observe Trust policy and the maintenance of a fair and equitable workplace.

NHS Constitution - SWASFT will adhere to the principles within the NHS Constitution including: the rights to which patients, public and staff are entitled; the pledges which the NHS is committed to uphold; and the duties which public, patients and staff owe to one another to ensure the NHS operates fairly and effectively. SWASFT employees are expected to understand and uphold the duties set out in the Constitution.

Code of Conduct and Conflict of Interest Policy - The Trust Code of Conduct for Staff and its Conflict of Interest and Anti-Bribery policies set out the expectations of the Trust in respect of staff behaviour. SWASFT employees are expected to observe the principles of the Code of Conduct and these policies by declaring any gifts received or potential conflicts of interest in a timely manner, and upholding the Trust zero-tolerance to bribery.

Information Governance - SWASFT recognises that its records and information must managed, handled and protected in accordance with the requirements of the Data Protection Act 1998 and other legislation, not only to serve its business needs, but also to support the provision of highest quality patient care and ensure individual's rights in respect of their personal data are observed. SWASFT employees are expected to respect their contact with personal or sensitive information and protect it in line with Trust policy.
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Preface

South Western Ambulance Service NHS Foundation Trust is committed to providing a suite of employment policies designed to give staff a clear and consistent framework through which they are supported to carry out their roles and responsibilities safely and effectively. All policies are developed in consultation with Staff Side Representatives and are approved through the recognised Joint Negotiating and Consultative Committee and Directors group.

1 Introduction

1.1 South Western Ambulance Service NHS Foundation Trust is committed to achieving the highest standards of corporate conduct and encouraging good personal behavior. This policy is intended to:-

   a. Enable employees, contractors or others working within the Trust who have concerns about malpractice to raise these on a confidential basis, without fear of reprisal or recrimination;
   b. Protect individuals from detriment who raise genuine concerns, where they have an honest and reasonable suspicion that malpractice is occurring or is likely to occur.

1.2 This policy incorporates the requirements of the Public Interest Disclosure (Whistleblowing) Act 1998 which introduced specific protection rights to individuals who wished to raise concerns about matters within their organisations.

2 Scope

2.1 For any issue to be dealt with under this policy, it must fall within one of the six categories below:-

   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 has been, is being or is likely to be deliberately concealed.

2.2 The policy generally excludes issues relating to disciplinary matters, serious untoward incidents, re-grading issues, individual or group grievances and other matters for which separate Trust policies and procedures exist. It also excludes strategic decisions taken by the Board unless they amount to, or are made to cover up, unlawful conduct, financial malpractice or dangers to the public or the environment.
2.3 An employee making a “qualified disclosure” is protected under the Public Interest Disclosure Act 1998 against detrimental treatment such as victimisation and dismissal by the Trust for making such a disclosure, provided that the employee:

- Reasonably believes that they are making the disclosure in the public interest.
- Is not acting for personal gain
- Reasonably believes that the matter falls within the description of matters for which the person or body has been prescribed.

2.4 There is no statutory protection if a member of staff raises their concern in the media before using the internal procedure.

2.5 With respect to allegations of fraud, the principles of this policy will apply although any ‘escalation process’ is covered by the Trust’s Counter Fraud and Corruption Policy.

3 Principles

3.1 For the purposes of this policy the term ‘employee’ includes individuals employed under a contract of employment, those carrying out work for or on behalf of the Trust including those engaged under agency contracts, secondees from other organisations, volunteers, subcontractors and bank staff.

3.2 Employees should not disclose confidential information or concerns relating to the Trust’s business or its employees without first raising them in accordance with the procedures set out in this policy.

3.3 Employees are expected to take appropriate advice to ensure that any matter raised under the terms of this policy are not more appropriately or better dealt with by other Trust procedures.

3.4 At all stages of the formal and informal procedure the employee has the right to be accompanied by an employed trade union official, trade union representative that the union has certified as competent or a fellow worker, not acting in a legal capacity.

3.5 Employees have a duty to help the Trust protect its ethical standards and assets. Assets include information, goodwill and property.

3.6 Employees are expected to conduct themselves in accordance with the principles, standards and rules of behaviour of the organisation.

3.7 Information relating to any investigation under the policy should be treated as confidential by all parties involved.

3.8 Managers should seek guidance and ensure that they fully understand their obligations should they be party to a disclosure under this policy. Support may obtained from HR, Trust Secretary or via the Royal Mencap Website (See paragraph 7.1 (b) of this policy).
3.9 The decision to progress a matter under the policy rests with the employee wishing to speak up except where the situation, following formal reporting, is so serious that by not taking action the Trust would be prejudicing its corporate responsibility.

3.10 Retaliation and victimisation against an individual raising a concern under this policy or giving evidence as part of an investigation could constitute a disciplinary offence and could be dealt with as a potential issue of gross misconduct.

4 Internal Reporting Procedure – Raising a Concern under this Policy

4.1 Initially in most cases, it is expected that concerns of malpractice be reported to the line manager. The speak up, speak out Disclosure Form (Appendix A) should be used for individuals submitting their concerns in writing. Where an individual raises their concern verbally, The speak up, speak out Disclosure Form will be completed over the telephone with the aid of the person it is being reported to.

4.2 If an individual has any personal interest or previous involvement in the matter, they are required to disclose this at the outset and the details of this should be recorded on the Disclosure Form. If an individual’s personal interest is such that it is felt that the concern raised falls more appropriately within the Grievance Procedure or other Trust policy, the individual will be advised of this and will be given guidance on the process they need to follow.

4.3 Where the concern relates to alleged actions of the line manager, the employee may wish to consider raising the issue with a more senior manager in their reporting structure or use another alternative as covered under paragraph 4.4.

4.4 Where an employee prefers, a confidential reporting route via the relevant recognised trade union, the Chair of the Trust’s Audit Committee (Non Executive Director), Trust Secretary or the HR Department. The employee will need to make their identity known to this person, but it will not be disclosed further without the individual’s consent.

5 Investigation

5.1 Where appropriate the matters may:

- Be investigated by an appointed independent investigating manager outside of the immediate work area.
- Be investigated by internal audit, Local Counter Fraud Service or through the disciplinary process.
- Be referred to the police
- Be referred to an external auditor
- Form the subject of an independent enquiry.

5.2 The relevant Director or Head of Department is responsible for identifying and nominating a suitably experienced Investigating Officer who, wherever practicable, should be external to the area or function being investigated. Every practicable step
should be taken in order that internal bias is avoided and independence is achieved throughout the investigation.

5.3 Before initiating investigation, the Designated Officer should consider whether:

a. The matter falls within the scope of the policy;
b. The issue is so complex that a Trust Board enquiry would be appropriate. This decision rests with the Chief Executive, or the Chairman where the issue of concern involves the Chief Executive. A Trust Board enquiry panel should consist of a Non Executive Director, the Chief Executive depending on previous involvement, at least one Director with experience in the field of activity to be investigated. Where necessary an external Chair may be required. The investigative panel will submit a written report of their findings and recommendations to the Trust Board and, as appropriate, to the NHS Executive, after agreement by the Trust Board.

5.4 The Investigating Officer, will arrange an interview with the employee as soon as possible to ascertain details. If requested, arrangements will be confidential. The employee will be asked whether they wish their identity to be disclosed. They should be reassured about protection from retaliation or victimisation.

5.5 It is likely that the investigation will need to be carried out in strict confidence. It may be necessary to delay informing the subject of the nature of the complaint depending upon the circumstances. The investigation may need to meet the requirements of other Trust’s policies such as the Disciplinary Policy. In certain cases, suspension from work may have to be considered in accordance with the Trust’s Disciplinary or Capability policies.

5.6 The investigation may involve obtaining verbal and written statements from individuals, including the employee raising the concern. All members of staff are expected to provide these. They will be requested by the Investigating Officer. Other information pertinent to the investigation should be considered.

5.7 The outcome of any investigation should be documented, with supporting evidence to the Chief Executive or to the Trust’s Chair where the Chief Executive is implicated in the complaint.

5.8 Following consideration of the report the Chief Executive, or Trust Chair, as appropriate, will decide what action is required and arrange for this to be carried out. As appropriate it will be for the relevant Line Director to oversee the implementation of all necessary managerial action. The Audit Committee will be notified of the public interest disclosure and action taken.

5.9 Written feedback on the results of the investigation will be confirmed in writing to the employee, taking into consideration the requirement for confidentiality in disciplinary and capability cases.

5.10 If, following investigation, there is reasonable cause to believe that the employee acted maliciously, frivolously or vexatiously, the matter will be investigated under the Trust’s policy on disciplinary issues. Employees who have acted in good faith will not be investigated under the policy on disciplinary issues.
5.11 All investigations will be dealt with promptly.

6 **External Reporting – Reporting a potential fraud**

6.1 If the employee is concerned about a fraud taking place, information can be given via the confidential NHS Fraud and Corruption Reporting line on 0800 028 4060. All calls are dealt with by trained staff and professionally investigated. Alternatively the Trust has a designated Local Counter Fraud Specialist who can be contacted on 01769 575118.

6.2 If an employee has exhausted the internal procedure and remains dissatisfied, concerns can be raised with certain outside individuals or bodies as set out in the Public Interest Disclosure (Whistleblowing) Act 1998. Employees are advised to seek advice from a Trade Union or other suitably qualified person before doing this.

6.3 Where, following investigation, the employee is not satisfied with the outcome of the case, the Trust recognises the lawful rights of employees to make protected disclosures to prescribed persons (such as the Health and Safety Executive, the Audit Commission or elsewhere, as justified). As protected disclosures must be made in conformity with statutory requirements, which vary according to the circumstances and the recipient of the disclosure, advice should be taken.

7 **Independent Advice**

7.1 If an employee is unsure about using this policy or requires independent advice at any stage contact should be made with a:-

   a. Trade Union;
   b. NHS staff who have concerns and are unsure how to raise them or would like a free independent and confidential advice are able to call the helpline provided by the Royal Mencap Society.

   The Helpline is available weekdays between 0800 and 1800 hours with an out of hours answering service on weekends and bank holidays.

   The helpline is also open to employers for good practice advice


   Telephone: 08000 724725

   c. Gov.Uk Whistleblowing website

   [http://www.gov.uk/whistleblowing](http://www.gov.uk/whistleblowing)

8. **Accountability and Responsibility**
8.1 The Trust Board will ensure that any individual who raises a genuine concern and is acting in good faith under this policy will not be at risk of losing their job or suffer any form of retribution as a result.

8.2 Managers - are responsible for ensuring that any concerns raised through this policy are taken seriously and confidentially and that the action necessary to resolve a concern is taken within a reasonable timeframe. Where individuals have specifically asked for their identity not be disclosed, managers will not do so without an individual’s agreement first.

8.3 Employees – should follow this policy if they are worried about malpractice which involves a danger to patients, public or colleagues, an issue relating to professional misconduct or financial malpractice. If however, an individual is aggrieved about a personal matter, they should use the Trust’s Grievance Procedure. It is important to note that the speak up, speak out Policy is primarily for concerns where the interests of others or interests of the Trust are at risk.

9. **Policy Monitoring and Review**

9.1 The effectiveness of this policy will be monitored and reviewed at the HR management team meeting three months before the review date. Recommendations will be recorded and shared via the recognised policy approvals process in time for the policy review date.

9.2 The Trust Secretary is responsible for maintaining records which will be used to provide management information on speak up, speak out disclosures and the outcomes achieved.

9.3 The Information Governance Manager will be advised that a speak up, speak out disclosure has been received and due process completed.

9.4 Appropriate information will be recorded to allow a confidential root cause analysis to be undertaken by relevant management with support from HR.

10. **References**

Public Interest Disclosure Act 1988

This policy should be read in conjunction with the following policies:

Counter Fraud and Corruption policy.
Grievance procedure.
Disciplinary Policy.
Dignity at Work Policy
Appendix A

Speak up, speak out Disclosure Form

STRICTLY CONFIDENTIAL

SECTION 1 – DETAILS OF THE COMPLAINANT

If you wish to remain anonymous, please go straight to section 2. However, please note that whilst such concerns will be given due consideration, it may not be possible to progress matters in accordance with this policy.

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Which address do you wish any correspondence to be sent to? (please circle)

| Home address / work address / email | | |

SECTION 2 – DETAILS OF THE DISCLOSURE

Please outline the details of your concern and your reasons for raising this concern eg risks to patients, staff or the Trust: (continue on separate sheet if required)

| ………………………………………………………………………………………… |
| ………………………………………………………………………………………… |
| ………………………………………………………………………………………… |

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SECTION 3 – PERSONAL INVOLVEMENT/PERSONAL INTEREST

Please declare any personal interest you may have in this matter (ie does the outcome of this matter have the potential to affect you personally in any way?)

SECTION 4 – EXPRESSED PREFERENCES

Do you wish your concern to be treated in confidence? YES / NO
Are you willing to participate with any future enquiries into this matter YES / NO
Or formal investigations?

Signed ………………………………………………………….. Date …………………
Name ……………………………………………………………………………………………

SECTION 5 – ADMINISTRATION ONLY

Date entered onto central log: ………./ ………. / ……….
Speak up, speak out & Fraud Protocol

All matters reported will be dealt with in confidence and in strict accordance with the terms of the Public Interest Disclosure Act 1998. This protects the legitimate personal interests of staff. Such matters will be investigated as appropriate and in line with policy.

What do you want to report?

- Criminal offence
- Failure to comply with legal obligation
- Miscarriage of justice
- Health or safety danger
- Damage to environment
- Concealing any of the above

Refer to Speak up speak

Report through
- Line manager
- Senior manager
- HR department
- Recognised union

As appropriate Trust Secretary

Feel you cannot raise your issue internally?

Contact
Whistleblowing helpline
www.wphelpline.org.uk
08000 724 725

Not sure?
Talk to your local HR Business Partner

- Fraud
- Theft
- Corruption

Refer to the Fraud & Corruption Policy

Talk to
- Local counter fraud specialist (LCFS) – Number available from HR.
- National fraud reporting line on 0800 028 4060

Do tell someone if you have concerns
Keep any document that gave rise to suspicions
Ring the LCFS for advice
Take proper advice before suspending any member of staff
## Version Control Sheet

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<td>2</td>
<td>23/10/13</td>
<td>I Hopkins</td>
<td>Changes made to paragraph 2.3 to reflect the requirements of the changes to legislation effective from 25th June 2013</td>
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<td>2</td>
<td>24/09/14</td>
<td>Executive Director of HR and OD</td>
<td>Section added at 5.2: The relevant Director or Head of Department is responsible for identifying and nominating a suitably experienced Investigating Officer who, wherever practicable, should be external to the area or function being investigated. Every practicable step should be taken in order that internal bias is avoided and independence is achieved throughout the investigation.</td>
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