



WHISTLE-BLOWING POLICY

POLICY STATEMENT

1. PHSO is committed to the highest possible standards of professional conduct, including openness, honesty and accountability. This policy provides a process through which PHSO employees can raise concerns about serious wrong-doing if those standards are not met. PHSO recognises that most cases will have to proceed on a confidential basis.

PURPOSE AND SCOPE OF POLICY

2. This policy covers PHSO employees, agency workers, contractors, consultants and those on secondment from other organisations.
3. This policy provides a process by which concerns about serious wrong-doing can be raised and allows PHSO to deal with these quickly and effectively.
4. This policy follows the approach in the Public Interest Disclosure Act 1998 and the Enterprise and Regulatory Reform Act 2013 and will assist PHSO to promote high standards of governance and accountability.
5. This policy is not intended to be used for matters that are covered by other PHSO policies, for example the Grievance Policy, Equality & Diversity Policy and the Dignity at Work Policy, which should be used by employees to raise concerns or complaints about their own employment.

PRINCIPLES

6. The following principles apply:
 - PHSO's core values are Excellence, Leadership, Integrity and Diversity. Our commitment to maintaining our integrity requires us to be open, honest and straightforward in all our dealings and to use time, money and resources effectively, so that:
 - we are consistent and transparent in our actions and decisions;
 - we take responsibility for our actions and hold ourselves accountable for all that we do;
 - we treat people fairly.
 - PHSO will assume that all concerns raised under this policy are done in good faith. However, if an employee is found to have knowingly made a false allegation, in the unlikely event that a concern is found to be frivolous, malicious or vexatious, action under the Disciplinary policy will be considered;
 - employees who are responsible for any wrong-doing themselves and raise the issue under this policy will not be provided with immunity for the actual wrong-doing, although PHSO will take into account their raising of the matter;

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- every effort will be made not to reveal an employee's identity if this is their wish. However, in certain circumstances, it may not be possible to maintain confidentiality;
- an employee raising a qualifying disclosure (see definition of whistleblowing below) will not suffer from any detriment as a result of having raised the concern;
- PHSO will make every attempt to ensure that an employee raising a qualifying disclosure is not victimised as a result of having raised the concern. Such victimisation will be subject to disciplinary action; employees are not expected to prove, beyond reasonable doubt, the truth of an allegation. However, they do need to demonstrate that they have a reasonable belief that there are sufficient grounds for their concern.

OUTCOMES

7. The outcomes of this policy are that:
 - employees have a clear understanding of how to raise concerns regarding professional standards;
 - PHSO is able to comply with its obligations under the Public Interest Disclosure Act 1998 and the Enterprise and Regulatory Reform Act 2013;
 - the integrity of PHSO is upheld and arrangements are in place for the proportionate and independent investigation of such matters and for appropriate follow-up action.

MONITORING AND REVIEW

8. This policy will be reviewed regularly and in line with relevant legislation.

Whistle-blowing procedure

1. Definition of whistle-blowing

1.1 Whistle-blowing is a term used to describe a disclosure made to someone in authority alleging corruption or malpractice on the part of another person. In employment, whistle-blowing refers to an employee making a disclosure about another employee's conduct in the course of employment or about the employer's practices.

1.2 The Public Interest Disclosure Act 1998 and the Enterprise and Regulatory Reform Act 2013 protect employees against dismissal and detriment where they raise a legitimate concern about a specified matter. These are known as 'qualifying' disclosures. A qualifying disclosure is one which is made in the public interest by an employee who has a reasonable belief that one of the following is being, has been, or is likely to be committed:

- a criminal offence;
- a miscarriage of justice;
- an act creating risk to health and safety
- an act causing damage to the environment;
- a breach of any other legal obligation; or
- concealment of any of the above.

1.3 Concerns may be raised about the actions of another employee, suppliers, contractors or anyone else undertaking work on behalf of PHSO.

2. Raising a concern

2.1 Employees who wish to whistle-blow should initially seek advice and guidance from their line manager (unless their concern is about their line manager) or HR, People & Talent, before proceeding. The line manager will discuss with the employee the way to proceed, involving HR, People & Talent as necessary.

2.2 If an employee wishes to proceed with a whistle-blowing complaint they should set out the details of their concerns in writing and forward them to the Managing Director. If the concerns raised by the whistle-blower relate directly to, or involve, the Managing Director, they should be sent to the Ombudsman.

2.3 On receipt of the complaint the Managing Director or Leadership Team member will make initial enquiries to identify whether an investigation is appropriate or if the concern can be resolved through alternative action. Concerns which fall within the scope of a specific PHSO policy or procedure will normally be dealt with through that procedure.

2.4 If it is necessary to carry out an investigation, the Managing Director (or other Leadership Team member) will appoint an Investigation Manager, who is not directly implicated in the whistle-blowing allegation. If urgent preventative action is required, this may take place before any investigation is conducted.

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- 2.5 Possible investigative routes include:
- internal investigation by management;
 - referral to the police; or
 - referral to the external auditor.
- 2.6 In some cases it may be appropriate to approach an external body for specialist professional or legal advice.
- 2.7 If the outcome of the complaint is that disciplinary proceedings should be commenced against another person, the person who raised the complaint will not be advised of any penalty given.
- 2.8 Where it is decided that there is no case to answer, but the employee held a genuine concern, PHSO will take such steps as are deemed necessary to ensure the employee is not subject to any victimisation or reprisal.
- 2.9 If an employee feels it would be inappropriate to raise a concern within the Office, particularly with senior management, or that a concern has been raised but has not been satisfactorily dealt with at a senior level, a concern can be raised with:
- PHSO's Audit Committee Chair, Sir Jon Shortridge, who can be contacted at jon.shortridge@btinternet.com;
 - PHSO's external auditors, the NAO, who can be contacted regarding concerns about the misuse of public money, by calling the Whistle-blowers Hotline on 020 7798 7999 or by writing to:

The Comptroller and Auditor General
National Audit Office
157-197 Buckingham Palace Road
London SW1W 9SP
- the Chair of the Public Administration Select Committee (via the Clerk to the Committee, who will discuss with the Chair whether further action is appropriate, and if so what it should be).
- 2.10 If an employee raises a concern outside PHSO, they should have proper regard to the legal obligations of confidentiality under which PHSO operates. While these can cover the confidentiality of an individual's personal information, under the Data Protection Act 1998 for example, it is particularly important that the statutory restrictions on disclosure of information in the Parliamentary Commissioners Act 1967 and the Health Service Commissioners Act 1993 are respected. Because these statutory restrictions set out the basis on which PHSO undertakes all its investigations, the Office may need to bring disciplinary or legal action in respect of any breach that is not protected by the Public Interest Disclosure Act. For this reason, employees should seek advice from Public Concern at Work (see 4.1) or a lawyer before they make an external disclosure.

3. Anonymous complaints

- 3.1 Anonymous reports are not encouraged. However, if an employee chooses to raise a concern anonymously or only wishes to raise a concern orally, PHSO will investigate. However, the employee raising the concern must be aware that it may not always be possible to investigate fully in such circumstances or to reach a satisfactory conclusion.

4. Confidential advice

- 4.1 If an employee is unsure whether to put their name to a complaint or whether they should talk to their line manager or HR, People & Talent about their concern, they can get free, confidential advice from the independent charity, Public Concern at Work on 020 7404 6609 (e-mail: helpline@pcaw.co.uk)
- 4.2 Other possible contact points for advice are:
- relevant professional bodies or regulatory organisations;
 - a solicitor;
 - the police.
- 4.3 Employees can also contact the Employee Assistance Programme (EAP) providers, their Trade Union representative or a member of HR, People & Talent for advice.

5. Raising a concern regarding an external organisation

- 5.1 If an employee is concerned about serious wrong doing by an external organisation, (or an employee of an external organisation) for example a supplier, they should raise their concerns with their line manager, in accordance with any operational guidance. The line manager will escalate it to their Director/Head of Function.
- 5.2 Employees with concerns regarding a body in jurisdiction are advised to read the relevant Casework Policy and Guidance to determine the appropriate action. Further information is contained within:
- Governance Statement;
 - Clinical Adviser Guidance;
 - Disclosure of concerns about the health and safety of patients;
 - Releasing information about risk to a complainant or others;
 - PHSO's Fraud Policy.

6. Right to be accompanied

- 6.1 All employees taking part in formal meetings (including investigation meetings) can be accompanied to a meeting by a PHSO colleague or Trade Union representative. This applies to an employee:
- who has raised the concern;
 - who is the subject of the complaint;
 - who is a witness during the investigation.

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6.2 The colleague or Trade Union representative may:

- address the meeting but not answer questions on behalf of the employee;
- confer with the employee during the meeting, requesting an adjournment, if necessary.

6.3 Managers arranging formal meetings should advise employees that they may be accompanied. Every effort will be made to accommodate the availability of the colleague/Trade Union representative accompanying the employee. However, where this causes the process to be unduly delayed, the employee may be requested to seek an alternative.

7. External complaints

7.1 Former employees, agency workers and consultants can raise a concern by contacting the Director of HR, People and Talent or the Managing Director.