

<b>POLICY TITLE:</b>	<b>Whistleblowing (Protected Disclosure)</b>
<b>Policy Number:</b>	OP21
<b>Version Number:</b>	10
<b>Date of Issue:</b>	09/12/2020
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<b>Policy Owner:</b>	Sarah Blanch, Group Policy Manager
<b>Ratified by:</b>	Louise Watts, Director of HR- Education & Children's Services and Central Services
<b>Responsible Signatory:</b>	David Watts, Director of Risk Management
<b>Outcome:</b>	<p>This policy:</p> <ul style="list-style-type: none"> <li>• Aims to ensure that colleagues feel confident in raising serious concerns and to question and act upon concerns about practice.</li> <li>• Provides details for ordering posters for display at all sites.</li> </ul>
<b>Cross Reference:</b>	<p><a href="#">Priory Group Employee Handbook</a>  HR04.3 <a href="#">Grievance</a>  HR04.6 <a href="#">Your Say Forums: Local, Divisional and Group</a>  HR04.10 <a href="#">Anti-Bullying and Harassment</a>  LE03 <a href="#">Data Protection</a>  OP03 <a href="#">Complaints</a>  OP04 <a href="#">Incident Management, Reporting and Investigation</a></p>
<b>EQUALITY AND DIVERSITY STATEMENT</b>	
<p>Priory Group is committed to the fair treatment of all in line with the Equality Act 2010. An equality impact assessment has been completed on this policy to ensure that it can be implemented consistently regardless of any protected characteristics and all will be treated with dignity and respect.</p>	

In order to ensure that this policy is relevant and up to date, comments and suggestions for additions or amendments are sought from users of this document. To contribute towards the process of review, email [LegalandComplianceHelpdesk@priorygroup.com](mailto:LegalandComplianceHelpdesk@priorygroup.com)

## WHISTLEBLOWING (PROTECTED DISCLOSURE)

### 1 INTRODUCTION

- 1.1 Priory Group is committed to an open, safe and supportive culture. Priory Group aims to put people first and does this by valuing colleagues, service users and their families. Priory Group strives to act with integrity in an honest and decent way and engender a culture of safety which enables colleagues to raise concerns and to ensure an effective response to those concerns.
- 1.2 This policy has been introduced to comply with the Employment Rights Act 1996 together with the principles and actions that can be transferred to Priory Group outlined in Freedom to Speak Up (February 2015) the report arising from the review, undertaken by Robert Francis QC, into the creation of an honest and open reporting culture in the NHS. The 'Freedom to Speak Up lead' for Priory Group is the Director of Risk Management.
- 1.3 Colleagues are often the first to identify concerns in the work environment. However, they may not express their concerns because they feel that speaking up would be disloyal to their colleagues or to Priory Group. They may also fear harassment or victimisation. In these circumstances the colleague may prefer not to report the concern.
- 1.4 Priory Group is committed to the highest possible standards of service user care, probity and accountability; this policy supports all five 'Priory Values' (Putting People First, Being Supportive, Acting with Integrity, Being Positive and Striving for Excellence). In line with that commitment, we encourage and expect our colleagues, and others that we deal with, who have concerns about any aspect of Priory Group's work, to come forward and voice those concerns. It is recognised that wherever possible, a case should proceed on a confidential basis.
- 1.5 This policy makes it clear that colleagues can report any concerns without fear of victimisation, subsequent discrimination or disadvantage. This policy is intended to encourage and enable colleagues to raise serious concerns within the company rather than ignoring or overlooking a problem or 'blowing the whistle' to an external agency.
- 1.6 Depending on the nature, extent and seriousness of the concern raised, the appropriate Director upwards to Divisional COO will take responsibility for ensuring that effective action is taken in response. On a day-to-day basis, this responsibility is delegated to the Operational Management teams to ensure an effective response to any concerns that are raised. All concerns of a high level of severity will be escalated to the Operating Board.
- 1.7 The Operating Board receives regular data on Protected Disclosures (whistleblowing) received across the Group, reports from the Freedom to Speak Up Lead and a separate report on protected disclosures related to safeguarding.
- 1.8 This Policy applies to all:
- (a) Colleagues (and former colleagues).
  - (b) Contractors (e.g. agency staff, those on Practising Privileges).
  - (c) Students, apprentices and trainees on placement.
  - (d) Volunteers (commonly known as 'peer support' in Priory addiction services)
- 1.9 The procedures set out in this policy are in addition to any statutory reporting procedures and 'upwards reporting' expectations applying to some services.

### 2 AIMS AND SCOPE

- 2.1 This policy aims to:
- (a) Encourage colleagues to feel confident in raising concerns and to question and act upon concerns about practice.

- (b) Provide avenues for colleagues to raise those concerns and receive feedback on any action taken.
  - (c) Ensure that colleagues (who provide their contact details) receive a response to their concerns and that they are aware of how to pursue them if they are not satisfied.
  - (d) Reassure colleagues that they will be protected from possible reprisals or victimisation where they have a reasonable belief that they may have made any disclosure in good faith.
- 2.2 This policy is intended to cover major concerns that fall outside the scope of other procedures. These include:
- (a) Criminal offences.
  - (b) Failure to comply with legal obligations.
  - (c) Miscarriages of justice.
  - (d) Actions that endanger the health or safety of colleagues or the public.
  - (e) Actions that cause damage to the environment.
  - (f) Abuse and/or neglect of service users.
  - (g) Unacceptable care or medical practices.
  - (h) Possible fraud and corruption.
  - (i) Misuse or abuse of company assets.
  - (j) Actions that are intended to conceal any of the above.
  - (k) A culture of systematic bullying, harassment and/or victimisation. (NB: Personal grievances for example bullying, harassment and discrimination are not covered by whistleblowing law, unless your particular case is in the public interest)
- 2.3 Thus, any serious concerns that colleagues have about any aspect of service provision, or the conduct of colleagues, or others acting on behalf of Priory Group, can be reported under this policy. Concerns meeting these conditions are known as 'protected disclosures by workers' in the Public Interest Disclosure Act 1988 and all such disclosures should be in the public interest. This may be about something that:
- (a) Makes you feel uncomfortable in terms of known standards, your experience or the standards you believe Priory Group subscribes to.
  - (b) Is against Priory Group policies.
  - (c) Falls below established standards of practice and care.
  - (d) Amounts to improper conduct.
- 2.4 This policy and procedure will only be used to investigate protected disclosures, therefore, unless they also meet the definition of 'whistleblowing', this policy will not be used to investigate:
- (a) Complaints from service users, their carers and other stakeholders – refer to OP03 Complaints.
  - (b) Colleague grievances – refer to HR04.3 Grievance.
  - (c) Anonymous disclosures – these may fall within or outside the policy at the company's discretion. Having given due consideration to the disclosure a judgement will be made as to whether to treat each matter as a whistleblowing.
- 2.5 Note that Whistleblowing (Protected Disclosures) are separate to complaints raised by service users and their families and others. Complaints must in all cases be reported and investigated in accordance with Policy OP03 Complaints.

### **3 SAFEGUARDS**

- 3.1 Priory Group is committed to good practice and high standards and being supportive of colleagues.
- 3.2 Priory Group recognises that the decision to report a concern can be a difficult one to make. If you believe that what you are saying is true, you should have nothing to fear because you will be doing your duty to your employer and those for whom you are providing a service.
- 3.3 Priory Group will not tolerate harassment, bullying or victimisation of any kind and will take

appropriate action to protect you when you raise a concern in good faith. (Refer to HR04.10 Anti-Bullying and Harassment). If you need additional support around bullying and harassment please call our confidential helpline on 0333 212 3665 (this is a separate line to the whistleblowing line).

#### **4 CONFIDENTIALITY**

- 4.1 As far as it is possible, all concerns will be treated in confidence and every effort will be made not to reveal your identity if you so wish. At the appropriate time, however, it may be necessary for your identity to be made known to, amongst others, a relevant public body and the accused colleague(s) through a resulting disciplinary procedure and you may be required to come forward as a witness.

#### **5 ANONYMOUS ALLEGATIONS**

- 5.1 This policy encourages you to put your name to your allegation whenever possible. It is not possible to ensure that colleagues are informed of the outcomes (see 2.1(c) above) if contact details are not provided.
- 5.2 Concerns expressed anonymously are much less powerful, but will be considered at the discretion of Priory Group.

#### **6 UNTRUE ALLEGATIONS**

- 6.1 If you make an allegation in good faith, but it is not confirmed by the subsequent investigation, no action will be taken against you. If, however, you make an allegation frivolously, maliciously or for personal gain, action may be taken against you, which could include disciplinary action.
- 6.2 HR04.2 Disciplinary Procedure may be applied where:
- (a) A malicious trivial or unreasonable allegation is represented as a whistleblowing
  - (b) The whistleblower does not believe that their allegations are true
  - (c) Any disclosure of personal or medical information about a service user is given without their consent to sources external to the organisation (refer to OP02 Data Protection)

#### **7 HOW TO RAISE A CONCERN**

- 7.1 As a first step, you should normally raise concerns with your immediate manager or their superior, (governance structures are available on the Priory intranet). However, this depends on the seriousness and sensitivity of the issues involved and who is suspected of the malpractice. For example, if you believe that your management team is involved you should consider approaching your Regional Manager or Operations Director or, where you feel the need to go outside of your Division, then you should approach the Director of Risk Management as Freedom to Speak Up Lead (see paragraph 1.2) or use one of the options set out in paragraph 7.5.
- 7.2 Complaints may be raised verbally or in writing. There is no official form to utilise as the Group does not wish to put colleagues off reporting a concern; colleagues who wish to make a written report are encouraged to simply use the following as prompts to consider:
- (a) The background and history of the concern (giving relevant dates)
  - (b) The reason why you are particularly concerned about the situation.
- 7.3 The earlier you express the concern, the easier it is to take action.
- 7.4 Although you are not expected to prove 'beyond doubt' the truth of an allegation, you will need to demonstrate to the person you have contacted that there are reasonable grounds for your concern.
- 7.5 Options for action within Priory Group include:

- (a) HR04.3 Grievance policy which is outlined in the Employee Handbook and Bank Workers Handbook, or
  - (b) Contacting a Director directly (see Paragraph 7.2 above), or
  - (c) Calling the Priory Group's independently run 24 hour free-phone line on 0800 484 0816, or
  - (d) Sending your concerns directly to [whistleblowing@priorygroup.com](mailto:whistleblowing@priorygroup.com)
- 7.6 Details of the options for action will be displayed in colleague communal areas. Information posters are available for this purpose from the on-line print shop. (See associated forms at the foot of this policy).
- 7.7 Priory Group procedures, and the law, encourage colleagues to exhaust internal processes before considering any course of action external to the company.

## **8 HOW PRIORY GROUP WILL RESPOND**

- 8.1 Priory Group will respond to your concerns. It is important to remember that testing out your concerns is not the same as either accepting them or rejecting them. Where appropriate, the matters raised may:
- (a) Be investigated quickly and transparently by a sufficiently independent and trained manager and/or investigated through the disciplinary process.
  - (b) Be referred to the police.
  - (c) Be referred as a safeguarding concern in accordance with the Safeguarding policies and the service's Local Procedures.
  - (d) Form the subject of an independent inquiry.
  - (e) Be referred to an external professional body.
- 8.2 In order to protect individuals and those accused of misdeeds or possible malpractice, initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it should take. Concerns or allegations that fall within the scope of specific procedures (for example, clinical practice or discrimination issues) will normally be referred for consideration under those procedures to ensure that appropriate and proportionate actions are undertaken.
- 8.3 Some concerns may be resolved by agreed action without the need for investigation. If urgent action is required this will be taken before any investigation is conducted.
- 8.4 In exercising their discretion, factors to be taken into account by the managers considering the issues on behalf of Priory Group would include:
- (a) The seriousness of the issues raised.
  - (b) The credibility of the concern.
  - (c) The likelihood of confirming the allegation from attributable sources.
  - (d) The managers considering the issues will endeavour to contact you in a timely manner, with regard to the nature and complexity of matters raised of a concern being received and you will receive:
    - i) Acknowledgement that the concern has been received.
    - ii) Indication of how we propose to deal with the matter.
    - iii) An estimate of how long it will take to provide a final response.
    - iv) Information regarding whether any initial enquiries have been made.
    - v) Information regarding whether any further investigations will take place and if not, why not.
- 8.5 The amount of contact between the manager(s) considering the issues and you will depend on the nature of the matters raised, the potential difficulties involved and the clarity of the information provided. If necessary, Priory Group will seek further information and clarification from you.
- 8.5.1 The Colleague Assistance line can be approached where colleagues feel the need to seek external support or counselling. The Helpline is independent of Priory Group and can be contacted by phoning 0800 088 2600 at any time of the day and night.

- 8.6 Where any meeting is arranged, to discuss the issues raised, you can be accompanied by a work colleague.
- 8.7 Priory Group will take steps to minimise any difficulties which you may experience as a result of raising a concern. For instance we will take the following actions:
- (a) We will consider with you about you and your working environment to ensure that it is tolerable (and where necessary take action in response), and
  - (b) We will arrange for you to receive support and advice if you are required to give evidence in disciplinary or criminal proceedings.
- 8.8 Priory Group accepts that you need to be assured that the matter has been properly addressed. Thus, subject to legal constraints, we will provide you with feedback and inform you of the outcome of any investigation, although the outcome of any resulting disciplinary proceedings must remain confidential to the individual(s) subject to those proceedings.
- 8.9 Priory Group will report serious concerns to regulators and commissioners where the concerns that are raised meet the threshold for external reporting to be made and will aim to learn from these events and make improvements in response to the content of any allegation and any improvements that follow.
- 8.10 Priory Group will deal with concerns under this policy as quickly and effectively as possible. There is a guide for timescales (see Appendix 1) but please note that it is not always possible to adhere strictly to these timeframes for reasons such as the complexity or seriousness of what has been arranged. If you have made your whistleblow providing your contact details, you will be kept up to date with progress.

## 9 HOW THE MATTER CAN BE TAKEN FURTHER

- 9.1 Priory Group will always aim for you to be satisfied with any action taken internally, but if you feel that the internal avenues have not resolved the issues satisfactorily, or you feel unable to raise the matter internally yourself in the first place, and you feel it is right and necessary to take the matter outside of the company, the following are possible contact points:
- (a) Relevant regulatory bodies (e.g. CQC, RQIA, Care Inspectorate, HIS, CCSIW, HIW, Ofsted).
  - (b) The charity 'Protect' (previously known as 'Public Concern at Work') on 020 3117 2520.
  - (c) Your local Citizens Advice Bureau.
  - (d) Relevant professional bodies (e.g. GMC, NMC).
  - (e) A relevant voluntary organisation.
  - (f) The police.
  - (g) The Health and Safety Executive.
  - (h) Your local authority Safeguarding team.

## 10 CONTACT DETAILS OF REGULATORY BODIES

10.1	CQC	<b>0300 061 6161</b>	<a href="mailto:enquiries@cqc.org.uk">enquiries@cqc.org.uk</a>
	RQIA	<b>028 9051 7500</b>	<a href="mailto:info@rqia.org.uk">info@rqia.org.uk</a>
	Care Inspectorate	<b>0345 600 9527</b>	<a href="mailto:enquiries@careinspectorate.com">enquiries@careinspectorate.com</a>
	CSSIW	<b>0300 7900 126</b>	<a href="mailto:cssiw@wales.gsi.gov.uk">cssiw@wales.gsi.gov.uk</a>
	Ofsted	<b>0300 123 3155</b>	<a href="mailto:whistleblowing@ofsted.gov.uk">whistleblowing@ofsted.gov.uk</a>
	HIW	<b>0300 062 8387</b>	<a href="mailto:hiw@wales.gsi.gov.uk">hiw@wales.gsi.gov.uk</a>
	HIS	<b>0131 623 4300</b>	<a href="mailto:comments.his@nhs.net">comments.his@nhs.net</a>

## 11 REFERENCES

- 11.1 **Legislation**  
 Access to Health Records Act 1990  
 Access to Medical Records Act 1988

Data Protection Act 2018  
Employment Rights Act 1996  
Equality Act 2010  
Health and Safety at Work etc. Act 1974 S7  
Misuse of Drugs Act 1971  
Public Interest Disclosure Act 1998  
The Working Time Directive  
The Working Time Regulations 1998

11.2 **Guidance**

ACAS Advice Booklet  
Advisory Council on the Misuse of Drugs  
Department for Business, Energy & Industrial Strategy (2016) Guidance – Whistleblowing:  
List of prescribed people and bodies  
[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/431221/bis-15-289-blowing-the-whistle-to-a-prescribed-person-list-of-prescribed-persons-and-bodies-2.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/431221/bis-15-289-blowing-the-whistle-to-a-prescribed-person-list-of-prescribed-persons-and-bodies-2.pdf)  
Francis, R. (2015) Freedom to Speak Up

**Appendix 1** – Whistleblowing Process Time Scale

**Associated Forms** (available to Aspire):

**PG04970** – [Colleague Support Helpline Poster](#) (includes Whistleblowing and Bullying & Harassment)

Appendix 1

**WHISTLEBLOWING PROCESS TIME SCALE**





