



Whistleblowing Policy and Procedure

Paper Copies of this Document

- If you are reading a printed copy of this document you should check the Trust's Policy website (<http://sharepoint/policies>) to ensure that you are using the most current version.

Ratified Date: February 2011
Ratified By: Director of HR and OD
Review Date: January 2014
Accountable Directorate: HR Consultancy
Corresponding Author: HR Business Partner

META Data

Document Title:	Whistleblowing Policy and Procedure
Status:	Final Draft: Subject to approval
Document Author:	HR Business Partner (daniela.locke@heartofengland.nhs.uk)
Source Directorate:	Human Resources
Date of Release:	February 2011
Ratification Date: Final:	December 2010 February 2011
Ratified By:	Director of HR and OD
Review Date:	January 2014
Related Documents:	Incident Reporting Policy Being Open Policy Supporting Staff policy Complaints Policy Adult and Children Safeguarding Policies
Superseded documents:	Whistleblowing Policy – January 2008
Stored Centrally:	Trust Intranet
Relevant External Standards/Legislation	Public Interest Disclosure Act (PIDA) 1998 Care Quality Commission Public Concern at Work NHS Counter Fraud
Key Words	Concern at Work; Malpractice; Wrongdoing; Fraud; Whistleblowing; Complaints

Revision History

Version	Status	Date	Consultee	Comments	Action from Comment
2.0	Draft	29/11/10	HR Committee	Policy presented to HR committee on 1 st December 2010	Draft and principles agreed subject to ratification by Governance
2.1	Draft	December	Governance and Head Nurse Lead for Safeguarding	Feedback sought and received	Applicable amendments made.
2.2	Draft	18.01.11	Staff Side Convenor	Draft discussed and sent for comment to Staff Side Convenor	Feedback sought for final draft to be taken to JNCC
2.3	Final Draft	27.01.11	JNCC members	Presented for agreement	
2.4	Final	February 2011	Trust Board	Presented for approval	

Table of Contents

Section	Header	Page
1	Circulation	4
2	Scope	4
3	Definitions	5
4	Reasons for Development of Policy	5
5	Aims and Objectives	5
6	Whistleblowing Procedure	7
7	Responsibilities	10
8	Training Requirements	11
9	Monitoring and Compliance	11
Appendix 1	Example list of concerns covered under Whistleblowing	12
Appendix 2	Procedure Flowchart	13
Appendix 3	Checklist	14
Attachment 1	Consultation and Ratification Checklist	15
Attachment 2	Equality and Diversity – Policy Screening Checklist	16
Attachment 3	Launch and Implementation Plan	19

1. Circulation

This policy applies to all staff who work for Heart of England NHS Foundation Trust (hereafter referred to as “the Trust”), whether full-time or part-time, self-employed, employed through an agency, as a volunteer or as a contractor.

2. Scope

2.1 The purpose of this policy and procedure is to outline ways in which all Trust employees can express concerns about malpractice/wrongdoing and to encourage employees to raise these at an early stage and in an appropriate way in line with the Public Interest Disclosure Act 1998.

2.2 The Trust Board is committed to managing the organisation in the best way possible. This policy is in place to reassure staff that it is safe and acceptable to speak up and enable concerns to be raised at an early stage and in the right way. Rather than wait for proof, we would prefer you to raise the matter when it is still a concern. It can be difficult to know what to do when these concerns are about unlawful conduct, financial irregularities, abuse of patients, dangers to the public or environment, health and safety issues, or if you feel these issues are being inappropriately concealed.

2.3 This policy is to be applied consistently and in line with Trust values.

2.4 Exclusions

2.4.1 This policy does not apply to complaints about employment or how you have been treated. For cases such as this, the Grievance Procedure or Harassment and Bullying Policy should be used. There are also a range of policies and procedures that cover issues such as fraud and corruption, recruitment/selection, health and safety and staff are advised to refer to these when considering a disclosure under this policy. Reference to the guidance and professional advice provided by all the relevant professional and regulatory bodies such as the GMC, NMC or HPC can also be sought.

2.4.2 This policy does not replace the Trust’s Complaints Procedure, which should be used by patients or those acting on their behalf to deal with specific incidents relating to individual patients.

2.4.3 There are other Trust processes that staff can refer to as follows:

- Trust Incident Reporting Policy and Procedure (e.g. for accidents, errors, staffing concerns etc.) Incident Reports can be submitted anonymously.
- Serious Untoward Incidents Policy and Procedure
- Risk Management process – staff can feed into this process and risks are highlighted and reported either at Directorate level for Group level or Governance Department. (see Risk Management Policy).

3. Definitions

- **Whistleblowing:** The official name for Whistleblowing is 'making a disclosure in the public interest'. It means that if you believe there is wrongdoing in your workplace, you can report this by following the correct processes and your employment rights are protected.
- **Malpractice** – could be improper, illegal or negligent behaviour by anyone in the workplace.

4. Reason for development of policy

- 4.1 The 'Whistle Blowing' Policy and Procedure is primarily for concerns where, due to malpractice, fraud, abuse or other inappropriate acts/omissions, the interest of others or the organisation itself is at risk.
- 4.2 Staff have a right, and a duty, to raise with their employer any matters of concern they may have about health service issues associated with the organisation and delivery of care. The policy is designed to provide a clear commitment to staff that concerns will be taken seriously, and to encourage staff to communicate their concerns through the appropriate channels.
- 4.3 All clinicians and managers at every level of the organisation have a duty to ensure that staff are provided with the opportunity to express their concerns and to do so. In order that staff can express their concerns it is important that clear principles and procedures are established.

5. Aims and Objectives

- 5.1 The 'Whistle Blowing' Policy is intended to cover serious public interest concerns that fall outside the scope of other procedures. These, as stated in the Act are that in the reasonable belief of the employee, the following matters are either happening now, have happened, or are likely to happen: -
- A criminal offence
 - The breach of a legal obligation
 - A miscarriage of justice
 - A danger to the health and safety of an individual
 - Damage to the environment
 - Deliberate covering up of/failing to report information tending to show any of the above 5 matters.

(Further details in Appendix 1)

The Trust Board is committed to the effective implementation of this policy and procedure. The aim of the procedure is to ensure that an appropriate process exists which supports the resolution of matters raised, in response to any disclosure of wrongdoing or irregularity and in a manner which is fair, expedient and discreet.

5.2 Your Safety

The Board and the Chief Executive and the staff unions are committed to this policy. If you raise a genuine concern under this policy, you will not be at risk of losing your job or suffering any detriment (such as reprisal or victimisation). Provided you are acting in good faith (effectively this means honestly), it does not matter if you are genuinely mistaken or if there is an innocent explanation for your concerns. This assurance is not extended to those who maliciously raise a matter they know is untrue. If, following a thorough investigation, it is found that you raised a matter maliciously; this will be dealt with under the Trust's Disciplinary Policy.

5.3 Your Confidence/Anonymity

With these assurances, we hope you will raise your concern openly. However, we recognise that there may be circumstances when you would prefer to speak to someone in confidence first. If this is the case, please say so at the outset. If you do not wish to disclose your identity, this will not be done without your consent unless required by law. You should understand that there may be times when we are unable to resolve a concern without revealing your identity, for example where your personal evidence is essential (for example in court cases). In such cases, we will discuss with you whether and how the matter can best proceed.

Please remember that if you do not tell us who you are it will be much more difficult to look into the matter. We will not be able to protect your position or to give feedback. Accordingly you should not assume we can provide the assurances we offer in the same way if you report a concern anonymously.

Where an individual does not wish to come forward as a witness, the Trust retains the right to pursue the matter further but will respect the anonymity of the individual. However, it must be noted that this may ultimately prevent the Trust from being able to proceed.

Concerns expressed anonymously are much less powerful but will be considered at the discretion of the Trust. In exercising this discretion, the factors to be taken into account would include:

- The seriousness of the issues raised
- The credibility of the concern
- The likelihood of confirming the allegation from attributable sources.

The procedures contained below should ensure that your concern can be addressed and dealt with internally, however if you believe that a disclosure of information should be made externally in the public interest this should be soundly based and you should first seek independent and/or specialist advice.

IF IN DOUBT – RAISE IT!

6. Whistle Blowing Procedure

6.1 How to raise a concern

If you are unsure about raising a concern at any stage you can get independent advice from your trade union representative or Public Concern at Work (see contact details in section 6.7). However, we do ask that you explain as fully as you can the information or circumstances that gave rise to your concern.

6.2 Internal Stages

Once you have reported your concern, we will assess it and consider what action may be appropriate. This may involve an informal review, an internal inquiry or a more formal investigation. We will tell you who will be handling the matter, how you can contact them and what further assistance we may need from you.

When you raise the concern it will be helpful to know how you think the matter might best be resolved. If you have any personal interest in the matter, we do ask that you tell us at the outset. If we think your concern falls more properly within our grievance, harassment and bullying or other relevant procedure, we will inform you accordingly. (see Appendix 3 for a checklist to help you formulate your complaint).

The following stages will normally apply (see Appendix 2 for summary flowchart):

Stage 1

If you have a concern about a risk, malpractice or wrongdoing at work, we hope you will feel able to raise it firstly with your line manager or lead clinician. This may be done verbally or in writing. [N.B. the term Manager/Line Manager is generic and includes all clinicians with responsibility for staff and also any staff with supervisory roles]. You may involve a Trade Union Representative, a friend or a colleague at this stage, providing that that person is not involved in the investigation.

Managers must help to create a climate where staff feel able to talk in confidence without the threat of disciplinary action being taken against them. The manager will identify the nature of the issue by undertaking a preliminary investigation.

Stage 2

If stage 1 of the investigation and any resultant action does not resolve the matter, or if a concern involves the immediate line manager, the member of staff should raise the concerns with their Human Resources Consultancy Service who will refer the case to a designated officer, who will be the point of contact for employees under this policy. Where concerns are raised with the

designated officer, they will arrange an initial interview which will, if requested, be confidential to ascertain the areas of concern. At this stage, you will be asked whether you wish your identity to be disclosed and will be reassured about protection from possible victimisation. You will also be asked if you wish to make a written statement. In either case, the designated officer will write a brief summary of the interview, which will be agreed by both parties.

The designated officer will report to the Chief Executive who will be responsible for the commission of any further investigation within the Trust.

6.3 The Formal Investigation

If the concern raised is very serious or complex, a formal investigation may be held. The investigation may need to be carried out under the terms of strict confidentiality i.e. by not informing the subject of the complaint until it becomes necessary to do so. In certain cases, however, such as allegations of ill-treatment of patients/clients, suspension from work may have to be considered immediately. Protection of patients/clients is paramount in all cases.

The designated officer will offer to keep the member of staff informed about the investigation and its outcome.

If the result of the investigation is that there is a case to be answered by any individual, the Trust's Disciplinary Policy will be used and the details discovered by the formal investigation, transferred to that process.

Where there is no case to answer, but the employee held a genuine concern and was not acting maliciously, the designated officer will ensure that the employee suffers no reprisals.

If there is no case to answer but there is evidence that the allegation was made frivolously, maliciously or for personal gain, disciplinary action will be taken against the complainant.

The matter will be dealt with promptly at each stage. Where appropriate, immediate steps will be taken to remedy the situation as soon as practicably possible. **A final outcome may take more time but a final resolution/outcome at each stage should be available within ten working days.**

6.4 Following the investigation

The Chief Executive will advise the designated officer as to the possible options open to the Trust as a result of the outcome of the investigation. The designated officer will then arrange a meeting with the member of staff (where the identity has been disclosed) to give feedback on any action taken. (This will not include details of any disciplinary action, which will remain confidential to the individual concerned). The feedback will be provided as soon as possible.

If the member of staff is not satisfied with the action taken/not taken, the Trust recognises the lawful rights of employees and ex-employees to make disclosures to prescribed persons (such as the Health & Safety Executive, the Audit Commission, or the utility regulators, or, where justified, elsewhere (See Section 6.6).

6.5 Complaints about the Chief Executive

In the event that the concern is about the Chief Executive, this concern should be made to the Chairman of the Trust, by either the member of staff, their manager or the designated officer, who will decide on how the investigation will proceed.

6.6 Raising Concerns with outside bodies

The purpose of this policy is to ensure that staff are aware of the way to raise their concerns in-house and for staff to see that action is taken promptly to remedy a particular situation. It is hoped that this procedure will give Trust staff the confidence to raise concerns internally.

However, it is recognised that there may be circumstances where staff may feel they wish to report matters to outside bodies such as the Police, the Secretary of State for Health or, if the concern is about fraud and corruption, the NHS Fraud Hotline. A full list of persons/bodies can be found in The Public Interest Disclosure (Prescribed Persons) Order 1999 which sets out the full prescribed persons list and a description of the matters to which issues of concern could be referred. An extract from the Order can be obtained from the Director of Communications.

If members of staff are contemplating making a wider disclosure they are strongly advised to first seek further specialist guidance from professional or other representative bodies.

The Trust also recognises that staff may, after taking account of advice, wish to continue to raise their concerns using other avenues. These might include MPs or the Media. Staff should bear in mind that this action, if done unjustifiably could result in disciplinary action and could undermine public confidence in the service.

However, disclosure may attract statutory protection from victimisation/other detriment where all of the following apply:

- They have an honest and reasonable suspicion that the malpractice/wrongdoing has occurred, is occurring, or is likely to occur;
- They honestly and reasonably believe that the information and any allegation contained in it are substantially true;
- The disclosure has not been made for personal gain;

- The concern has been raised with the Trust or a prescribed regulator (unless there was reasonable belief of victimisation, there was no prescribed regulator and there was reasonable belief there would be a cover up);
- The matter was exceptionally serious.

6.7 Independent Advice

If you are unsure whether to use this policy or you want confidential advice at any stage, you may contact any of the following:

- Trade Union or Professional Organisation
- A statutory body such as the NMC for Nursing, Midwifery and Health Visitors, the GMC or the Health Professions Council
- The independent charity Public Concern at Work on 020 7404 6609 or by email at **helpline@pcaw.co.uk**. Their lawyers can talk you through your options and help you raise a concern at any stage about how to raise a concern about serious malpractice or wrongdoing at work.

6.8 Confidentiality to Patients and the Trust

As a member of NHS staff and in accordance with professional codes of practice, you have a duty of confidentiality to patients. Subject to the provisions of the Public Interest Disclosure Act, unauthorised disclosure of personal information about any patient will be regarded as a most serious matter, which will warrant disciplinary action. This applies even when you believe that you are acting in the best interests of a patient by disclosing personal information. You should always therefore act in a way which minimises the chance of any individual patient being identified. The Trust Caldicott Guardian can provide advice.

As an employee you also have an implied duty of confidentiality and loyalty to the Trust as the employer. Subject to the provisions of the Public Interest Disclosure Act, breach of this duty may result in disciplinary action.

7 Responsibilities

7.1 The Chief Executive

The Chief Executive is the nominated board sponsor for the Whistleblowing Policy and Procedure across the Trust, ensuring that all concerns raised are dealt with fairly, thoroughly and in accordance with the policy.

7.2 Managers

All managers are responsible for ensuring that staff are aware of the policy and its application, and for creating an environment in which staff are able to express concerns freely and without fear of reprisal.

7.3 Individuals

The individual has a responsibility to raise concerns providing s/he has a reasonable belief that malpractice and/or wrongdoing has occurred.

8. Training Requirements

There are no mandatory training requirements associated with this Policy. However training on the implementation of this framework is available from the HR Consultancy department.

9. Monitoring and Compliance

This policy shall be reviewed by the Head of HR Consultancy and will be agreed through the JNCC.

The Head of HR Consultancy is responsible for collating details of any cases which are dealt with under this procedure and will provide an aggregated report to the HR Committee on an annual basis. The latter report will outline the nature of the concern and the outcome in a form that does not endanger the employee's confidentiality.

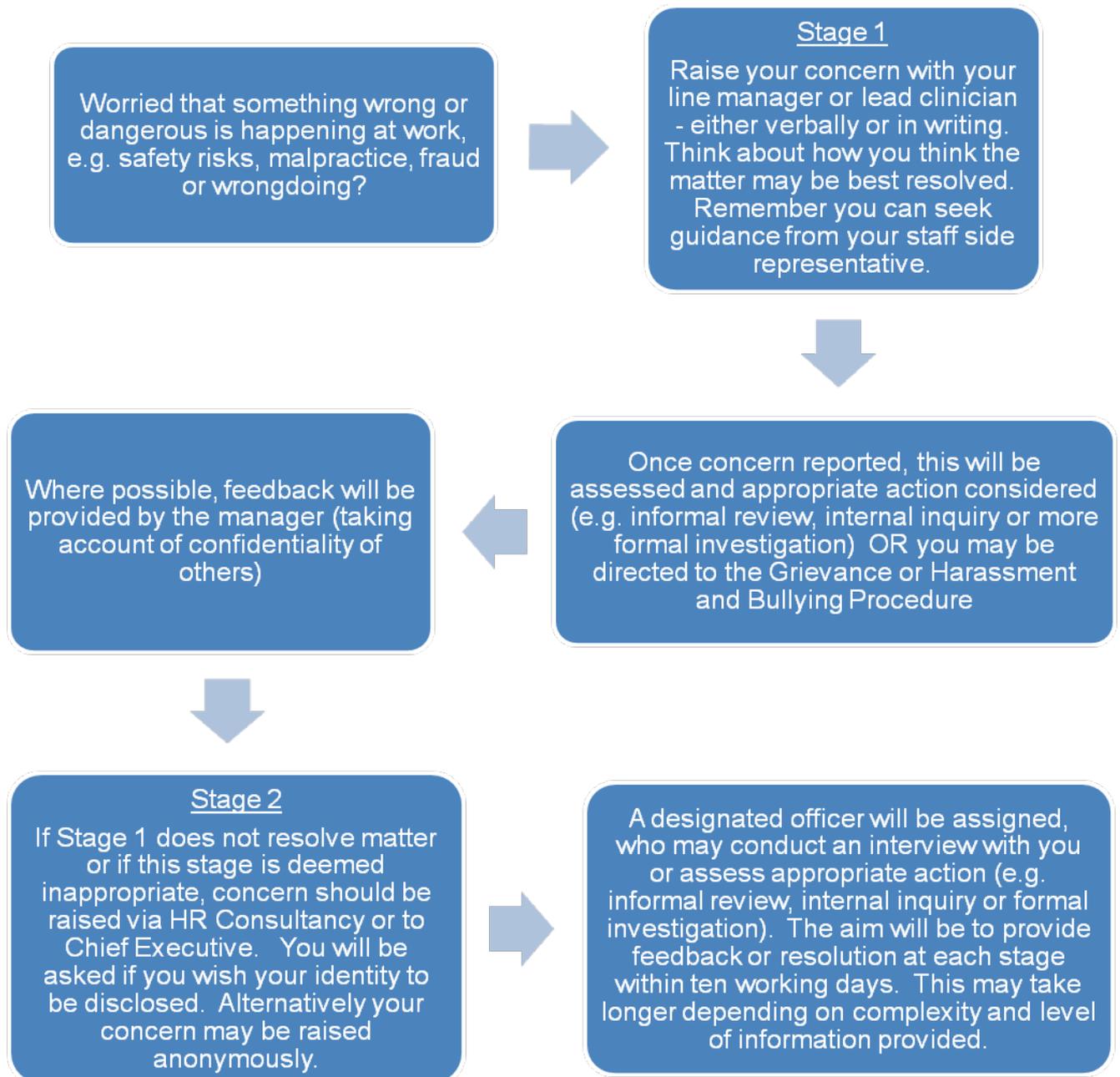
'WHISTLE BLOWING' POLICY & PROCEDURE

The Whistle Blowing Policy covers the following: -

- conduct which is an offence or a breach of law, e.g. fraud, corruption or theft
- disclosures related to miscarriages of justice
- health and safety risks, including risks to patients/visitors as well as other employees
- damage to the environment, e.g. green issues
- Verbal, sexual or physical abuse of patients, or other unethical conduct/behaviour
- discrimination on grounds of sex, race or disability or religion
- poor clinical practice
- malpractice
- professional misconduct
- nepotism

This list is neither exclusive nor exhaustive and there may be other serious public interest concerns, which would come under this Policy.

Whistleblowing Procedure Flowchart – Internal Stages



IF IN DOUBT – RAISE IT!

Guidance on Information Required when Raising A Concern under the Whistleblowing Policy and Procedure

Checklist

To assist us in assessing or investigating your concerns, it would be helpful if you could be as clear as possible with the details. As a minimum we need to understand the following:

- Date(s) of incident(s)
- Type of incident (see appendix 1 for guidance)
- Description of incident(s)/details of concerns
- Where did it happen?
- Who has been involved?
- If possible, explain how you think the matter may be best resolved or start thinking about it in preparation for any meetings you may be required to attend (if you have shared your identity)

If you feel comfortable sharing your identity then please provide us with your name, your work location and contact details

Attachment 1: Consultation and Ratification Checklist

Title	Whistleblowing Policy and Procedure	
	Ratification checklist	Details
1	Is this a: Combined Policy & Procedure	
2	Is this: Revised	
3*	Format matches Policies and Procedures Template (Organisation-wide)	Yes
4*	Consultation with range of internal /external groups/ individuals	Safety and Governance Team and Gatekeepers
5*	Equality Impact Assessment completed	Yes
6	Are there any governance or risk implications? (e.g. patient safety, clinical effectiveness, compliance with or deviation from National guidance or legislation etc)	No
7	Are there any operational implications?	No
8	Are there any educational or training implications?	Yes. Refresher Training to be provided to HR Consultancy Team, to Line Managers and to Contacts.
9	Are there any clinical implications?	No
10	Are there any nursing implications?	No
11	Does the document have financial implications?	No
12	Does the document have HR implications?	No
13*	Is there a launch/communication/implementation plan within the document?	Yes
14*	Is there a monitoring plan within the document?	Yes
15*	Does the document have a review date in line with the Policies and Procedures Framework?	Yes
16*	Is there a named Director responsible for review of the document?	Yes
17*	Is there a named committee with clearly stated responsibility for approval monitoring and review of the document?	HR Committee for approval and for ongoing monitoring

Document Author / Sponsor

Signed – Daniela Locke
 Title – HR Business Partner
 Date – 29th November 2010

Ratified by (Chair of HR Committee)

Signed -
 Title - Director of HR and OD
 Date -

Attachment 2: Equality and Diversity - Policy Screening Checklist

Policy/Service Title: Whistleblowing Policy and Procedure	Directorate: HR Consultancy
Name of person/s auditing/developing/authoring a policy/service: Daniela Locke	
Aims/Objectives of policy/service: The aim of the procedure is to ensure there exists an appropriate process which supports the resolution of matters raised, in response to any disclosure of wrongdoing or irregularity, in a manner which is fair, expedient and discreet.	

Policy Content:

- For each of the following check the policy/service is sensitive to people of different age, ethnicity, gender, disability, religion or belief, and sexual orientation?
- The checklists below will help you to see any strengths and/or highlight improvements required to ensure that the policy/service is compliant with equality legislation.

1. Check for DIRECT discrimination against any group of SERVICE USERS:

Question: Does your policy/service contain any statements/functions which may exclude people from using the services who otherwise meet the criteria under the grounds of:	Response		Action required		Resource implication	
	Yes	No	Yes	No	Yes	No
1.1 Age?		X		X		X
1.2 Gender (Male, Female and Transsexual)?		X		X		X
1.3 Disability?		X		X		X
1.4 Race or Ethnicity?		X		X		X
1.5 Religious, Spiritual belief (including other belief)?		X		X		X
1.6 Sexual Orientation?		X		X		X
1.7 Human Rights: Freedom of Information/Data Protection		X		X		X

If yes is answered to any of the above items the policy/service may be considered discriminatory and requires review and further work to ensure compliance with legislation.

2. Check for INDIRECT discrimination against any group of SERVICE USERS:

Question: Does your policy/service contain any statements/functions which may exclude employees from operating the under the grounds of:	Response		Action required		Resource implication	
	Yes	No	Yes	No	Yes	No
2.1 Age?		X		X		X
2.2 Gender (Male, Female and Transsexual)?		X		X		X
2.3 Disability?		X		X		X
2.4 Race or Ethnicity?		X		X		X
2.5 Religious, Spiritual belief (including other belief)?		X		X		X
2.6 Sexual Orientation?		X		X		X
2.7 Human Rights: Freedom of Information/Data Protection		X		X		X

If yes is answered to any of the above items the policy/service may be considered discriminatory and requires review and further work to ensure compliance with legislation.

TOTAL NUMBER OF ITEMS ANSWERED 'YES' INDICATING DIRECT DISCRIMINATION = NIL

3. Check for DIRECT discrimination against any group relating to EMPLOYEES:

	Question: Does your policy/service contain any conditions or requirements which are applied equally to everyone, but disadvantage particular persons' because they cannot comply due to:	Response		Action required		Resource implication	
		Yes	No	Yes	No	Yes	No
3.1	Age?		X		X		X
3.2	Gender (Male, Female and Transsexual)?		X		X		X
3.3	Disability?		X		X		X
3.4	Race or Ethnicity?		X		X		X
3.5	Religious, Spiritual belief (including other belief)?		X		X		X
3.6	Sexual Orientation?		X		X		X
3.7	Human Rights: Freedom of Information/Data Protection		X		X		X

If yes is answered to any of the above items the policy/service may be considered discriminatory and requires review and further work to ensure compliance with legislation.

4. Check for INDIRECT discrimination against any group relating to EMPLOYEES:

	Question: Does your policy/service contain any statements which may exclude employees from operating the under the grounds of:	Response		Action required		Resource implication	
		Yes	No	Yes	No	Yes	No
4.1	Age?		X		X		X
4.2	Gender (Male, Female and Transsexual)?		X		X		X
4.3	Disability?		X		X		X
4.4	Race or Ethnicity?		X		X		X
4.5	Religious, Spiritual belief (including other belief)?		X		X		X
4.6	Sexual Orientation?		X		X		X
4.7	Human Rights: Freedom of Information/Data Protection		X		X		X

If yes is answered to any of the above items the policy/service may be considered discriminatory and requires review and further work to ensure compliance with legislation.

TOTAL NUMBER OF ITEMS ANSWERED 'YES' INDICATING INDIRECT DISCRIMINATION = 0

Signatures of authors / auditors: Daniela Locke

Date of signing: 30.11.10

Equality Action Plan/Report

Directorate:

Service/Policy:

Responsible Manager:

Name of Person Developing the Action Plan:

Consultation Group(s):

Review Date:

The above service/policy has been reviewed and the following actions identified and prioritised.
All identified actions must be completed by: _____

Action:	Lead:	Timescale:
Rewriting policies or procedures		
Stopping or introducing a new policy or service		
Improve /increased consultation		
A different approach to how that service is managed or delivered		
Increase in partnership working		
Monitoring		
Training/Awareness Raising/Learning		
Positive action		
Reviewing supplier profiles/procurement arrangements		
A rethink as to how things are publicised		
Review date of policy/service and EIA: this information will form part of the Governance Performance Reviews		
If risk identified, add to risk register. Complete an Incident Form where appropriate.		

When completed please return this action plan to the Trust Equality and Diversity Lead; Pamela Chandler or Jane Turvey. The plan will form part of the quarterly Governance Performance Reviews.

Signed by Responsible Manager:

Date:

Attachment 3: Launch and Implementation Plan

To be completed and attached to any document which guides practice when submitted to the appropriate committee for consideration and approval.

Action	Who	When	How
Identify key users / policy writers	HR Committee	1.12.10	Formal paper with recommendations
Present Policy to key user groups	D Locke	January 11	Briefing sessions, formal paper
Add to Policies and Procedures intranet page / document management system.	Comms	January 11	
Offer awareness training / incorporate within existing training programmes	D Locke	January 11	Briefing sessions for line managers
Circulation of document(electronic)	D Locke	January 11	By email to HR Consultancy team. Via Communications for Trust-wide circulation (via intranet link)