



North Yorkshire and York
Community and Mental Health Services

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Our Reference: FOI 2010/11.307



North Yorkshire and York

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25 January 2011

Dear [REDACTED]

You recently made a request for information from the Primary Care Trust under the provisions of the Freedom of Information Act 2000. The information you have requested is as detailed below & enclosed:

A copy of the Whistleblowing Policy for North Yorkshire and York Primary Care Trust.

If you require any further information or are not happy with our response please contact us.

You should ensure this information is used in accordance with the terms and conditions enclosed.

Yours sincerely

By Email

Information Governance Assistant

pp. Fiona Davenport, Freedom of Information Officer
On behalf of Bill Redlin, Director of Standards

Enclosure

1. NYYPCT Freedom of Information Requests – Terms and Conditions
2. NYYPCT Whistleblowing Policy



Enc. 1 **FREEDOM OF INFORMATION REQUESTS – TERMS AND CONDITIONS**

Copyright. North Yorkshire and York Primary Care Trust (known as NHS North Yorkshire and York / NHS North Yorkshire and York (Community & Mental Health Services)) 'the Trust' / 'the PCT' information is subject to copyright protection and Database Rights unless stated otherwise. Our copyright and database right material is licensed for use and re-use under the Open Government Licence (OGL). To view this licence, visit www.nationalarchives.gov.uk/doc/open-government-licence or write to the Information Policy Team, The National Archives, Kew, Richmond, Surrey, TW9 4DU. Use of information expressly made available under this licence indicates your acceptance of the terms and conditions as set out in the OGL. When you use our information under the OGL, you should include the following attribution: [Insert name of information resource, North Yorkshire & York Primary Care Trust, date of publication], licensed under the Open Government Licence www.nationalarchives.gov.uk/doc/open-government-licence For information where the copyright is owned by another person or organisation, you must apply to the copyright owner to obtain their permission to use / re-use.

Recording Your Details. We will record your contact and request details in order to monitor and improve the service we provide. This information will be handled in accordance with the NHS Confidentiality Code of Practice.

Using Personal Data We Provide. You are required not to use personal data for electronic marketing (telesales, fax, e-mail) to our staff and comply with the Privacy and Electronic Communications (EC Directive) Regulations 2003. Provision of such personal data in response to a Freedom of Information or Environmental Information request does not constitute consent from the individual concerned.

The Data Protection Act gives individuals rights to prevent processing likely to cause substantial unwarranted damage or unwarranted distress (section 10) **and** to prevent processing for the purposes of direct marketing (section 11). You should be aware that selling, giving or sharing of personal data could breach the Data Protection Act. The Trust advises staff of their rights.

Feedback. Your feedback is welcome to help us improve the service we provide. Please send comments or suggestions to our address shown on this letter.

Review Procedure. If you feel that we have not met the requirements of the Freedom of Information Act 2000, you should contact the person who sent the response to you.

If you remain dissatisfied, you can ask us to review our decision by making a written "requirement for review" including your address, a description of the original request and the reasons why you are dissatisfied. Please send this to:

Chief Executive
NHS North Yorkshire and York
The Hamlet, Hornbeam Park, Harrogate, HG2 8RE

The review will be handled by staff who were not involved in the original decision - though this will not apply to Section 36 claimed exemptions in accordance with Dept of Health Directive. Your request will still be reviewed.

We aim to complete all internal reviews within 20 working days. More details can be found on our website: www.northyorkshireandYork.nhs.uk/AdviceInformation/AccessToInformation/index.htm

If you then wish to appeal you should contact the Information Commissioner for an independent review at the following address: The Information Commissioner, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF Telephone: 01625 545745, Web Address: www.ico.gov.uk

Title: Raising Concerns at Work / Whistleblowing
Reference No: NYYPCTHR07
Owner: Amanda Wilcock, Associate Director of Human Resources
Author: Sheila Duckett, Locality HR Manager
First Issued On: 4 June 2007
Latest Issue Date: 1 March 2010 (version 2)
Operational Date: 1 April 2008
Review Date: 1 March 2013
Consultation Process: HR Employment Policy Group
 SMT
 Governance Committee
Policy Sponsor: Amanda Wilcock, Associate Director of HR
Ratified and Approved by: JNCC 11 July 2007
 Governance Committee 18 October 2007
 LNC
 Directors
Distribution: All staff in line with Policy on Policies
Compliance: Mandatory for all permanent & temporary employees, contractors & sub-contractors of NHS North Yorkshire & York
Equality Statement: This policy has been subject to a full equality impact assessment.

CHANGE RECORD			
DATE	AUTHOR	NATURE OF CHANGE	VERSION No
27.11.07	Sheila Duckett, Senior HR Advisor	New Policy for NYYPCT	1.0
Sept 09	Sheila Duckett	Policy Review i) Cross-referenced with Adverse Incident Reporting System (5.2) ii) Updated designated officers and nominated lead (Appendix A) iii) Relevant legislation added in section 12.	2.0



NHS North Yorkshire & York
 Chair: Kevin McAleese CBE Chief Executive: Jayne Brown OBE

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- A Nominated Lead + Designated Officers and their roles and responsibilities in relation to the Whistleblowing Policy.
- B Checklist for Managers/ Designated Officers.
- C Interview form
- D Flowchart outlining procedure for raising concerns.

POLICY FOR RAISING CONCERNS AT WORK OR “WHISTLEBLOWING”

1. INTRODUCTION

North Yorkshire and York Primary Care Trust (PCT) is committed to ensuring the highest possible standards of service and the highest possible ethical standards are met in delivering the service. Where patients may be at risk, or there is unlawful conduct or financial malpractice, employees can find it difficult to know what to do, perhaps feeling it is not their business, being fearful of repercussions, not having proof, or feeling disloyal to colleagues/managers.

This policy has been designed to support and assist staff to bring genuine concerns to the attention of the appropriate people, who can take the relevant action. This policy makes it clear that staff can do so without fear of reprisal. It is intended to encourage staff to raise serious issues of concern within the PCT rather than overlook the problem or “blowing the whistle” outside. The PCT welcomes genuine concerns and is committed to dealing responsibly, openly and professionally with them. However, if the information is provided anonymously it will be much more difficult for the concern to be investigated and for the PCT to protect positions or provide feedback. Accordingly, while we consider what action may be justified by an anonymous report, we will not be able to handle such reports under this policy.

2. SCOPE

Please note that the provisions of this policy apply to everyone working for the PCT. This includes all employees of the PCT, self-employed persons, contractors, agency workers, trainees and volunteers who may be working in the PCT (all known as “workers” throughout this document).

3. POLICY STATEMENT

The PCT Board recognises the importance of reporting on Critical Incidents, such as unlawful conduct, financial malpractice, or dangers to the public or the environment. This document sets out the procedure for workers to raise concerns without fear of recrimination.

The aim of the policy is to encourage employees to raise concerns at an early stage and in the right way. The PCT will take all concerns seriously and is committed to developing a climate of openness and free expression whereby raised concerns are welcomed, appreciated and acted upon positively.

The PCT will take all reasonable steps to protect those raising concerns in accordance with this policy and will, as far as is reasonably practicable, respect their request to protect their identity and to maintain confidentiality. Such information will only be disclosed in

exceptional circumstances, (e.g. where evidence is needed in court), and only after consultation with the individual and with their written consent.

The most important aspects of Healthcare Governance and the good running of any PCT relies on procedures, however, it also relies fundamentally on adherence at all levels to the maintenance of the values of public services, most notably:-

- Accountability – As the recipient of public funding, the PCT has to answer to the public for how it uses its resources in providing health care;
- Probity – The PCT must act with honesty and integrity in its dealings;
- Openness – The PCT has to ensure an atmosphere of trust, both in relationships within and outside the organisation, and ensure that confidentiality of patients is respected at all times

4. TYPES OF CONCERNS COVERED BY THE POLICY

The Public Interest Disclosure Act 1998, commonly referred to as “The Whistleblowers Act” and which came into force on 2 July 1999, makes clear that a worker who has a reasonable belief that a “disclosure event” has occurred should be able to raise a concern without fear of dismissal or suffering another form of detriment as a result of the disclosure.

4.1 The “disclosure event” must relate to:-

- a criminal offence about to be, or having been, committed;
- a failure to comply with a legal obligation;
- a miscarriage of justice;
- endangering an individual’s health & safety;
- damage to the environment; or
- concealment of information relating to the above.

4.2 The Act has rules for making a protected disclosure:-

- workers must disclose the information in good faith;
- workers must believe it to be substantially true;
- workers must NOT act maliciously or make false allegations;
- workers must NOT seek any personal gain

4.3 A worker will not be protected under the Act if:-

- the worker knows the allegation is not true;

- the worker believes it, but has no grounds for such belief;
- where there are grounds to believe the allegations, but these grounds have been collected recklessly, disregarding the possibility of an easily obtainable, innocent explanation

5. PROCEDURE

5.1 Raising Concerns Internally

The PCT encourages workers to raise concerns either verbally or in writing with an appropriate person who has the responsibility to take action under this policy. This will often be their line manager or manager next in line. However if, for some reason this is not possible (e.g. if the concern is regarding their line manager, or their line manager is not available), workers should still raise their concern.

Workers should refer to the Fraud and Corruption Policy regarding suspicions of fraud.

If the concerns are still not dealt with fully or (because of the particular circumstances) workers feel unable to speak to their immediate Managers, then the worker should contact a designated officer requesting a confidential meeting. Designated officers are:

- Associate Director of Human Resources
- Non-Executive Director
- Director of Finance
- Medical Director (Primary Care)
- Medical Director (Provider Services)

Names and roles in relation to this Policy are shown at Appendix A. Checklist to assist Managers/Designated Officers is shown at Appendix B.

Where exceptionally the concern is about the Chief Executive, the Chair of the Board would decide on how to proceed. This may include an external investigation.

- 5.2 Workers can also raise concerns under this policy on the Adverse Incident Reporting system. This can be found on the home page of the PCT intranet under “Ulysses – Report an incident”. There is an option for staff to bypass notification rules, which means that if they have concerns which they do not want their manager to know about it can still be reported through the system.
- 5.3 The PCT has a nominated lead, a Non-Executive Director, whose responsibility is to ensure the effectiveness of this process. The role of the nominated lead is to undertake periodic reviews of the policy in liaison with HR and to deal with any issues or complaints regarding the policy which may arise. See Appendix A for the details of the nominated lead.

- 5.4 By raising the concern, workers should understand that the PCT has a duty to assess and examine the situation, which may involve an investigation or internal inquiry. If a worker has any personal interest in the matter they need to declare this at the outset and they will be informed if the concern falls more properly within the grievance or other procedures. Workers dissatisfied with this process should refer to Section 9 of this policy.

Only where mistaken allegations are made maliciously will it be considered appropriate to act against the worker who raised the concern and this would likely result in disciplinary action.

- 5.5 At any stage of this procedure, if considered appropriate, workers should seek guidance from their Trade Union or Staff Organisation representatives. Workers are encouraged to raise all concerns as early as possible and it is reiterated that workers can be assured that the matter will be treated in the strictest confidence and that there will be no recriminations resulting from them raising concerns. Raising concerns of this nature can give rise to anxiety and a support mechanism for workers involved in this process is available via the Associate Director of Human Resources.

6. **RESPONSIBILITY OF MANAGER**

Managers have a duty to take employee concerns seriously and to understand the difficult position a worker may be in. They will, as far as is reasonably practicable, respect their request to protect their identity and to maintain their confidentiality and will not tolerate any victimisation of individuals raising genuine concerns.

When a worker raises a concern to their manager, an initial interview will be arranged. The worker should be asked to make a written or verbal statement. In either case the line manager should complete the summary of Initial Interview at Appendix C, which should be agreed and signed by both parties.

The manager will then inform a Designated Officer within 5 working days (see list at Appendix A) who will decide on the method of investigation. The Human Resources department will maintain a record of all instances where a concern is raised in line with this policy and record the outcome/action that follows.

Where concerns are not raised with the line manager, the Designated Officer will be the point of contact for workers who wish to raise concerns under the provisions of this policy. The designated officer should complete the summary of initial interview at Appendix C and then decide on the method of investigation. *Checklist to assist Designated Officers is shown at Appendix B and flowchart at Appendix D.*

7. INVESTIGATION

- 7.1 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 very serious cases it may be necessary to inform the Regulatory Body or the Police at an early stage so that evidence is not destroyed or made inadmissible at a later date.

In certain cases, such as allegations of ill treatment of patients, suspension or paid leave from work may have to be considered in accordance with the Disciplinary Procedure, as protection of patients/clients is paramount.

It is intended and expected that concerns of workers will be resolved as speedily as possible. Managers should always take such expressions of concern seriously and consider them fully and sympathetically, seeking advice as appropriate. Where such concerns can be acted upon, action should be taken promptly and the worker kept informed about the investigation and notified in writing, within 14 days, of the action taken. This would not include details of any disciplinary action, which would remain confidential. Such an approach will demonstrate that the matter has been fully and fairly considered and in most cases will resolve the issue.

- 7.2 If the result of the investigation is that there is no case to answer but the worker held a genuine concern and was not acting maliciously, the Designated Officer should ensure that the worker suffers no reprisals.

Further information on what to do if the worker is not satisfied with the outcome of the investigation is included at section 9 of this policy.

8. INTERNAL INQUIRY

If the concern raised is very serious or complex, an internal inquiry may be held and will be commissioned by the Chief Executive or Chair as appropriate.

The PCT recognises the contribution trade unions/employee associations can make to an inquiry and will consult with trade unions/employee associations about the scope and details of the inquiry, including the implementation of the recommendations of the inquiry.

9. IF A WORKER RAISING THE CONCERN REMAINS DISSATISFIED

If the individual who raised the concern is not satisfied with the outcome of the investigation or inquiry, the PCT recognises the lawful rights of employees and ex-employees to make disclosures to prescribed persons, listed in section 10.1. The individual may also wish to seek further advice from their trade union representative,

employee associate, or the independent charity Public Concern at Work, whose details can be found in section 11.1.

10. RAISING CONCERNS EXTERNALLY

10.1 Regulatory Disclosures. Whilst it is intended that this policy provides the reassurance needed to raise matters internally, it is recognised that there may be circumstances where an individual would wish to seek advice from, or to report matters to, a prescribed regulator (known as a regulatory disclosure). Prescribed regulators relevant to the NHS are:

- The Audit Commission in relation to public sector finance
- The Serious Fraud Office, Inland Revenue, Customs and Excise, Financial Services Authority for fraud and fiscal irregularities
- The Health and Safety Executive in relation to Health and Safety matters
- The Environment Agency in relation to environmental dangers
- The Charity Commission
- The Occupational Pensions Regulatory Authority
- Data Protection Registrar
- The Commission for Social Care Inspection
- Foods Standards Agency
- General Social Care Council
- Information Commissioner relating to data protection and freedom of information
- National Care Standards Commission
- The Commission for Healthcare audit & Inspection

Further information on prescribed regulators can be located on the Public Concern at Work website, www.pcaw.co.uk.

10.2 Wider Disclosures. In line with the Public Interest Disclosure Act 1998, wider disclosures are protected if they are reasonable in all circumstances and not made for personal gain. In these circumstances, a disclosure may be made to either the police, the media, or to an MP and satisfies any of the following preconditions:

- There is a reasonable belief that the employee would be victimised if the matter was raised internally or with a prescribed regulator
- There is no prescribed regulator and there is a reasonable belief that the evidence would be concealed or destroyed
- The concern had already been raised internally or to a prescribed regulator
- The concern is of an exceptionally serious nature

Whilst not wishing to discourage openness and public accountability, the PCT will view most seriously any public statements about PCT

services which are disclosed inappropriately. We believe that discussion of sensitive issues in the press, or other media is unhelpful and potentially damaging to the PCT's reputation, which may undermine public confidence in the service and consequently this could result in disciplinary action being taken against the employee.

The PCT also recognises employees rights to contact other external bodies, such as the Secretary of State for Health, or the NHS Counter Fraud Service (08702 400 100).

11. ROLE OF TRADE UNION AND RECOGNISED EMPLOYEE ASSOCIATE

A worker raising concerns has the right to be represented by their trade union representative or work colleague at all stages. The PCT recognises workers may wish to seek advice and acknowledges and endorses the role employee representatives play in this area.

If an employee is unsure whether to use this procedure or wants independent advice at any stage they may also contact the independent charity Public Concern at Work www.pcaw.co.uk (Helpline 020 7404 6609). Their lawyers can provide free confidential advice at any stage about how to raise a concern about serious malpractice at work.

12. OTHER POLICIES AND PROCEDURES

The PCT has a range of policies and procedures which deal with standards of behaviour and conduct at work, they cover Discipline, Grievance, Bullying and Harassment and Recruitment and Selection. Workers are encouraged to use the provisions of these procedures when appropriate. Any worker who holds or discovers any suspicion of fraud should refer to the Fraud and Corruption Policy. The Local Counter Fraud Specialist, North Yorkshire Audit Services can be contacted on Tel: 01904 725145. If you are unsure as to which policy to use, clarification can be provided by contacting the Human Resources Department.

NHS Employers has also issued relevant guidance to GPs following publication of the Shipman Inquiry Report –
“Whistleblowing for a healthy practice – guidance for GPs.
www.nhsemployers.org

Legislation and other documents/studies relevant to this policy:

Public Interest Disclosure Act 1998 (PIDA)
Police Reform Act 2002
Employment Rights Act 1996
Management of Health and Safety at Work Regulations 1999 (SI 1999/3242)
Public Interest Disclosure (Compensation) Order 1999 (SI 1999/1548)

Public Interest Disclosure (Prescribed Persons) Order 1999 (SI 1999/1549)

Public Interest Disclosure (Prescribed Persons) (Amendment) Order 2003 (SI 2003/1993)

Public Interest Disclosure (Prescribed Persons) (Amendment) Order 2004 (SI 2004/3265)

Public Interest Disclosure (Prescribed Persons) (Amendment) Order 2005 (SI 2005/2464)

13. MONITORING

The Human Resources Department will, via receipt of the form shown at Appendix C, monitor the use of this policy, and on an annual basis will:-

- Initiate monitoring and evaluate the use of this Policy.
- report frequency of incidents of whistleblowing to the PCT Board three times per annum as part of the Human Resources Performance Report

14. APPEALS

If a worker feels that this procedure has been breached in any way, they should raise the matter initially with the Associate Director of Human Resources.

If necessary the Associate Director of Human Resources will arrange for the matter to be dealt with by a Panel consisting of:-

PCT Chairman

Non-Executive Director

Another (to be nominated as appropriate, e.g., internal audit / Director of Mental Health etc.).

The Associate Director of Human Resources will act as Secretary to the Panel.

(Names of the current post-holders mentioned in this policy are shown at Appendix A, together with their role in relation to the Whistleblowing Policy)

15. FURTHER ADVICE/PUBLICITY

All workers may contact the following for further advice on this Policy & Procedure:-

Human Resource Department:

York: 01904 724066

Northallerton: 01609 751343

Harrogate: 01423 859615
Malton: 01653 604690

Details of this policy will be included in the Staff Induction Handbook which is given to all new starters. It is also included in the Managers' Handbook, highlighted in the Statutory and Mandatory training sessions and publicised in the quarterly HR Bulletin. The policy is also available on the intranet.

APPENDIX A

NOMINATED LEAD

NON-EXECUTIVE DIRECTOR currently Stephanie Sturrock
(who can be contacted through the Chairman's Executive Assistant)

DESIGNATED OFFICERS

ASSOCIATE DIRECTOR OF HUMAN RESOURCES	Amanda Wilcock
DIRECTOR OF FINANCE	
NON-EXECUTIVE DIRECTOR	Stephanie Sturrock
MEDICAL DIRECTOR (PRIMARY CARE)	Dr David Geddes
MEDICAL DIRECTOR (PROVIDER SERVICES)	Dr Jim Isherwood

Role of above in respect of Whistleblowing Policy:-

1. To listen to concerns raised by members of staff.
2. To ensure the member of staff raising the concern has a copy of the current Whistleblowing Policy.
3. To advise members of staff as appropriate.
4. To ensure that the interview form (shown at Appendix C is completed and filed securely within the Human Resources Department). *The form should be completed in all cases for monitoring purposes.*
5. To ensure that the matter is not currently being dealt with via another PCT Policy or Procedure.
6. To make enquiries, where agreed, on behalf of the member of staff.
7. To refer concerns to the appropriate person, where necessary.
8. To provide support for the member of staff until the issue is resolved.
9. To report back to the member of staff, where appropriate.
10. To participate in initial and on-going training and supervision.

APPENDIX B

WHISTLEBLOWING POLICY

CHECKLIST FOR MANAGERS/DESIGNATED OFFICERS

1. Explain process:-
 - initial interview
 - action plan
 - support
 - feedback
2. Discuss and agree:
 - Confidentiality (give member of staff copy of the whistleblowing policy, pointing out reference to anonymous reports in the introduction)
 - Note taking/tape recording
 - Records to be kept
3. Obtain information on member of staff raising concern
4. Obtain information on the concern:
 - the issue
 - time and place
 - details of potential witnesses
 - any previous incidents/concerns
5. What advice has already been given, and by whom?
6. Ask: what would they like to happen?
7. Is there an appropriate policy that covers this? If so, are they happy to handle it themselves?
8. If not, summarise action you intend to take and when.
9. Complete summary of initial interview. (Form available from Human Resources Department)
10. Agree it and both sign it.
11. Give copy to individual.
12. Take further action, record it.
13. File securely, in Human Resources Department, with note to bring forward when appropriate.
14. Note any further action and feed back to individual.
15. Once case closed, complete documentation and forward to Associate Director of Human Resources.

**IN STRICT
CONFIDENCE**

APPENDIX C

WHISTLEBLOWING POLICY (RAISING CONCERN)

SUMMARY OF INITIAL INTERVIEW

No.

Name:	Job Title & Grade:
<u>Location & Directorate:</u>	<u>Telephone Number:</u>
<u>Date of discussion:</u>	
<u>Brief Outline of Concern:</u> 	
<u>Advice Given to Individual:</u> 	
<u>Action Agreed, including timescales</u> where appropriate: 	
<div style="display: flex; justify-content: space-between;"><u>Further Action</u> (see overleaf)YES / NO</div>	
<u>Date Completed:</u>	
<u>Adviser's Signature:</u>	
Individual's Signature	

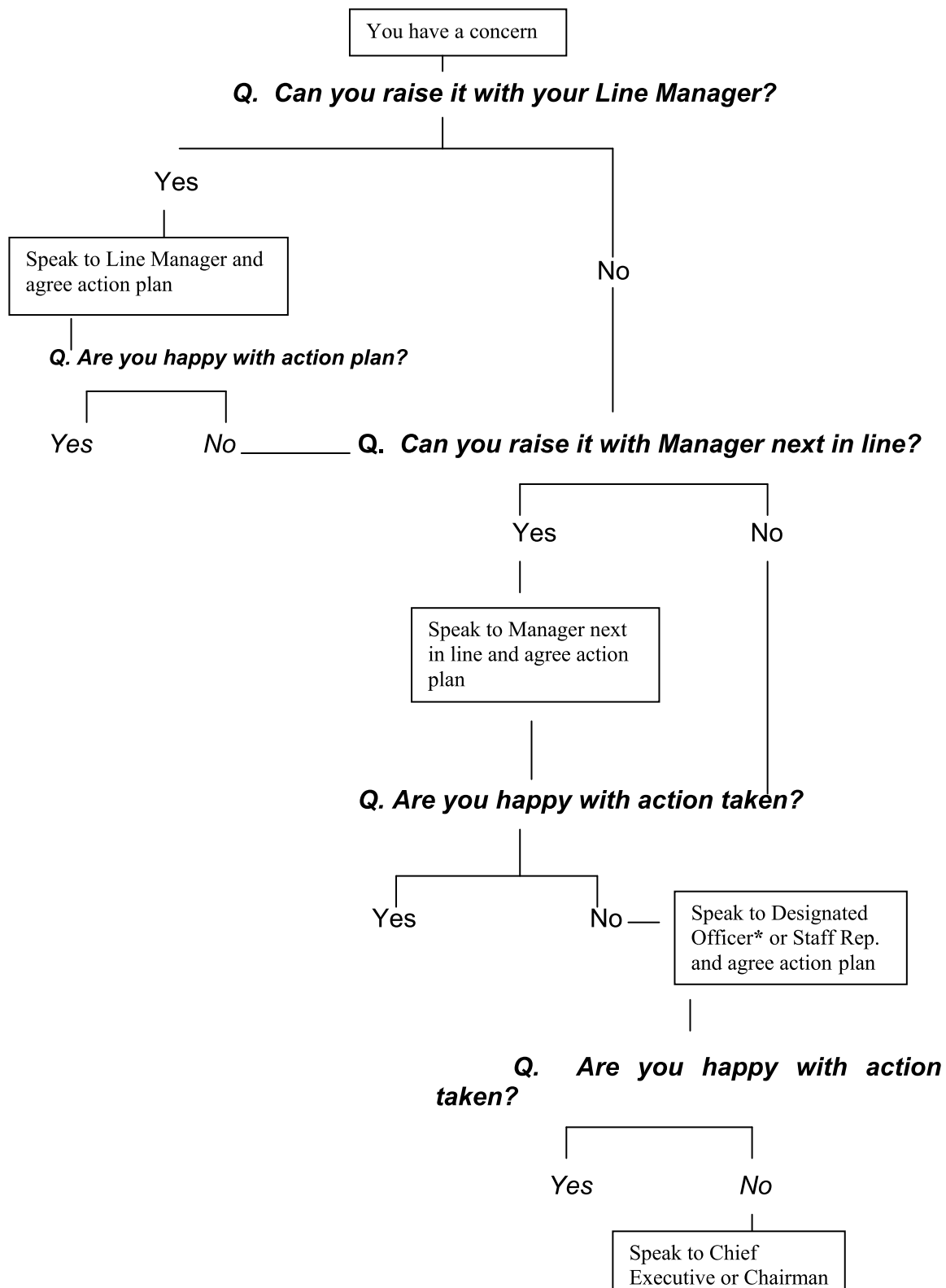
POLICY FOR RAISING CONCERNS AT WORK OR “WHISTLEBLOWING”

FURTHER ACTION TAKEN

<u>Bring Forward Date:</u>			
<u>Further Action Taken /Date:</u>			
<u>Bring Forward Again on:</u>			
<u>Further Action Taken Date:</u>			
<u>Feedback Given to Individual:</u>			
<u>Date Case Closed:</u>			
<p>ONCE CASE IS FORWARDED TO HUMAN RESOURCES PLEASE ENSURE THIS FORM IS FOR FILING.</p>			
Monitoring Information completed:	YES/NO	Date:	

APPENDIX D

FLOWCHART OUTLINING PROCEDURE FOR RAISING CONCERNS



*See Appendix 'A' for Names and roles of Designated Officers in relation to Whistleblowing policy.