

1. Definitions

Healthwatch refers to Healthwatch Brighton and Hove.

Employee refers to Healthwatch employees.

Volunteer refers to Healthwatch volunteers, including Directors.

CEO refers to the Healthwatch Chief Executive Officer.

The Board refers to the Healthwatch Board of directors.

Chair refers to the Healthwatch Chair of the Board.

Externals refers to anyone not employed or volunteering with Healthwatch that wants to raise a concern about their own organisation.

2. Scope

This policy covers all employees and volunteers.

3. Summary

We are committed to being open, honest, and accountable. We encourage a free and open culture within our organisation. This policy aims to help employees raise any serious concerns they may have about colleagues or their employer with confidence and without having to worry about being victimised, discriminated against, or disadvantaged in any way as a result. It also supports Healthwatch volunteers who are often in a position to witness wrongdoing and need safe channels to report it, even though legal protections may not yet extend to them.

This policy is also intended to support externals who may want to contact an independent organisation to speak out about concerns they may have in the workplace affecting patients and people receiving care.

The person designated to handle whistleblowing concerns is the Healthwatch Chief Executive Officer CEO. If the concern is about the CEO, then it should be referred to the Chair.

We are aware of proposals which would see the responsibilities of the National Guardian for Freedom to Speak Up in the NHS and the National Guardian's Office to be incorporated into providers. This means the distinct role of National Guardian would no longer be required. No date has been given for when these changes will take effect, but we will keep this under review and update this policy as required.

4. What is a Whistleblower?

4.1. The government definition of a whistleblower is if you're a worker and you report certain types of wrongdoing (see Resources section for details). This will usually be

something you've seen at work - though not always. We have included volunteers in our policy as they are often in a position to witness misconduct just as employees are and to encourage reporting of incidents.

- 4.2. The wrongdoing you disclose must be in the public interest. This means it must affect others, for example the general public.
- 4.3. You can raise your concern at any time about an incident that happened in the past, is happening now, or you believe will happen in the near future.
- 4.4. Employees who are whistleblower are protected by law - you should not be treated unfairly or lose your job because you 'blow the whistle'. Legal protections for whistleblowers only apply to "workers" and do not cover volunteers because they lack a contract of employment. However, this policy is designed to support volunteers to report incidents anonymously.
- 4.5. To be protected, a worker must reasonably believe their disclosure is about one or more categories of wrongdoing listed in the Employment Rights Act 1996, such as:
 - a criminal offence, for example fraud.
 - someone's health and safety is in danger.
 - risk or actual damage to the environment.
 - a miscarriage of justice.
 - disclosures regarding sexual harassment.
 - the company is breaking the law, for example does not have the right insurance.
 - you believe someone is covering up wrongdoing.
- 4.6. Complaints that do not count as whistleblowing such as personal grievances (for example, bullying and harassment or discrimination) are not covered by whistleblowing law, unless your case is of public interest. You should report these using our grievance policy. Or you can contact the Advisory, Conciliation and Arbitration Service (**ACAS**) for help and advice on resolving a workplace dispute (see Resources section for details).
- 4.7. It is not necessary for an individual who raises a concern to prove the wrongdoing that is alleged to have occurred or is likely to occur. However, the disclosure must be in the public interest.
- 4.8. If an employee knowingly or maliciously makes an untrue allegation (e.g., in order to cause disruption within our organisation), appropriate disciplinary action may be taken against them, and it may constitute gross misconduct.
- 4.9. Employees should note that they will not be protected from the consequences of making a disclosure if, by doing so, they commit a criminal offence.

5. For employees: how to raise a concern in the workplace

- 5.1. The person designated to handle whistleblowing concerns is the CEO. If the concern is about the CEO, then it should be referred to the Chair.
- 5.2. Employees are encouraged, where possible, to first report their concern to their line manager. Dependent on the seriousness and sensitivity of the matter, and who is suspected of the wrongdoing, employees can, if necessary, report directly to the CEO. If the matter concerns the CEO, it should be raised with the Chair of the Board of Directors.
- 5.3. Employees are encouraged to raise their concerns in writing where possible, setting out the background and history of their concerns (giving names, dates, and places where possible) and indicating the reasons for their concerns and any evidence. We will investigate a concern even where there is no evidence other than your own account.
- 5.4. Employees may wish to raise their concerns anonymously but, in this case, it is usually more difficult for us to investigate, and it may mean that we cannot take your claim further.
- 5.5. Employees can give their name but request confidentiality – we will make every effort to protect your identity.
- 5.6. Employees may wish to seek the assistance of a representative before raising the concern. The representative may, where the employee so desires, raise the concern on behalf of the employee. Employees may also invite a representative or colleague to be present during any meetings or interviews about the concerns they have raised.
- 5.7. Employees may also wish to raise their concerns first with an external body e.g. a lawyer, professional or prescribed body. A prescribed body is a body which has been officially designated to deal with malpractice. A list of prescribed bodies is available on the government website (see Resources section for details).
- 5.8. If employees reasonably believe that the matter relates wholly, or mainly to the conduct of a person or body other than Healthwatch Brighton and Hove, or any other matter for which a person or body other than Healthwatch Brighton and Hove has legal responsibility, the disclosure can be made to that other person or body.
- 5.9. If the concern relates to the neglect, mistreatment or abuse of a vulnerable person or by an organisation the matter will be referred to the local authority as a safeguarding issue for investigation in line with the Healthwatch Safeguarding Adults and Children policies.

6. For volunteers:

- 6.1. Volunteers are encouraged, where possible, to report their concern to any member or the staff team. They will refer the concern to the CEO (or Chair where applicable).
- 6.2. If the matter concerns the CEO, it should be raised with the Chair of the Board of Directors.
- 6.3. Volunteers are encouraged to raise their concerns in writing where possible, setting out the background and history of their concerns (giving names, dates, and places where possible) and indicating the reasons for their concerns and any evidence. We will investigate a concern even where there is no evidence other than your own account.
- 6.4. Volunteers may wish to raise their concerns anonymously but, in this case, it is usually more difficult for us to investigate, and it may mean that we cannot take your claim further.
- 6.5. Volunteers can give their name but request confidentiality – we will make every effort to protect your identity.
- 6.6. Volunteers may wish to seek the assistance of a representative before raising the concern. The representative may, where the volunteer so desires, raise the concern on their behalf. Volunteers may also invite a representative or colleague to be present during any meetings or interviews about the concerns they have raised.
- 6.7. Volunteers may also wish to raise their concerns first with an external body e.g. a lawyer, professional or prescribed body. A prescribed body is a body which has been officially designated to deal with malpractice. A list of prescribed bodies is available on the government website (see Resources section for details).
- 6.8. If volunteers reasonably believe that the matter relates wholly, or mainly to the conduct of a person or body other than Healthwatch Brighton and Hove, or any other matter for which a person or body other than Healthwatch Brighton and Hove has legal responsibility, the disclosure can be made to that other person or body.
- 6.9. If the concern relates to Healthwatch Brighton and Hove, the volunteer may wish to raise their concerns with Healthwatch England, or commissioner of our service at Brighton and Hove Council. You can raise concerns about a Community Interest Company (CIC) with the Office of the Regulator of Community Interest Companies (CIC Regulator) by emailing cicconcerns@companieshouse.gov.uk and using the provided Complaints Pro-Forma form. While you can report anonymously, providing your details may help the regulator investigate more thoroughly.

If the concern relates to the neglect, mistreatment or abuse of a vulnerable person or by an organisation the matter will be referred to the local authority as a

safeguarding issue for investigation in line with the Healthwatch Safeguarding Adults and Children policies.

7. For externals: how to raise a concern in the workplace

- 7.1. We would always encourage you to try to resolve any concern you have within your organisation first. This is the recommended course of action. But if you feel unable to do this, or feel your voice is not being heard, you can speak to someone who is independent of your organisation.
- 7.2. It is recognised that some employees may find it easier to speak to a fellow colleague about issues. **Freedom to Speak Up** is a national NHS policy to help employees feel safe and confident and speak up about concerns, and independent **Speak Up Guardians** are there to help employees speak up when they feel that they are unable to do so by other routes. Each NHS trust has a Speak Up Guardian who can be contacted directly.
- 7.3. The Speak Up Guardian has a clear remit, to act freely and with complete autonomy from the management team as another route for issues of concern to be raised at the highest level. They will visit teams and services across an organisation and are interested in gathering feedback about how employees feel, if they feel listened to, and what might prevent employees from raising concerns. See Resources section for contact details
- 7.4. If you have tried all these, or you do not feel able to raise your concern internally, you can raise your concern in confidence with the Care Quality Commission (CQC) or with your local Healthwatch. If you wish to contact us, then please note that the same process as described above for employees will apply.
- 7.5. If you contact CQC they will not disclose your identity without your consent unless there are legal reasons that require them to do so. This might be, for example, where your information is about a child or vulnerable adult who is at risk, or where there is a possible criminal offence. If this is the case, CQC may have to tell the police or another official body, or if required to do so by a court. CQC will let you know if they must do this and that this will identify you to another body. You can, if you wish, give CQC information anonymously. However, note that they won't be able to contact you to discuss your concern or ask you for further information, and they won't be able to give you any feedback about any action they take.
- 7.6. If the concern relates to the suspected abuse, neglect or mistreatment of a person or by an organisation it should be reported as a safeguarding concern in line with your organisation's policies.

8. Protecting the individual raising the concern (employees of health and care providers)

- 8.1. If an individual raises a concern which they believe to be true, we will take appropriate action within our capacity to protect them from any harassment, victimisation, or bullying.
- 8.2. An individual who raises a genuine concern under this policy will not be at risk of losing their job, solely as a result of raising a concern. Unless the employee knowingly or maliciously makes an untrue allegation (e.g., to cause disruption within our organisation), in which case appropriate disciplinary action may be taken against them, and it may constitute gross misconduct.
- 8.3. The matter will be treated confidentially if an individual requests it and their name or position will not be revealed without their permission unless we have to do so by law. If in other circumstances the concern cannot be resolved without revealing the individual's identity the CEO will discuss with them whether and how to proceed.
- 8.4. Concerns raised anonymously tend to be far less effective, but the CEO will decide, considering: the seriousness of the matter, whether the concern is believable, and whether an investigation can be carried out based on the information provided.

9. How we will deal with the concern

- 9.1. How the concern will be dealt with, will depend on what it involves but all concerns will be treated fairly and consistently.
- 9.2. We will listen to your concern and decide if any action is needed. You may be asked for further information.
- 9.3. You must say straight away if you do not want anyone else to know it was you who raised the concern.
- 9.4. You will not have a say in how your concern is dealt with.
- 9.5. We may decide it is necessary to conduct a formal inquiry. This can take time to resolve and we will keep you informed about the action we are taking but as a rough guide we will aim to complete our inquiries within 8 weeks. Complex cases may take longer. We will give the individual feedback on the progress and advise if it may take longer. We will also keep you advised of the outcome of any investigation wherever possible. We may not be able to give you much detail if we must keep the confidence of other people.
- 9.6. You should note that it may be necessary for the individual who makes the claim to give evidence in criminal or disciplinary proceedings against the alleged perpetrator(s) and that this may be beyond our control.

- 9.7. If relevant, the concerns against the perpetrator(s) may be investigated by the CEO and other director/s, through the disciplinary process or it may be referred to the police, other agencies, an external auditor, or an independent investigator.
- 9.8. If the suspicions are not confirmed by an investigation, the matter will be closed. The individual who made the allegation and/or alleged perpetrator will not be treated or regarded any differently for raising the concern/having had a concern raised against them, and their confidentiality will continue to be protected.
- 9.9. If you are the person who made the claim, and you are not satisfied with how your concern has been dealt with you can tell someone else (for example a more senior employee) or a prescribed person or body if you believe your concern was not taken seriously or the wrongdoing is still going on. You can contact the ACAS, the whistleblowing charity Protect, or your trade union for more guidance.
- 9.10. If you believe that you have been treated unfavourably you can raise a grievance under the relevant policy.

10. Whistleblowing Resources

- 10.1. Government advice on whistleblowing for employees: <https://www.gov.uk/whistleblowing>
- 10.2. Government guidance on whistleblowing: list of prescribed people and bodies: <https://www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies--2/whistleblowing-list-of-prescribed-people-and-bodies>
- 10.3. NHS Freedom to Speak Out Policy: <https://www.england.nhs.uk/ourwork/freedom-to-speak-up>
- 10.4. You can raise concerns about a Community Interest Company (CIC) with the Office of the Regulator of Community Interest Companies (CIC Regulator) by emailing cicconcerns@companieshouse.gov.uk and using the provided Complaints Pro-Forma form.
- 10.5. Healthwatch England: <https://www.healthwatch.co.uk/contact-us>
- 10.6. Healthwatch commissioner, Brighton and Hove City Council: <https://www.brighton-hove.gov.uk/council-and-democracy/whistleblowing>
- 10.7. [Freedom to Speak up](#) staff handbook, University Hospital Sussex Trust.
- 10.8. [Freedom to Speak up policy](#), Sussex partnership Foundation Trust.
- 10.9. [Freedom to Speak up strategy](#), Sussex community Foundation Trust.
- 10.10. Care Quality Commission (CQC): <https://www.cqc.org.uk/contact-us>

10.11. Protect, a whistleblowing charity: <https://protect-advice.org.uk>

10.12. Advisory, Conciliation and Arbitration Service (ACAS):

- <https://www.acas.org.uk/advice>.
- Helpline 0300 123 1100.

11. Confidentiality and record keeping

11.1. We will keep a record of all disclosures that we receive. This will include:

- The number of disclosures
- The nature of the concerns
- The outcome of our investigations

11.2. All information will be stored in line with our data protection policy.

12. Review of Policy

12.1. This policy will be reviewed regularly by Healthwatch with input from the Board member with responsibility for safeguarding.

12.2. Reviews may also be triggered in the light of a serious incident.

13. Additional Policies & Documents

13.1. The Healthwatch policies and documents referred to in this policy are available on request by contacting the Healthwatch Team on 01273 234 040 or email to policies@healthwatchbrightonandhove.co.uk.

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