

Kingston Health Sciences Centre

ADMINISTRATIVE POLICY MANUAL

Subject: Whistleblowing Policy

Number: 01-218

Issued by: President and Chief Executive Officer

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Introduction

This policy will assist persons, including physicians and residents, to report concerns regarding significant and serious matters related to the operations of KHSC. This policy endorses a proactive environment of disclosure and protection to ensure that Kingston Health Sciences Centre (KHSC) meets legislative requirements and aligns to the guiding principles of transparency and accountability.

Policy

KHSC is committed to operating in a manner that reflects honesty, integrity and ethical business practices and encourages good faith reporting of allegations of wrong doing in business conduct including but not limited to:

- Breach of the law and/or legal obligations,
- Gross mismanagement including omissions and/or neglect of duty,
- Breach of fiduciary responsibilities,
- Breach or inappropriate financial reporting and use of funds or organizational assets,
- Abuse of authority,
- Unethical business conduct,
- Endangering the health and safety of others.

KHSC is committed to protecting a person from inference, discrimination, harassment or retaliation for having made a good faith report of wrongdoing.

KHSC expects all persons to comply and act in accordance, at all times, with these values and principles.

One or more violations of this by a person may be grounds for disciplinary action up to and including termination of privileges, employment, and relationship with KHSC or the board directorship.

Persons who are members of a profession and/or discipline which is governed by standards and codes specific to their profession will be expected to adhere to those professional codes and standards in addition to KHSC's policies, codes and by-law.

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Definitions

Affiliate: an individual who is not employed by KHSC but performs specific tasks at KHSC, including: learners, volunteers, contractors or employees of contractors who may be members of a third-party contractor or under direct contract to KHSC, and individuals working on KHSC premises, but funded/employed through an external source (i.e. research and university staff on site).

Authorized Disclosure Officer: The delegated KHSC management staff responsible for receipt and management of the report of wrong doing.

By-Law: the by-law of KHSC.

Business Conduct: Way of acting, personal behaviour or how a person manages oneself related to non-clinical activities while performing duties for KHSC.

Complainant: Person or persons reporting inappropriate Business Conduct (wrongdoing), including retaliation after submission of the report.

Credentialed Staff: Physicians, residents, dentists, midwives, extended class nurses.

Disclosure: Report of a wrongdoing made in good faith by person(s) in accordance with this policy.

Employee: An individual, who is employed by KHSC, includes residents and is on KHSC's payroll.

Fiduciary Responsibilities: Refers to the duty to act in the best interest of KHSC.

Good Faith: Honestly and without deception. Good faith is evident when the report is made without malice or consideration of personal benefit, and that there is a reasonable basis to believe the report is true; however, a report does not have to be proven to be true to be in good faith. Good faith is lacking when the report is known to be malicious or false.

Governing Legislation: All legislation governing KHSC, including but not limited to the *Public Hospitals Act, Health Care Consent Act, Quality of Care Information Protection Act, Local Health System Integration Act, Substitute Decisions Act, Excellent Care for All Act, Public Sector Compensation Restraint to Protect the Public Services Act, Occupational Health and Safety Act and related Regulations, Regulated Health Professions Act, Transparency in Public Matters Act, Personal Health Information Protection Act, Criminal Code of Canada, and Human Rights Code* and regulations thereof.

Leader: A non-union supervisor, manager, director, executive, credentialed staff (i.e. physicians and residents) who provides supervision to employees, including residents.

Management: Those who have responsibility to hire, terminate, reorganize the workplace and provide supervision for others.

Officer of KHSC: A member of KHSC's executive.

Persons: Includes the Board of Directors and officers of KHSC, credentialed staff (i.e. physicians and residents), employees, management, contracted services, and people who do business at and on the premises of KHSC.

Policies: The Board, hospital and medical policies in place at KHSC.

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Primary Hospital Contact: Volunteers: the Director of Volunteer Services; Credentialed Staff: Director, Medical Affairs or Executive Vice President and Chief of Staff; Students: Instructor or hospital educational supervisor, Contractors: the applicable hospital liaison and/or overseer of the contract.

Protected disclosure: A report about a wrongdoing. It is an admission or revelation that, when fulfilling certain requirements, entitles the person who made the disclosure to support and protection from reprisals, retaliation, victimization, or even prosecution.

Receiver: A leader/representative of KHSC with accountability to respond to the disclosure.

Report: Written or verbal disclosure of allegations of inappropriate business conduct, including retaliation as defined in this policy (wrongdoing).

Reprisal: An act or instance of retaliation.

Respondent: The individual(s) alleged to have conducted a wrongdoing.

Retaliation: To take retribution, especially by returning some injury or wrong in kind, or to avenge.

Vexatious: An act done by a person in order to annoy, embarrass or otherwise aggravate another person.

Wrongdoing: A breach of the bylaw, practices, policies including without limitation, the contravention of an Act of Parliament or of the legislation of the province, the misuse of public funds or assets, an act or omission that creates a substantial and specific danger to the life, health and safety of persons or the environment, other than danger that is inherent in the performance of the duties or functions of an employee, credentialed staff and affiliate. (Judgment calls that result from a balance and informed decision-making process are not considered wrongdoing in the scope of this policy).

Workplace: All hospital premises, work assignments that occur off hospital property, off site work-related social events and functions, work-related seminars, conferences, travel and training, and other locations where work related responsibilities are carried out. Phone calls, communications, faxes, and electronic mail that are related to workplace activity made with communication devices are considered an extension of the workplace.

Procedure

1. Existing Policies and Procedures

1.1 This policy is not intended to replace existing KHSC policies and procedures that have a process that should be referenced and followed to resolve related concerns.

1.2 There are separate procedures outside this policy available for person(s) to raise issues relating to:

1.2.1 grievances in respect of employment and the terms and conditions of employment;

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- 1.2.2 the quality of clinical care provided to KHSC's patients by those members of the credentialed staff;
- 1.2.3 Workplace Harassment and Discrimination; Code of Behaviour (Be REAL), Workplace Violence Prevention, and Physician Behaviour policies; and Occupational health and safety concerns.

2. Procedure for Reporting Allegations of Wrongdoing

2.1 Reporting. Each person has an obligation to report any good faith concern in respect of a wrongdoing. If a person reasonably believes that they have information about an inappropriate behaviour or activity that could show that a wrongdoing has been committed, or is about to be committed, the person may report this in accordance with the process set out below.

2.2 Submissions of Allegations of Wrongdoing

2.2.1 Any person may submit a report verbally or in writing, on a confidential basis, detailing any concerns regarding a wrongdoing to the applicable Authorized Disclosure Officer. In the event that a report is made to someone other than the applicable Authorized Disclosure Officer, the report will be forwarded to the Authorized Disclosure Officer by that individual.

Note: While KHSC trusts that current policies and procedures give persons the reassurance needed to report concerns regarding wrongdoing inside KHSC, it recognizes that there may be circumstances when a person(s) should properly report to outside bodies such as governmental authorities or the police.

2.2.2 The applicable Authorized Disclosure Officer is as follows:

If you are:	Applicable Authorized Disclosure Officer:
An Employee	
A Volunteer	The Chief Human Resources Officer
A Student	
A Physician, Midwife, Dentist or Extended Class Nurse	The Chief of Staff and Vice President Medical Affairs
A Researcher	The Vice President, Research
A member of the general public	The Chief Human Resources Officer

2.2.3 If the allegation of wrong doing alleges misconduct of the applicable Authorized Disclosure Officer identified above or of the President & Chief Executive Officer

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or if there is a real or perceived conflict of interest in reporting to the Authorized Disclosure Officer identified above, the following Authorized Disclosure Officer will apply:

Alleged Wrongdoing by:	Authorized Disclosure Officer
The Chief Human Resources Officer	Chief Executive Officer
The Vice President, Medical Affairs	Chief Executive Officer
The Vice President, Research	Chief Executive Officer
The Chief Operating Officer	Chief Executive Officer
The Chief of Staff	Chair, People, Finance & Audit Committee
The President & Chief Executive Officer	Chair, People, Finance & Audit Committee

- 2.2.4 Any disclosure received regarding financial statements, accounting, internal accounting controls or auditing matters should be referred by the Authorized Disclosure Officer immediately to the Chief Operating Officer. Should the report be related to activities by the Chief Executive and/or Chief Operating Officer, it can be forwarded to the Chair of the People, Finance and Audit Committee.
- 2.2.5 Where the Authorized Disclosure Officer is the Chair of the People, Finance and Audit Committee, a written disclosure will be submitted c/o the Office of the Chief Operating Officer, in an envelope labelled, "To be opened by the Chair of the People Finance and Audit Committee only." If a person would like to discuss the matter with the Chair of the People, Finance and Audit Committee verbally, that person should indicate this and include a contact telephone number. If any such envelope is received by the management of KHSC, it shall be forwarded promptly and unopened to the Chair of the People, Finance and Audit Committee. A person can make a verbal report to the confidential telephone line direct to the Chair of the Finance and Audit Committee, telephone 7410.
- 2.2.6 A report submitted hereinafter referred to as a disclosure made above must include the following information if known:
- 2.2.6.1 A description of the wrongdoing. Facts, not speculative information, must be provided and should contain as much detail as possible to allow for proper assessment. In addition, the disclosure should contain sufficient

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corroborating information to support the commencement of an investigation.

2.2.6.2 The name of the person or persons alleged to have committed the wrongdoing, or planning to commit the wrongdoing.

2.2.6.3 The dates of the wrongdoing;

2.2.6.4 Whether the wrongdoing has already been disclosed to another representative of KHSC and a response received.

2.2.7 The Authorized Disclosure Officer must record date received, and issue a dated email or letter acknowledgement to the complainant.

2.3 Anonymous Disclosure of Wrongdoing

2.3.1 Any person may submit an anonymous report at any stage of the process detailed in 2.2.

2.3.2 Written acknowledgement under 2.2.5 will not be issued.

2.3.3 The seriousness of the allegation will, out of necessity, be determined based solely on the general merit and specific detail outlined in the disclosure. Follow-up for clarification and expansion of facts will not be possible, which may have the unintended consequence of limiting the effectiveness of any investigation or finding derived thereof.

2.3.4 In view of the investigation limitations outlined in 2.2.3, person(s) considering an anonymous report under this section are encouraged to review Section B, 4 & 5 of this policy. KHSC clearly prohibits retaliation, discrimination and harassment against any person(s) who reports, in good faith, what is reasonably believed to be a wrongdoing, and is fully committed to the safeguards outlined in Section B of this policy. Notwithstanding the foregoing, this in no way interferes or limits the right of person(s) who nevertheless choose to submit an anonymous report.

2.3.5 Any person submitting an anonymous report implicitly waives the protection afforded in Section B, 4 & 5

2.4 Investigation of a Complaint

2.4.1 Following the receipt of a disclosure, including anonymous reports submitted hereunder, the disclosure shall be assessed promptly by the Authorized Disclosure Officer to determine if an investigation shall commence. This will include an assessment of the risks to the complainant(s), employees, credentialed staff, affiliates patients, the public and/or KHSC and immediately take appropriate preventative measures if required.

2.4.2 If the Authorized Disclosure Officer determines that the investigation is warranted, and with appropriate consultation of applicable subject matter

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experts they should determine who will conduct the investigation and facilitate the investigation process commencing in a timely fashion. The determination of the need for an investigation and who will conduct the investigation shall be communicated to the known complainant by the receiver.

- 2.4.3 Where there are more specific policies which govern such investigations (for example KHSC By-law for Medical Staff or the KHSC Code of Behaviour – Be Real), the receiver will ensure that the more specific policy shall be followed.

2.5 Investigation Procedures, Reporting and Records

- 2.5.1 The investigation is to be conducted as expeditiously as possible. In conducting any investigation, the investigator shall use reasonable efforts to ensure that person(s) are treated fairly including the person(s) making the disclosure, witnesses, and the person(s) alleged to be responsible for the wrongdoing(s).

- 2.5.2 During the investigation, the Authorized Disclosure Officer and the investigator shall maintain neutrality and confidentiality. The investigator will ensure that the investigation is documented and that a written record of each step in the process including specifics like date, time, and place is completed. The investigator will interview witnesses and obtain applicable documentation and records as appropriate to review and analyze in order to reach a finding.

- 2.5.3 Upon completion of an investigation, a summary of investigation including the following information will be provided to the Authorized Disclosure Officer:

- Incident date;
- Disclosure date;
- Name and title of Authorized Disclosure Officer;
- Name and title of Investigator if applicable;
- Complainant name(s);
- Respondent name(s) and contact log;
- Summary of complaint;
- Summary of findings;
- Action(s) taken;
- Recommendations for preventative measures if applicable.

- 2.5.3.1 If the assessment concludes that the disclosure cannot be substantiated, no further action will be taken. The Authorized Disclosure Officer will discuss verbally with the complainant and respondent to recognize that they acted in good faith and that the process was followed.

- 2.5.3.2 If the assessment concludes that the disclosure was made in bad faith, the Authorized Disclosure Officer will follow-up with applicable parties for

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discipline and/or removal of access and privileges as applicable for the complainant.

2.5.3.3 If the disclosure is substantiated, the Authorized Disclosure Officer will ensure that corrective action is taken immediately and consult with the Labour Relations or other appropriate management as applicable to determine if discipline or removal of access and/or privileges are warranted. The decision will be preferably conveyed in person to the respondent.

2.5.3.4 The Authorized Disclosure Officer will ensure that relevant information is shared for quarterly reporting to the People, Finance and Audit Committee. Where the Authorized Disclosure Officer is the Chair, People, Finance and Audit Committee, they will make reports on a quarterly basis to the Board of Directors, identifying any investigations undertaken, any findings arising from such investigations, and any disciplinary action taken as a result of such investigations.

2.5.3.5 Findings will be communicated to the known complainant.

2.5.4 The People, Finance and Audit Committee shall retain as a part of the records of the Committee any information and documentation pertaining to such reports for a period of no less than seven (7) years.

2.6 When Investigation not Required. An Authorized Disclosure Officer may cease or decline to pursue an investigation upon review of all available relevant details if the receiver determines that:

2.6.1 the disclosure is frivolous or vexatious, or has not been made in good faith, or does not deal with a sufficiently serious subject matter;

2.6.2 the alleged conduct even if found to be true does not constitute inappropriate conduct;

2.6.3 the disclosure relates to a matter that could more appropriately be dealt with according to the procedures under a collective agreement, employment agreement, KHSC's by-law or a more appropriate and specific hospital policy, practice, procedure; so much time has elapsed between the date when the subject matter of the disclosure occurred and the date when the disclosure was made that investigating it would not serve a useful purpose;

2.6.4 the disclosure does not provide adequate facts about the wrongdoing to permit a proper investigation; or

2.6.5 there is another valid reason for not investigating the disclosure.

2.7 The decision not to investigate will be communicated to the known complainant.

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2.8 Appeals to Decision Not to Investigate. A decision made not to investigate may be appealed in writing to an officer of KHSC. Decisions made by an officer of KHSC, including the Chief Executive Officer, may be appealed to the Chair of the People, Finance and Audit Committee. A written response will be provided to the complainant making the appeal at each level of the appeal process.

3. General Offences

3.1 False or misleading statements. No person shall, in seeking advice about making a disclosure, in making a disclosure, or during an investigation, knowingly, make a false or misleading statement, orally or in writing.

3.2 Obstruction in performance of duties. No person shall wilfully obstruct any person investigating and fulfilling the requirements under this policy. Such conduct will be deemed to be a reprisal.

3.3 Destruction, falsification or concealment of documents or things. No person shall, knowing that a document or material thing is likely to be relevant to an investigation under this policy:

3.3.1 Destroy, mutilate or alter the document or material thing

3.3.2 Falsify the document or make a false document

3.3.3 Conceal the document or material thing; or

3.3.4 Direct, counsel or cause, in any manner, a person to do anything mentioned in above clauses 3.3.1, 3.3.2, 3.3.3

4. Whistleblower Protection

4.1 Prohibition Against Interference, Discrimination, Harassment and/or Retaliation. KHSC prohibits interference, discrimination, harassment and/or retaliation against any person who reports, in good faith, what they reasonably believe to be a wrongdoing and any protected disclosures.

4.2 Protection. KHSC is committed to not discharging, demoting, suspending, threatening, harassing, prejudicially modifying the relationship of, or otherwise discriminating or retaliating against a person in the terms or conditions of their employment or relationship with KHSC as a result of a disclosure that was submitted in good faith in accordance with this policy and without malice of forethought.

Any person, who reports a wrongdoing, is protected by the safeguards set out in Article 5 & 6 unless the person remains anonymous.

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4.3 Collective Responsibilities. All persons are responsible for ensuring that the workplace is free from all forms of discrimination, harassment and retaliation prohibited by this policy.

5. Procedures for Breaches of Non-Retaliation

5.1 Any person who legitimately and in good faith believes that they have been the subject of retaliation, as defined in Article 4, or is aware of any conduct which may be prohibited by this policy is strongly encouraged to report immediately the facts forming the basis of that belief or knowledge to their leader or the hospital's primary contact (if not an employee). Any person who receives such a report or witnesses any conduct which they legitimately and in good faith believe may be prohibited by this policy must immediately notify their leader (or where a real or perceived conflict is believed to exist with their leader, to that individual's leader).

5.1.1 Upon receiving a report regarding retaliation, the receiver will promptly ascertain if an investigation is necessary, and if so lead an investigation or request another appropriate resources to conduct an investigation in accordance with the organization's normal practices for investigating allegations of misconduct. . It is the obligation of all persons to cooperate in such investigation. Those responsible for the investigation will maintain the confidentiality of the allegations of the complainant and the identity of the persons involved, subject to the need to conduct a full and impartial investigation, remedy any violations of policies, or monitor compliance with or administer the policies. If the report was made anonymously in writing or verbally, an investigation may not proceed.

5.1.2 The investigation generally will include, but will not be limited to, discussion with the subject of retaliation (unless the report was submitted on an anonymous basis), the person(s) against whom allegations have been made, and witnesses, if appropriate.

5.1.3 In the event that an investigation establishes that a person has engaged in conduct or actions constituting retaliation in violation of this policy, the receiver will ensure that KHSC takes appropriate corrective action up to and including termination of that person's employment or relationship with KHSC.

5.1.4 In the event that the investigation reveals that the report of retaliation was frivolously made or undertaken for improper motives or made in bad faith or without a reasonable basis, the receiver will ensure that the complainant's

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leader or applicable administrative lead will take whatever disciplinary action up to termination may be appropriate in the circumstances.

5.2 If there is a determination that a reprisal has been taken against the person making a protected disclosure, the receiver, in consultation with applicable hospital representative(s) may in accordance with the policy:

5.2.1 Return the complainant to their duties / activities; or

5.2.2 Reinstatement the complainant or propose another remedy, if it is determined that the trust relationship between the parties cannot be restored; or

5.2.3 Rectify any situation resulting from the reprisal as deemed necessary; or

5.2.4 Do or refrain from doing anything in order to remedy any consequence of the reprisal.

Related Documents

02-143 Workplace Violence Prevention

12-320 Code of Behaviour (Be Real)

12-300 Workplace Harassment & Discrimination

12-140 Diversity

06-043 Accessibility

11-009 Physician Behaviour

References

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- "Guidebook for Managing Disruptive Physician Behaviour", College of Physicians and Surgeons of Ontario, April 2008.
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- "Code of Conduct" Canada Line. Finalized April 22, 2008.
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- "Business Ethics in the Workplace – A Guide for Leaders, Physicians and Staff", London Health Sciences Centre, May 2007.
- "Code of Conduct", St. Joseph's Health Sciences Centre, Toronto, Ontario.
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- "Code of Ethics and Business Conduct", SNC-Lavalin, 2009-3.
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- "Code of Conduct", Children's Memorial Hospital", Copyright 1999-2009.
- "Value Based Code of Conduct", Hamilton Health Sciences, June 30, 2006.
- "Conflict of Interest and Conflict of Commitment", Queens University, September 28, 2001.
- "Code of Conduct", Queens University, July 1, 2008.
- "Conflict of Interest Rules for Public Servants", Ontario Regulation 382/07.

Authorizing Signature:

Dr. David Pichora
President and Chief Executive Officer