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Whistleblower Policy

ISSUED BY:	APPROVED BY:
Governance Committee	Board of Directors

PURPOSE

The purposes of this policy are as follows:

1. To establish procedures for the receipt, retention and handling of complaints and concerns that Orillia Soldiers' Memorial Hospital (OSMH) receives relating to, among other things, alleged or suspected violations of the Code of Conduct/Conflict of Interest Policy, other internal policies and guidelines, or any applicable law or regulation.
2. To encourage and enable reporting of concerns relating to:
    a. code of conduct
    b. conflict of interest
    c. financial, internal accounting controls, or audit practices
    d. quality of care
    e. environmental issues
    f. health and safety
    g. human resource policies and legislation
    h. breach of contract and negligence
    i. privacy
    j. violations of any other relevant provincial and/or federal legislation
3. To ensure there is no retaliation against those Individuals who make reports in Good Faith under this policy
4. To protect the confidentiality of those making reports to the maximum extent possible, consistent with the need to conduct an adequate investigation,

DEFINITIONS

Bad Faith: includes concepts such as malicious conduct, improper motive, dishonesty, recklessness and gross negligence. Bad faith is more than just "being wrong" about an event. A bad faith complaint is one where the Individual makes and steadfastly maintains as a complaint that the Individual knows or ought to know is a false claim.

Board: means the Board of Directors of OSMH.

Designated Reviewer(s): The Designated Reviewer(s) is/are assigned by the Chair of the Audit Committee, Chief Executive Officer (CEO) or Chief of Staff (COS), as the case may be, to the person responsible for reviewing the complaint.

Disclosing/Discloses/Disclosure: means the communication of information and specifically the process of bringing forward information, as described in this policy.

Good Faith: means to act honestly or with sincere intention. The legal test for determining whether the complaint is made in good faith is objective.

Individual: Any Board Director, non-director committee member, team member, credentialed team member, contractor, consultant, student and/or volunteer.

Vexatious: refers to a situation, communication or information presented which is lacking sufficient grounds for action and, when viewed objectively, is serving only to annoy or harass.

Whistleblower: An Individual who discloses information that the Individual, in Good Faith, has reasonable grounds for believing is evidence of: a violation of any law, rule, regulation or policy; a gross mismanagement; a gross waste of funds; an abuse of authority; a substantial and specific danger to public health and/or; a substantial and specific danger to public safety.

Reprisal: Any adverse action taken against a whistleblower who makes a good faith allegation under this policy or who cooperates in an investigation.

Matters of concern or wrongdoing

a. Examples of concerns relating to financial, accounting and auditing practices may include, but are not limited to, situations such as:
    i. The appearance of fraud, including falsification of records;
    ii. Unauthorized dealings with contractors for personal benefit, including receiving kickbacks or gifts which breach the hospital's procurement policies;
    iii. Unethical or illegal practices, including misappropriation of funds or abuse of expense accounts;
    iv. Violation or circumvention of the hospital's financial policies or accounting practices.
b. Examples of concerns relating to quality of care may include, but are not limited to, situations such as:
    i. Abuse of patients by any party;
    ii. Negligence of patient care in violation of Hospital policies.
c. Examples of environmental issues may include, but are not limited to, situations such as:
    i. Disposal or destruction of dangerous goods or products in violation of legislated requirements;
    ii. Failure to appropriately report disposal or destruction of dangerous goods or products in accordance with Federal or Provincial legislation.
d. Examples of violations of human resources policies and legislation may include, but are not limited to, situations such as:
    i. Cultural, racial and sexual harassment;
    ii. Discrimination of any kind as outlined in legislation;
    iii. Workplace safety and harassment violations.
e. Examples of breach of contract and negligence may include, but are not limited to, situations such as:
    i. Danger to health and safety;
    ii. Inappropriate release of confidential information.
f. Criminal offences of any kind.
g. Examples of health and safety negligence may include, but are not limited to, situations such as:
    i. Lack of health and safety policy;
    ii. Inappropriate disposal of dangerous goods
h. Examples of privacy negligence may include, but are not limited to, situations such as:
    i. Inappropriate release of confidential information;
    ii. Inappropriate use of confidential information

POLICY

OSMH is committed to open, accountable, ethical and transparent governance which encourages a culture of integrity and honesty. An important aspect of accountability and transparency is a mechanism to enable the Individuals, as defined in this policy, to voice concerns in a responsible and effective manner when they discover information which may be unethical or illegal.

Every Individual has the responsibility to promptly report any such Whistleblower matter in accordance with this policy.

STANDARDS

1. OSMH maintains high standards of business and ethical conduct, as expressed in its code of conduct. OSMH applies these standards to all matters of business.
2. This policy does not supersede any other reporting mechanisms covered by hospital policy or legislation.
3. This policy is intended to be used in cases where the standard reporting mechanisms do not result in an outcome acceptable to the complainant or in cases where the complainant chooses to use this method for raising a complaint.
4. This policy will be posted on the OSMH intranet.
5. OSMH will, at least annually, communicate reminders to Individuals of the process for reporting complaints. This may be accomplished by electronic or other means (i.e. email, written memos and newsletters).
6. The requirements apply whether working on OSMH property or working on behalf of or representing OSMH elsewhere.

PROCEDURE

1. Reporting

a. Any Individual who is aware of or suspects a breach of the code of conduct or matters of concern or wrongdoing is responsible for disclosing the breach or concern promptly using either standard reporting mechanisms as referred to in existing policies, or this policy.

b. Members of the public who are aware of or suspect a breach of the code of conduct or matters of concern or wrongdoing are encouraged to disclose the breach or concern using the reporting mechanisms referred to in this policy.

c. It is expected that matters of concern will be reported in a timely manner and within one year of when the issue became known to the Individual.

d. A concern may be disclosed in the following manner:

   i. By telephone to the confidential Whistleblower hotline at 705-325-2201 extension 3133

   ii. By email to whistleblower@osmh.on.ca

   iii. By letter addressed to the person (leader, supervisor and/or Vice President & Chief Human Resource Officer); or

   iv. In person to the Vice President & Chief Human Resource Officer

e. All whistleblower submissions are routed to the Vice President & Chief Human Resource Officer and will be shared upon receipt with the Chair of the Audit Committee.

f. When the matter being investigated involves the Vice President & Chief Human Resource Officer the matter must be referred to the CEO.

2. No Retaliation

a. No one will be penalized for making a Good Faith Disclosure. OSMH will not retaliate and will not allow any retaliation or discrimination by its Individuals of any kind against any Individual who submits a Good Faith complaint. Specifically, OSMH will not discharge, demote, suspend, threaten, harass or in any other manner discriminate or retaliate against any Individual submitting a Good Faith complaint.

b. Any person who legitimately and in good faith believes that they have been the subject of prohibited

discrimination, harassment and/or retaliation 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, to the Vice President & Chief Human Resource Officer, the CEO, COS or the Chair of the audit committee of the hospital. Any person who receives such a complaint or witnesses any conduct which they legitimately and in good faith believe may be prohibited by this policy must immediately notify their leader and the Vice President & Chief Human Resource Officer.

c. Upon receiving a complaint, the leader and the Vice President & Chief Human Resource Officer will promptly conduct or mandate any officer of the hospital or any other person to conduct a thorough investigation. It is the obligation of all persons to cooperate with the investigation.

d. The investigation will generally include, but will not be limited to, discussion with the complainant (unless the complaint was submitted on an anonymous basis) the party against whom allegations have been made, and witnesses, if appropriate.

e. In the event that an investigation establishes that a person has engaged in conduct or actions of retaliation in violation of this policy, the hospital will take immediate and appropriate corrective action up to and including termination of that person's employment, contractual obligation or relationship with the hospital.

f. Bad Faith and/or Vexatious complaints will not be tolerated, and appropriate disciplinary measures will be taken by OSMH if they are initiated up to and including termination.

3. Confidentiality

a. All Board Directors and management will keep reports confidential to the extent possible, consistent with the hospital's legal and ethical responsibilities, including the need to conduct an effective investigation.

b. No one shall in any manner attempt to identify an Individual who reports in Good Faith on a confidential basis and any such action may result in disciplinary action, up to and including termination.

c. In the interest of ensuring accountability and responsibility in reporting, anonymous complaints are discouraged as they may create limitations to the investigation and resolution procedures available. Notwithstanding, anonymous complaints will be reviewed and addressed to the extent possible.

4. Procedure for Investigation of a Complaint

a. It is anticipated that in the ordinary course, the CEO, COS or Chair of the Audit Committee, as the case may be, will complete their assessment of the complaint and assign the investigation of such complaint to a Designated Reviewer generally within ten business days of receiving such complaint.

b. In matters involving the CEO or COS, the Chair of the Audit Committee will determine the process to be utilized based on the nature of the complaint.

c. The Designated Reviewer will assess the seriousness of the complaint promptly and determine, in consultation with others, if necessary, the manner in which the complaint will be investigated, using internal and/or external resources, and will determine who will lead such investigation. The Chair of the Audit Committee may also request additional resources (including external experts) to facilitate an investigation.

d. The Designated Reviewer assigned for the investigation of the complaint shall:

   i. Notify the complainant that OSMH has received the complaint and that it will be investigated;

ii. Treat the complaint, as well as its investigation and disposition on a confidential basis;
iii. Involve, in the investigation, only those persons who need to be involved in order to properly carry out such investigation;
iv. Ensure appropriate support to staff by allowing union representation or legal counsel as applicable;
v. Conduct the investigation in a timely manner to a maximum of 3 weeks from the date of assignment. Any extension of this time period requires approval of the CEO, COS or the Chair of the Audit Committee, as the case may be;
vi. Document the investigation and subsequent follow up (including issuing a report to the complainant) in a manner consistent with hospital investigations;
vii. Retain the records of the investigation consistent with the Personal Health Information-Retention and Destruction Policy;

5. Monitoring the Investigation

a. The investigation of a complaint will be monitored on an ongoing basis by the Chair of the Audit Committee, CEO, COS or delegate, as appropriate.

6. Acting upon the Investigation's Findings/Conclusions

a. Once completed, the report will be reviewed and appropriate corrective action will be taken by the Hospital.

7. Report to the Audit Committee and Board

a. A summary of all complaints filed will be presented by the CEO or delegate to the Audit Committee of the Board at least annually.
b. The report will include:
   i. The total number of complaints;
   ii. A description of each complaint;
   iii. How the complaint was received;
   iv. The relevant category of the complaint;
   v. Whether contact information was provided by the Individual registering the complaint;
   vi. Whether the complaint could be substantiated;
   vii. Who was involved in the investigation;
   viii. The resolution to the complaint, any policy changes implemented and/or any actions taken;
   ix. The status of the complaint.
c. The Audit Committee will share the report with the Board.
d. In the event that the Audit Committee or the Board, as the case may be, is not satisfied with the report of the investigation, the Board may require that a further investigation be completed.

REFERENCES

Cambridge Memorial Hospital (2022)
Collingwood General and Marine Hospital (2023)
Georgian Bay General: Whistleblowing Protection Policy (2021)

Headwaters Health Care Centre: Whistle-Blowing Policy (2020)
Niagara Health: Whistleblower (2018)
Northumberland Hills: Whistleblower Policy: Freedom to Speak Up-Raising Concerns (2022)