Birmingham and Solihull
Integrated Care Board

Freedom to Speak Up: raising concerns Policy

Version:	1.0
Policy reference:	
Ratified by:	Board
Date ratified:	01/05/2023
Name of originator/author:	Mandy Johal
Name of responsible committee/individual:	Board
Name of executive lead:	Claire Campbell
Date issued:	01/05/2023
Review date:	01/05/2025
Target audience:	All Staff

Contents

Contents

1 Policy Overview 3

1.1 Speak Up – we will listen 3

2 This Policy 3

3 What concerns can I raise? 3

4 Feel safe to raise your concerns 4

5 Confidentiality 4

6 Who can raise concerns? 4

6.1 Who should I raise my concerns with? 5

7 Advice and Support 5

8 How should I raise my concern 5

9 What will we do? 5

10 Investigation 5

11 Communicating with you 6

12 How will we learn from your concern? 6

13 Board oversight 6

14 Review 6

15 Raising your concern with an outside body 6

16 Making a ‘protected disclosure’ 7

17 Freedom to Speak Up Guardian 7

18 Recruitment 7

19 Other related policies and references 7

FREEDOM TO SPEAK UP POLICY

1 Policy Overview

Who this Policy applies to:

This policy applies to:

Staff who are directly employed by the ICB in either a permanent, fixed term or temporary post and hold a contract of employment with the ICB including Board Members, Other stakeholders (including CSU staff, patients, visitors, medical locums, agency staff, contractors, suppliers and visiting clinicians).

Individuals who work with the ICB but are employed by another NHS organisation should raise concerns with their organisation 'Freedom to Speak up Guardian in the first instance, unless the concern directly applies to the work of the ICB advice can be sought from the Freedom to Speak up Guardian.

1.1 Speak Up – we will listen

Speaking up about any concern you have at work really is important. In fact, it is vital because it will help us to keep improving our services for all patients and the working environment for our staff.

You may feel worried about raising a concern, and we understand this. But please don't be put off. In accordance with out duty of candour, our senior leaders and entire board are committed to an open and honest culture. We will look into what you say and you will always have access to the support you need.

2 This Policy

This 'standard integrated policy' was one of a number of recommendations of the review of Sir Robert Francis into whistleblowing in the NHS, aimed at improving the experience of whistleblowing in the NHS. This policy has been produced by (NHS Improvement and NHS England) and was adopted by NHS organisations in England as a minimum standard to help normalise the raising of concerns for the benefit of all patients.

3 What concerns can I raise?

You can raise a concern about **risk, malpractice or wrongdoing** you think is harming the service we commission. Just a few examples of this might include (but are by no means restricted to):

- Unsafe patient care
- Unsafe working conditions
- Inadequate induction or training of staff
- Lack of, or poor response t a reported patient safety incident
- Suspicions of fraud (these can be reported to our local counter-fraud team) – Richard Loydall – NHS Counter Fraud Specialist, T: 02476 536871, M: 07887 557496, E; richard.loydall@nhs.net
- Failure to declare conflicts of interest, (Which can also be reported to the ICB Director of Governance) – claire.campbell42@nhs.net

- A poor culture which could include poor attitudes and behaviours and bullying (within a team organisation rather than individual instances) or individuals not working to the ICB Values and leadership standards.

Remember that if you are a healthcare professional you may have a professional duty to report a concern. **If in doubt, please raise it.**

We would like you to raise the matter while it is still a concern. It does not matter if you turn out to be mistaken provided you are genuinely concerned or troubled.

This policy is not for people with concerns about their employment that affect only them, staff are referred to the ICB HR Policies for further information. These can be found on the member's area.

4 Feel safe to raise your concerns

If you raise a genuine concern under this policy, you will not be at risk of losing your job or suffering any form of reprisal as a result. We will not tolerate the harassment or victimisation of anyone raising a concern. Any such behaviour is a breach of our values as an organisation and, if upheld following investigation, could result in disciplinary action.

Provided you are acting honestly it does not matter if you are mistaken or if there is an innocent explanation for your concerns.

5 Confidentiality

We hope you will feel comfortable raising your concern openly, but we also appreciate that you may want to raise it confidentially. This means that while you are willing for your identity to be known to the person you report your concern to, you do not want anyone else to know your identity. Therefore, we will keep your identity confidential if that is what you want, unless required to disclose it by law (for example, by the police). You can choose to raise your concern anonymously, without giving anyone your name, but that may make it more difficult for us to investigate thoroughly and give you feedback on the outcome.

6 Who can raise concerns?

Anyone who works (or has worked) in the NHS, or for an independent organisation that provides NHS services can raise concerns. This includes agency workers, temporary workers, contractors, students, volunteers and office holders.

Should any employees wish to make a protected disclosure they can do so via a prescribed organisation under the Public Interest Disclosure Order 1999. NHS England is a prescribed organisation, as well as the ICB, meaning that individuals raising concerns with the ICB are protected from detrimental treatment or victimisation from their employers after they have made a qualifying disclosure. Each prescribed organisation under the act has a remit to receive disclosures relating to a specific subject. NHS England is able to receive disclosures relating to the delivery of primary medical, dental, ophthalmic and pharmaceutical service in England. Further information can be found at:

https://www.england.nhs.uk/wp-content/uploads/2016/11/whistleblowing-guidance.pdf

6.1 Who should I raise my concerns with?

In many circumstances the easiest way to get your concern resolved will be to raise it formally or informally with your line manager. But, where you do not think it is appropriate to do this, you can use any of the options set out below in the first instance.

If raising it with your line manager does not resolve matters, or you do not feel able to raise it with them, you can contact one of the following people:

Our Freedom to Speak Up Guardian (or equivalent designated person) is Mandy Johal, E: mandeepjohal@nhs.net , T: 07823 421 614

If you still remain concerned after this, you can contact:

- Our NED with responsibility for FTSU: phil.jones7@nhs.net

All these people have been trained in receiving concerns and will give you information about where you can go for more support.

If for any reasons you do not feel comfortable raising your concern internally, you can raise concerns with external bodies, listed on page 6.

7 Advice and Support

Details on the local support available to you can be found.
https://www.birminghamsolihull.icb.nhs.uk/staffhub/resources/about-you/freedom-speak
However, you can also contact the Whistleblowing Helpline for the NHS and social care on 0800 724 725, your professional body or trade union representative.

8 How should I raise my concern

You can raise your concern with any of the people listed above in person, by phone or in writing (including email).

Whichever route you choose, please be ready to explain as fully as you can the information and circumstances that gave rise to your concern.

9 What will we do?

We are committed to the principles of the Freedom to Speak up review and its vision for raising concerns and will respond in line with them (See Appendix B).

We are committed to listening to our staff, learning lessons and improving patient care. On receipt the concern will be recorded and you will receive an acknowledgement within two working days. The central record will record the date the concern was received. Whether you have requested confidentiality, a summary of the concern and dates when we have given you updates or feedback.

10 Investigation

Where you have been unable to resolve the matter quickly (usually within a few days) with your line manager, we will carry out a proportionate investigation – using someone

suitably independent (usually from a different part of the organisation) and properly trained – and we will reach a conclusion within a reasonable timescale (which we will notify you of). This will be resourced appropriately.

Wherever possible we will carry out a single investigation (so, for example where a concern is raised about a patient safety incident, we will undertake a investigation that looks at your concern and the wider circumstances of the incident). The investigation will be objective and evidence-based, and will produce a report that focuses on identifying and rectifying any issues, and learning lessons to prevent problems occurring.

We may decide that your concern would be better looked at under another process: for example, our process for dealing with bullying and harassment. If so, we will discuss that with you.

Any employment issues (that affect you only and not others) identified during the investigation will be considered separately.

11 Communicating with you

We will treat you with respect at all times and will thank you for raising your concerns. We will discuss your concerns with you to ensure we understand exactly what you are worried about. We will tell you how long we expect the investigation to take and keep you up to date with its progress. Wherever possible, we will share the full investigation report with you (whilst respecting the confidentiality of others).

12 How will we learn from your concern?

The focus of the investigation will be on improving the service we provide for patients. Where it identifies improvements that can be made, and are working effectively. Lessons will be shared with teams across the organisation, or more widely, as appropriate.

13 Board oversight

The board will be given high level information about all concerns raised by our staff through this policy and what we are doing to address any problems. We will include similar high level information in our annual report. The board supports staff raising concerns and want you to feel free to speak up.

14 Review

We will review the effectiveness of this policy and local process at least annually, with the outcome published and changes made as appropriate.

15 Raising your concern with an outside body

Alternatively, you can raise your concerns outside the organisation with:

- NHS Improvement for concerns about:
  - How NHS Trusts and Foundation Trusts are being run
  - Other providers with an NHS provider license
  - NHS Procurement, choice and competition
  - The national tariff
- Care Quality Commission for quality and safety concerns

- NHS England for concerns about:
  - Primary medical services (general practice)
  - Primary dental services
  - Primary ophthalmic services
  - Local pharmaceutical services
- Health Education England for education and training in the NHS
- NHS Protect for concerns about fraud and corruption

16 Making a 'protected disclosure'

There are very specific criteria that need to be met for an individual to be covered by whistleblowing law when they raise a concern (to be able to claim the protection that accompanies it). There is also a defined list of 'prescribed persons', similar to the list of outside bodies (above) who can make a protected disclosure to. To help you consider whether you might meet these criteria, please seek independent advice from the Whistleblowing Helpline for the NGS and Social Care, Public Concern at Work or a legal representative.

17 Freedom to Speak Up Guardian

The role of the Freedom to Speak up Guardian and the National Guardian's Office were created in response to recommendations made in Sir Robert Francis QC's 2015 report. The report found that NHS culture did not support workers to speak up about their concerns and patients and workers suffered as a result.

As part of this, the ICB has a Freedom to Speak up Guardian to help demonstrate our commitment to making speaking up business as usual here. The Guardian role is one of independence, impartiality and objectivity. They are a safe place for colleagues to seek guidance and support when they feel that they are unable to in other ways.

18 Recruitment

The Employment Rights Act 1996 (NHS Recruitment – Protected Disclosure) Regulations 2018 prohibit an NHS employer from discriminating against an applicant because it appears that the applicant had made a protected disclosure.

The regulations give an applicant who is discriminated against the right to complain to an employment tribunal and to be awarded compensation. The rules also apply to agents recruiting on behalf of NHS employers.

Any concerns that recruiting managers may have in this respect should be discussed with the Human Resources Manager.

19 Other related policies and references

ICB Policies:

- Grievance Policy
- Bullying and Harassment Policy
- Sir Robert Francis (2015) Freedom to Speak Up
- Standards of Business Conduct Policy
- Disciplinary Policy

Guidance
Guidance on supporting whistleblowing in the NHS England
https://www.england.nhs.uk/wp-content/uploads/2016/11/whistleblowing-guidance.pdf

Guidance for boards on Freedom to Speak Up in the NHS Trusts and NHS Foundation Trusts
https://improvement.nhs.uk/documents/2468/Freedom_to_speak_up_guidance_May2018.pdf

Annex A: Example process for raising and escalating a concern

Step One

If you have a concern about a risk, malpractice or wrongdoing at work, we hope you will feel able to raise it first with your line manager, leas clinician or tutor (for students). This may be done orally or in writing first.

Step Two

If you feel unable to raise the matter with your line manager, lead clinician or tutor, for whatever reason, please raise the matter with out local Freedom to Speak Up Guardian

Name: Mandy Johal

Contact Details: 07823 421614
Nhsbsolicb.ftsuguardian@nhs.net

This person has been given special responsibility and training in dealing with whistleblowing concerns. They will:

- Treat your concern confidentially unless otherwise agreed
- Ensure you receive timely support to progress your concern
- Escalate to the board any indications that you are being subjected to detriment for raising your concern
- Remind the organisation of the need to give you timely feedback on how your concern is being dealt with
- Ensure you have access to personal support since raising your concern may be stressful

If any want to raise the matter in confidence, please say so at the outset so that appropriate arrangements can be made.

Step Three

If these channels have been followed and you still have concerns, or if you feel that the matter us so serious that you cannot discuss it with any of the above, please contact – the CEO David Melbourne; E: david.melbourne@nhs.net

Annex B: A vision for raising a concern in the NHS

