

Freedom to speak up: raising concerns (whistleblowing) policy for the NHS

Version:	V1
Ratified by:	Senior Leadership Team
Date ratified:	8th February 2019
Name of originator/author:	Human Resources
Name of responsible committee/individual:	Senior Leadership Team
Name of executive lead:	Doug Middleton
Date issued:	22nd February 2019
Review date:	2 years after issue
Target audience:	All Staff

Review and amendment log

Version no	Type of change	Date	Description of change

Contents

Policy Overview	3
Speak up – we will listen	3
This policy	3
What concerns can I raise?	4
Feel safe to raise your concern	4
Confidentiality	4
Who can raise concerns?	5
Who should I raise my concerns with?	5
Advice and Support	6
How should I raise my concern?	6
What will we do?	6
Raising your concern with an outside body	7
Annex A: Example process for raising and escalating a concern	9
Annex B: A vision for raising concerns in the NHS	10

1. POLICY OVERVIEW

1.1 Speak up – we will listen

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

1.3 You may feel worried about raising a concern, and we understand this. But please don't be put off. In accordance with our 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

2.1 This 'standard integrated policy' was one of a number of recommendations of the review by 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 is being adopted by all NHS organisations in England as a minimum standard to help normalize the raising of concerns for the benefit of all patients.

3 What concerns can I raise?

3.1 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 to a reported patient safety incident
- Suspicions of fraud (which can also 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 CCG solicitor) – Alison Joyce M: 07880 157166, E alison.joyce4@nhs.net
- A bullying culture (across a team or organisation rather than individual instances of bullying).

For further examples, please see the [Health Education England Video](#).

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

3.3 Don't wait for proof. We would like you to raise the matter while it is still a concern. It doesn't matter if you turn out to be mistaken as long as you are genuinely troubled.

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

4. Feel safe to raise your concerns

- 4.1 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. Nor will we tolerate any attempt to bully you into not raising any such concern. Any such behavior is a breach of our values as an organisation and, if upheld following investigation, could result in disciplinary action.
- 4.2 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

- 5.1 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?

- 6.1 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.
- 6.2 Should any primary care 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 CCG, meaning that individuals raising concerns with the CCG 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 services in England. Further information can be found at:

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

6.3 Who should I raise my concerns with?

- 6.4 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 don't think it

is appropriate to do this, you can use any of the options set out below in the first instance.

- 6.5 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) (Paul Sherriff; M: 07715 053710 email: paul.sherriff@nhs.net) – this is an important role identified in the Freedom to Speak Up review to act as an independent and impartial source of advice to staff at any stage of raising a concern, with access to anyone in the organisation, including the chief executive officer, or if necessary, outside the organisation. This person also has the responsibility as executive director for whistleblowing
 - Our risk management team –Jane Moore: M: 07753 431652; email: jane.moore@nhs.net.

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

- Our lay advisor with responsibility for whistleblowing (Stephen Beck – stephenbeck@nhs.net)

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

6.7 If for any reasons you do not feel comfortable raising your concern internally, you can raise concerns with external bodies, listed on page 7.

7 Advice and support

7.1 Details on the local support available to you can be found <https://www.birminghamandsolihullccg.nhs.uk/members-home>. However, you can also contact the Whistleblowing Helpline for the NHS and social care on 08000 724 725, your professional body or trade union representative.

8 How should I raise my concern

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

8.2 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?

9.1 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).

9.2 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 acknowledgment 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

- 10.1 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). 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 single 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.
- 10.2 We may decide that your concern would be better looked at under process; for example, our process for dealing with bullying and harassment. If so we will discuss that with you.
- 10.3 Any employment issues (that affect you only and not others) identified during the investigation will be considered separately.

11.0 Communicating with you

- 11.1 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 (while respecting the confidentiality of others).

12 How will we learn from your concern?

- 12.1 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

- 13.1 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

- 14.1 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

15.1 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'

16.1 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 NHS and Social Care, Public Concern at Work or a legal representative.

17 National Guardian Freedom to Speak Up

17.1 The new National Guardian (once fully operational) can independently review how staff have been treated having raised concerns where NHS trusts and foundation trusts may have failed to follow good practice, working with some of the bodies listed above to take action where needed.

18 Recruitment

18.1 The proposed revisions to the Employment Rights Act 1996 (NHS Recruitment – Protected Disclosure) Regulations will provide protection for those who have made a protected disclosure (it is anticipated that these revisions will become law in 2019).

- 18.2 These regulations provide that NHS bodies must ensure that those applying for jobs are not treated adversely due to whistleblowing at other NHS organisations. The rights under the Regulations equally apply to any individual who applies to an NHS employer for a contract of employment, a contract to do work personally or an appointment to an office or post.
- 18.3 The Regulations prohibit discrimination by NHS employers in the recruitment of an applicant on the grounds that they have made, or appear to have made, a protected disclosure in previous NHS employment. Discrimination may include refusing an individual's application or in some other way treating them less favorably than other applicants for the post.
- 18.4 Any concerns that recruiting managers may have in this respect should be discussed with the CCG's Human Resources Manager.

19 Other related policies and references

CCG Policies

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

Guidance

Guidance to primary care providers 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 trust

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, lead 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 our local Freedom to Speak Up Guardian

Name: Paul Sherriff
Contact Details: M: 07715 053 710 email: paul.sherriff@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 you 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 is so serious that you cannot discuss it with any of the above, please contact - Stephen Beck – stephenbeck@nhs.net)

Annex B: A vision for raising concerns in the NHS

