

DOCUMENT CONTROL	
Title:	Freedom to Speak Up
Version:	7
Reference Number:	HR012
Scope:	
This policy applies to all staff including bank staff, agency staff, students, volunteers and governors.	
Purpose:	
The purpose of this document is to describe how the organisation will support staff to speak up by outlining a clear process for doing so.	
Requirement for Policy	
Recommended by NHS I and National Guardians Office	
Keywords:	
Anonymity; Confidentiality; Speaking Up; Whistleblowing	
Supersedes:	
Version 6, Raising Concerns Policy	
Description of Amendment(s):	
Changes due to a recommendation from National Guardian Office regarding the use of terminology, 'speaking up'. The appointment of a Freedom to Speak Up Guardian and the experience of managing a high volume of cases and using the Raising Concerns policy. Amendments are aimed at making the policy accessible to all.	
Owner:	
Freedom to Speak Up Guardian - Lisa Ryder	
Accountability:	
Chief Executive	
Individual(s) & group(s) involved in the Development:	
This document has been developed in collaboration with the following interested parties:	
<ul style="list-style-type: none"> • Lisa Ryder 	

Individual(s) & group(s) involved in the Consultation:	
The document has been circulated for consultation and comments have been taken into consideration and the document amended accordingly:	
<ul style="list-style-type: none"> • Staff who have spoken up • Staff side representatives • Executive Lead for Freedom to Speak Up • Non-executive Lead for Freedom to Speak Up • Workforce and OD Governance Manager 	
<i>“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).’ Would it be useful to have summary of the main points or would it be too long? – good to signpost the whistleblowing helpline”</i>	
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Responsibility of:	Freedom to Speak Up Guardian

Other Trust documentation to which this policy relates (and when appropriate should be read in conjunction with):	
HR003	Grievance Procedure
Policy Associated Documents:	
	N/A
Other external documentation/resources to which this policy relates:	
	N/A
CQC Regulations	
This guideline supports the following CQC regulations:	
Regulation 20	Duty of Candour

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1. INTRODUCTION

We are committed to creating an open, honest and transparent organisation, where workers feel able to speak up and are valued for doing so. This policy reassures all staff, including bank staff, volunteers and students that it is safe and necessary to speak up about safety, malpractice and wrongdoing if they have a reasonable belief that it is occurring, or is likely to occur.

Speaking up about any concern you have at work is really 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.

You may feel worried about speaking up, 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. The Trust will look into what you say and you will have access to the support you need.

2. WHAT CAN I SPEAK UP ABOUT?

You can speak up about **risk, malpractice or wrongdoing** you think is harming the service we *deliver or 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 for 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)
- A bullying culture (across a team or organisation rather than individual instances of bullying).

Remember that if you are a healthcare professional you may have a professional duty to speak up. **If in doubt, please speak up.**

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

This policy is not for people with concerns about their employment that affect only them – that type of concern is better suited to our grievance policy

All of us, at some point may have concerns about what is happening at work. Usually these concerns are easily resolved. However, when the concern feels serious because it is about something that involves a possible danger, professional misconduct, competence or financial irregularity that might affect patients, colleagues or the Trust itself, it can be difficult to know what to do.

You may be worried about speaking up, perhaps feeling it's none of your business or that it's only a suspicion. You may feel that speaking up would be disloyal to colleagues, to managers or to the Trust. You may decide to say something but find that you have spoken to the wrong person or raised the issue in the wrong way and are not sure what to do next.

You may also not be clear how your own professional code of conduct relates to Trust procedures.

This policy is intended to reassure you that it is safe and acceptable to speak up and to enable you speak up at an early stage and in the right way. The Trust welcomes your genuine concerns and is committed to dealing professionally with them. We need your help to ensure we can deliver a safe service and protect the interests of patients, staff and the Trust.

If something is troubling you which you think we should know about or look into, please read and use this procedure. If, however, you wish to make a complaint about your employment or how you have been treated, please use the Grievance Procedure or speak to your line manager, HR or your Trade Union representative about what to do. This policy is primarily for individuals who work for us and have concerns where the interests of others or the Trust is at risk

3. PUBLIC INTEREST DISCLOSURE ACT

This policy takes account of the provisions of the Public Interest Disclosure Act 1998 (which is part of the Employment Rights Act 1996), which provides legal protection for employees who raise an issue or make what is known as a 'protected disclosure' which, in the reasonable belief of the member of staff, refers to one or more of the following:

- i. That a criminal offence has been committed, is being committed or is likely to be committed;
- ii. That a person has failed, is failing or is likely to fail to comply with any legal obligation to which he/she is subject;
- iii. That a miscarriage of justice has occurred, is occurring or is likely to occur;
- iv. That the health and safety of an individual has, may have been or is likely to be endangered; and/or
- v. That the environment has been, is being or is likely to be damaged
- vi. Deliberate concealing of information about any of the above.

PIDA applies to all workers including those on a temporary contract, agency staff, paid trainees/apprentices. It does not cover volunteers or governors.

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). 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.

Those who speak up are protected from detriment by the legislation and this policy; you will not be at risk of losing your job or suffering any form of reprisal as a result and anyone responsible for such a detriment will be subject to disciplinary action (and referral to professional regulator if appropriate).

4. FINANCIAL AND CONDUCT OF BUSINESS CONCERNS

As a member of staff you may become aware of a concern about the business or financial conduct of another member of staff or someone who has access to the business matters of the Trust. In such a case you should speak up.

Concerns about fraud and corruption can be raised with the Local Counter Fraud Specialists on 07825 218654 or you can telephone The Counter Fraud and Corruption Reporting Line (FCRL) on 0800 028 4060. You will still be protected by this Procedure and can speak up to the Freedom to Speak Up Guardian.

5. WHO DOES THIS POLICY APPLY TO?

Anyone who works (or has worked) in the NHS or independent organisation can speak up and the Trust will help, and support individuals and groups of employees through this process. This policy applies to all permanent employees; temporary employees; agency, bank staff, trainees, volunteers and governors.

The NHS is dependent on a wide range of contractors, suppliers, and others not directly employed by the Trust. Trust staff should use this procedure for reporting concerns relating to these people. Also, any of these people may use the Trusts procedure to report their concern. Their own employer may have a procedure which could meet the need, but the Trust procedure is always available.

6. CONFIDENTIALITY AND ANONYMITY

We hope that you will feel comfortable speaking up openly, but we will protect your right to speak up confidentially. This means the person you report the concern to will know who you are, but nobody else will be given your identity.

You can raise your concern anonymously, but this can make it harder for us to provide feedback, or ask you for more information to help us investigate the concern. You can speak up anonymously and confidentially via the Freedom to Speak Up Guardian.

Lisa.ryder@nhs.net phone 07825 425410.

Where serious concerns are raised, the Chief Executive or Chair in certain circumstances will be informed of the matter, but the confidentiality of the individual/s raising the concern will be respected.

7. WHO SHOULD I SPEAK UP TO?

In many circumstances the easiest way to get your concern resolved will be to speak to your line manager (or lead clinician or tutor) But where you don't think it is appropriate to do this, or you do not feel able to raise it with them, you can contact one of the following people:

Freedom to Speak Up Guardian – 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, or if necessary, outside the organisation.

This person has been given special responsibility and training in supporting staff who want to speak up. 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
- Check that you have access to personal support since raising your concern may be stressful

You can contact the Trust's Freedom to Speak Up Guardian:

Lisa Ryder

07825 425410

lisa.ryder@nhs.net

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

Executive Director with responsibility for Freedom to Speak Up,

Sandra Jowett

0161 716 3033

sandra.jowett@nhs.net

If these channels have been followed and you still feel the matter is not resolved, or if you feel that the matter is so serious that you cannot discuss it with any of the above, please contact:

Chief Executive

Claire Molloy

0161 716 3006

claire.molloy1@nhs.net

Medical Director

Henry Ticehurst

0161 716 3025

henry.ticehurst@nhs.net

Executive Director of Nursing, Healthcare Professionals and Quality Governance

Clare Parker

0161 716 3059

clare.parker2@nhs.net

8. HOW SHOULD I SPEAK UP?

You can raise your concerns 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 WE WILL DO AND HOW WE WILL HANDLE THE MATTER

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.

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 seven working days. The central record will record the date the concern was received, whether you have requested confidentiality, a summary of the concerns and dates when we have given you updates or feedback.

10. INVESTIGATION

Where appropriate 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 usually 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 recurring.

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 only you and not others) identified during the investigation will be considered separately.

The investigation may need to be carried out under the terms of strict confidentiality i.e. by not informing the subject of the complaint until (or if) it becomes necessary to do so. This may be appropriate for example in cases of suspected fraud.

In certain cases, such as allegations of ill treatment of patients, suspension/exclusion from work may have to be considered immediately.

If the result of the investigation is that there is a case to be answered by any individual/s, the Conduct and Disciplinary Policy will be used, and in the case of Medical Staff the Maintaining High Professional Standards Framework will be referred to and used.

If your concern suggests a Serious Incident has occurred, an investigation will be carried out in accordance with the Serious Incident Framework.

11. INQUIRIES

If the issues you are speaking up about are very serious or complex, an inquiry may be held.

The Trust recognises the contribution the trade union(s) can make to an inquiry, and agrees to consult with the trade union(s) about the scope and details of the inquiry, including the implementation of the recommendations of the inquiry.

12. 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 give you an outline of how we plan to proceed in 20 working days. 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).

13. HOW WILL WE LEARN?

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

14. ADVICE AND SUPPORT (INCLUDING INDEPENDENT SUPPORT)

In addition to the Freedom to Speak Up Guardian you can find advice from the local organisations on the internet by following the link: <http://portal/Pages/Raising-concerns-in-the-workplace.aspx>. However, you can also contact the Whistleblowing Helpline for the NHS and social care, your professional body or trade union representative.

- Your trade union or professional association

- Public Concern at Work (PCAW): The Public Concern at Work is a charity and runs a helpline for NHS staff. Their lawyers can give you independent confidential advice at any stage about whistle-blowing. Telephone 020 7404 6609 or email helpline@pcaw.co.uk
- National Whistle Blowing Helpline: The National Whistle Blowing Helpline provides advice for staff on raising concerns and is also available for employers for advice about good policy and governance arrangements. For free, independent and confidential advice call **08000 724 725** or email enquiries@wbhelpline.org.uk.

15. SPEAKING UP TO AN OUTSIDE BODY

While we hope that this procedure gives you confidence and reassurance on the process and action that will be taken on you speaking up with us internally, we also recognise that there may be circumstances where you may want to report matters to a specific regulating body outside of the Trust.

This may be where you believe the local internal Trust response has been inadequate, you can also speak up with external organisations such as:

- National Guardian Freedom to Speak Up

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

- NHS Improvement for concerns about:
 - How NHS Trusts and Foundation Trusts are being run
 - Other providers with an NHS provider licence
 - 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 Counter Fraud Authority for concerns about fraud and corruption

A list of prescribed external regulators contact details is shown in **TAD_HR012_02.*

16. CONFIDENTIALITY OF INFORMATION

The Trust aims to be an open and reasonable organisation, but we still have legal responsibilities to keep information about others secure. Your Employment Statement of Terms and Conditions with the Trust includes a requirement for confidentiality in the use of information to which you have access. This covers medical, personal, financial and business information about people who use services, staff, other individuals and

organisations. If you choose to speak up to anyone external to the Trust, you must always keep this responsibility in mind. If there appears to be a conflict with the necessary reporting of your concern, you should seek advice to protect yourself and the Trust's obligations. This is particularly important if there is a risk of media attention and the Trust would actively encourage you to raise a concern internally in the first instance.

17. RECORDS

The Trust is required to provide evidence to regulatory bodies that staffs are aware of the Freedom to Speak Up Policy and know how to use it to report concerns. For this purpose the Freedom to Speak Up Guardian will maintain confidential data on the nature and number of concerns raised under this Policy and a brief account of the action taken.

18. ROLES AND RESPONSIBILITIES OF MANAGERS

Every manager within the Trust has a duty to ensure that staff are safe and can easily express any concerns they have through all levels of management of the Trust. Managers must ensure that any concerns brought to their attention are dealt with promptly and fairly. All those dealing with people expressing concerns should:

- Thank the staff member for the information
- Respect and heed legitimate staff concerns about their own position or career.
- Consider the concern fully and seriously
- Recognise and acknowledge that raising a concern can be a difficult experience for people and arrange for Occupational Health or other appropriate support where required.
- Determine whether there are grounds for concern and investigate if necessary as soon as possible.
- Seek advice where appropriate and always if the concern is potentially very serious or wide-reaching
- Manage expectations and respect promises of confidentiality
- Discuss reasonable timeframes for feedback with the member of staff
- Communicate relevant findings to others as required.
- Always remember that you may have to explain how you handled the concern
- Where possible, feedback to the whistle-blower any outcome and/or remedial action that is proposed but be careful not to infringe any rights or duties of confidentiality that may be owed to other parties
- If a whistle-blowing disclosure raises concerns about the safety of people using services – act in accordance with local multi-agency Safeguarding Children or Safeguarding Adults policies as appropriate
- For fraud or financial malpractice seek advice from the Local Counter Fraud Service. For patient confidentiality seek advice from the Trust's Caldicott Guardian (Medical Director)
- Safeguarding – seek advice from the local safeguarding representative

19. DEVELOPMENT, CONSULTATION AND REVIEW

The Policy adopts the standards of the National Raising Concerns policy (produced by NHS Improvement and the NHS England as a response to the Freedom to Speak Up Review). It has been developed in the context of the NHS constitution and the Public Interest Disclosure Act 1998 (PIDA) and has been combined with local best practice and guidance from external regulators and local organisations.

This policy has been fully negotiated in partnership with Human Resources, Staff side representatives and the Freedom to Speak Up Guardian, and formally approved by the Executive Management Team.

We will review the effectiveness of this policy annually, or sooner in light of further national guidance or legislation.

20. EQUALITY IMPACT ANALYSIS

As part of its development, this document was analysed to consider / challenge and address any detrimental impact the policy may have on individuals and or groups protected by the Equality Act 2010. This analysis has been undertaken and recorded using the Trust's analysis tool, and appropriate measures will be taken to remove barriers and advance equality of opportunity in the delivery of this policy / procedure.

21. FREEDOM OF INFORMATION EXEMPTION ASSESSMENT

Under the Freedom of Information Act (2000) we are obliged to publish our policies on the Trust's website, unless an exemption from disclosure applies. As part of its development, this policy was assessed to establish if it was suitable for publication under this legislation. The assessment aims to establish if disclosure of the policy could cause prejudice or harm to the Trust, or its staff, patients, or partners. This assessment has been undertaken using the Trust's Freedom of Information Exemption Guide, and will be reviewed upon each policy review.

22. INFORMATION GOVERNANCE ASSESSMENT

This Policy has been analysed to ensure it is compliant with relevant information law and standards as in place at the time of approval, and are consistent with the Trust's interpretation and implementation of information governance components such as data protection, confidentiality, consent, information risk, and records management.

Compliance will be reviewed against any changes to legislation / standards or at the next review of this document.

23. SAFEGUARDING

All staff have a responsibility to promote the welfare of any child, young person or vulnerable adult they come into contact with and in cases where there are safeguarding concerns, to act upon them and protect the individual from harm.

All staff should refer any safeguarding issues to their manager and escalate accordingly in line with the Trust Safeguarding Families Policy and Local Safeguarding Children/Adult Board processes.

24. MONITORING

The effective application of this policy / guideline, including adherence to any standards identified within will be subject to monitoring using an appropriate methodology and design, such as clinical audit.

Monitoring will take place on a biannual basis and will be reportable to the Quality Group via the Clinical Effectiveness and Quality Improvement Team.

25. REVIEW

This policy will be reviewed three-yearly unless there is a need to do so prior to this; e.g. change in national guidance.

26. REFERENCES

Public Interest Disclosure Act 1998

Equality Act 2010

Freedom of Information Act 2000