# Freedom to Speak Up:
Raising Concerns and Whistle-blowing Procedure

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<td>Lead Manager:</td>
<td>Trust Secretary</td>
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<td>Responsible Director:</td>
<td>Director of Quality and Patient Experience</td>
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<td>Date issued:</td>
<td>Jan 17</td>
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<td>Review date:</td>
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Raising Concerns and Whistle-blowing Procedure, v5, Jan 17
1 Introduction

1.1 All of us, at one time or another, have concerns about what is happening at work. Usually these concerns are easily sorted out by discussing them with your manager or discipline head. However, when they are about unlawful conduct, financial malpractice or dangers to staff, patients or the public, it can be difficult to know what to do.

1.2 You may be worried about raising such issues or may want to keep the concerns to yourself, perhaps feeling it's none of your business or that it's only a suspicion. You may feel that raising the matter would be disloyal to colleagues, managers or to the organisation. You may have already spoken up 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.

1.3 The Trust takes Openness and our Duty of Candour very seriously, and wants to support staff in being open and ensure they feel able to speak up and to raise concerns.

1.4 Our Chief Executive, senior leaders and the Board are committed to an open and honest culture. We will look into what you say and you will have access to the support you need.

1.5 Existing guidance on whistle blowing in the NHS, contained in HSC 1999/198, was issued in September 1999 following the coming into force of the Public Interest Disclosure Act 1998. The HSC states that every NHS Trust and Health Authority should have in place policies and procedures which comply with the Act. This procedure was updated in line with the national integrated whistleblowing policy for the NHS published in April 2016.
2.1 The purpose of this Procedure is to outline how all staff may deal with concerns about other staff and/or service provision, which may have an impact upon or threaten the wider public interest.

2.2 The procedure aims to improve good governance by assuring employees concerned about malpractice that it is safe to raise their concerns. It aims to encourage all staff to challenge others if they believe they are acting in an unethical way. It also makes clear that victimisation or retribution against those who use this procedure will not be tolerated.

2.3 The Procedure can also be appropriately used where concerns over staff safety, corporate governance or use of NHS resources are an issue. The objectives of the procedure are:

- The resolution of concerns at the lowest level possible to bring about a practical satisfactory solution
- The avoidance of breaches of confidentiality of patients
- The avoidance of inappropriate actions which would damage the Trust's ability to deliver healthcare to the patient population

This procedure should be read in conjunction with the following policies:

- Disciplinary Procedure
- Equal Opportunities Procedure
- Bullying and Harassment Procedure
- Data Protection and Confidentiality Procedure

2.4 Assurance to staff raising concerns under this procedure:

Your Safety

The Board and Chief Executive fully support this procedure. If you raise a genuine concern under this procedure, you will not be at risk of losing your job or suffering any form of penalty. Provided you are acting in good faith, it does not matter if you are mistaken. Of course, we cannot give this assurance to someone who raises a matter they know is untrue or malicious.

Your Confidence

We will not allow harassment or victimisation of anyone raising a genuine concern and will do everything we can to prevent this from happening. We realise that you may want to raise a concern in confidence under this procedure.
If you ask us to protect your identity by keeping confidence, we will not disclose it to any person unless they are directly involved in the investigation or we are required to by the police or courts of law. If we are not able to deal with the concern unless we reveal your identity (for instance, if your evidence is needed in court), we will discuss with you whether and how to continue. While anonymous reports can be considered, if you do not tell us who you are, it will be more difficult to look into this matter, protect your position and give you feedback.

3 Scope

3.1 This Raising Concerns at Work (Whistle Blowing) Procedure is mainly for occasions where the interests of others or of the Trust are at risk. If something is troubling you which you think we should know about or look into, please use this procedure. If you are unhappy about your personal position, please raise this with your manager or discipline head or Trade Union Rep. If you are not satisfied please use the Grievance Procedure.

3.2 What concerns can I raise?

You can raise a concern about risks, malpractice or wrongdoing you think is harming the service we deliver. 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 is covered in more detail in our Anti-Fraud and Bribery Procedure, which can be found here, under Corporate Policies and Procedures)
- a bullying culture (across a team or organisation rather than individual instances of bullying).
- Maltreatment of a patient by a member of staff
- Potential negligence by a member of staff
- Unaddressed health and safety issue

For further examples, please watch the Health Education England video, Raising Concerns.

3.3 Remember that if you are a healthcare professional you may have a professional duty to report a concern. If in doubt, please raise it. 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. That type of concern is better suited to our grievance policy.

3.5 Where concerns relating to possible fraud arise, please refer to the Counter Fraud and Corruption Procedure.

3.6 While the Trust cannot guarantee that it will respond to all matters in the way that you might wish, it will try to handle the matter fairly and properly. By using this procedure, you will help the Trust achieve this

4 Definitions

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5 Duties and responsibilities

5.1 Directors and Managers

All managers have a responsibility to ensure all staff have access to this procedure. They are responsible for:-

- taking concerns seriously seeking advice from professional colleagues (eg HR) as appropriate ensuring that concerns are dealt with in confidence
- advising staff that they may wish to consult their Trade Union Representative
- acting promptly and notifying the member of staff of the action taken documenting all issues raised and action taken at all stages
- ensuring the member of staff raising concerns is made aware of the confidential Staff Advice and Consultation Service

5.2 Freedom to Speak Up Guardian

The Guardian is available to support staff who are thinking about raising concerns, or have done so. The Guardian can provide support and advice,
and help ensure the concern is dealt with correctly. The Guardian also has a role in educating staff and promoting the culture of openness and will do so at training events and by reminders through staff communications. This person has been given special responsibility and training in dealing with whistleblowing concerns, and is an independent appointment within the Trust who reports to the CEO and so has the access to ensure that your concern is dealt with appropriately and you are well treated by the Trust. 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.

5.3 Human Resources

The Director of Human resources and his staff are responsible for providing professional advice and support to managers and/or staff when concerns are raised under this procedure; and is responsible for providing /accessing legal advice if an issue raised under this procedure raises legal risks for the Trust for matters of employment.

5.4 Director of Quality and Patient Experience

The Director of Quality and Patient Experience is responsible for publicising this procedure and monitoring the number of cases raised, and liaising with the chair of the JSCC.

The Director of Quality and Patient Experience is responsible for providing /accessing legal advice if an issue raised under this procedure raises legal risks for the Trust except for matters of employment.

5.5 Trust Secretary

_Raising Concerns and Whistle-blowing Procedure, v5, Jan 17_
The Trust Secretary is responsible for keeping an anonymised register of incidents of whistleblowing, and reporting on this annually to the Board of Directors. This is to assure the Board that the procedure is being followed and staff are supported in raising their concerns.

The Trust Secretary will also liaise with others listed in this section.

5.6 Named Board Members

On the Board we have an Executive Director and a Non-Executive Director, who have been named as contacts for staff who wish to raise concerns directly with a Board member. Their contact details are available from the Trust Secretary, or from the PA to the Chief Executive.

6 Procedures

6.1 How the Trust will handle the matter

Once you have told a manager of your concern, then the manager (in conjunction with appropriate colleagues) will look into it to see what action should be taken.

An internal investigation will be carried out in the first instance. The purpose of this will be to ensure the matter is dealt with sensitively and speedily as possible. Such an investigation will be used to determine if the matter needs to be considered under the Trusts Disciplinary and Grievance Procedures and what would be the appropriate level or stage of the procedure. The investigation will be carried out by the immediate line manager in the first instance, however if staff have raised concerns about their line manager or they are not confident with this approach then they should contact their director who in liaison with Director of HR will appoint a Trust official either from the same directorate or another directorate to investigate.

While the purpose of this procedure is to enable us to investigate concerns raised and take appropriate steps to deal with it, we will give you as much feedback as we properly can. If requested, we will confirm our response to you in writing. Please note, however, that we may not be able to tell you the precise action we take where this would infringe a duty of confidence owed by us to someone else.

When you raise the concern we might ask your views on how the matter might best be handled. If you have any personal interest in the matter, you should tell us. If your concern falls within another Trust procedure - such as the Grievance Procedure or Fraud Procedure – we will tell you.
6.2 How to raise a concern internally

Step One

If you have a serious concern, we hope you will feel able to raise it first with your manager or discipline head. This may be done orally or in writing. The aim should always be for your concerns to be resolved informally and as quickly as possible. Managers will therefore:

- Acknowledge and take concerns seriously
- Consider them fully and sympathetically
- Recognise that raising a concern can be a difficult experience for some staff
- Seek advice where appropriate
- Feedback findings/response to you
- Communicate relevant findings to others where appropriate

Concerns will be acknowledged immediately in writing. This informal stage should take no more than 10 working days to complete/resolve the issue(s).

Where your concern can be acted upon, action will be taken promptly and you will be notified quickly of the action taken. Where action is not considered practicable or appropriate, you will be given a prompt and thorough explanation of the reasons for this. You will also be told what further action is available under this procedure.

Step Two

If you feel unable to raise the matter with your manager or discipline head, for whatever reason, please raise the matter with the Director of Human Resources, or a Human Resources Business Partner.

Alternatively you can raise it with either of the named directors on the Board: the Director of Quality and Patient Experience, or our nominated Non-Executive Director. They will either deal with the matter personally or in consultation with other suitable persons.

He/she will attempt to resolve the issue(s) as quickly as possible, normally within 10 working days (20 working days from the first notification of the concern).
Step Three

If all or either of these channels have been followed and you still have serious concerns or if you feel that the matter is so serious that you cannot discuss it with either or the above, you can write to the Chief Executive.

He/she may choose to deal with the matter personally or in consultation with other suitable persons. The Chief Executive's action should take no longer than 10 working days to reach a conclusion (30 working days from the first notification of your concern).

Step Four

If you remain dissatisfied, you may refer the matter to the Chair of the Trust Board.

The Chair may choose to deal with the matter personally, or in consultation with other non-Executive Board Directors, or other suitable persons or bodies. A conclusion should be reached within 10 working days (40 working days from the first notification of your concern).

6.3 Independent advice and support

You may contact our Freedom To Speak Up Guardian, who can offer support and advice on the process and on progress with the issue you have raised. The Freedom to Speak Up Guardian is an independent appointment within the Trust who reports to the CEO and so has the access to ensure your concern is dealt with appropriately, and that you are treated well by the Trust.

Your Union/Professional Association; or The independent charity Public Concern at Work on 020 7404 6609. Their lawyers can give you free confidential advice at any stage about how to raise a serious concern at work.

7 External contacts

7.1 While we hope this procedure gives you the reassurance you need to raise such matters internally, we recognise that there may be circumstances where you can properly report matters to outside bodies, such as regulators or the police. Public Concern at Work, (or, if applicable,
your union) will be able to advise you on such an option and on the circumstances in which you may be able to contact an outside body safely.

7.2 The “Whistleblowing Helpline” is the NHS specific service to whom you can report concerns, or approach for advice. You can also contact our local Healthwatch service, which is an organisation which ensures the voices of people who use services are heard. And there is also the Care Quality Commission (CQC), who are the regulators of the NHS.

Public Concern At Work:
whistle@pcaw.org.uk or 020 7404 6609

Whistleblowing Helpline
08000 724 725 or enquiries@wbhelpline.org.uk

Healthwatch
http://www.healthwatchcamden.co.uk/

7.3 National Guardian Freedom to Speak Up

The new National Guardian 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.

7.4 Raising your concern with an outside body

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

- 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, see the CQC’s whistleblowing policy
• 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.

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 on page 8, who you 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.

8 Training Requirements

8.1 All staff will be advised of this procedure and the processes here in through induction and INSET.

8.2 The post holders of roles listed in section 5 should address any learning needs through their Personal Development Plan.

8.3 Human Resources will offer courses on raising concerns and being open, and publicise these to all staff.

9 Process for monitoring compliance with this Procedure

9.1 This procedure will be monitored by the Trust Secretary who will report annually to the Corporate Governance and Risk Work Stream of the Clinical Quality Safety, and Governance Committee of the number of occasions issues have been raised under this procedure. The Trust Secretary will keep a record of these incidents in the Register of Whistleblowing.

9.2 A summary report will be prepared for the Management Team of any issues raised under this procedure that result in a formal action plan being drawn up and implemented.
9.3 The JSCC will be asked to raise concerns about the operation of this procedure to management on an exception basis reporting to the Director of Quality.

9.4 The Trust Secretary will report annually to the Board of Directors on the Register of Whistleblowing via the Clinical Quality Safety, and Governance Committee.

10 References

http://researchbriefings.files.parliament.uk/documents/SN06490/SN06490.pdf

11 Associated documents

Incident reporting procedure.

Being Open and Duty of Candour procedure.

Anti-fraud and bribery procedure

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1 For the current version of Trust procedures, please refer to the intranet. 
*Raising Concerns and Whistle-blowing Procedure, v5, Jan 17*
**Appendix A : Equality Analysis**

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<th>Gervase Campbell</th>
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<tr>
<td>Position</td>
<td>Trust Secretary</td>
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The following questions determine whether analysis is needed

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<th>Question</th>
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<td>Is it likely to affect people with particular protected characteristics differently?</td>
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<td>Is it a major policy, significantly affecting how Trust services are delivered?</td>
<td></td>
<td>X</td>
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<tr>
<td>Will the policy have a significant effect on how partner organisations operate in terms of equality?</td>
<td>X</td>
<td></td>
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<td>Does the policy relate to functions that have been identified through engagement as being important to people with particular protected characteristics?</td>
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<td>Does the policy relate to an area with known inequalities?</td>
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<td>Does the policy relate to any equality objectives that have been set by the Trust?</td>
<td>X</td>
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<td>Other?</td>
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If the answer to *all* of these questions was no, then the assessment is complete.
Appendix B: A vision for raising concerns in the NHS

Source: Sir Robert Francis QC (2015) Freedom to Speak Up: an independent report into creating an open and honest reporting culture in the NHS.

Job Title  Governance Manager