

# **Freedom to Speak (Whistle Blowing) Policy**

## ***inc. How to raise and manage a concern***

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## CONSULTATION SCHEDULE

Name and Title of Individual	Groups consulted	Date Consulted
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Paul Winter - Deputy Director	Corporate Service & Governance Directorate	05/10/18

## RATIFICATION SCHEDULE

Name of Committee approving Policy	Date
Policy Committee	
Communication, Engagement, Equality & Employment Committee	

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3			
4			

## Impact Assessments – available on request

	Stage	Complete	Comments
Equality Impact Assessment			
Quality Impact Assessment			
Privacy Impact Assessment			Required

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## **1.0 Introduction**

Being able to raise concerns, without fear of recrimination and having them taken seriously and acted upon, is a vital requirement within the public sector and particularly within health care. This is one of the tools which will enable staff to ensure services remain safe and responsive to patient's needs.

## **2.0 Aims and objectives**

This policy will set out how staff can raise concerns and what they can expect of the North Staffordshire, Stoke on Trent, Cannock Chase, East Staffordshire, South East Staffordshire and the Stafford and Surrounds Clinical Commissioning Groups (the CCGs).

The aim of the policy is to improve the experience of whistleblowing in the NHS and to help to normalise the raising of concerns for the benefit of all patients.

## **3.0 Scope**

The policy applies to all staff, whether in a professional, clinical or administrative role working within the CCG including those on temporary contracts or acting as consultants.

## **4.0 Definitions**

A **whistle blower** is a person who exposes any kind of information or activity that is deemed illegal, unethical, or not correct within an organisation's code of conduct.

## **5.0 Principles**

The CCG wishes to promote an open organisational culture where employees are not only aware of how to report but also have confidence in the reporting procedures. The protection of whistleblowers from retaliation for reporting in good faith suspected acts of corruption and other wrongdoing is therefore integral to efforts to protect patients and staff and combat corruption, safeguard integrity, enhance accountability.

## **6.0 Roles and responsibilities**

6.1 The individual should raise any concerns regardless of the role they are in or what caused them to be concerned.

6.2 The CCG will appoint lead Managers, a lead Director and a lead non-executive Director to oversee the process and support staff.

6.3 The Governing Body 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 Governing Body board supports staff raising concerns and wants you to feel free to speak up.

## **7.0 Review date**

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

## **8.0 Policy development**

This policy is based on the NHS Improvement and NHS England response to the recommendations of the review by Sir Robert Francis into whistleblowing in the NHS. All NHS organisations were expected to adopt the policy as a minimum standard.

## 9.0 Raising a concern under the whistle blowing policy

### 9.1 Speak up – we will listen

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 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.

### 9.2 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 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 specialist - *Neil Mohan, 01509 604029, neil.mohan@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.

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. 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 (which are available on IAN).

### 9.3 Feel safe to raise your concern

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 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.

### 9.4 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.

#### 9.5 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, students, volunteers and governors.

#### 9.6 Who should I raise my concern with?

In many circumstances the easiest way to get your concern resolved will be to raise it formally or informally with your line manager (or lead clinician or tutor).

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.

If raising it with your line manager (or lead clinician or tutor) 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) *Tracey Revill, Governance Manager, tracey.revill@staffordsurroundscg.nhs.uk 01785 355802* – 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
- our risk management team [*Paul Winter Deputy Director of Corporate Services and Governance and Tracey Revill, Governance Manager*].

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

- Our executive director with responsibility for whistleblowing – Heather Johnstone
- The Lay Member with responsibility for whistleblowing – Jan Toplis **TBC**

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 reason you do not feel comfortable raising your concern internally, you can raise concerns with external bodies, listed on page 8.

The difference between raising your concern formally and informally is explained in our local process. In due course NHS England and NHS Improvement will consider how recording could be consistent nationally, with a view to a national reporting system.

Annex A sets out the process for how staff can raise concerns and Appendix B sets out the process for managing reports.

#### 9.7 How should I raise a concern

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.

### 10.0 CCG response

The CCGs 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 Annex 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 concerns and dates when we have given you updates or feedback.

## 11.0 CCG response

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### 11.1 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). 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.

### 11.2 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 (while respecting the confidentiality of others).

### 11.3 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, 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.

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

### 11.4 Raising your concern with an external 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

- NHS England for concerns about:
  - primary medical services (general practice) (until 31st March 2017 and this will be the CCGs)
  - 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.

### **12.0 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 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.

### **13.0 National Guardian Freedom to Speak Up**

The new National Guardian (once fully operational) can independently review how staff have been treated having raised concerns where CCGs, 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.



## **Annex A: Process for raising and escalating a concern**

### **1. 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.

### **2. 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:

*Tracey Revill*

*Email: [tracey.revill@stafforsurroundsccg.nhs.uk](mailto:tracey.revill@stafforsurroundsccg.nhs.uk)*

*Telephone: 01785 355802*

*Mobile: 07772 860269*

If Tracey Revill is unavailable Paul Winter, Deputy Director of Corporate Services & Governance should be contacted.

*Email: [paul.winter@northstaffs.nhs.uk](mailto:paul.winter@northstaffs.nhs.uk)*

*Telephone: 01785 854086*

*Mobile: 07725 214657*

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.

### **3. 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 [*chief executive, medical director, responsible officer, nursing director, nominated Lay Member*].

### **4. Step four**

You can raise concerns formally with external bodies

- NHS Improvement
- Care Quality Commission
- NHS England
- Health Education England for education and training in the NHS
- NHS Protect

## **Annex B: Standard Operating Procedure for Managing Whistle blowing concerns**

### **Receiving a concern**

1. If a member of staff raises concerns with you, establish whether they wish to remain anonymous or are prepared for their name to be used during any investigations and subsequent reports.
2. If the person wishes to remain anonymous you must ensure that you do not use their name, or information that could lead to their identification, in any communication, including those with more senior staff and executive directors. For concerns raised by email or in writing redact any information that may identify an individual before sharing with others
3. Record all the details of the event.
4. Ask the person whether they wish to receive a report at the end of the investigation

### **Informing the Freedom to Speak Up Guardian**

5. Without using any personal identifiable information, inform the Freedom to Speak Up Guardian of the issues raised.
6. At this point you can delete any emails (from both your inbox and deleted folders).
7. Records of the concerns raised should be maintained securely (in a Confidential folder).
8. The Freedom to Speak Up Guardian will make an anonymous entry onto Datex.

### **Investigate the Concerns**

9. Consider whether you are the appropriate person to complete the investigation and if not identify a suitable individual. You may seek advice from your line manager or others on how to manage the investigation but should not reveal the name of the whistle blower unless you have their consent to do so.
10. Share details of the concerns raised but do not reveal the name of the person raising the concerns unless you have their explicit permission to do so

### **Upon completion of the report**

11. If the whistle blower has asked for feedback, please arrange to meet with them to discuss the outcomes of the report and ascertain whether they feel all their concerns have been addressed.
12. The concerns should then be managed using stand procedures.

*Note: while the Whistleblowing policy is for the management of CCG staff raising concerns the principles and procedures can be adopted if appropriate if the CCG is contacted by a member of staff from another organisation.*