

# Freedom to Speak Up: Raising Concerns (Whistleblowing) Policy for the NHS

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## **EXECUTIVE SUMMARY**

### **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.

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.

We positively encourage an open and transparent approach to raising concerns.

### **This Policy**

The 'standard integrated policy', produced by NHS Improvement and NHS England, 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. All NHS organisations in England are expected to adopt this policy as a minimum standard to help to normalise the raising of concerns for the benefit of all patients.

Our local process has been integrated into the policy and provides more detail about how we will look into a concern.

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## 1.0 INTRODUCTION

- 1.1 We expect that anyone raising or considering raising concerns has the right to be treated with consideration, dignity and respect. Any victimisation for raising concerns will not be tolerated.
- 1.2 This policy is not intended to deal with any concerns relating to you personally, as these would be covered under separate policies.
- 1.3 This policy is designed to ensure everyone understands their responsibilities. In addition it ensures line managers deal with issues in a fair and consistent manner.
- 1.4 The policy aims to:
  - Resolve your concerns as sensitively, effectively and efficiently as possible
  - Encourage a proactive approach to the early recognition and effective management of concerns
  - Ensure the process of raising concerns is more effective.

## 2.0 WHAT CONCERNS CAN I RAISE?

- 2.1 You can raise a concern about any **risk, 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 colleagues
  - 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 rather than individual instances of bullying).
- 2.2 For further examples, please see the [Health Education England video](#).
- 2.3 Remember that if you are a healthcare professional you may have a professional duty to report a concern. **If in doubt, please raise it.** We must also be mindful of our duty of candour and our requirement to be candid with patients and families about mistakes.
- 2.4 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.
- 2.5 This policy is not for people with concerns about their employment that affect only them, these type of concerns have no public interest element – that type of concern would be considered under our Resolution and Accountability Framework.

### **3.0 FEEL SAFE TO RAISE YOUR CONCERN**

- 3.1 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 dissuade you from raising any such concern. Any such behaviour is a breach of Trust values as and, if upheld following investigation, could result in disciplinary action.
- 3.2 Provided you are acting honestly, it does not matter if you are mistaken or if there is an innocent explanation for your concerns.

### **4.0 CONFIDENTIALITY**

- 4.1 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.

### **5.0 WHO CAN RAISE CONCERNS?**

- 5.1 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, students, volunteers and governors.
- 5.2 You are encouraged to raise your concern immediately or as soon as possible, as doing so could prevent your concern becoming more serious, dangerous or damaging. Concerns can be raised with various people as mentioned in section six below. Concerns can also be raised informally via team meetings, supervision sessions and individual meetings.

### **6.0 WHO SHOULD I RAISE MY CONCERN WITH?**

- 6.1 In many circumstances the easiest way to get your concern resolved will be to raise it formally or informally with your line manager (or your lead clinician, tutor or another manager). We would positively encourage you to raise your concern informally in the first instance, where possible.
- 6.2 Where you don't think it is appropriate to do this, . raising it with your line manager (or lead clinician, tutor or another 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 – this is an important role identified in the Freedom to Speak Up review to act as an independent and impartial source of advice to colleagues at any stage of raising a concern, with access to anyone in

the organisation, including the chief executive, or if necessary, outside the organisation. More details about speaking up and who you can talk to can be found on [Flo](#)

- our risk and incident management team: [Risk Management Team](#)

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

- our executive director with responsibility for FTSU; Natalie Davies, 01622 211904, [natalie.davies1@nhs.net](mailto:natalie.davies1@nhs.net)
- our chief executive; Paul Bentley, 01622 211902, [p.bentley@nhs.net](mailto:p.bentley@nhs.net)

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

6.5 If for any reason you do not feel comfortable raising your concern internally, you can raise concerns with external bodies, listed [here](#).

## **7.0 HOW SHOULD I RAISE MY CONCERN?**

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

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

- Be as specific as possible
- If appropriate, keep a confidential diary of incidents e.g. dates, times, witnesses, what happened, who was involved etc
- Keep copies of any relevant correspondence e.g. reports, letters, memos, notes of meetings, text messages etc

## **8.0 WHAT WILL WE DO?**

8.1 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 as per Trust guidance. Guidance on Flo can be found [here](#).

8.2 We are committed to listening to individuals, learning lessons and improving patient care. On receipt the concern the FTSU guardian will record the concern 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.

## **9.0 INVESTIGATION**

9.1 Where you have been unable to resolve the matter quickly (usually within a few days) with your line manager or another appropriate 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.

- 9.2 We may decide that your concern would be better looked at under another process; for example, our Resolution and Accountability Framework. If so, we will discuss that with you.
- 9.3 Any employment issues (that affect only you and not others) identified during the investigation will be considered separately.
- 9.4 We do recognise and accept this is a difficult process for all parties involved and therefore you (and if another person is being complained about) can if you wish be accompanied at any meetings by either a workplace colleague or trades union representative. This entitlement is not a legal/ statutory right and therefore whilst we accept and acknowledge there may need to be some flexibility in timings of meetings to allow workplace colleagues to attend meetings, this should not unnecessarily delay the investigation/ review process.
- 9.5 Where an investigation indicates there has been misconduct of some kind a hearing may be convened, if so, this will be in accordance with the disciplinary procedure.

## **10.0 MOVING OR TRANSFERRING COLLEAGUES OR INDIVIDUALS**

- 10.1 In exceptional circumstances we may need to consider moving you and or others. We will only do this where we feel we have to and in discussion with you. Please be assured if we do move you it is likely it will be in order to protect:
- You
  - Another individual
  - Any witnesses
  - The integrity of any investigation
- 10.2 If you or other colleagues are moved or transferred you will be entitled to claim excess mileage and any additional travelling time will be considered working time.
- 10.3 It is expected that the receiving line manager (where this will be different) will support this move and the colleague throughout this process.

## **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).

## **12.0 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, 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.

### **13.0 BOARD OVERSIGHT**

- 13.1 The Board will be given high level information about all concerns raised by our colleagues and any other individuals raising concerns 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 individuals raising concerns and wants you to feel free to speak up.

### **14.0 REVIEW**

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

### **15.0 RAISING YOUR CONCERN WITH AN OUTSIDE BODY**

- 15.1 It is our sincere hope that this policy provides you with the necessary reassurance for you to raise your concern internally. However, if you don't feel you can raise your concern internally either informally or formally, you can raise your concern outside the organisation. If you choose this route your disclosure must be made with a ['prescribed person'](#).

### **16.0 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 who you can make a protected disclosure to.
- 16.2 For a disclosure to be protected it must be in the public interest, (for the public good) the disclosure must also be categorised as a 'Qualifying Disclosure', this means it must fit within one of six categories:
- Criminal offences
  - Failure to comply with legal obligations
  - Miscarriages of justice
  - Threats to health and safety of an individual
  - Damage to the environment or
  - A deliberate attempt to cover up any of the above
- 16.3 To help you consider whether you might meet these criteria, please seek independent advice from the national Speak Up Helpline or a legal representative.



- 16.4 We would positively encourage you to raise your concern internally in the first instance, however we accept that this may not be possible, that you feel you have already tried this and believe the concern still exists or you do not feel able to raise your concern internally. Concerns raised with the media or the police must be more than a suspicion and are only protected in certain circumstances. Please be assured, we would rather you raise your concern and that however you choose to raise your concern, you will not be penalised or victimised for doing so.

## 17.0 FURTHER ADVICE AND SUPPORT

- 17.1 The Trust is committed to achieving informal resolution to concerns raised wherever possible. In line with this approach a series of options have been put in place for you to be supported in raising concerns. The following support is available to all individuals affected.

- **Freedom to Speak Up (FTSU) Guardian**  
Will be impartial, empathetic and inclusive to make sure that you are treated fairly throughout any resulting investigation or review. They will be highly visible and accessible, they will listen to your concerns, advise and where necessary signpost. The FTSU Guardian is able to contact the National Guardians office direct for advice or if they feel the Trust is failing to act on concerns raised or the outcome of investigations.
- **Occupational Health (OH)**  
An OH referral may be helpful if you feel your health is suffering as a result of raising concerns, particularly where adjustments to your role may support your health and wellbeing. Your line manager can refer you and will talk to you about support they can provide and the adjustments recommended by OH.
- **Counselling**  
We provide a confidential external service for colleagues. This service offers confidential face to face counselling sessions. Details can be found on [Flo](#)
- **Employee Relations and Corporate Business Partnering Team**  
Any colleague needing HR or employee relations advice can contact [the team](#).  
[Details can be found on Flo](#)
- **Staff Networks**  
We have a number of staff networks and they are able to provide support. Details can be found on [Flo](#)
- **Out of hours / On Call Manager / Director**  
If you need to raise a concern out of hours, please call the on call manager for your service, or the on call Director. Their details can be found on our [Flo](#)
- **Trade Unions**  
We recognise the important role trade unions play in addressing concerns and will work in partnership to address these issues. You can get confidential support or advice by contacting your union representative. Details about staff side and who your local representative can be found on [Flo](#)

- **External advice**

The Speak Up helpline provides free and confidential advice to workers and colleagues within the NHS and Social Care. Website: <https://speakup.direct/>  
Tel: 08000 724725.

You can also contact Protect, a free and confidential whistleblowing advice line on 020 3117 2520 or visit their website: <https://protect-advice.org.uk/>

## **18.0 TRAINING AND AWARENESS**

### **18.1 We will make the following training provisions:**

- New colleagues will be made aware of this policy in induction
- Existing colleagues will have access to raising concerns resources
- All colleagues will be made aware of this policy through Flo and communication bulletins
- Managers will be provided with training, support and advice in line with the Trust's Training Needs analysis

## **19.0 ROLES AND RESPONSIBILITIES**

### **19.1 Trust Board / Directors**

19.1.1 Have a responsibility to encourage you to raise your concerns internally in the first instance and that it is safe to do so; to make sure that no individual raising concerns will suffer any detriment and that any concerns are appropriately and proportionately dealt with as efficiently and effectively as possible.

19.1.2 Have a responsibility to promote our expectations and behave in a way that demonstrates our commitment to open dialogue and communication.

19.1.3 Have a responsibility to make sure we are all aware of our responsibilities with regards to raising concerns, promoting campaigns on how to raise concerns and providing a culture where you have confidence in being able to raise concerns or issues without fear of recrimination.

19.1.4 We will take all reasonable steps to ensure the removal of any unwarranted danger and ensure the safety and wellbeing of patients, service users, colleagues, workers, agency colleague, trainees, contractors and volunteers.

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### **19.2 Heads of Service / Managers/ Team Leaders**

19.2.1 Have a responsibility to make sure they are aware and comply with this policy and make sure the ability and opportunity to raise concerns is embedded into routine discussions. This includes for example individual meetings, problem solving, team meetings, service meetings, performance reviews, quality assessments, training and development so there is an effective system in place to resolve concerns at the earliest opportunity.

- 19.2.2 Must set a positive example by making sure they treat all colleagues with dignity and respect and be aware of how their behaviour may affect other people.
- 19.2.3 Must encourage a culture where you feel able to raise your concerns without fear of recrimination.
- 19.2.4 Must treat any concerns or issues seriously, dealing with any complaint(s) as effectively and efficiently as possible. Remain objective and focus on the concern being raised, not on the individual raising the concern. Escalate any concerns and seek advice where necessary and appropriate.
- 19.2.5 Make sure that concerns raised are not ignored, even if they believe you are mistaken in raising the concern, and ensure feedback is provided to you.
- 19.2.6 Make sure that you are supported when raising your concern.
- 19.2.7 Make sure that you are treated with dignity and respect and be aware of how their own behaviour may affect other people and the achievement of both service aims and a culture of openness.
- 19.2.8 Have an obligation to raise and manage any concerns they have in relation to this policy.
- 19.2.9 Must maintain the confidentiality of the person who speaks up and those named in the concern, subject to exceptions as set out in section 6.1 of this policy.
- 19.2.10 Support the investigation process by freeing up the time of any named investigator, including re-assigning clinical or other duties, in order to make sure that investigations are carried out in a timely way.

### **19.3 Freedom to Speak Up (FTSU) Guardian**

- 19.3.1 Has a responsibility to encourage and empower a culture for you to feel safe and comfortable in raising concerns and that you are not disadvantaged by doing so, particularly people with protected characteristics.
- 19.3.2 Has a responsibility to report to the Board any concerns, issues or trends relating to raising concerns and assist in the development of any necessary action plans in partnership with Staff Side and directorates.

### **19.4 Employee Relations**

- 19.4.1 Have a responsibility to make sure that the policy is applied fairly and consistently.
- 19.4.2 Advise managers where colleagues/individuals have raised concerns; respecting confidentiality where requested.
- 19.4.3 Advise managers on the application of the policy and provide guidance to managers throughout any process or resulting investigation into allegations.
- 19.4.4 Support the Freedom to Speak Up Guardian, by providing monitoring data of incidences including those where the individual was mistaken, to help identify

themes and trends.

## **19.5 Colleagues**

- 19.5.1 Have a responsibility to make sure you are aware of and comply with this policy.
- 19.5.2 Treat all colleagues with dignity and respect and be aware of how your own behaviour may affect other people and the achievement of service aims and a culture of openness.
- 19.5.3 Be aware and responsible for how your own behaviour might be perceived.
- 19.5.4 Be supportive of colleagues who may have raised concerns regardless of whether the concern is mistaken.
- 19.5.5 Have an obligation to maintain standards of care and raise any concerns you have either about yourself or others which you believe may be in the public interest (for the public good).

## **19.6 Investigating Officers**

- 19.6.1 The Investigating Officer will be responsible for conducting a proportionate, thorough and independent investigation.
- 19.6.2 Ensuring the terms of reference for the investigation as supplied by the commissioning manager are clear, proportionate and fully met.
- 19.6.3 Providing a report of findings and supporting evidence to the case manager on conclusion of the investigation and presenting the report to any resulting hearing.
- 19.6.4 Conduct an investigation in a timely manner, considering the impact on the person raising the concern as well as those implicated.

## GOVERNANCE SCHEDULE

<b>Governance Group responsible for developing document</b>	HR, OD and Communications, FTSU Guardian
<b>Circulation group</b>	Flo, Policy Distribution
<b>Authorised/Ratified by Governance or Board Committee</b>	Trust Board
<b>Authorised/Ratified On</b>	29 September 2016
<b>Review Date</b>	March 2023
<b>Review criteria</b>	This document will be reviewed prior to review date if a legislative change or other event dictates.

## Key References

Raising Concerns at Work – Whistleblowing guidance for workers and employers in Health and Social Care
Freedom to speak up: Raising concerns (Whistleblowing) Policy for the NHS – April 2016
Public Interest Disclosure Act (PIDA)
Speak up for a Healthy NHS – how to implement and review whistleblowing arrangements in your organization
Equality Act 2010; <a href="http://www.legislation.gov.uk">www.legislation.gov.uk</a>
Health and Safety at Work Act 1974; <a href="http://www.legislation.gov.uk">www.legislation.gov.uk</a>

## Related Policies/Procedures

Title	Reference
Disciplinary Policy	HR004
Resolution and Accountability Framework	
Being Open Policy (incorporating Duty of Candour)	IML004

## Document Tracking Sheet

Version	Status	Date	Issued to/Approved by	Comments/Summary of Changes
3.0	Updated/ draft	July 2016	Staff side	Clarified role of Staff Networks
4.0	Final	September 2016	KCHFT Board	APPROVED
4.1	Final	March 2017	n/a	Updated contact details
4.2	Final	December 2017	n/a	Minor amendments
4.3	Final	April 2018	HR Team administrator	NHS Protect changed to NHS Counter Fraud Authority
4.4	Updated/Draft	May 2021	SPF	Review and Update of Policy

4.5	Updated	January 2022	n/a	Updated contact details
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## EQUALITY ANALYSIS

<p><b>Has an Equality Analysis (EA) been completed?</b></p> <p>No <input type="checkbox"/></p> <p>The document will have no impact on people with any of the nine protected characteristics</p>
<p>Yes <input type="checkbox"/></p> <p>The Equality Analysis for this policy is available upon request by contacting the Engagement Team via <a href="mailto:kchft.equality@nhs.net">kchft.equality@nhs.net</a>.</p>
<p><b>NOTE:</b></p> <p>Kent Community Health NHS Foundation Trust is committed to promoting and championing a culture of diversity, fairness and equality for all our colleagues, patients, service users and their families, as well as members of the public.</p> <p>Understanding of how policy decisions, behaviour and services can impact on people with 'protected characteristics' under the Equality Act 2010 is key to ensuring quality and productive environments for patient care and also our workforce.</p> <p><b>Protected characteristics:</b> Age, Disability, Gender Reassignment, Marriage and Civil Partnership, Pregnancy and Maternity, Race, Religion and Belief, Sex, Sexual Orientation.</p> <p>An equality analysis should be completed whilst a policy is being drafted and/or reviewed in order to assess the impact on people with protected characteristics. This includes whether additional guidance is needed for particular patient or staff groups or whether reasonable adjustments are required to avoid negative impact on disabled patients, carers or colleagues.</p> <p><b>Equality Analysis</b> Liaise with the Engagement Team if support is required at <a href="mailto:kchft.equality@nhs.net">kchft.equality@nhs.net</a></p>

## MONITORING COMPLIANCE AND EFFECTIVENESS OF THIS POLICY

To ensure compliance with legislation and to ensure the procedure is operated fairly and consistently, records of all raising concerns cases will be kept by the Trust's Freedom the Speak Up Guardian, including any action taken, the reasons and the outcome. This will also include cases raised where the person raising the concern was mistaken.

Formal cases will be monitored by the Chief Executive, with support from the FTSU Guardian and reported to the Board at least every 6 months. Any issues arising will form part of the review process and will be discussed with the Executive Team, Director of Workforce, Staff Partnership Forum and FTSU Guardian. It will also be used for the development of further organisational learning and action plans.

The findings from the annual staff survey related to raising concerns will also form part of

the same review process towards improvements in both the policy itself and the application of it.

**Monitoring Matrix:**

<b>What will be monitored?</b>	<b>How will it be monitored?</b>	<b>Who will monitor?</b>	<b>Frequency</b>
Effectiveness of the policy	Staff survey results  Analysis of raising concerns claims  Sickness trends  Analysis of the friends and family test  Feedback on the policy  Feedback from FTSU Guardian, Staff Side and staff networks	FTSU Guardian, with support from Employee Relations	Annually