## FREEDOM TO SPEAK UP - WHISTLEBLOWING - STAFF CONCERNS ABOUT PATIENT CARE AND OTHER HEALTHCARE RELATED MATTERS

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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.

This policy
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. It is expected that this policy (produced by NHS Improvement and NHS England) will be adopted by all NHS organisations in England 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/adheres to the principles of this policy and provides more detail about how we will look into a concern.

What concerns can I raise?
You can raise a concern about 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 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: contact the Local Fraud Office on ext:2963 or your LCFS Mark Kidd: on 07528970251 or mark.kidd@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

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.

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.

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.

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)\(^1\). 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\(^2\):

- **Our Freedom to Speak Up Guardian** (or equivalent designated person) Nick Finch (telephone 01284 712828 email nick.finch@wsh.nhs.uk) – 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.
- Any of the staff supporter’s identified on the trust intranet web page; http://staff.wsha.local/Intranet/Documents/Q-Z/StaffSupporters/Staffsupporters.aspx
- **Our Patient Safety Team**, led by Paul Morris, Head of Patient Safety and Clinical Effectiveness, 01284 713057 or email paul.morris@wsh.nhs.uk

If you still remain concerned after this, you can contact:
- **Our executive director** with responsibility for whistleblowing: Jeremy Over, Executive director of Workforce & Communications. Jeremy.over@wsh.nhs.uk
- **Our chief executive** Stephen Dunn Stephen.Dunn@wsh.nhs.uk
- **Our non-executive director** with responsibility for whistleblowing Gary Norgate norgategary@gmail.com

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 5.

\(^1\) 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.

\(^2\) Annex A sets out an example of how a local process might demonstrate how a concern might be escalated.
Advice and support
Details on the local support available to you can be found here;

http://staff.wsha.local/Intranet/Documents/Q-Z/StaffSupporters/Staffsupporters.aspx

However, you can also contact the Whistleblowing Helpline for the NHS and social care, your professional body or trade union representative.

How should I raise my 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.

What will we do?
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 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.

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 incident¹). 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.

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).

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.

**Board oversight**
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 wants you to feel free to speak up.

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

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

**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

- **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.

**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 5, 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.

**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 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.
### Appendices

- **Appendix A** – Example process for raising and escalating a concern
- **Appendix B** – A vision for raising concerns in the NHS
- **Appendix C** – Additional West Suffolk NHS Foundation Trust Process
- **Appendix D** – Procedure for managing allegations of abuse against children and vulnerable adults.
- **Appendix E** - you will find further guidance on how to raise your concern.

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Appendix A: Example process for raising and escalating a concern

Step one
If you have a concern about a risk, malpractice or wrongdoings 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.

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: Nick Finch
Email: Nick.Finch@wsh.nhs.uk Telephone: 01284 712828
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:
- nursing director: Rowan Proctor, rowan.proctor@wsh.nhs.uk,
- chief executive: Stephen Dunn stephen.dunn@wsh.nhs.uk
- medical director: Nick Jenkins nick.jenkins@wsh.nhs.uk (responsible officer), or
- Gary Norgate gary.norgate@bt.com (nominated Non-Executive Director).

Step four
You can raise concerns formally with external bodies [relevant list of prescribed bodies to be provided, similar to that on page 5].
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.*
Appendix C: Additional West Suffolk NHS Foundation Trust Process

1. **POLICE AND LOCAL COUNTER FRAUD SPECIALIST INVOLVEMENT**

If the police and/or the Trust local counter fraud specialist are simultaneously conducting their own enquiries, the Manager investigating the concern for the Trust should make every effort to conduct his/her own investigation in co-operation with theirs. If there seems to be a danger that investigations by the Trust may prejudice police or local counter fraud specialist enquiries or court proceeding, the Trust should consult the police, the local counter fraud specialist and their own legal advisors before proceeding. The police/local counter fraud specialist should not have a veto on investigation that the Trust properly believes should be conducted at the same time as police/local counter fraud specialist enquiries. If the Trust and the police/local counter fraud specialist disagree on the action the Trust proposes to take, the matter should be referred to the Department of Health.

If the police/local counter fraud specialist decides not to institute criminal proceedings, Managers must themselves consider what further investigation and action is needed; in particular, whether disciplinary action is necessary. If the police/local counter fraud specialist decides not to proceed, it does not follow that the Trust has no need to act. In deciding what to do, Managers should at all times consider how best to safeguard patients’ interests. Court verdicts depend on the jury being ‘sure beyond all reasonable doubt’ that an offence was committed. NHS Trust need not use such a strict burden of proof when determining how best to protect patients. The Trust local counter fraud specialist may as a result of his/her work present evidence to Managers to support disciplinary action.

2. **RIGHTS OF STAFF AGAINST WHOM A CONCERN HAS BEEN RAISED**

Any member of staff against whom a complaint is made must be given the opportunity to explain his or her actions. Before doing so, staff should be told of their right to consult the Trade Union or Professional Association to which they belong. Staff are entitled to know the findings of any investigations in which they are involved. If they are dissatisfied with the outcome or the way in which the complaint has been handled, they may appeal, using the Trust’s Grievance Procedure.

Managers should take care to see that there is no confusion between the operation of this concerns procedure and the disciplinary procedure. If, in the course of an investigation into a complaint, it begins to emerge that counselling or disciplinary action may be needed, the Manager conducting the investigation will again inform the member of staff concerned of his or her right to be represented.

Managers must not permit investigation of concerns to drift imperceptibly into disciplinary proceedings. They must therefore inform staff of the status of any interviewing or questioning, and disciplinary procedure interviews must only take place when fair and reasonable conclusions can be drawn from the investigations which have taken place.

3. **RIGHTS OF STAFF RAISING THEIR CONCERNS**

Staff who raise a concern about patient care are also entitled to know the outcome of their concerns. If they are dissatisfied with the outcome, or the way in which their concern has been handled, they should be referred to the guidance in the main procedure for staff concerns about patient care. It is very important that staff who raise concerns on behalf of patients in good faith should be free from any victimisation or harassment. Managers at all levels must take responsibility for ensuring that staff who express concern about standards of care do not suffer as a result.
Staff who raise a concern should be informed of their right to be represented or aided by a representative of their Trade Union or Professional Association during the investigation and any disciplinary proceedings resulting from their concern. They should also be told of their right to have a friend, a tutor or a Trade Union Representative to advise or support them at any meeting or interview at which their concern is discussed or investigated.

4. **KEEPING EVERYONE INFORMED**

When allegations involve patients, the Chief Executive or the Director of Operations will write to them, or where this is impracticable, their carers/representatives, to inform them of the nature of the allegations. Once the investigation and any resulting disciplinary proceedings have been concluded, he or she will write to inform the patient/carer/representative of the outcome. If the follow-up of the concern is protracted the patient/carer/representative should be kept up to date with developments. Likewise, in the case of non-patient concerns, the staff involved and their trade union/professional association representatives should be kept up to date with developments.

5. **INFORMING PROFESSIONAL ORGANISATIONS**

Employment in certain professions, which are regulated by statutory bodies is conditional upon continuing registration (e.g. GMC, NMC, HPC). The Trust has a duty to report appropriate incidents of serious misconduct or serious performance issues, involving such staff, to the relevant regulatory body. This duty shall be exercised quite separately to any disciplinary action by the Trust and as with criminal charges; the Trust is not obliged to await the outcome of any processes undertaken by the Regulatory Bodies, before taking its own disciplinary action.
ARRANGEMENTS FOR MANAGING ALLEGATIONS OF ABUSE AGAINST PEOPLE WHO WORK WITH CHILDREN AND VULNERABLE ADULTS OR THOSE WHO ARE IN POSITIONS OF TRUST

Introduction

These guidelines outline the process for dealing with allegations of abuse made against a person who works with children and young people in accordance with ‘Working together to safeguard Children’, Appendix 5, ‘A Guide to interagency working to safeguard and promote the welfare of children 2006’ and ‘Safeguarding children and safer recruitment in Education 2007’. It also outlines the process for dealing with allegation of abuse in relation to vulnerable adults in accordance with “No Secrets” (2000) and the Suffolk Interagency policy for the protection of vulnerable adults.

Scope

This procedure covers employees, volunteers and regular visitors who work with children or who are in a position of trust.

It covers conduct either at work or in the individual’s personal or professional life that might indicate their unsuitability to work with children and vulnerable adults, i.e. they may have:-

a) Behaved in a way that has harmed or may have harmed a child or vulnerable adult.

b) Possibly committed a criminal offence against or related to a child or vulnerable adult.

c) Behaved in a way that indicates he/she is unsuitable to work with children or vulnerable adults.

Process

The manager receiving such an allegation should report it to the Executive Director of Workforce and Communications or designated officer immediately.

The Executive Director of Workforce and Communications or designated officer will consider the following issues.

i) Could the allegation become a police investigation of a possible offence?

ii) Could it be subject to an enquiry and assessment by Children’s Social Care about whether a child is in need or protection or need of services? Or in the case of a vulnerable adult that may require protection, does it require the involvement Adult Safeguarding Officers or Social Services.

iii) Could it be subject to an enquiry by those officers responsible for Adult Safeguarding or Social Services concerning the protection of a vulnerable adult?

iv) Could it potentially be the subject of a disciplinary action under the Trust’s Disciplinary Policy and Procedure?

If the allegation meets any of the criteria set out in i, ii or iii above then the Executive Director of Workforce and Communications will contact the local authority designated officer within 1 working day of having received the allegations. Contact details of the Local Authority Designated Officer are held in the HR and Communications Directorate. Out of hours e.g. weekend – to contact Executive Director on call.
Suspension

Suspension should be considered in accordance with the Trust’s Disciplinary Policy and Procedure and advice should be sought from a senior HR Officer.

Initial Consideration

The Executive Director of Workforce and Communications will discuss the case with the local authority designated officer and where necessary obtain additional information.

In cases where the local authority designated officer considers there may be grounds for the allegation and there is a case where a child is suffering or likely to suffer, they will discuss the case further with the Police.

These discussions will also involve the Trust’s Executive Director of Workforce and Communications or designated senior officer.

Action Following Consideration

Disciplinary Action

If following consideration by the Executive Director of Workforce and Communications and the local authority designated officer and the police, it is determined that the allegations does not involve a possible criminal offence, the Executive Director of Workforce and Communications will revert to the Trust’s Disciplinary Policy and Procedure.

If no formal disciplinary action is required, appropriate action will be taken by the Trust within 3 working days.

If a Disciplinary Hearing is required and no further investigation is necessary, a hearing should be convened in accordance with the Trust Disciplinary Policy and Procedure (subject to availability of all relevant parties).

If further investigation is required the Executive Director of Workforce and Communications will discuss this with the local authority designated officer to determine the most appropriate person to undertake the investigation.

In some cases it may be agreed that someone independent from the Trust may be the most appropriate person to conduct the investigation. In such cases the investigating officer will aim to provide a report within 10 days to the Trust.

On receipt of the report the Executive Director of Workforce and Communications will consider if a hearing is required and if so this should be convened in accordance with the Trust Disciplinary Policy and Procedure.

If the case is also subject to a children’s social care enquiry then their evidence should also be considered when determining disciplinary action.

At all points during the investigation the local authority designated officer should liaise with the Trust to provide advice and support.

Cases subject to police investigation
In such cases the police will aim to complete their enquiries as quickly as possible.

They will set a review date to assess progress which will include consultation with the Crown Prosecution Service to decide whether or not to proceed with the investigation. Wherever possible the review will be within 1 month of the initial meeting.

If the police decide to proceed with further investigations, additional progress review dates will be established.

Keeping the employer informed

The police should inform the Trust and the local authority designated officer straightaway when:

a) A criminal investigation and any subsequent trial has been completed.
b) When a decision has been made to close an investigation without charge or further action.
c) Not to prosecute following charges being made.

In these circumstances the local authority designated officer will discuss the case with the Executive Director of Workforce and Communication to determine if disciplinary action is appropriate.

In cases where it is determined that disciplinary action is appropriate, the police and social care will wherever possible pass relevant information to the Trust.

If the person is convicted of an offence the police will inform the Trust immediately.

Action on Conclusion of a Case

If an allegation is substantiated and the person is dismissed, or the local authority or employer ceases to continue with the persons services, or the person resigns or ceases to provide their services, the local authority designated officer should discuss with the Director or HR and Communications whether the individual should be referred to the DsES for consideration of List 99 action or to the Protection of Children Act list or the Protection of Vulnerable Adults List.

If it is appropriate to make a referral this should be done within 1 month. If the individual is subject to registration or regulation by a professional body or regulator, the local authority designated officer should advise on whether a referral to the appropriate body is required, and the form and content of that referral.

Return to Work following Suspension

Employees returning to work following allegations of this nature will require support in order for their return to be successful. The provision of mentor and phased return may be appropriate.

Review of Cases

The Executive Director of Workforce and Communications and the local authority designated officer will review cases to identify any actions that can be put in place that will improve the safeguarding of children or the protection of vulnerable adults.
The name of the staff member raising the concern will remain confidential at all times (unless permission is given to share).

The initial Trusted Partner will be the only person who will know the name of the staff member (it will not be shared with the 2nd Trusted Partner without permission).

It is important that feedback is given at the earliest opportunity.

- It is to be expected that the time-line for escalation/action and feedback will be dependent on the seriousness of the concern raised.
- All concerns raised must be fed back to the staff member, even if progress is slow.