FREEDOM TO SPEAK UP: raising concerns (whistleblowing) policy for the NHS

Locally adapted

November 2018
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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. 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. This policy (produced by NHS Improvement and NHS England) has been adopted by East Cheshire NHS Trust and 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 this policy.

**East Cheshire NHS Trust - Roles and Responsibilities**

**Trust Board**
Responsible for creating the trust’s freedom to speak up vision and strategy, demonstrating and promoting its commitment to support staff to openly raise concerns through its governance structures and processes and engagement opportunities with staff, including walkabouts. All board members will act as leadership role models, promoting openness, transparency and responsiveness in line with requirements of the Care Quality Commission’s ‘well-led’ domain.

**Senior Independent Non-executive**
Acts as the Non-executive Champion for Speaking Up and holds the chief executive, Director of Corporate Affairs and Governance and the board to account for implementing the trust speaking up strategy. They provide board challenge in relation to the creation of an organisational culture that responds to staff feedback and focuses on learning and continual improvement.

**Chief Executive**
Has overall accountability for ensuring that the trust has a Speaking Up Strategy, policy and process in place and that board assurance is provided by the executive lead for speaking up in line with trust governance arrangements.

**Director of Corporate Affairs and Governance**
Has board delegated accountability for speaking up and provides board assurance in relation to the trust speaking up strategy, policy and process. Ensures that an annual
review of the effectiveness of the trust’s speaking up strategy, policy and associated arrangements is undertaken and provides board leadership and support for the trust’s Freedom to Speak Up Guardian.

**Director of Human Resources and Workforce Development**

Has delegated board accountability for ensuring the trust has an effective HR function and provides assurance on the effective implementation the trust HR and OD strategy. Ensures that workers have the right knowledge, skills and capability to speak up and that managers listen well and respond to issues raised effectively. They ensure that that trust HR policies and processes reflect the rights of staff to be supported to raise genuine concerns in line with this policy at any stage.

**All Directors**

Have accountability for ensuring that this policy is implemented within their service areas, and that non-compliance is appropriately addressed. They will provide leadership in relation to speaking up across their directorate, ensuring that those who speak up are responded to in a timely and appropriate manner and that they are safeguarded from any form of detriment as a result of speaking up in good faith.

**Deputy Director of Corporate Affairs and Governance**

Will act as the trust Freedom to Speak up Guardian and, in doing so; operate independently, impartially and objectively, whilst working in partnership with individuals and groups throughout their organisation, including the senior leadership team. They will help to:

- Protect patient safety and the quality of care
- Improve the experience of workers
- Promote learning and improvement

By ensuring that:

- Workers are supported in speaking up
- Barriers to speaking up are addressed
- A positive culture of speaking up is fostered
- Issues raised are used as opportunities for learning and improvement

The deputy director is also responsible for providing confidential briefings on speaking up investigations and associated learning and producing assurance reports on the implementation of the trust’s speaking up strategy and policy in line with trust governance arrangements. They will escalate to the trust board level indication that staff have suffered detriment as a result of speaking up. They represent the trust at the North West Regional Guardian meetings.

**Deputy and Associate Directors**

Will act as Lead F2SU Ambassadors for their directorates and are responsible for ensuring that processes are in place to promote speaking up as business as usual. They will act as role models, encouraging and supporting staff who wish to raise concerns openly, and in
good faith, can do so without fear of recrimination. They will take positive action to address barriers to speaking up and any evidence of detrimental treatment of staff who have spoken up. They will engage with the trust’s Guardian to ensure they are briefed on cases that have been locally resolved and ensure that any associated improvement action taken is shared, so that others may learn.

Managers/ Supervisors/ Matrons
Are responsible for promoting and implementing the trust speaking up strategy and policy within their service areas. They will act as positive role models, proactively seeking feedback on how services, team working and behaviours can be improved for the benefit of patients and staff. They will encouraging staff to raise concerns openly and take action where there are perceived barriers and where evidence of detriment following this is identified.

Freedom to Speak Up Ambassadors
Staff who have volunteered to be Freedom to Speak up Ambassadors are responsible for supporting, and where appropriate sign-posting, staff within their service areas to raise concerns in line with this policy. They are not responsible for investigating the concerns themselves, but must ensure that the concerns are escalated to those with appropriate authority to investigate and resolve the concerns locally wherever possible. They should seek advice from the trust’s Guardian where required, provide feedback to them on their activities in line with required reporting processes and take action to escalate staff reports of detriment as a result of raising concerns.

All Staff
All staff, (including learners, volunteers, contractors), should speak up with confidence where they have a genuine and honest concern to raise under this policy. They must actively promote and behave in line with the values of the trust;

- Treat each other with respect and dignity
- Commitment to quality care
- Show compassion
- Improve lives
- Make everyone count
- Work together for patients

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):

(a) unsafe patient care

(b) unsafe working conditions

(c) inadequate induction or training for staff
(d) lack of, or poor, response to a reported patient safety incident

(e) suspicions of fraud (which can also be reported to our local anti-fraud specialist):
   Anti-Fraud Specialist Roger Causer on 0151 285 4675 or 07768131806

(f) 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 and Disputes Policy available via HR Direct or the HR team.

**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. Concerns raised that are out with of the scope of this policy are not deemed to be protected disclosures and may be disclosed to an appropriate person. Staff who make disclosures which are perceived to have not been in good faith or are not in keeping with trust values will be managed under the appropriate HR policy.

**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). 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:

(a) Trust Freedom to Speak Up Guardian: Mrs Lorraine Jackman Deputy Director of Corporate Affairs and Governance 01625 663175 or Email ecn-tr.SpeakingUpForSafety@nhs.net

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. See also Infonet page:

http://nww.eastcheshire.nhs.uk/Freedomtospeakup/default.aspx

You can also contact:

(b) our Executive Director with responsibility for whistleblowing:

Mrs Julie Green, Director of Corporate Affairs and Governance
Independent Board Member Tel 01625 661501

Mr John Wilbraham, Chief Executive Tel 01625 661501

Mrs Lynn McGill, Chairman of the Trust - Tel 01625 661501

Or email ecn-tr.SpeakingUpForSafety@nhs.net

Concerns regarding the Director of Corporate Affairs and Governance or their deputy may be raised via the Chief Executive or Chairman

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

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
(c) You can also report your concern via the module on the DATIX system, using the following link:


If for any reason you do not feel comfortable raising your concern internally, you can raise concerns with external bodies, listed on page 7.

Advice and support
Details on the local support available to you can be found via Whistleblowing section of HR Direct. 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 incident\(^3\)). 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.

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

**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:

i. **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

ii. **Care Quality Commission** for quality and safety concerns

iii. **NHS England** for concerns about:
    - primary medical services (general practice)
    - primary dental services
    - primary ophthalmic services
    - local pharmaceutical services

iv. **Health Education England** for education and training in the NHS

v. **NHS Counter Fraud Authority** 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 7, 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 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.
Annex A: Trust process for raising and escalating a concern

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.

You may wish to discuss your concern with one of the many local Freedom to Speak up Ambassadors - See Trust Infonet page for list of ambassadors

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 one of our or our Freedom to Speak Up Guardian:

Mrs Lorraine Jackman  
Deputy Director of Corporate Affairs and Governance  
01625 663175 or email ecn-tr.SpeakingUpForSafety@nhs.net

You can also report your concern via the module on the DATIX system, using the following link:


This person has been given special responsibility and training in dealing with whistleblowing concerns. They will:

i. treat your concern confidentially unless otherwise agreed

ii. ensure you receive timely support to progress your concern

iii. escalate to the board any indications that you are being subjected to detriment for raising your concern

iv. remind the organisation of the need to give you timely feedback on how your concern is being dealt with

v. 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.

You can also contact:

(a) our Executive Director with responsibility for whistleblowing:  
Mrs Julie Green, Director of Corporate Affairs and Governance  
Independent Board Member Tel 01625 661501
b) John Wilbraham, Chief Executive Tel 01625 661501

c) Mrs Lynn McGill, Chairman of the Trust - Tel 01625 661501

Or email ecn-tr.SpeakingUpForSafety@nhs.net

**Step three**
You can raise concerns formally with external bodies:

a. **NHS Improvement** for concerns about:
   i. how NHS trusts and foundation trusts are being run
   ii. other **providers with an NHS provider licence**
   iii. NHS procurement, choice and competition
   iv. the national tariff
b. **Care Quality Commission** for quality and safety concerns
c. **NHS England** for concerns about:
   i. primary medical services (general practice)
   ii. primary dental services
   iii. primary ophthalmic services
   iv. local pharmaceutical services
d. **Health Education England** for education and training in the NHS
e. **NHS Counter Fraud Authority** for concerns about fraud and corruption
Annex 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.*
Contact us

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133-155 Waterloo Road London
SE1 8UG

T: 020 3747 0000
E: nhsi.enquiries@nhs.net
W: improvement.nhs.uk

NHS Improvement is the operational name for the organisation that brings together Monitor, NHS Trust Development Authority, Patient Safety, the National Reporting and Learning System, the Advancing Change Team and the Intensive Support Teams.

This publication can be made available in a number of other formats on request.
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