

HUMAN RESOURCES POLICY

FREEDOM TO SPEAK UP: RAISING CONCERNS (WHISTLEBLOWING)

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Document History

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2	May 2015	None.
3	December 2016	New policy.
4	March 2020	Agreed to be put on hold due to COVID-19

Equality Impact Assessment

Date	Issues
13 January 2017	No impact on equality and diversity duties.

Policy Validity Statement

This policy is due for review on the latest date shown above. After this date, policy and process documents may become invalid. Policy users should ensure they are consulting the currently valid version of the documentation.

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PART 1: POLICY

1. POLICY STATEMENT

- 1.1 The CCG is committed to the principle of public accountability and recognises it is important for people to speak up about concerns so that the organisation can keep improving services for all patients and the working environment for staff.
- 1.2 In accordance with the CCG's duty of candour, the CCG's senior leaders and Governing Body are committed to an open and honest culture. The CCG will investigate any concerns raised by employees and other workers who have reasonable belief of malpractice in the organisation and, in accordance with the Public Interest Disclosure Act 1998 (PIDA), will ensure that those persons are not discriminated against or suffer a detriment as a result of making such a disclosure.
- 1.3 The CCG encourages individuals to raise any concern about risk, malpractice or wrongdoing they think is harming the organisation or the services commissioned. Examples of concerns might include (but by no means are restricted to):
- Unsafe working conditions
 - Unsafe patient care
 - Inadequate induction or training for staff
 - Suspicion of fraud
 - Bribery or corruption
 - A bullying culture across a team or organisation
 - Damage to the environment
 - Criminal offence has been committed
 - A malpractice or wrongdoing has been covered up
- 1.4 Healthcare professionals are reminded that they may have a professional duty to report a concern and if in doubt, concerns should be reported.
- 1.5 This policy applies to all employees and other workers (seconded, trainees, apprentices, work experience, bank staff, lay members, volunteers, contractors and agency workers) whilst they are working at the CCG.
- 1.6 Concerns relating to an individual's employment that affects only themselves and not others should be referred to the CCG's Grievance Policy.
- 1.7 The CCG is a public sector body and its employees and other workers are required to be honest and impartial in the conduct of their business. All employees and other workers of the CCG should be aware of, and adhere to, the Standards of Business documentation, including the Standards of Business Conduct and Declaration of Interest Policy.

- 1.8 Bribery and corruption can generally be thought of as similar. Bribery is generally defined as offering, promising or giving a payment of benefit-in-kind (e.g. money, gifts, sports tickets, etc.) in order to influence others to use their position in an improper way to gain an advantage. The introduction of the Bribery Act 2010 means that the person offering the bribe commits criminal offences (even if the bribe is refused), as does any person who accepts it (even if they never receive it). The Bribery Act also introduced a corporate offence for a relevant commercial organisation (the CCG) to bribe another person with the intention to obtain or retain business, or to obtain or retain an advantage in the conduct of business.
- 1.9 Fraud is when trickery is used to gain a dishonest advantage, usually financial, over another person and can be committed against an individual or an organisation. Defrauding money from the NHS deprives hospitals and patients of valuable equipment, staff and resources and ends up costing the taxpayer more money to fund the NHS. The Fraud Act 2006 introduced the general offence of fraud and the specific offences of:
- Fraud by false representation – lying about something using any means.
 - Fraud by failing to disclose information – not saying something when you have a legal duty to do so.
 - Fraud by abuse of position – abusing a position where there is a responsibility or expectation to safeguard the financial interests of another person or organisation.

It should be noted that all offences under the Fraud Act 2006 must be carried out both dishonestly and, with the intention of either, obtaining a financial gain for themselves or another, or to cause or expose another to a financial loss.

- 1.10 The policy aims to:
- Encourage all employees and other workers to feel confident in raising serious concerns regarding the practice of the CCG and external organisations.
 - Provide avenues for employees and other workers to raise those concerns and receive feedback on any action taken.
 - Ensure that employees and other workers receive a response to their concerns.
 - Reassure employees and other workers that they will be protected from possible reprisals, subsequent discrimination, victimisation or disadvantage if they make a disclosure based on a reasonable belief.
- 1.11 The CCG Governing Body will be provided with high level information about all concerns raised through this policy and what is being done to address any problems. Similar high level information will be included in the CCG's annual report.

2. PRINCIPLES

- 2.1 The CCG is committed to the principles of the Freedom to Speak Up review and its vision for raising concerns as contained in Appendix 1.
- 2.2 Any matter raised under this procedure will be investigated thoroughly and promptly and the outcome of the investigation reported back to the employee or other worker who raised the issue.
- 2.3 Employees or other workers who raise a genuine concern under this policy will not be at risk of losing their job or suffering any form of reprisal as a result. Provided the

employee or other worker is acting honestly, it does not matter if they are mistaken or if there is an innocent explanation for their concern.

- 2.4 The CCG will not tolerate the harassment or victimisation of anyone raising a concern. Nor will the CCG tolerate any attempt to bully an employee or other worker into not raising a concern. Any such behaviour is a breach of the CCG's values and, if upheld following investigation, could result in disciplinary action.
- 2.5 Employees and other workers are encouraged to raise their concern openly, but the CCG also appreciates that they may want to raise it confidentially. This means that while they are willing for their identity to be known to the person they report their concern to, they do not want anyone else to know their identity. The CCG will keep a person's identity confidential, if that is what they want, unless required to disclose it by law.
- 2.6 Employees and other workers can choose to raise their concern anonymously, without giving anyone their name, but that may make it more difficult for the CCG to investigate thoroughly and give feedback on the outcome.

PART 2: PROCEDURE

3. How To Raise a Concern

- 3.1 An employee or other worker can raise their concern with any of the people listed below in person, by telephone or in writing (including email). Whichever route chosen, they must be ready to explain as fully as they can the information and circumstances that gave rise to their concern.

4. Who To raise a Concern To

- 4.1 Step One: The CCG hopes an employee or other worker who has a concern about a risk; malpractice or wrongdoing at work will be able to raise it first with their line manager.
- 4.2 Step Two: If raising the concern with the line manager does not resolve matters, or the employee or other worker does not feel able to raise it with their line manager, then they should contact the CCG's Freedom to Speak Up Guardian:

Name:	
Address:	
Telephone:	
Email:	

- 4.3 Step Three: If the above channels have been followed and an employee or other worker still has concerns, or if they feel that the matter is so serious that they cannot discuss it with any of the above, then contact should be made with either of the following:

Name:	<i>(Director or Governing Body Member with responsibility for whistleblowing)</i>
Address:	
Telephone:	
Email:	

Name:	<i>(Lay Member with responsibility for whistleblowing)</i>
Address:	
Telephone:	
Email:	

4.4 Step Four: If for any reason an employee or other worker does not feel comfortable raising their concern internally or has exhausted all locally established procedures, they can raise their concern with external bodies listed in Appendix 2. Alternatively an employee or other worker can raise their concern to their MP.

5. What Will Happen on Receipt of a Concern

- 5.1 Any person above in receipt of a concern must report it to the Freedom to Speak Up Guardian. The Freedom to Speak Up Guardian will record the concern centrally and ensure the employee or other worker raising the concern receives an acknowledgement within two working days.
- 5.2 The central record will record the date the concern was raised, whether the employee or other worker has requested confidentiality, a summary of the concerns, dates when updates or feedback have been provided and lessons learned/outcomes.
- 5.3 Where the employee or other worker is unable to resolve the matter quickly (usually within a few days) with their line manager, the CCG will carry out a proportionate investigation using someone identified by the Freedom to Speak Up Guardian who is suitably independent and properly trained. The investigation will be concluded within a reasonable timescale, which the CCG will notify you of at the outset of the investigation. 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. Wherever possible, the CCG will share the full investigation report with the person raising a concern, while respecting the confidentiality of others.
- 5.4 The CCG may decide a concern would be better looked at under another process, for example, the CCG's process for dealing with bullying and harassment. If that is the case the CCG will discuss this with the person raising the concern.
- 5.5 Any employment issues identified during the investigation that affect the person raising the concern only and not others will be considered separately.
- 5.6 Where an investigation identifies improvements that can be made, we will track them to ensure necessary changes are made and these changes are working effectively. Lessons will be shared with teams across the organisation, or more widely, as appropriate.
- 5.7 This procedure is intended to provide an opportunity to raise concerns within the organisation. If, however, a person raising a concern has exhausted internal procedures and/or is not satisfied with any action taken and feel it is right to take the matter outside the CCG, they should ensure that they do not disclose information which should properly remain confidential. Employees will need to confirm this with the person or organisation they decide to contact.

- 5.8 When raising a concern outside of the CCG an employee or other worker should be aware that such disclosure can only be made to certain bodies or individuals in order to be protected under the PIDA, these are known as ‘prescribed bodies or persons’. Some of these prescribed bodies relevant to the CCG are outlined in Appendix 2, however a full list is available at: www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies--2/whistleblowing-list-of-prescribed-people-and-bodies

6. Concerns Relating to Bribery, Fraud and Corruption

- 6.1 All instances of fraud should be reported to the Chief Finance Officer who is responsible for investigating fraud concerns and will be supported in this role by the Local Counter Fraud Specialist and NHS Protect.
- 6.2 Where staff feel it would be inappropriate to report concerns to the Chief Finance Officer, concerns relating to fraud can be reported directly to the Local Counter Fraud Specialist whose details are provided at Appendix 2.
- 6.3 Alternatively concerns can be reported anonymously through NHS Protect, the details of which are provided at Appendix 2.

7. Concerns Relating to Conflicts of Interest or Ethical Misconduct

- 7.1 Individuals, who have concerns regarding conflict of interest or ethical misconduct either in respect of themselves or colleagues, should raise it in the first instance with their line manager. Alternatively, they can raise their concern using the procedure set out in this Freedom to Speak Up: Raising Concerns Policy or by contacting the Conflict of Interest Guardian, as outlined in the Standards of Business Conduct and Declarations of Interest Policy.
- 7.2 The CCG has a process in place to manage conflict of interest breaches. Concerned staff can discuss the process with the CCG’s Conflict of Interest Guardian or Governance Lead.

8. Concerns Relating to Safeguarding

- 8.1 It is recognised that there may be circumstances in which the nature of, or aspects of, a concern raised indicate protection, safety or wellbeing concerns about a child or vulnerable adult. In these circumstances the concern will be escalated as necessary in line with the CCG and Local Safeguarding Children and Adult Boards safeguarding procedures and such information reported will be disclosed in the best interests of the child or vulnerable adult.
- 8.2 If a concern refers to allegations against a member of staff of a safeguarding nature, the CCG’s policy for managing such allegations will be followed. Where the concern raised is solely about safeguarding this will supersede the Freedom to Speak Up: Raising Concerns (Whistleblowing) Policy. Where the concern forms only part of the concern raised, the two processes will occur simultaneously with decisions about response times and involvement of the member of staff being taken jointly. In the event that the allegation against staff policy is invoked, the person raising the concern will be notified immediately.
- 8.3 Where the person in receipt of a concern is unsure about whether the nature of the concern meets the criteria for escalation under safeguarding procedures, or should be dealt with under the managing allegations against staff process, they must contact

the Freedom to Speak Up Guardian who will consult with the Designated Nurse Safeguarding and Looked After Children or the Designated Nurse Safeguarding Adults as appropriate and within one working day.

- 8.4 Where safeguarding concerns are identified the person raising the concern will be notified of the escalation and rationale for disclosure of information within one working day. Where safeguarding concerns form only part of the concern raised the complainant will be informed of how the differing aspects of the concern will be handled.

9. Advice and Support

- 9.1 The CCG is dedicated to providing a safe and open culture in which concerns can be raised and recognises the decision to speak up about concerns is significant. There are a number of support mechanisms and advisory services which can be accessed:

- Counselling support via Occupational Health, details of which can be obtained from Human Resources.
- Professional Bodies.
- Trade Union Representatives.
- Free, independent and confidential advice from the Whistleblowing Helpline for NHS and Social Care on 08000 724725.
- Independent advice from Public Concern at Work on 020 7404 6609.

10. EQUALITY STATEMENT

- 10.1 In applying this policy, the CCG will have due regard for the need to eliminate unlawful discrimination, promote equality of opportunity, and provide for good relations between people of diverse groups, in particular on the grounds of the following characteristics protected by the Equality Act (2010); age, disability, gender, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, and sexual orientation, in addition to offending background, Trade Union membership, or any other personal characteristic.
- 10.2 An Equality Analysis has been carried out on this policy and can be viewed in Human Resources.

11. MONITORING AND REVIEW

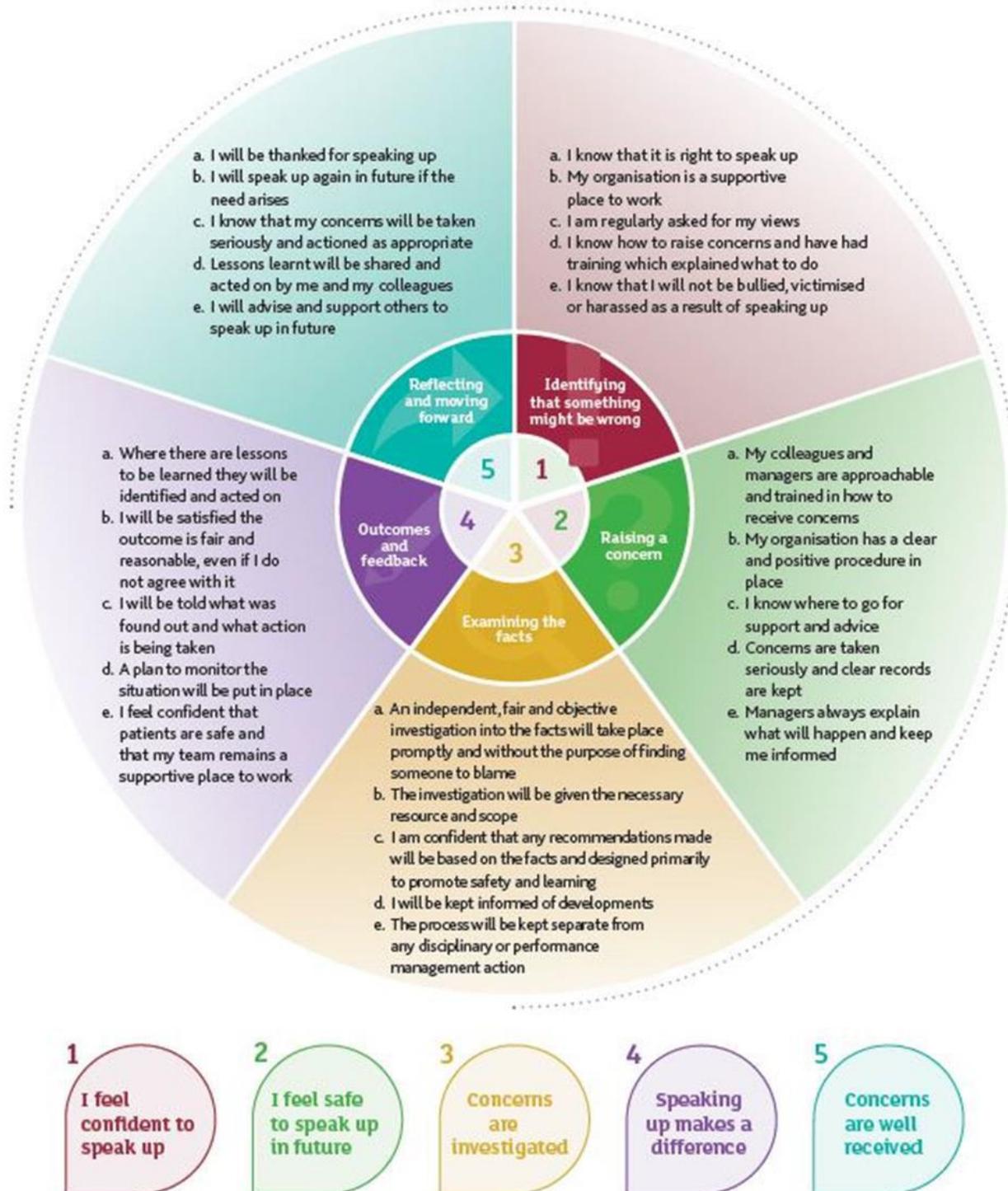
- 11.1 The policy and procedure will be reviewed periodically by Human Resources in conjunction with operational managers and Trade Union representatives. Where review is necessary due to legislative change, this will happen immediately.

12. ASSOCIATED DOCUMENTATION

- 12.1 The following documentation and legislation is linked to this Policy:
- Public Interest Disclosure Act 1998 (PIDA)
 - Enterprise and Regulatory Reform Act 2013
 - Bribery Act 2010
 - Fraud Act 2006
 - Blowing the whistle: List of prescribed people and bodies, Government Guidance 24 November 2016

- NHS Constitution
- Freedom to speak up: Raising concerns (whistleblowing) policy for the NHS, NHS Improvement & NHS England, April 2016
- Standards of Business Conduct and Declarations of Interest Policy
- NHS England Managing Conflicts of Interest, Revised Statutory Guidance for CCGs, June 2016
- CCG Safeguarding policies, including managing allegations against staff
- CCG anti-fraud, bribery and corruption policies
- Disciplinary Policy

Appendix 1: 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 2: External Bodies

Organisation	Concerns relating to:	Contact Details
NHS Improvement	<ul style="list-style-type: none"> • How NHS trusts and foundation trusts are run • Other providers with an NHS provider licence • NHS procurement, choice and competition • The national tariff 	Wellington House 133-155 Waterloo Road London SE1 8UG Tel: 020 3747 0000 Email: nhsi.enquiries@nhs.net www.improvement.nhs.uk
Care Quality Commission	<ul style="list-style-type: none"> • Quality and safety of health and social care provision 	CQC National Customer Service Centre Citygate Gallowgate Newcastle upon Tyne NE1 4PA Tel: 03000 616161 www.cqc.org.uk
NHS England	<ul style="list-style-type: none"> • Primary medical services (general practice). • Primary dental services. • Primary ophthalmic services. • Local pharmaceutical services. 	NHS England PO Box 16738 Redditch B97 9PT Tel: 0300 311 22 33 Email: england.contactus@nhs.net www.england.nhs.uk
Health Education England	<ul style="list-style-type: none"> • Education and training in the NHS. 	Health Education England 1st Floor Blenheim House Duncombe Street Leeds LS1 4PL Hee.enquiries@nhs.net
NHS Protect	<ul style="list-style-type: none"> • Fraud and corruption. 	0800 028 4060 https://www.reportnhsfraud.nhs.uk/
Counter Fraud Specialist	<ul style="list-style-type: none"> • Fraud and corruption 	AuditOne, Kirkstone Villa, Lanchester Road Hospital, Lanchester Road, Durham, DH1 5RD. Tel: 0191 4415936; Email: counterfraud@audit-one.co.uk or ntawnt.counterfraud@nhs.net
Health & Safety Executive	<ul style="list-style-type: none"> • Health and safety law and minimum standards 	www.hse.gov.uk/contact/concerns.htm