

RAISING CONCERNS (WHISTLEBLOWING)

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PROCEDURE SUMMARY

The Trust hopes to create an environment where members of staff are able to speak up and raise concerns about poor practice without fear of victimisation. We want to encourage staff to express any concerns in a constructive way and to put forward suggestions in order to contribute towards the delivery of care and services to patients, service users and carers.

The Trust monitors the implementation of and compliance with this procedure in the following ways;

The Board of Directors has delegated responsibility to the audit committee for the monitoring and review of this policy which will be reviewed annually.
The Freedom to Speak Up Guardian service in conjunction with Human Resources will record and report on formal whistleblowing concerns raised. Human Resources will monitor the daily operation of the policy.

Services	Applicable	Comments
Trustwide	✓	

**The Director responsible for monitoring and reviewing this procedure is
The Executive Director of Corporate Governance & Strategy**

ESSEX PARTNERSHIP UNIVERSITY NHS FOUNDATION TRUST

RAISING CONCERNS (WHISTLEBLOWING) PROCEDURE

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RAISING CONCERNS (WHISTLEBLOWING)

1. INTRODUCTION

- 1.1 All of us at one time or another has concerns about what is happening at work. Usually these are easily resolved. However, when the concern feels serious because it is about a possible danger, professional misconduct or financial malpractice that might affect patients, service users or carers, colleagues, or the Trust itself it can be difficult to know what to do. You may be worried about raising such an issue and may think it best to keep it to yourself, perhaps feeling it is none of your business or that it is only a suspicion. You may feel that raising the matter would be disloyal to colleagues, to managers or to the organisation. You may have said something but found that you have spoken to the wrong person or raised the issue in the wrong way and are not sure what to do next.
- 1.2 The Trust Board is committed to delivering safe and high quality patient care in the best way possible and to do so we need your help. In having this policy it is to reassure you that it is safe and acceptable to speak up and to enable you to raise any concern you may have at an early stage and in the right way. Rather than wait for proof, we would prefer you to raise the matter when it is still a concern. So, if in doubt – please raise it.
- 1.3 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, service users 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.

2. II PRINCIPLES

- 2.1 We hope to create an environment where members of staff are able to raise concerns about poor practice without fear of victimisation. We want to encourage staff to express any concerns in a constructive way and to put forward suggestions in order to contribute towards the delivery of care and services to patients, service users and carers.
- 2.2 We recognise that raising a concern can be a difficult experience for some staff and therefore expect managers to treat concerns raised seriously and to deal with them promptly. As a Trust we are fully committed to dealing with all concerns in a fair and thorough manner.
- 2.3 Issues raised under the policy will, wherever possible be dealt with informally and in a way that produces speedy and effective outcomes that minimise the risk of any breach of confidentiality wherever possible. Staff raising concerns under this policy will be entitled to be accompanied by a recognised Trade Union Representative or a current work colleague at all stages.

- 2.4 This policy does not replace existing Trust policies and procedures regarding Grievance or Complaints, or dealing with patient events as described in the Being Open and Duty of Candour policy; nor is it intended to replace the normal lines of communication between staff and their managers. It is intended that matters of concern should still be dealt with through normal management/clinical advisory channels.
- 2.5 A '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 the policy (produced by NHS Improvement and NHS England) is 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 and service users.

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

3. WHO CAN RAISE CONCERNS?

- 3.1 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.

4. WHAT CONCERNS CAN I RAISE?

- 4.1 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 to staff
 - lack of, or poor, response to reported patient safety incident
 - suspicions of fraud (which can also be reported to our local county fraud team)
 - a bullying culture (across a team or organisation rather than individual instances of bullying)

For further examples, please see the Health Education England video, <https://www.youtube.com/watch?v=zjau1Ey0di8>

- 4.2 Remember that if you are a healthcare professional you may have a professional duty to report 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.

5. FEEL SAFE TO RAISE YOUR CONCERN

- 5.1 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 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.

Your confidence

- 5.2 With these assurances, we hope you will raise your concern openly. However, we recognise that there may be circumstances when you would prefer to speak to someone in confidence first. If this is the case, please say so at the outset. If you ask us not to disclose your identity, we will not do so without your consent unless required by law.
- 5.3 You should understand that there may be times when we are unable to resolve a concern without revealing your identity, for example where your personal evidence is essential. In such cases, we will discuss with you whether and how the matter can best proceed.
- 5.4 Please remember that if you do not tell us who you are it will be much more difficult for us to look into the matter. We will not be able to protect your position or to give you feedback. Accordingly you should not assume we can provide the assurances we offer in the same way if you report a concern anonymously.

6. ANONYMOUS REPORTING AND CONFIDENTIALITY

Anonymity

- 6.1 Where we receive information anonymously we will always assess the information and establish whether it is possible to investigate further. We do not actively promote or encourage anonymous reporting, as we take the view, which is shared by a number of other professional bodies that anonymity makes it difficult to investigate the full facts of any such concerns and therefore to take appropriate action. We would always therefore recommend that you give your name when raising a concern.

Confidentiality

- 6.2 As we continue to have an obligation to safeguard all confidential information; particularly information about individual patients or clients, you should seek advice from your trade union/professional association before disclosing confidential information, even if you think it is in the public interest.

Confidentiality is a core requirement of Professional Codes of conduct and a failure to comply with the Code may bring the fitness to practice of staff into

question, endanger registration and may result in disciplinary action.

7. THE DIFFERENCE BETWEEN RAISING A CONCERN AND MAKING A COMPLAINT

- 7.1 If you are raising a concern, you are worried generally about an issue, wrongdoing or risk which affects others.

In raising such a concern you are acting as a witness to what you have observed, or to risks that have been reported to you, and as a result are taking steps to draw attention to a situation which could negatively affect those in your care, staff or the Trust.

This is the type of concern for which this policy has been designed to address, so please use the procedure in this policy

- 7.2 However, if you are making a complaint to the Trust as your employer, you are complaining about how you personally have been treated at work (such as conditions of employment, unfair treatment).

In these circumstances, please follow the Trust's Grievance policy on the Trust's intranet.

If you are unsure then HR or local trade union representative will be able to advise you.

Should you have a concern about financial misconduct bribery or fraud, then the Trust has a Fraud and Corruption Policy which you should follow.

8. OUR RESPONSIBILITIES UNDER THIS POLICY

8.1 Your Role in Raising a Concern

We are all contractually bound to the duties and expectations set out within the NHS Constitution and therefore that we raise any genuine concern of risk or wrongdoing. If you are a professionally qualified member of staff you have a further *professional* duty to put the interests of the people in your care first and to act to protect them if you consider they may be at risk.

- 8.2 In using the term 'in your care' we are referring to those you come across or know and not just those that you deliver specific care to, or have direct clinical or managerial responsibility for.

- 8.3 If you do not report concerns in your workplace it may bring your fitness to practice into question and place your professional registration at risk. Just as raising concerns represents good practice, 'doing nothing' and failing to report concerns is unacceptable.

Our Role in Supporting You

8.4 Raising a concern can be a difficult experience and support can be provided via the Trust's Workforce Wellbeing Services, Line Managers, HR or your Trade Union representative. The Trust will seek advice from health and social care professionals where appropriate.

8.5 Other sources of specialist advice include:

The Public Concern at Work charity, the NHS Fraud and Corruption reporting line and Local Counter Fraud Specialist, ACAS and relevant professional bodies.

Full contact details - telephone number and web link are as given in Appendix 1.

8.6 It is important to be aware that there is a national whistle-blowing helpline for NHS and social care staff and employers which provide free, independent and confidential advice. This is a FREE PHONE service which operates 24/7 and will help individuals who either want to raise issues, or simply want advice on best practice.

This number is 08000 724 725.

Email enquiries: enquiries@wbhelpline.org.uk www.wbhelpline.org.uk

8.7 The NSPCC also provide a national whistleblowing advice Line where there are concerns over how child protection issues are being handled.

The NSPCC [Whistleblowing Advice Line](#) offers an alternative route if whistleblowing internally is difficult or professionals have concerns about how matters are being handled.

You can reach the Whistleblowing Advice Line on 0800 028 0285, or find out more about it [on their website](#).

9. PROTECTIONS THAT ARE IN PLACE FOR YOU

9.1 If you are hesitating about reporting a concern, you should bear the following in mind:

- The law provides legal protection against victimisation or dismissal for individuals who reveal information to raise genuine concerns and expose malpractice in the workplace which is in the public interest;
- We will initiate disciplinary proceedings against any member of staff believed to be victimising you or other staff for raising concerns through this policy.
- If you feel you are being victimised in any way for raising genuine concerns you should use the grievance policy.
- You do not need to wait for proof – you will be able to justify raising a concern if you do so honestly, on the basis of reasonable belief and through appropriate channels even if you are mistaken.

- You have a duty to put patients' interests first and act to protect them, which overrides a personal or professional loyalties;

9.2 Likewise we trust that you understand that we must also protect the integrity of this policy and remind all staff of their responsibility to not raise issues falsely or maliciously.

We cannot condone abuse of this policy, and if following investigation a member of staff is found to have raised concerns maliciously for private motive or personal gain, or in bad faith, particularly where it involves issues to do with the conduct, attitude or practice or other staff, the matter will be dealt with under the Trust's Disciplinary policy.

You must also be aware that employees who victimise whistle blowers may also be held to be personally liable for their actions and may therefore be a named party to any claim along with the Trust.

10. WHO SHOULD I RAISE MY CONCERN WITH?

10.1 If you have a concern about a risk, malpractice or wrongdoing at work, we hope you will feel able to raise either informally or formally in the first instance with your line manager, professional lead or tutor (guidance for managers can be found under Appendix 2). This may be done verbally or in writing.

Should you feel unable to do so for whatever reason, then there are a range of alternative options available to you. Full details are provided under Appendix 3.

11. HOW SHOULD I RAISE MY CONCERN?

11.1 You can raise your concerns with any of the people listed in Appendix 3 in person by telephone 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.

12. WHAT WILL WE DO?

12.1 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.

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 2 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 we have given you updates or feedback.

12.2 Once you have told us of your concern, we will assess it and consider what action may be appropriate. This may involve an informal review, an internal inquiry or a more formal investigation.

We will tell you who will be handling the matter, how you can contact them, and what further assistance we may need from you. If you ask, we will write to you summarising your concern and setting out how we propose to handle it and provide a timeframe for feedback. If we have misunderstood the concern or there is any information missing, please let us know.

- 12.3 When you raise the concern it will be helpful to know how you think the matter might best be resolved. If you have any personal interest in the matter, we do ask that you tell us at the outset. If we think your concern falls more properly within our grievance, bullying and harassment or other relevant procedure, we will let you know.

Investigation

- 12.4 Any investigation that is undertaken will be proportionate – using someone suitably independent (where possible from a different part of the Trust) and appropriately 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 from occurring.

Any employment issues that affect only you and not others identified during the investigation, will be considered separately.

How We Will Learn from Your Concern

- 12.5 The focus of the investigation will be on improving the service we provide to patients and service users. 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 Trust or more widely as appropriate.
- 12.6 Whenever possible, we will give you feedback on the outcome of any investigation. Please note however that we may not be able to tell you about the precise actions we take where this would infringe a duty of confidence we owe to another person.
- 12.7 While we cannot guarantee that we will respond to all matters in the way that you might wish, we will strive to handle the matter fairly and properly. By using this policy you will help us to achieve this.

13. RAISING YOUR CONCERN WITH AN EXTERNAL BODY

External contacts

- 13.1 While we hope this policy gives you the reassurance you need to raise your concern internally with us, we recognise that there may be circumstances where you can properly report a concern to an outside body.

In fact, we would rather you raised a matter with the appropriate regulator – such as the Care Quality Commission; the Independent Regulator of NHS Foundation Trusts (NHS Improvement); your professional regulator; the Audit Commission or the National Patients Safety Agency than not at all.

- 13.2 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'**

- 13.3 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.) In addition to the list of outside bodies you can raise a concern, there is also a defined list of 'prescribed persons' <https://www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies--2>
- 13.4 Please bear in mind that if you decide to blow the whistle to one of these 'prescribed' persons rather than the Trust, then it must be to the right person. For example if you are blowing the whistle on issues affecting damage to the environment, you should contact the Environment Agency.
- 13.5 Please also bear in mind that although an employee is entitled to seek guidance and support from these organisations, it should only be on the understanding that no confidential matters are disclosed until such time as internal procedures have been exhausted.

- 13.6 You should only consider raising concerns externally if you have tried all of the available internal procedures and your concern has not been dealt with properly.

Raising your concern externally (for example to the media or an MP) without clear evidence of first raising the concern internally or with a regulatory organisation, would only be considered appropriate and give you protection under the Public Interest Disclosure Act (PIDA), in the most extreme circumstances and, if it could be clearly be shown that you were acting in the public interest.

- 13.7 Before doing so staff are strongly advised to seek further specialist guidance. This may be from the Guardian Service, a trade union, your professional body or PCaW (Public Concern at Work) the independent and confidential charity or using the national whistle-blowing free phone helpline for NHS and social care staff on 08000 724 725.

14. KEEPING RECORDS

- 14.1 Managers or Professional Leads are required to keep a log and written record of any concerns that they directly receive which meet the definition of whistleblowing. These records should include:-

- The date and nature of the concern raised
- A copy of the written statement
- The response
- What action has been taken
- Where applicable, any subsequent development

Records taken as part of the procedure must ensure that they capture what has jointly been agreed as to what steps will be taken, with whom information will be shared 'in confidence' and any feedback requested.

- 14.2 Managers and/or Professional Leads who receive a concern outside of the usual line management arrangements must ensure that they investigate and keep a record of any concern raised. They must also ensure that they notify HR at the earliest opportunity.
- 14.3 Records will be treated as confidential, kept securely and in accordance with the principles set out in the General Data Protection Regulation (GDPR).

END