

Freedom to Speak Up: Raising Concerns at Work (Whistleblowing) Policy

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Appendix RAISING CONCERNS AT WORK (WHISTLEBLOWING) POLICY

Document Control / History	
Revision No	Reason for change
8	To add local Medway Foundation Trust requirements to the reflect the NHS Freedom to Speak Up: Raising Concerns (whistleblowing) standard policy for the NHS and the introduction of Freedom to Speak Up Guardians in the Trust.

Consultation

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To be read in conjunction with any policies listed in Trust Associated Documents

1 Definitions

- 1.1 **The Public Interest Disclosure Act (PIDA)** - protects employee from detriment by providing a remedy for individuals who suffer a detriment by any act or any deliberate act by their employer for raising a genuine concern.
- 1.2 **Protected Disclosure** - A protected disclosure, as defined under **PIDA** is a “qualifying disclosure”, made in good faith, to an employer, regulator, legal adviser, minister or other responsible or prescribed person about a dangerous or illegal activity or omission which satisfies certain conditions.
- 1.3 **Whistleblowing** - The process of raising a concern in the public interest is often referred to as ‘whistleblowing’. To blow the whistle on someone is to alert a third party that a person has done wrong, or is doing something wrong.
- 1.4 **Victimisation** - Being treated badly because you have made a protected disclosure such as whistleblowing.

2 (Duties) Roles & Responsibilities

2.1 Trust Board Responsibilities

- 2.1.1 Make clear that Executive Directors and Senior Managers have a common and credible commitment to the principles of this policy.
- 2.1.2 Designate a Trust Board member as named lead for raising a matter of concern. This is the Executive Director of HR & OD.
- 2.1.3 Appoint Freedom to Speak Up Guardians for the Trust.
- 2.1.4 Ensure that serious concerns are thoroughly investigated internally, in order to avoid an employee raising their concern with external organisations because their concerns are unaddressed.
- 2.1.5 Ensure that concerns raised to them (at Level 3 within the associated SOP) and the outcome of those concerns are notified to the designated named lead for recording.

2.2 Managers and Clinical Leads (at all levels) Responsibilities

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- 2.2.1 Ensure that all staff are familiar with and have access to the Freedom to Speak Up: Raising Concerns at Work (Whistleblowing) Policy;
- 2.2.2 Comply with the principles and procedure outlined in this policy; including liaising with the FSUG Guardians to resolve identified issues;
- 2.2.3 Promote an open and honest culture within their teams where staff feel comfortable and supported to raise any concerns under this policy. Creating opportunities where staff can express concerns, such as regular team meetings or 1-2-1s so that issues are picked up and resolved at the outset;
- 2.2.4 Respond to concerns in a timely manner with feedback to the employee as agreed within the policy;
- 2.2.5 Keep records on the number and nature of concerns as raised by employees;
- 2.2.6 Ensure that employees are not intimidated or discouraged for raising legitimate concerns;
- 2.2.7 Ensure that employee are not victimised by other employees or suffer any other detriment;

2.3 Human Resources Responsibilities

- 2.3.1 Advise managers, and ensuring that a consistent application is applied each concern raised;
- 2.3.2 Ensure that the policy is monitored, valid and in date, working in partnership with Trust Staff Side/Trade Unions and Freedom to Speak Up Guardians.

2.4 Staff Side Responsibilities

- 2.4.1 Supporting their members in recognising whistleblowing issues and advising on the best action to take in accordance with the policy;
- 2.4.2 Ensuring that the policy is monitored, valid and in date in partnership with Human Resources.
- 2.4.3 If, for whatever reason, staff members feel unable to approach management in the area in which they work, or the area where they have identified the concern, they should raise their concerns as follows: -

- **Freedom To Speak Up Guardians** – In the first instance concerns can be raised confidentially with any of the FSU Guardians listed in Appendix 4. If your issue does not fall within their remit they will direct you to the appropriate person within the Trust.

If the FSU Guardians are unavailable or staff members feel that their concerns have not been properly addressed. They can raise their concerns as follows:

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- **Clinical Care** – Concerns can be raised confidentially with the relevant Divisional Director, Director of Operations, or Associate Chief Nurse;
- **Fraud and Corruption** – Concerns should be raised with the Trust's Local Counter Fraud Specialist on 07799263978. Alternatively, the matter may be reported using the online NHS Fraud Reporting website. If staff want to remain anonymous they can call the freephone reporting line on 0800 028 40 60 between 8am and 6pm, Monday to Friday. This is a recognised means of reporting a fraud concern under NHS counter fraud regulations, and its use would not be regarded as a failure to follow internal reporting instructions;
- **Health and Safety** – Concerns should be raised with the Trust's Senior Health and Safety Advisor on ext. 5059;
- For concerns that do not fit specifically in to any of the above categories staff should seek advice from the Deputy Director of HR or the Head of Employee Relations, or their trade union representative.

2.4.4 Please note that the relevant leads will ensure staff have exhausted the options at Level 1, before taking any complaint further forward.

2.5 Freedom to Speak Up Guardian Responsibilities

2.5.1 Freedom to speak up guardians have a key role in helping raise the profile of raising concerns in the Trust and providing confidential advice and support to staff in relation to concerns they have about patient safety and/or the way their concern has been handled. They will:

- Treat all concerns brought to them confidentially unless otherwise agreed
- Ensure that staff members receive timely support to progress their concern
- Escalate to the board any indications that staff members are being subjected to detriment for raising a concern
- Provide timely feedback to staff members on how their concerns are being addressed
- Ensure staff members have access to personal support since raising their concern may be stressful
- Feedback any lessons learnt during an investigation to the relevant Managers/Clinical Leads

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- Keep confidential records of the progress of investigations and provide anonymised data to the Trust Board for the purpose of evaluating the Trust's adherence to the policy vision.

3 Equality Impact Assessment Statement & Tool

All public bodies have a statutory duty under The Equality Act 2010 (Statutory Duties) Regulations 2011 to provide “evidence of analysis it undertook to establish whether its policies and practices would further, or had furthered, the aims set out in section 149(1) of the [Equality Act 2010]”; in effect to undertake equality impact assessments on all procedural documents and practices. Authors should use the Equality Impact Toolkit to assess the impact of the document.

In the first instance this will mean screening the document and, where the screening indicates, completing a full assessment. The Toolkit can be found on the Trust website <http://www.medway.nhs.uk/our-foundation-trust/publications/equality-and-diversity/equality-impact-assessments/>

A document will not be considered approved until the author has confirmed that the screening process has been carried out and where required a full impact assessment has been completed. Where a full assessment is completed this should be submitted along with the document for approval.

4 Monitoring and Review

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

What will be monitored	How/Method/Frequency	Lead	Reporting to	Deficiencies/ gaps Recommendations and actions
Policy review	First review in one year and then every three years	Senior HR Advisor	Deputy Director of HR	Where gaps are recognised action plans will be put into place
Concerns raised and outcomes	Monthly/Quarterly verbally and by electronic report	Lead FSU Guardian	Board	Where institutional, Departmental problems identified action plans to be put in place

5 References

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Document	Ref No
References:	
Trust Associated Documents:	
Raising Concerns at Work (Whistleblowing) SOP	
Raising your concerns contact form	

If you would like a Braille or large print copy of this policy please contact the Human Resources Department and it will be arranged

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18 Appendix 1 - List of the types of misconduct that may justify whistleblowing. Please note that this is not an exhaustive list.

- Any concern about danger or illegality that has a public interest aspect to it, usually because it threatens others;
- Health care matters, including suspected mistreatment or abuse of patients and/or issues relating to the quality of care provided;
- Health and Safety issues which affect patients, visitors or staff;
- Suspicion or knowledge of theft, fraud, corruption or other financial malpractice;
- Concerns about the professional or clinical practice, or competence of colleagues or other members of staff;
- The treatment of other employees, including suspected harassment or discrimination;
- Employment standards and/or working practices;
- Concern that the environment is, or is likely to be, endangered;
- Failure to comply with any legal obligation;
- Concerns about conduct that falls below Trust standards or is clearly against Trust policies;
- Information which may show that any of the above matters is being, or is likely to be, deliberately concealed;
- Other unethical conduct.

Note that disclosures are protected whether they concern:

- An action or omission that took place in the past;
- Improper conduct occurring in the present, or;
- The prospect or likelihood of an action or omission occurring in the future.

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19 Appendix 2 - The difference between a grievance and a protected disclosure

There is a difference between a grievance and a protected disclosure.

A grievance will concern an employee personally; for example they might want to complain about –

- pay or working hours;
- The amount of work that he or she is expected to do;
- Working conditions;
- Being bullied by fellow workers.

A protected disclosure will concern the conduct of another person in the workplace (whether or not that conduct affects the complainant personally), in circumstances where the complainant genuinely believes that the conduct in question amounts to a criminal offence, a breach of a legal obligation, or something likely to endanger health or safety or damage the environment.

Please see below some examples of differences between a grievance and a protected disclosure: -

Grievance	Protected Disclosure
An employee's complaint about the type of work that he or she is being asked to do, for example, if it is not covered by his or her contract.	A disclosure that an individual has been instructed to carry out actions that he or she genuinely believes to be illegal, for example, falsifying tax returns.
An employee's complaint that he or she has received insufficient safety training.	A disclosure that safety rules within the workplace are routinely being flouted, thus endangering safety.
An employee's complaint about the hours that he or she is expected to work.	A disclosure that the requirements imposed by the company on a group of staff represent a breach of the working time legislation.

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20 Appendix 3 - Freedom to Speak Up Guardians

The current **Freedom to Speak Up Guardians** are:

Jeyanithy Nicholas

Blood Transfusion Laboratory Manager
Ext 5822

Simon Smith

Head of Learning & Development
Ext 3128

Lynn McSorley

Senior Sister NICU
Ext 5125

James Shaw

DQ Operational Analyst
Ext. 5971

Dr Lisa Vincent-Smith

Consultant Respiratory Lead
Ext 5588

Andrew Bell

Administrator, Offsite Project
Ext 3798

Jan Stephens

Non-Executive Director

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21 Appendix 4 - Contact Details for other Bodies

<p>Care Quality Commission National Customer Service Centre Citygate, Gallowgate Newcastle upon Tyne NE1 4PA Tel: 03000 616161 Email: enquiries@cqc.org.uk www.cqc.org.uk</p>	<p>Department of Health Ministerial Correspondence and Public Affairs Unit Richmond House 79 Whitehall London SW1A 2NS Tel: 020 72104850</p>
<p>Local Counter Fraud Service TIAA Ltd Unit 9, Folkestone Enterprise Centre Shearway Business Park Shearway Road Folkestone, Kent, CT19 4RH Email: steffanwilkinson@nhs.net Telephone: 01303 297045 or 07799 263 978</p>	<p>Public Concern at Work CAN Mezzanine 7 - 14 Great Dover Street London SE1 4YR Tel: Whistleblowing Advice Line: 020 7404 6609 General enquiries: 020 3117 2520 Email: UK advice line: whistle@pcaw.org.uk www.pcaw.org.uk</p>
<p>NHS England PO Box 16738 Redditch B97 9PT Tel: 0300 311 22 33 Email: england.contactus@nhs.net</p>	<p>Health Service Commissioner (The Ombudsman for England) The Milbank Tower Milbank, London SW1P 4QP Tel: 0207 2174051</p>
<p>NHS Protect (Counter Fraud) Skipton House 80 London Road, London SE1 6LH Email: nhsfraud@nhsprotect.gsi.gov.uk Telephone: 020 7895 4500 National Fraud and Corruption Reporting Line Tel: 0800 028 40 60</p>	<p>NHS Improvement Wellington House 133-155 Waterloo Road London SE1 8UG Tel: 0300 123 2257 Email: enquiries@improvement.nhs.uk www.improvement.nhs.uk</p>
<p>Health and Safety Executive International House Dover Place Ashford Kent TN23 1HU Fax: 01233 634827</p>	<p>Nursing and Midwifery Council 23 Portland Place London W1B 1PZ Tel: 020 7637 7181 Email: whistleblowing@nmc-uk.org www.nmc-uk.org</p>
<p>Information Commissioner The Office of the Information Commissioner Wycliffe House, Water Lane, Wilmslow Cheshire SK9 5AF Telephone: 0303 123 1113 (local rate) or 01625 545745 (national rate) Email: casework@ico.org.uk</p>	<p>National Guardians Office 151 Buckingham Palace Road London SW1W 9SZ Tel: 0300 067 9000 enquiries@nationalguardianoffice.org.uk</p>

22 Equality Impact Assessment Statement & Tool

		Yes/No	Comments
1	Does the policy/guidance affect one group less or more favourably than another on the basis of:	No	
	▪ Age		
	▪ Disability		
	▪ Gender reassignment		
	▪ Marriage and civil partnership		
	▪ Pregnancy and maternity		
	▪ Race		
	▪ Religion or belief		
	▪ Sex		
	▪ Sexual orientation		
2	Is there any evidence that some groups are affected differently?		
3	If you have identified potential discrimination, are any exceptions valid, legal and/or justifiable?		
4	Is the impact of the policy/guidance likely to be negative?		
5	If so can the impact be avoided?		
6	What alternatives are there to achieving the policy/guidance without the impact?		
7	Can we reduce the impact by taking different action?		

All public bodies have a statutory duty under the Equality Act 2010. To have due regard to the elimination of discrimination, harassment, victimisation and any other conduct prohibited by the Act

The Trust aims to design and implement services, policies and measures that meet the diverse needs of our service, population and workforce, ensuring that none is placed at a disadvantage over others. This document was found to be compliant with this philosophy.

Equality Impact Assessments will ensure discrimination does not occur also on the grounds of any of the protected characteristics covered by the Equality Act 2010.

END OF DOCUMENT