

	Raising Concerns At Work Policy (Whistleblowing)		
<b>Meeting</b>	Board of Directors		
<b>Date</b>	25 May 2016		
<b>Executive Summary</b>			
<p>Please find attached the updated Raising Concerns at Work Policy (Whistleblowing). The 'Freedom to Speak Up – A review of Whistleblowing in the NHS' report outlines the recommendations, principles and actions that NHS Organisations should implement to improve the whistleblowing process in the workplace. The attached policy has been updated to reflect the recommendations from the 'Speak Up Report' and include</p> <ul style="list-style-type: none"> <li>• Board responsibility in relation to raising concerns at work;</li> <li>• Improving and changing the Trust's culture to promote and improve whistleblowing;</li> <li>• Improving HR skills training to include raising concerns at work;</li> <li>• Appointing a Freedom to Speak up Guardian and Executive Director that will champion whistleblowing together with nominated managers within a directorates</li> </ul> <p>Once the Policy is approved a robust communication and implementation action plan will be developed to ensure the Trust compliance with the recommendations from the 'Freedom to Speak up' Report.</p>			
<b>Recommendation</b>			
The Board is recommended to approve the Policies			
<b>Report Author</b>	Sonia Atkinson		
<b>Executive Director/ Sponsor</b>	Kath Griffin		
<b>Purpose of paper</b>	<b>Information</b>	√	<b>Discussion</b>
	<b>Decision</b>	√	<b>Assurance</b>
	<b>Specific action</b>		
<b>Implications</b>	<b>Staffing</b>	√	
	<b>Finance</b>	√	
	<b>Legal</b>	√	
	<b>Public engagement</b>		
	<b>Partnership</b>		
	<b>Communication</b>	√	
	<b>Equality &amp; Diversity</b>	√	
	<b>Clinical</b>	√	
<b>Risk assessment and mitigation (include risk register reference if appropriate)</b>			
<b>Link to STFT Business Plan</b>			
<b>Link to CQC outcome</b>			
<b>Link to Board Assurance Framework</b>	8.1, 8.2, 8.4		
<b>Link to Strategic Risk Register</b>			



## RAISING CONCERNS AT WORK POLICY (Whistleblowing Policy)

Date Approved by Trust Board	Version	Issue Date	Review Date	Executive Lead	Information Asset Owner	Author
				Executive Director of Personnel & Development	Head of Personnel	Mandy White, Divisional Personnel Manager
<b>Procedure/Policy Number</b>	PP20					
<b>Procedure/Policy type</b>	Personnel Policy					
<b>Date Equality impact assessment completed:</b>						
<b>CQC Outcomes:</b>	14					

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## **1. Introduction**

- 1.1 In this policy the term the 'Trust' refers to South Tyneside NHS Foundation Trust.
- 1.2 Raising concerns at work or whistle blowing as it is widely referred to, is the terminology utilised to describe a disclosure by a person, usually an employee or volunteer, to the public or to management of an organisation, of mismanagement, corruption, illegality, or some other wrongdoing in the workplace.
- 1.3 South Tyneside Foundation Trust is committed to achieving the highest possible standards of quality, honesty, openness and accountability in all its practices. South Tyneside NHS Foundation Trust are committed to an open and honest culture, and developing a culture where it is safe and acceptable for all employees and colleagues to raise concerns which are dealt with seriously and confidentially.
- 1.4 The NHS Staff Council has agreed a contractual right and duty for employees to raise genuine concerns that they consider to be in the public interest with their employer. The NHS Constitution states that employees have a responsibility *"to raise any genuine concern that you may have about risk, malpractice or wrongdoing at work (such as a risk to patient safety, fraud or breaches of patient confidentiality), which may affect patients, the public, other staff or the organisation itself, at the earliest reasonable opportunity"*
- 1.5 In addition the Francis Report introduced the concept of a "Duty of Candour", meaning that employees and organisations should be open and honest about their practices particularly when mistakes are made. Subsequent to this Francis issued a further review "Freedom to Speak Up" providing further advice and guidance to NHS organisations in support of the open and honest agenda.

## **2. Aim of the Policy**

- 2.1 This policy aims to outline support and guidance to those employees or volunteers who may find themselves in a position where they feel the need to report a concern at work.

Examples of concerns may be:

- Unacceptable practice or staff practice in health care matters,
- Issues regarding staff conduct, such as unprofessional attitudes or behaviour, including concerns related to equality and diversity and bullying and harassment,
- Issues related to the environment of care in the broadest sense, such as resources, products, people staffing or organisation-wide concerns,
- A criminal offence,
- A failure to comply with legal obligation,

- A miscarriage of justice,
- The endangering of an individual's health and safety,
- Financial malpractice, including suspected criminal acts and fraud,
- Deliberate concealment of information relating to any of the issues outlined above.

### **3. Purpose and Scope**

3.1 This policy is aimed at all members of staff, whatever level and whatever their terms of employment, hours of work or length of service, including bank, agency workers and volunteers.

3.2 The policy is designed to ensure:

- That raising concerns does not single an employee out.
- That staff will not be asked to prove their concerns are true – only that they are raised in good faith and based on a reasonable belief.
- That concerns can be raised early.
- That there is a difference between a grievance and a concern.
- That raising concerns in good faith and based on a reasonable belief, but that turn out to be unsubstantiated, will not expose staff to disciplinary action.
- That raising concerns solely for malicious intent is a disciplinary offence.
- That preventing anybody from whistle blowing is a disciplinary offence.
- That bullying, isolating or victimizing of anyone who uses the raising concerns at work policy is a disciplinary offence.

3.3 Employees should be aware that personal issues relating to them as individuals should be raised using the Trust's Grievance Policy and Procedure and not this policy.

3.4 The Trust's Incident Reporting Policy and Procedure details how to report any event or circumstance which has caused or has the potential to cause harm, suffering or loss e.g. an injury, an unexpected clinical outcome or complication; someone failing to follow a procedure or a medication incident. Non clinical issues can also be reported using this policy e.g. equipment failure, damaged to trust property, security incidents, theft or abuse.

### **4. Equality, Diversity and Human Rights Statement**

The Trust is committed to promoting human rights and providing equality of opportunity, not only in our employment practices but also in the way we provide services. The Trust also values and respects the diversity of our employees and the communities we serve. In applying this policy, the Trust will have due regard for the need to:

- Promote human rights
- Eliminate unlawful discrimination
- Promote equality of opportunity

- Provide for good relations between people of diverse groups
- Consider providing more favourable treatment for people with disabilities

This policy aims to be accessible to everyone regardless of age, disability (physical, mental health or learning disability), gender (including transgender) race, sexual orientation, religion or belief or any other factor which may result in unfair treatment or inequalities in health or employment. This policy aims to be accessible to everyone regardless to age, disability (physical, mental health or learning disability), gender (including transgender), race, sexual orientation, religion or belief or any other factor which may result in unfair treatment or inequalities in health or employment.

## **5. Roles and Responsibilities**

### **5.1 Trust Board of Directors**

The Board of Directors is responsible for ensuring that there is a robust system of corporate governance within the organisation. This includes having a systematic process for the development, authorisation and management of policies.

### **5.2 Chief Executive**

Overall responsibility for the enforcement of this policy lies with the Chief Executive, who is ultimately responsible for ensuring effective corporate governance within the organisation.

### **5.3 Director of HR**

Overall responsibility for the implementation and monitoring of this policy lies with the Director of HR.

### **5.4 Managers**

Managers are responsible for the proactive implementation of this policy within their business areas by ensuring all employees read and understand it, raising awareness of the policy at Departmental Induction and regularly thereafter at Team Brief. Managers have a duty:

- To act promptly when they receive a concern;
- To ensure that any employee raising a concern in the public interest does not suffer any detriment as a result of their action;
- To seek appropriate advice when required;
- To apologise where appropriate
- To keep employees up to date with the progress of any investigation in circumstances where they are able to do so.

Managers should always be mindful of the impact raising a concern can have on an individual and advise them about the support services that are available.

### **5.5 Employees**

It is the responsibility of all employees, including temporary workers, locums and employees seconded or contracted from other organisations, volunteers and students to adhere to this policy and to report any concerns to their line manager (or other senior manager if not appropriate). If you have a concern or even a

suspicion that something is not right, you should raise it immediately or as soon as possible thereafter in order to give the Trust the opportunity to investigate. All employees have a responsibility under the Trust's Health and Safety Policy to report issues e.g. accidents, incidents, abnormal occurrences and near misses as per the Trust's Incident Policy. Employees are expected to raise genuine issues in the interest of staff and patients with a true belief that malpractice at work has occurred and not to maliciously make false allegations. If it is later discovered that malicious allegations have been made, then the matter will be dealt with through the Trust's Disciplinary Procedure.

## **5.6 Freedom to Speak Up Guardian**

As a result of Sir Robert Francis 'Speak Up' review in 2015, the role of Freedom to Speak up Guardians was established by the Secretary of State. Each Trust has a responsibility to have Freedom to speak up guardians as they have a key role in helping to raise the profile of raising concerns in the Trust and provide confidential advice and support to staff in relation to concerns they have about patient safety and/or the way their concern has been handled.

The Freedom to Speak Up Guardian is appointed by the Trust Board, working alongside them and members of the executive team to help support the organisation to become a more open, transparent place to work. A full explanation of the role of the Freedom to Speak Up Guardian can be found at Appendix A

## **6 How to Raise a Concern**

6.1 If you have a concern that you would like to raise confidentially, the details of the concern will be assessed to decide on the most appropriate action to be taken.

### **6.2 Stage 1**

In the first instance, you should raise your concern with your line manager or lead clinician. This may be verbally or in writing. Your line manager will then decide on the most appropriate course of action.

If your line manager/lead clinician feels that your concern fits into another appropriate procedure, they will advise you of this and refer to this procedure.

### **6.3 Stage 2**

If you feel for whatever reason unable to raise the matter at stage 1 or if you are not happy with the course of action taken at stage 1, we encourage you to raise the matter in writing or verbally to either:

- Freedom to speak up Guardian
- Divisional Director/Clinical Business Manager/Strategic Lead/Head of Department.

- Senior member of Personnel Department.
- An accredited Trade Union/professional organisation representative who will take up this matter on your behalf.

These nominated staffing groups have been given specific training in relation to the handling of whistle blowing concerns.

#### 6.4 **Stage 3**

If you have utilized stage 1 and/or stage 2 and are unhappy with the action taken for whatever reason, or feel that the concerns are too serious to be raised with the people outlined in stage 2, the matter should be raised either in writing or verbally to one of the following:

- Chief Executive – Mr Steve Williamson
- Chairman – Mr Neil Mundy
- An Executive Director or Non-Executive Director

#### 6.5 **Stage 4**

If it is felt that the matter is so serious that it can not be discussed with anyone mentioned in stages 1, 2 or 3 or if you would like some independent advice at any stage, you may contact a prescribed regulator which is a person prescribed by the Secretary of State for Trade and Industry by Order (SI 1999/1549) such as:

Serious Fraud Office	0207 2397272
Inland Revenue	0845 3667800
Customs & Excise	0845 595 000
Health & Safety Executive	0300 0031647
Environment Agency	0800 807 060
Charity Commission	0845 3000218
Pensions Regulatory Authority	0845 6007060
Public Concern at work	0207 4046609
Care Quality Commission	03000 616161
and/or	
The Department of Health	0800 0724725
NHS England	0300 311 22 33
Health Education England	0191 275 4782
NHS Protect	0800 028 40 60
NHS Improvement	0300 123 2257

6.6 A comprehensive list of Professional Regulators and Trade Unions you can contact can be found in Appendix B.

6.7 Once a concern has been raised at any of the stages above, the concern will be assessed to determine the most appropriate form of action, this may include an

internal inquiry or a formal investigation. You will be informed of who is dealing with the matter and will be updated regarding the progress of the investigation, proposed action and outcomes.

- 6.8 If you are required to attend a meeting as part of the investigation process, you will have the right to be accompanied by a trade union, professional organisation or work colleague.
- 6.9 It is difficult to define a timescale for investigations/inquiries to be completed however we will work towards a maximum timescale of 21 days from the date the concern has been raised. We will ensure that communication is maintained and you are updated with progress. If the investigation/inquiry is likely to take longer than 21 days, you will be updated by the person handling the concern.
- 6.10 Once the investigation/inquiry has been completed, you will be informed of the recommendations and given appropriate feedback. Please note 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.

## **7 PROTECTED DISCLOSURE**

- 7.1 It is the expectation that this policy will enable staff concerns to be addressed and dealt with without reference to the media, and other non-prescribed regulators. Such disclosures will be protected in accordance with the Public Interest Disclosure Act 1998, if they are not made for personal gain and:-
- Reasonably believe they would be victimised if the matter was raised internally or with a prescribed regulator;
- or
- Reasonably believe a cover-up was more likely and there was no prescribed regulator;
- or
- Had already raised the matter in accordance with this policy or with a prescribed regulator but is dissatisfied with the outcome or still has concerns.
- 7.2 The Act will not provide protection if a member of staff chooses to disclose information not included in point 6.1 above. This will be considered as a misconduct issue and may result in disciplinary action being taken.
- 7.3 Unauthorised disclosure of information about any patient or staff member will also be regarded as misconduct and may result in disciplinary action being taken.

## **8 DISSATISFACTION**

- 8.1 If you are dissatisfied with action taken as a result of raising concerns at work in accordance with this policy, you are encouraged to go to the next stage outlined within this policy in order to raise the concern again at a higher level

## 9 **MONITORING AND REVIEW**

- 9.1 At the conclusion of a concern that has been raised at work, each case will be monitored and reviewed by a member of the Divisional Personnel Teams to ensure that the processes outlined within this policy have been used appropriately.
- 9.2 This policy will be reviewed in 3 years in conjunction with the Joint Consultative Committee or at such time as substantial changes in legislation which would warrant updated guidance being made available to employees of the Trust.

### Role specification for the Freedom to Speak Up Guardian

Acting in a genuinely independent capacity, the Freedom to Speak Up Guardian will be appointed by the Board, working alongside them and members of the executive team to help support the organisation to become a more open, transparent place to work.

In particular the Freedom to Speak Up Guardian will:

- Work with the chief executive and Board to help create an open culture which is based on listening and learning and not blaming.
- Develop, alongside the Board, chief executive and executive team a range of mechanisms, in addition to the formal processes, which empower and encourage staff to speak up safely.
- Ensure that staff with disabilities and those from black and other minority ethnic backgrounds are encouraged to speak out and are not disadvantaged by doing so.
- Participate in the organisation's educational programme for all staff so that they understand how they can raise concerns and for managers about how they respond to concerns and supporting the member of staff appropriately.
- Be entirely independent of the executive team, so they are able to challenge senior members of staff, reporting to the Board or externally as required.
- Be a highly visible individual, who spends the majority of their time with 'front line' staff, providing expertise in developing a safe culture which supports and encourages staff to speak up using the local procedures and if necessary advising them on how to raise concerns, including externally.
- Act in an independent and impartial capacity, listening to staff and supporting them to raise concerns they may have by using the available structures and policies, both within the organisation and outside.
- Independently review any complaints from members of staff about the way they have been treated as a result of raising a concern and report back to the individual and, with their agreement, to their manager, the chief executive and the director of human resources.
- Ensure members of staff who speak up are treated fairly through the investigation, inquiry and or review and that there is effective and open communication during this time.

- Ensure that information about those who speak up is kept confidential at all times, subject to requirements around safeguarding and illegality.
- Meet quarterly with the chief executive to feedback themes from the concerns raised and to share positive and negative experiences and outcomes.
- Report at least every six months to the Board and the organisation as a whole.
- Participate in the national network for the guardians, sharing and helping to develop excellent practice in supporting members of staff who speak up.

Those appointed as Freedom to Speak Up Guardian should have these characteristics:

- Understand the trust, its values and key priorities and challenges.
- Have a track record of supporting and listening to staff and in demonstrating the values of the trust and the NHS constitution in their daily working lives.
- Be able to facilitate a conversation between members of staff and their managers.
- Have a good understanding of how to raise concerns and the barriers that can exist for those who speak up.
- Be an approachable, trusted, non-judgemental individual, who is comfortable with talking with 'front line' staff from all disciplines and all grades and can build a rapport which demonstrates compassion and understanding.
- Have the ability to set boundaries, be concise, synthesise and present information and be able to write reports for the chief executive and the Board.
- Have an understanding of mediation and managing confidential matters; this includes an understanding of managing and keeping confidential records of cases.
- Be responsive and resilient.
- Have an ability to work with a range of stakeholders, especially those responsible for patient safety and patient and staff experience, to ensure that lessons are learnt, themes identified and necessary changes are made.
- Confident in speaking at internal and external events.

## **Professional Regulators**

General Chiropractic Council

[www.gcc-uk.org](http://www.gcc-uk.org)

Tel: 020 7713 5155

General Dental Council

[www.gdc-uk.org](http://www.gdc-uk.org)

Tel: 020 7887 3800

General Medical Council

[www.gmc-uk.org](http://www.gmc-uk.org)

Tel: 0161 923 6602

General Optical Council

[www.optical.org](http://www.optical.org)

Tel: 020 7580 3898

Chartered Society of Physiotherapy

[www.csp.org](http://www.csp.org)

British Association of Occupational Therapists

[www.cot.co.uk](http://www.cot.co.uk)

Tel: 020 7357 6480

Society of Chiropractors and Podiatrists

[www.feetforlife.org](http://www.feetforlife.org)

## **Trade Unions**

British Medical Association

[www.bma.org](http://www.bma.org)

Tel: 0300 123 1233

UNISON

[www.unison.org](http://www.unison.org)

Tel: 0845 355 0845 (regional office)

UNITE

[www.unitetheunion.org](http://www.unitetheunion.org)

Tel: 0191 300 2107 (regional office)

GMB

[www.gmb.org](http://www.gmb.org)

Tel: 0191 233 3930 (regional office)

Royal College of Nursing

[www.rcn.org](http://www.rcn.org)

Tel: 0345 772 6300