



**Norfolk and Waveney**  
Clinical Commissioning Group

# **Freedom to Speak Up (Whistleblowing) Policy**

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<b>Approval body</b>	Governing Body	<b>Date Approved</b>		
<b>Date Issued</b>	July 2020	<b>Review Date</b>	July 2022	
<b>Contact for Review:</b> CCG HR Team				

<b>Prepared by</b>	This Policy has been prepared and reviewed by the CSU HR Team considering feedback from the CCG
<b>Impact Assessment</b>	Completed.
<b>Consultation</b>	This is an internal document that does not need further engagement or involvement at this time.
<b>Authorised by</b>	All CCGs via their local Governance Procedure
<b>What is it for?</b>	This document is an amended version of the BSA Freedom to Speak Up Policy.
<b>Who is it aimed at and which settings?</b>	The Policy is for use by all CCG staff and ensures that all staff are aware of how to raise concerns they have at work. A relevant concern can relate either within the workplace or externally, in relation to danger, risk, malpractice or wrong doing which affects others.
<b>Evidence</b>	Not applicable
<b>Other relevant approved documents</b>	Not applicable.
<b>References</b>	Not applicable.
<b>Training and competences</b>	Not applicable
<b>Monitoring and Evaluation</b>	This policy will be monitored and reviewed for effectiveness by the CCG HR team on a regular basis.
<b>Appendix</b>	A Process for raising and escalating a concern B A vision for raising concerns in the NHS C Equality Impact Assessment

Revision History	Summary of changes	Author(s)	Version No
June 2020	Reviewed by Corporate Governance, Counter Fraud and HR for CCG's use	CSU HR Team and LCFS Counter Fraud Specialists	1

## Contents

1.	Speak up – we will listen	5
2.	This Policy	5
3.	What concerns can I raise	5
4.	Feel safe to raise your concern	7
5.	Confidentiality	7
6.	Who can raise concerns?	7
7.	Who should I raise my concern with?	7
8.	Advice and support	8
9.	How should I raise my concern?	8
10.	Responsibilities	8
11.	What will the CCG do?	10
12.	Investigation	10
13.	Communicating with you	11
14.	How we will learn from your concern?	11
15.	Governing Body Oversight	11
16.	Monitoring and Review	11
17.	Equality	11
18.	Data Protection	11
19.	Raising your concern with an outside body	12
20.	Making a ‘protected disclosure’	12
21.	National Guardian Freedom to Speak Up	12
	Annex A: Process for raising and escalating a concern	13
	Annex B: A vision for raising concerns in the NHS	14
	Annex C: Equality Impact Assessment	15

## **1 Speak up – we will listen**

- 1.1 Norfolk and Waveney Clinical Commissioning Group (hereafter referred to as the CCG) is keen to ensure that you can speak up about any concerns you have at work. A relevant concern can relate either within the workplace or externally, in relation to danger, risk, malpractice or wrong doing which affects others.
- 1.2 This may be a specific concern regarding some danger, fraud or other illegal or unethical conduct that affects others, how the CCG delivers its services or how it affects patient services. It is vital that you know how to speak up as it will help us to keep improving the working environment for our staff and services for all patients.
- 1.3 You may feel worried about raising a concern, and we understand this. But please don't be put off. In accordance with our duty of candour, our senior CCG management and Governing 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 This policy**

- 2.1 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. We have adopted this policy (produced by NHS Improvement and NHS England) as a minimum standard to help to normalise the raising of concerns for the benefit of all NHS staff and patients.
- 2.2 Our local process has been integrated into the policy and adheres to the principles of this policy and provides more detail about how we will look into a concern.

## **3 What concerns can I raise?**

- 3.1 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):
  - Poor standard or unsafe patient care
  - Unsafe working conditions
  - Inadequate induction or training for staff
  - Lack of, or poor, response to a reported patient safety incident
  - Suspicions of fraud, bribery or corruption which should be reported to the CCG's Local Counter Fraud Specialist (LCFS), Lisa George on 07825 827024 or via email: [lisa.george@tiaa.co.uk](mailto:lisa.george@tiaa.co.uk) or [lisa.george4@nhs.uk](mailto:lisa.george4@nhs.uk)
  - A bullying culture (across a team or organisation rather than individual instances of bullying)
  - Non compliance with legal obligations

## **Definitions**

- 3.2 For the purposes of this policy, a genuine and reasonable concern is defined as:

- 3.3 An occasion when an employee has a reasonable belief that a criminal offence has been committed, is being committed or is likely to be committed; that a person has failed, is failing or is likely to fail to comply with any legal obligation to which he/she is subject; that a miscarriage of justice has occurred, is occurring or is likely to occur; that the health or safety of any individual has been, is being or is likely to be endangered; that the environment has been, is being or is likely to be damaged.
- 3.4 For the purposes of this policy a whistle-blower is defined as:  
  
'someone who tells their employer, a regulator, Counter Fraud Specialist, customers, the police or the media about a dangerous or illegal activity that they are aware of through their work.
- 3.5 As an early warning system, whistleblowing can help alert employers to risks such as:
- A danger in the workplace;
  - Fraud in, or by the organisation;
  - Miss-selling or price fixing;
  - Offering, taking or soliciting bribes;
  - Dumping damaging material in the environment;
  - Misreporting performance data; and
  - Medical negligence.
- 3.6 A whistleblowing concern is about a risk, malpractice or wrongdoing that affects others. It could be something which adversely affects patients, the public, other staff or the CCG itself.
- 3.7 A grievance on the other hand is a personal complaint against an individual's own employment situation: for example, a staff member may feel aggrieved if they think a management decision has affected them unfairly or that they are not being treated properly.
- For further examples, please see the [Health Education England video](#).
- 3.8 Remember that all employees and workers, including clinical and non-clinical registered professionals within the NHS have a duty to report a concern under the circumstances set out in this policy. If in doubt, please raise it.
- 3.9 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.
- 3.10 This policy should not be used to raise concerns of a personal nature for example complaints relating to a management decision or matters of individual conscience where there is no suggestion of wrong doing but an employee or worker is, for example, required to act in a way which conflicts with a deeply held belief. These matters should be dealt with using the relevant alternative procedure, for example, the Grievance Policy.

## **4 Feel safe to raise your concern**

- 4.1 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.
- 4.2 Provided you are acting honestly it does not matter if you are mistaken or if there is an innocent explanation for your concerns. The CCG will look into what staff say and staff will have access to any support needed. Staff raising legitimate concerns are protected by the Public Interest Disclosure Act 1998. An Act to protect individuals who make certain disclosures of information in the public interest to allow such individuals to bring action in respect of victimisation: and for connected purposes.

## **5 Confidentiality**

- 5.1 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.

## **6 Who can raise concerns?**

- 6.1 This policy applies to all individuals contracted by the CCG, representing and working on behalf of the organisation. 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.

## **7 Who should I raise my concern with?**

- 7.1 In many circumstances the easiest way to get your concern resolved will be to raise it with your line manager. 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.
- 7.2 If raising it with your line manager does not resolve matters, or you do not feel able to raise it with them, you can contact one of the following people:
- Our Freedom to Speak Up Guardian is Doris Jamieson, CCG Lay Member – 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 step of raising a concern, with access to anyone in the organisation, including the Chief Officer, or if necessary, outside the organisation
  - Our Corporate Affairs Team.

Annex A sets out the process for escalating a concern in accordance with this policy.

**If you still remain concerned after this, you can contact**

- Our executive director with responsibility for whistleblowing is the Chief Nurse.
- Our Lay Member with responsibility for whistleblowing Doris Jamieson, CCG Lay Member.

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

7.4 If for any reason you do not feel comfortable raising your concern internally, you can raise concerns with external bodies, listed on page 8.

**8 Advice and support**

8.1 You can also contact the Whistleblowing Helpline for the NHS and social care, your professional body or trade union representative.

**9 How should I raise my concern?**

9.1 You can raise your concerns with any of the people listed above in person, by phone or in writing (including email).

9.2 Whichever route you choose, please be ready to explain as fully as you can the information and circumstances that gave rise to your concern.

**10. Responsibilities**

**Chief Officer**

Will ensure that reasonable resources are allocated for the implementation of this policy.

### **Chief Nurse**

Will oversee the implementation of this policy, ensuring that it is made available to all staff, monitor the effectiveness of its implementation and will ensure that there are robust policies, procedures and systems in place for the management of clinical performance issues arising from genuine and reasonable concerns raised by employees, and that such concerns arising are dealt with in accordance with this policy.

### **All Directors**

Will ensure that they are aware of the requirements of this policy and ensure that they are implemented, particularly when an employee approaches them with a genuine and reasonable concern.

### **Chief Finance Officer**

Will act as point of contact for any concerns relating to fraud, bribery or corruption and will immediately inform the Counter Fraud Specialist.

### **Department Managers**

Will ensure that all staff are encouraged to raise genuine and reasonable concerns and are assisted in doing so.

### **All Employees**

- Will make themselves aware of the content of this policy and comply with it;
- Will ensure (where relevant) that they comply with the ethical, professional and clinical requirements of their professional body;
- Will ensure that any genuine and reasonable concerns they might have are dealt with in accordance with this policy.
- To raise any concerns relating to fraud, bribery and/or corruption, safety risks including clinical safety, or other wrongdoing.

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

The local Freedom to Speak Up Guardian is responsible for helping to nurture a culture of openness, by acting 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.



## **Counter Fraud**

Secretary of State Directions issued to all NHS Bodies require the CCG to appoint and nominate a professionally accredited Counter Fraud Specialist (CFS). The CFS is authorised to receive enquiries from staff confidentially and anonymously and can decide whether the matter raised needs to be investigated.

### **11 What will the CCG do?**

- 11.1 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 (see Annex B).
- 11.2 We are committed to listening to our staff, learning lessons and improving patient care and the services we deliver. 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.
- 11.3 The CCG offer access to a counselling service through Insight Healthcare. This is a confidential advice line available 24 hours a day to all staff by phoning 0300 1312044.

### **12 Investigation**

- 12.1 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 CCG) 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).
- 12.2 If your concern suggests a Serious Incident has occurred, an investigation will be carried out in accordance with the Serious Incidents and Never Events Requiring Investigation Policy. 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.
- 12.3 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.
- 12.4 Any employment issues (that affect only you and not others) identified during the investigation will be considered separately.

### **13 Communicating with you**

- 13.1 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).

### **14 How will we learn from your concern?**

- 14.1 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 CCG, or more widely, as appropriate.

### **15 Governing Body oversight**

- 15.1 The Governing Body 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 Governing Body supports staff raising concerns and wants you to feel free to speak up.

### **16 Monitoring and Review**

- 16.1 We will review the effectiveness of this policy and local process at least biennially, with the outcome published and changes made as appropriate.

### **17 Equality**

- 17.1 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, sex, 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.

### **18 Data Protection**

- 18.1 In applying this policy, the Organisation will have due regard for the Data Protection Act 2018 and the requirement to process personal data fairly and lawfully and in accordance with the data protection principles. Data Subject Rights and freedoms will be respected and measures will be in place to enable employees to exercise those rights. Appropriate technical and organisational measures will be designed and implemented to ensure an appropriate level of security is applied to the processing of personal information. Employees will have access to a Data Protection Officer for advice in relation to the processing of their personal information and data protection issues.

## 19 Raising your concern with an outside body

19.1 Alternatively, 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 Counter Fraud Authority** for concerns about fraud and corruption.

## 20 Making a 'protected disclosure'

20.1 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 8, 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.

## 21. National Guardian Freedom to Speak Up

21.1 The new 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.

## **Appendix A: Summary of the process for raising and escalating a concern**

Individuals may take independent advice on raising a concern at any step from your trade union representative or Protect on 020 3117 2520. Please remember firm evidence is not required to raise a concern. However, the information or circumstances giving rise to the concern should be explained as fully as possible.

### **Step one**

If you have a concern about a risk, malpractice or wrongdoing at work, the CCG hopes you will feel able to raise it first with your line manager. This may be done verbally or in writing.

### **Step two**

Where individuals feel unable to raise the matter with their line manager, the matter should be raised with the relevant Director or Senior Manager.

### **Step three**

If you feel unable to raise the matter with your line manager, for whatever reason, please raise the matter with our local Freedom to Speak Up Guardian:

#### **Doris Jamieson, CCG Lay Member**

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

- treat your concern confidentially unless otherwise agreed
- ensure you receive timely support to progress your concern
- escalate to the Governing Body any indications that you are being subjected to detriment for raising your concern
- remind the CCG of the need to give you timely feedback on how your concern is being dealt with
- ensure you have access to personal support since raising your concern may be stressful.

Or another director or senior manager the individual has confidence in.

Or with the Counter Fraud Specialist (CFS) if the matter concerns fraud, bribery or corruption. The CCG's CFS, Lisa George, can be contacted on 07825 827024 or via email on [lisa.george@tiaa.co.uk](mailto:lisa.george@tiaa.co.uk) or [lisa.george4@nhs.uk](mailto:lisa.george4@nhs.uk). Alternatively staff can contact the NHS Counter Fraud Authority Fraud and Corruption Reporting Line on 0800 028 40 60 or report the fraud online at <https://cfa.nhs.uk/reportfraud>

If you want to raise the matter in confidence, please say so at the outset so that appropriate arrangements can be made.

Alternatively, the matter may be raised with another Governing Body Member (see step four for further information).

### **Step four**

If these channels have been followed and you still have concerns, or if you feel that the matter is so serious that you cannot discuss it with any of the above, please contact either:

- The Chief Officer;
- Or ask for the contact details of a Governing Body Member (including Chair) via the Chief Officer

### **Step five**

You can raise concerns formally with external bodies as detailed on page 12.

## Appendix B – A vision for raising concerns in the NHS



## Appendix C

### Equality Impact Assessment For HR35 Freedom to Speak Up Policy

HR Policy	Equality Impact Assessment
Date carried out:	June 2020

#### Step 1: Aims and purpose of the proposal / policy being assessed

(This should reflect what the policy is intending to achieve and how it seeks to achieve, it is this intention that the assessment seeks to measure, consider who benefits and how and who doesn't and why, also consider the impact of associated aims).

The overall purpose of the Policy is to ensure that all staff are aware of how to raise concerns they have at work. A relevant concern can relate either within the workplace or externally, in relation to danger, risk, malpractice or wrong doing which affects others.

#### Step 2: Screening process for relevance to equality & diversity issues

Does this proposal / policy have any equality & diversity relevance in the following areas? (This should be considered in relation to the formulation and application of the policy. As far as possible engagement with the relevant staff network groups should take place to identify any potential areas of relevance).	Internally, i.e. relevant to staff or working practices	Externally, i.e. relevant to service delivery
<b>A Age</b>	No	
<b>B Disability</b>	No	
<b>C Gender reassignment</b>	No	
<b>D Marriage and Civil Partnership</b>	No	
<b>E Pregnancy and maternity</b>	No	

<b>F Race</b>	No	
<b>G Religion or belief</b>	No	
<b>H Sex</b>	No	
<b>I Sexual orientation</b>	No	
<b>J Other issues</b>	No	

**Step 3: If you have answered, “Yes”, to any of the protected characteristic boxes in Step 2, a full impact assessment is required**

Are any of the protected characteristic boxes in Step 2 marked “Yes”?

**Step 4: Examination of available information (sources can include but are not restricted to – ESR data; MI relating to Recruitment /Employee Relations/Attrition; Industry best practice; legal overview; research articles; matters arising from judgements tested during consultation; consider four-fifths rule to assess difference).**

**Step 5: Full Impact Assessment Process**

**Step 5a: Consultation Log**

Where are the consultation records stored?

Step 5a: Consultation Log	Step 5a: Consultation Log	Step 5a: Consultation Log	Step 5a: Consultation Log

**Step 5b: EIA Action Plan: Workforce Impacts (internal)**



Potential issues or impacts (positive and negative)	Activity	Lead	Target date for action	Progress / timescale / monitoring
Age				
Race				
Other issues				

#### Step 5c: EIA Action Plan: Service Delivery Impacts (external)

Potential issues or impacts (positive and negative)	Activity	Lead	Target date for action	Progress/ timescale/ monitoring

#### Step 6: Monitoring and review arrangements

How will the implementation of the proposal / policy be monitored, and by whom?

The Policy will be monitored by the CCG and HR.

What is the timetable for monitoring, with dates?

#### Step 7: Public availability of reports / result