

WHISTLEBLOWING AND RAISING CONCERNS POLICY

Policy reference – HR08

SUMMARY	This Policy outlines the Whistleblowing Procedure.
AUTHOR	Alison Ewart - HR Business Partner
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APPLIES TO	NHS Bradford City and Districts CCG
APPROVAL BODY	Governing Body of the CCG
RELATED DOCUMENTS	Grievance Policy Equal Opportunities Policy Acceptable Standards of Behaviour Policy and Procedure Safeguarding Policy Incident Reporting Policy Fraud and Bribery and Corruption Policy Clinical Supervision Policy
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THIS POLICY HAS BEEN SUBJECT TO A INITIAL EQUALITY IMPACT ASSESSMENT

VERSION CONTROL SHEET

Version	Date	Author	Status	Comment
Draft	October 2013	John Warburton	HR Lead	Withdrawn from SPF October 2013 for safeguarding comments
Draft	April 2014	Alison Ewart	HR Lead	Consultation and ratification with the Joint Trade Unions via the Social Partnership Forum
Draft	11.07.14	Alison Ewart	HR Lead	JQC decision and approval – final
Final	14.07.14	Alison Ewart	HR Lead	Incorporating final comments received from JQC (refer to 6.1, 6.6.1)
Revised	August 2015	Tazeem Hanif	HR Lead	Amendments made to the policy and taken to the West Yorkshire HR Policy Sub Group on 25.08.2015 to consult on changes.
Final	02.12.2015	Tazeem Hanif	HR Lead	Ratified at the Social Partnership Forum
Revised	24.06.2017	Tazeem Hanif	HR Lead	Amendments made to the policy following recommendations from the Sir Robert Francis Freedom to Speak up review of 2015 in developing a more supportive culture that encourages staff to raise concerns.
Draft	05.07.2016	Tazeem Hanif	HR Lead	Amendments to the policy taken to the HR Policy Workshop on 05.07.2016 for consultation.
Draft	09.09.2016	Tazeem Hanif	HR Lead	Submitted to JQC for comment and feedback incorporated into the policy
Draft	12.09.2016	Tazeem Hanif	HR Lead	Submitted to Audit Committee for comment and feedback incorporated into the policy
Final	11.10.2016 and 12.10.2016	Tazeem Hanif	HR Lead	Ratified at the Governing Body meeting for City and Districts CCG.

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1. PURPOSE

- 1.1 Individual workers have a right and a duty to raise matters of concern they may have about health service issues, associated with the delivery of care or services to a patient or client within the organisation. In accordance with our duty of candour, our senior leaders and entire board are committed to an open and honest culture. As an organisation, we will look into what workers say and they will always have access to the support they need.
- 1.2 The purpose of the policy is to enable any worker to raise concerns safely, at the earliest opportunity and in the right way. The organisation welcomes the raising of concerns and is committed to dealing with them responsibly and professionally under this or other policies. Raising concerns is also important because it helps the organisation improve services for all patients and the working environment for workers. If an individual raises a concern, the matter will always be given serious consideration. This policy has been drawn up in order to assist workers on how to voice any concerns they may have and to ensure there is a procedure available whereby issues can be addressed quickly and effectively.

The role for the Freedom to Speak Up Guardians is undertaken by the following individuals and these can be contacted where workers have concerns they wish to raise:-

Deputy Chief Officer and Chief Finance Officer– Julie.lawreniuk@bradford.nhs.uk
Lay Member PPI – Maxwell.mclean@bradford.nhs.uk
Lay Member Governance – richard.wilkinson1@nhs.net

- 1.3 The '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. Our local process has been integrated into the policy/adheres to the principles of the policy and provides more detail about how we look into a concern. This policy must be read in conjunction with the Freedom to speak up: Consultation response of April 2016 (https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/513245/whistleblowing_policy_consult_resp_30march_2_.pdf) and the (Freedom to speak up: raising concerns (whistleblowing) policy for the NHS April 2016 https://improvement.nhs.uk/uploads/documents/whistleblowing_policy_30march.pdf)
- 1.4 The policy aims to;
- Encourage workers to feel confident in raising serious concerns regarding the practice of the organisation
 - Provide avenues for workers to raise those concerns and receive feedback on any action taken
 - Raise awareness of examples of the range and types of concern that should be raised through this procedure
 - Ensure that workers receive a response to their concerns
 - Reassure workers that they will be protected from possible reprisals, subsequent discrimination, victimisation or disadvantage if they have a reasonable belief that they should make any disclosure.

2. SCOPE

- 2.1 This policy covers all workers in the organisation. The definition of “workers” for the purposes of this policy includes:
- Employed staff
 - Temporary agency staff
 - Persons on training courses
 - Self-employed staff or Contractors who are working for and supervised by the organisation
 - Volunteers
 - Students
 - Lay Members
 - Workers employed in partner organisations carrying out duties in the organisation

3. EQUALITY STATEMENT

- 3.1 In applying this policy, the organisation 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. A single Equality Impact Assessment is used for all policies and procedures.

4. ACCOUNTABILITY

- 4.1 The Chief Officer is accountable for this policy.

5. IMPLEMENTATION AND MONITORING

- 5.1 This policy has been received and commented on by the Joint Quality Committee and Audit Committee before going to the Governing Body. Following ratification the policy will be disseminated to staff via the intranet.
- 5.2 High level findings will be provided to the organisation’s Board about all concerns raised by workers through this policy and what action has been taken to address the problems. The policy and procedure will be reviewed annually by the Senior Management Team in conjunction with Human Resource and Trade Union representatives where applicable to review the effectiveness and make improvements. Where review is necessary due to legislative change, this will happen sooner.
- 5.3 The organisation will ensure all those responsible for implementing this policy and its procedures receives thorough and appropriate training in order for them to undertake their specific roles and responsibilities.

6 RESPONSIBILITIES

6.1 Good working relations are vital for the organisation to operate successfully and provide services. There is a joint responsibility for management, trade unions and employees to accept the responsibility of working together on issues in good faith and with the shared intention of facilitating good working relations. Within NHS Bradford City and Bradford Districts CCG, the Director of Quality is the designated responsible officer for monitoring and compliance. Should an employee feel their whistleblowing complaint needs to be considered at an appropriate high level (due to the significance of the issue), then they can contact the Director of Quality. This may not procedurally involve all the outlined steps in the flow chart (appendix 3). It should be noted that the flow chart (appendix 3), provides a guide to whistleblowing, due to the nature of the issues, an employee may choose to approach the Director of Quality without previously following any informal stage.

6.2 Employees/workers

6.2.1 It is the responsibility of employees to ensure that they:

- Understand their responsibilities under this policy and their statutory regulatory, contractual and/or professional responsibilities
- Raise any genuine concern about a risk, malpractice or wrongdoing at work, which may affect patients, the public, other staff, or the organisation itself, at the earliest reasonable opportunity. Examples of these might include (but are by no means restricted to):
 - 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 (which can also be reported to the Local Fraud Team)
 - A bullying culture across a team or organisation rather than individual instances of bullying (see CCG Grievance Policy)
- Comply with any subsequent investigation into any issues raised under this policy.

6.3 Line managers/senior managers

6.3.1 It is the responsibility of line managers and senior managers to ensure that they:

- Support all workers in raising concerns about safety, malpractice or wrongdoing at work, responding to and, where necessary, investigating the concerns raised at the appropriate steps in the procedure

6.3.2 Ensure this policy is brought to the attention of all workers within their area of responsibility including through the induction process for new starters. Freedom to Speak Up review – an independent review into creating an open and honest reporting culture in the NHS (February 2015) identified the need for the role of Guardian – this is someone to whom workers can go, who is recognised as independent and impartial, has the authority to speak to anyone within or outside the CCG, is expert in all aspects of raising and handling concerns within the CCG. This role will be undertaken in the CCG by the Deputy Chief Officer and Chief Finance Officer.

- 6.3.3 The CCGs have two nominated non-executive directors (City and Districts) in addition to the Chief Finance Officer who can receive reports of concern directly from employees and these are the Lay Member PPI (City) and the Lay Member Governance (Districts) within the CCG. Their contact details are as follows:-

Deputy Chief Officer and Chief Finance Officer– Julie.lawreniuk@bradford.nhs.uk

Lay Member PPI – Maxwell.mclean@bradford.nhs.uk

Lay Member Governance – richard.wilkinson1@nhs.net

6.4 Chief Officer/Chair of the Governing Body

- 6.4.1 It is the responsibility of the Chief Officer/Chair to ensure that they:
- Or a designated Deputy will consider and investigate referrals at the appropriate formal steps in this policy and procedure.
 - Will be responsible for hearing and ensuring an investigation of referrals at the final step in the formal procedure

6.5 Trade Union/Staff Side Representatives

- 6.5.1 It is the responsibility of Trade Unions reps to ensure that they:
- Assist workers to raise concerns under this policy

6.6 Human Resources team

- 6.6.1 The human Resource representative will provide advice and support on all aspects of this policy to ensure application and support. The HR representative can be involved at any stage of the process and can offer confidential advice and support.

7. INDEPENDENT/PROFESSIONAL ADVICE

- 7.1 At any point either before raising the concern or at any stage in this procedure a worker may involve a Trade Union or Professional Association Representative i.e. GMC, RCN or NMC who will be able to provide help and advice.
- 7.2 Free, independent and confidential advice can be obtained from the Whistleblowing Helpline for NHS and Social Care on 08000 724 725. The NHS Fraud and Corruption line on 0800 028 40 60 or the local fraud counter fraud specialist on:-
David Parker
West Yorkshire Audit Consortium
Woodrick House
Dewsbury District Hospital
WF13 4HS
Tel: 01924 816 098
Email: davidparker@nhs.net

- 7.3 Support and advice is available from Public Concern at Work and the National Audit Office (NAO) Controller and Auditor General at the following addresses:

Public Concern at Work 3rd Floor, Bank Chambers 6 - 10 Borough High Street London, SE1 9QQ Tel: 020 7404 6609 Website: http://www.pcaw.co.uk	The Controller and Auditor General National Audit Office 157-197 Buckingham Palace Road London SW1W 9SP Telephone: 020 7798 7999
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8. PRINCIPLES

- 8.1 The safety of workers, service users and their relatives is of paramount importance. The CCGs are committed to encouraging a culture of openness where workers can express their ideas and/or concerns and these will be welcomed by the Chief Officer, senior managers and Governing Body as a meaningful contribution towards improving services.
- 8.2 In particular, we should all be vigilant for any issue that impacts on the duty we all have for safeguarding and promoting the welfare of children and vulnerable adults. Workers must be aware of the organisation's procedure for raising concerns about the welfare of anyone with whom they have contact. This policy helps provide an alternative route if you believe your concerns have not been adequately addressed.
- 8.3 This policy is guided by the principle legislation on the matter - The Public Interest Disclosure Act 1998 which became law on 2 July 1999. This Act gives significant statutory protection to Workers who disclose information reasonably and responsibly in the public interest and who may be victimised as a result.
- 8.4 The act provides protection for employees who raise legitimate concerns about specified matters known as "qualifying disclosures". A qualifying disclosure is one made by an employee who reasonably suspects:
- a criminal offence;
 - a miscarriage of justice;
 - an act creating risk to health and safety;
 - an act causing damage to the environment;
 - a breach or failure to comply with any legal or professional obligation or regulatory requirement
 - bribery
 - financial fraud or mismanagement
 - unauthorised disclosure of confidential information
 - a concealment (or 'cover up') of any of the above is being or is likely to be committed.

It is not necessary for the worker to have proof that such an act is being, has been, or is likely to be committed, a reasonable belief is sufficient.

- 8.5 The common term for a protected disclosure of information in the public interest is *Whistleblowing*. A widely accepted definition of *Whistleblowing* is provided by Lord Borrie QC in 1995, as follows:
"...the disclosure by an employee (or professional) of confidential information which relates to some danger, fraud or other illegal or unethical conduct connected with the workplace, be it of the employer or of fellow employees."
- 8.6 More recently; the Enterprise and Regulatory Reform Act 2013, whilst being a wide ranging piece of legislation, includes one specific aspect concerning reforms and changes to *Whistleblowing*. (For a summary of these changes in this Act see Appendix 1 for more detail)
- 8.7 In considerations of the above, the common principles that will be adhered to include;
- 8.7.1 Any matter raised under this policy and procedure will be investigated thoroughly, promptly and confidentially and the outcome of the investigation reported back to the worker who raised the issue.
- 8.7.2 All workers will be made aware of the policy on joining the organisation and will be encouraged to read and understand its process. All existing workers and managers will be made aware of the policy through regular training sessions.
- 8.7.3 Workers who have concerns about their individual terms and conditions of employment will not be covered by this policy. Such concerns should be raised through the organisation's existing grievance procedure. A grievance is usually a complaint by an employee about an action taken in relation to themselves.
- 8.7.4 No worker will be bullied or victimised for raising a matter under this procedure for raising a legitimate concern. Any such behaviour is a breach of the organisation's values 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.
- 8.7.5 In the event that misconduct is discovered as a result of any investigation under this procedure, the organisation's disciplinary procedure will be invoked in addition to any external measures.
- 8.7.6 Where it can be demonstrated that a worker knowingly supplied false information when raising a concern the organisation's disciplinary procedure will be invoked.
- 8.7.7 The organisation will treat all disclosures in a confidential and sensitive manner. The identity of the individual making the allegation may be kept confidential (unless required to disclose it by law i.e. by the police) so long as it does not hinder or frustrate any investigation. However, the investigation process may reveal the source of the information and the individual making the disclosure may need to provide a statement as part of the evidence required.

9. ASSURANCES AND CONFIDENTIALITY

- 9.1 The Chief Officer, directors and the Governing Body are committed to this policy. Workers raising a genuine concern under this policy will not be at risk of losing their job or suffering any form of retribution as a result. Workers acting in the best interest; having an honest and reasonable suspicion that malpractice has occurred, is occurring, or is likely to occur, is important it does not matter if ultimately the worker was mistaken. Of course, we do not extend this assurance to someone who maliciously raises a matter they know to be untrue. Unfounded allegations made with malicious intent will be dealt with through the organisation's disciplinary procedures. Victimising workers who have expressed or intend to express their concerns and/or deterring them from raising a concern about fraud or abuse is a serious disciplinary offence.
- 9.2 Individual workers have a contractual obligation to safeguard all confidential information to which they have access. Patient and client identifiable information is strictly confidential under all circumstances. If a concern is raised in connection to personal information about patients or clients, measures must be taken to ensure the information is anonymous and not traceable to an individual. Careful consideration therefore needs to be given to how the detail of concerns is communicated. Managers should remind workers of the importance of this requirement.
- 9.3 Unauthorised disclosure of personal information about any patient or client will be regarded as a serious matter which will warrant disciplinary action. This applies even where a worker believes that he or she is acting in the best interests of a patient or client by disclosing personal information. Workers should also guard against inadvertent disclosure of personal information, where this can be overheard by a third party.

In accordance with the Francis Report, all workers directly employed by the CCG and the Governing Body members have a duty 'in the public interest' to declare any suspicion or a belief that any treatment or care provided to a patient has caused death or a serious injury.

The Government produced a written statement in the House of Commons on 24th June, 2014 where it was confirmed that Sir Robert Francis QC was to chair a review on whistleblowing processes in the NHS and as a result the Freedom to Speak Up Report was published in February 2015. The consultation process took place between 16th November 2015 to 8th January 2016 and the recommendations were a single national integrated whistleblowing policy which has been incorporated into this policy.

- 9.4 The identity of the worker who has raised a concern will be protected on request and will not be disclosed without consent. Whether and how to proceed will be discussed with the whistleblower if the situation arises where the concern cannot be resolved without revealing their identity (for example, because there is an internal investigation or evidence is needed in court).

- 9.5 Any worker raising a concern must be aware that they may be asked to present evidence to substantiate any allegations made, and/or to provide a written statement. In addition, they may be asked to explain their allegations during any disciplinary proceedings that may result from them.
- 9.6 Victimisation of workers who raise concerns reasonably and responsibly is prohibited under both the Public Interest Disclosure Act 1998 and reaffirmed through the Enterprise and Regulatory Reform Act 2013.
- 9.7 The above legislation basically gives workers the right:
- (a) not to be penalised or put at any disadvantage, by your employer as a result of making a protected disclosure;
 - (b) to be automatically treated as having been unfairly dismissed if the reason for your dismissal was that you made a protected disclosure.

The whistle-blowing provisions also address the matter of compensation for suffering disadvantage or unfair dismissal as a result of making a protected disclosure.

- 9.8 The organisation will ensure that workers receive the full rights and protections afforded them in law when making any such qualifying disclosure.

10. ANONYMOUS CONCERNS

- 10.1 This policy encourages workers to put their name to an allegation wherever possible. Concerns expressed anonymously will be considered at the discretion of the organisation, bearing in mind the:
- seriousness of the issues raised
 - credibility of the concern
 - likelihood of confirming the allegation

11. RELATED POLICIES

- 11.1 There are three fundamental public service values underpinning the NHS and all public sector work, specified by the NHS Code of Conduct for Boards published by the NHS Executive in April 1994. These are Accountability, Probity and Openness. All those who work in the public sector should be aware of, and act in accordance with, these values. Acting with honesty and integrity forms a cornerstone of the public sector values.
- 11.2 The CCG is a public sector body and its employees are required to be honest and impartial in the conduct of their business. All employees should be aware of the Standards of Business Conduct documentation published by the CCG's.
- 11.3 Also, under the NHS Constitution all staff have responsibilities to the public, their patients and colleagues and staff should aim to be open with patients, their families, carers or representatives, including if anything goes wrong; welcoming and listening to feedback and addressing concerns promptly and in a spirit of co-operation. Staff should contribute to a climate where the truth can be heard and the reporting of, and learning from errors is encouraged.

11.4 The organisation has a range of other related policies and procedures that deal with standards of behaviour at work. Managers and workers need to ensure they are clear about how to raise concerns at work and where they can obtain support and advice in order to ensure that the appropriate policy is used in the appropriate situation. If in doubt advice should be sought from the appropriate line manager in the first instance.

11.5 This policy should be read in conjunction with the policies listed below:

Equal Opportunities Policy

This policy outlines the CCG's position with regard to the treatment of staff.

Acceptable Standards of Behaviour Policy and Procedure

Enables members of staff to address harassment and bullying in the workplace.

Grievance Policy

To raise issues of personal concern about the conduct of colleagues.

Incident Reporting Policy

To inform the CCG of any adverse incident or near miss.

Fraud & Bribery and Corruption Policy

This policy outlines responsibilities of all staff in the area of fraud, bribery and corruption. This is usually related to misuse of CCG resources.

Safeguarding Policy

This policy sets out the requirements for the statutory responsibilities for safeguarding vulnerable people be they be children or adults

Clinical Supervision Policy

This policy outlines a culture of clinical supervision which will enable front line staff to deliver a high quality health care service.

PROCEDURE

A. HOW TO RAISE A CONCERN INTERNALLY

- A1.1 Generally, workers would have the right to be accompanied by a Trade Union/Staff Organisation representative, or a colleague not acting in a legal capacity; however this is not usual at the informal stage.
- A1.2 Additionally, consideration will be given to any request from a member of staff to have support at an informal meeting if it can be demonstrated that they may suffer a detriment or be disadvantaged by attending alone. Examples might include where the employee has a disability, or where English is not their first language.
- A1.3 The following procedure should only be used in cases where an employee has identified a concern about a health service issue connected with the delivery of care or services provided to a patient or client of the organisation. This procedure does not replace other procedures such as the Grievance Policy.
- A1.4 There are two main stages in this procedure **Informal** and **Formal**.

The **Informal** Stage enables the individual to firstly raise the matter with their line or professional manager.

The 3 step **Formal** Stages enable the matter to then be raised with a senior manager. It may then, if necessary, progress to be dealt with by the Chief Officer or designated deputy and lastly by the Chair or designated Governing Body or appropriate Committee representative.

- A1.5 Concerns may be raised verbally or in writing.

B. STAGE 1 – INFORMAL APPROACH

- B1.1 The aim should always be for worker's concerns about health service issues to be resolved informally, between the individual and his/her line or professional manager. Most concerns will normally be successfully resolved in this way.
- B1.2 Where the concern involves the line manager, the worker should raise the issue informally with the next level of management.
- Where the manager is not available (e.g. out of hours) and the matter is sufficiently urgent then it may be appropriate to contact the 'on call' manager.
- B1.3 When a worker raises a concern, particularly which they consider is damaging to the interests of a patient or client, managers should try to resolve the problem as soon as possible. Where a worker concern can be acted upon, action should be taken promptly and the worker notified quickly of the action taken.

- B1.4 Where action is not considered practicable, appropriate, or in cases where worker's concerns are groundless, the worker should be given a prompt and thorough explanation of the reasons for this. If the concern cannot, at the present time, be discussed or disclosed into the public domain, then the worker will be advised by their manager concerning the reason for this.
- B1.5 The process should normally be completed within five working days of receipt of the concern. If the nature of the concern means this is not possible the worker should be given an approximate timeframe for this to happen and agreement made as to how they will be kept up to date. The worker should also be advised about the further procedural stages, which are available under this policy.

Staff would continue to be protected under the Public Interest Disclosure Act if they have followed this policy and procedure and the response given is unreasonable in the circumstances or, in the opinion of the worker, unsatisfactory.

C. STAGE 2 – A 3 STEP FORMAL APPROACH

- C1.1 If a worker feels that the issue has not been addressed by the informal approach or they feel they cannot raise it with their line manager then they can raise this with the Freedom to Speak Up Guardians. They may then invoke the formal Stage 2 of this procedure and refer their concern to their next level of management.
- C1.2 Depending on the nature of the concern, there may be occasions when other policy or procedures may then need to be introduced, for example, the Discipline Procedure. If at any stage there is sufficient concern to require a formal investigation, the Whistleblowing meeting should be terminated and an explanation given about the steps to be taken for the investigation. The outcome of these procedures may need to remain confidential.
- C1.3 Should an individual worker (for whatever reason) not wish to give their name, their concern will be addressed as far as possible. Workers should appreciate in this situation that it will be more difficult for management to look into the matter, protect the person's position or give feedback.

It must be explained to them that the organisation will do everything it can to ensure their confidentiality is maintained but that this cannot always be guaranteed, for instance if the concern led to a disciplinary investigation, or there was a legal requirement to disclose it. There would have to be exceptional circumstances for an individual who was implicated not to be able to see and challenge evidence against them. Under this procedure individuals will be protected from any reprisals arising from raising a legitimate concern.

C1.4 Where the formal stage of the policy and the 3 step procedure are invoked, a record will be made of the key details at each appropriate step and shared with the individual. All management decisions will be confirmed in writing. At the conclusion of each step in the formal procedure the worker will be advised that the timescale is five working days for invoking the next step of the procedure. If the Worker fails to invoke the next step after the five days, it will be assumed they are satisfied with the outcome and do not wish to proceed to the next step. These time limits may be extended with the agreement of both parties for example, if further information or authority regarding the issue is required.

C1.5 At any step in the formal procedural stages workers may request the assistance of their trade union or professional association representative or another person not acting in a legal capacity and they may be accompanied at any meeting arranged to consider their concern.

C1.6 Formal Step 1 – Referral to a Senior Manager

C1.6.1 If the worker is not satisfied with the line manager's response at the informal stage or they feel they cannot raise it with their line manager then they may raise their concern with a senior manager.

C1.6.2 The senior manager may consult relevant parties and arrange a meeting with the worker promptly, normally within five working days of receipt of the concern - this may not always be practicable but the meeting must not be unreasonably delayed. The worker will be allowed to further clarify and explain their concern and the senior manager will give a written response normally within five working days of the meeting.

If a more protracted enquiry is required, the senior manager will need to ensure that the individual is kept informed of the progress of the investigation throughout the process.

These time limits may be extended with the agreement of both parties for example, if further information or authority regarding the issue is required.

If the worker is not satisfied with the senior manager's response or they feel they cannot raise it with the senior manager then they may raise their concern with the Chief Officer or a designated deputy.

C1.7 Formal Step 2 – Referral to the Chief Officer or a designated deputy

- C1.7.1 If the worker is not satisfied with the senior manager's response they will have five working days whereby they may raise their concern with the Chief Officer or a designated deputy
- C1.7.2 The Chief Officer or a nominated deputy may consult relevant parties, arrange a meeting with the worker, normally within five working days of receipt of the concern. The member of staff will be allowed to further clarify and explain their concern and the Chief Officer or a nominated deputy will give a written response within five working days of the meeting. - this may not always be practicable and would be subject to any necessary investigation but the process must not be unreasonably delayed.

C1.8 Formal Step 3 – Referral to the Chair of the Governing Body or designated Committee representative.

- C1.8.1 If the individual worker remains dissatisfied with the outcome, or when they initially raise their concern they do not feel (for whatever reason) that they can raise their concern through the normal procedure outlined above they may instead refer the matter directly to the Chair or designated Governing Body or Committee representative who has been designated to hear issues or concerns under this procedure.
- C1.8.2 The Chair or designated representative will normally meet the Worker within ten working days of receipt of the concern and wherever practical will give a written response within ten working days of the meeting.

All these workers will have been trained in receiving concerns and will give you information about where you can go for more support. If for any reason you do not feel comfortable raising your concern internally, you can raise concerns with external bodies (see below section D) or the Freedom to Speak Up Guardians.

D. REFERRAL OF A CONCERN TO AN EXTERNAL BODY

D1.1 It is hoped that concerns can be dealt with internally. A worker who has exhausted the formal procedure but continues to be concerned about the decisions reached, or who honestly and reasonably believes any allegations are true and that they cannot raise them internally can make a “protected” disclosure under the terms of the Public Interest Disclosure Act 1998

D1.2 This protected disclosure should be made to an appropriate prescribed person who will be committed to the principles of the Freedom to Speak Up review and its vision for raising concerns, and will respond in line with (see Appendix 6), depending on the nature of the concern, examples include:

- Safeguarding Team
- A legal adviser (made in the course of obtaining legal advice)
- A Member of Parliament
- A Minister of the Crown
- A statutory Health and Safety representative
- the Police
- The local Counter Fraud officer or the National Fraud Hotline
- External regulators

The appropriate prescribed person is committed to listening to workers, learning lessons and improving patient care. On receipt of the concern, it will be recorded and an acknowledgement issued within two working days. The central record will include the date the concern was received, whether it is confidential and a summary of the concerns and dates when any updates and feedback given.

D1.3 Disclosure of concerns to the media should be seen as a last resort when all other options have been exhausted. Individuals are advised that they should seek advice from their trade union, professional association or legal representative before approaching the media. Workers may face disciplinary actions for any unjustifiable disclosure that might undermine public confidence in the health service. For example where the member discloses an unbalanced picture or is vindictive in their disclosures they would not be protected by the above legislation.

D1.4 This policy and procedure exists to ensure that staff concerns can be addressed and dealt with without reference to any bodies outside the organisation. The broad aim of the Public Interest Disclosure Act 1998 is to encourage workers to disclose information through appropriate internal channels first rather than going directly to an outside body. As such, the Act makes it more difficult for workers to disclose information to the press and gain protection without first following the above procedures.

E. INVESTIGATION

Where you have been unable to resolve the matter quickly usually within 3-5 working days with your line manager, we will carry out a proportionate investigation – using someone suitably independent (usually from a different part of the organisation) and properly trained and we will reach a conclusion within a reasonable timescale and notify you. Wherever possible, a single investigation which 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. The investigation will be conducted in accordance with the Freedom to Speak Up: Raising Concerns (Whistleblowing) Policy and best practice models from ACAS.

Whistleblowing - Summary of Key Legislative Provisions

Police Reform Act 2002 Section 37

Employment Rights Act 1996 Section 103A

Employment Rights Act 1996 Sections 43A to 43L

Management of Health and Safety at Work Regulations 1999 (SI 1999/3242)
Regulation 14

Public Interest Disclosure Act 1998

Public Interest Disclosure (Compensation) Order 1999 (SI 1999/1548)

Public Interest Disclosure (Prescribed Persons) Order 1999 (SI 1999/1549)

Public Interest Disclosure (Prescribed Persons) (Amendment) Order 2003 (SI 2003/1993)

Public Interest Disclosure (Prescribed Persons) (Amendment) Order 2004 (SI 2004/3265)

Public Interest Disclosure (Prescribed Persons) (Amendment) Order 2005 (SI 2005/2464)

The Employment Tribunals (Constitution and Rules of Procedure) (Amendment) Regulations 2010 (SI 2010/131)

Enterprise and Regulatory Reform Act 2013 – Whistleblowing

Section 43B of the Employment Rights Act 1996 has been amended so that a worker who makes a disclosure will only be protected if the disclosure is in the 'public interest'. The Enterprise and Regulatory Reform Act 2013 also takes away the requirement for a disclosure to be made in 'good faith'. However, if the disclosure is not made in 'good faith' the employment tribunal will have the discretion to reduce any compensation awarded to the claimant by up to 25%. This will address the situation where a disclosure might be in the public interest but is made for an ulterior motive.

Employers are now vicariously liable for any detriment that one worker received from another because they have made a protected disclosure. However, a statutory defence has also been added which will protect employers who take all reasonable steps to prevent any such detriment occurring. The above changes came into force on 25 June 2013 and do not apply to disclosures before then.

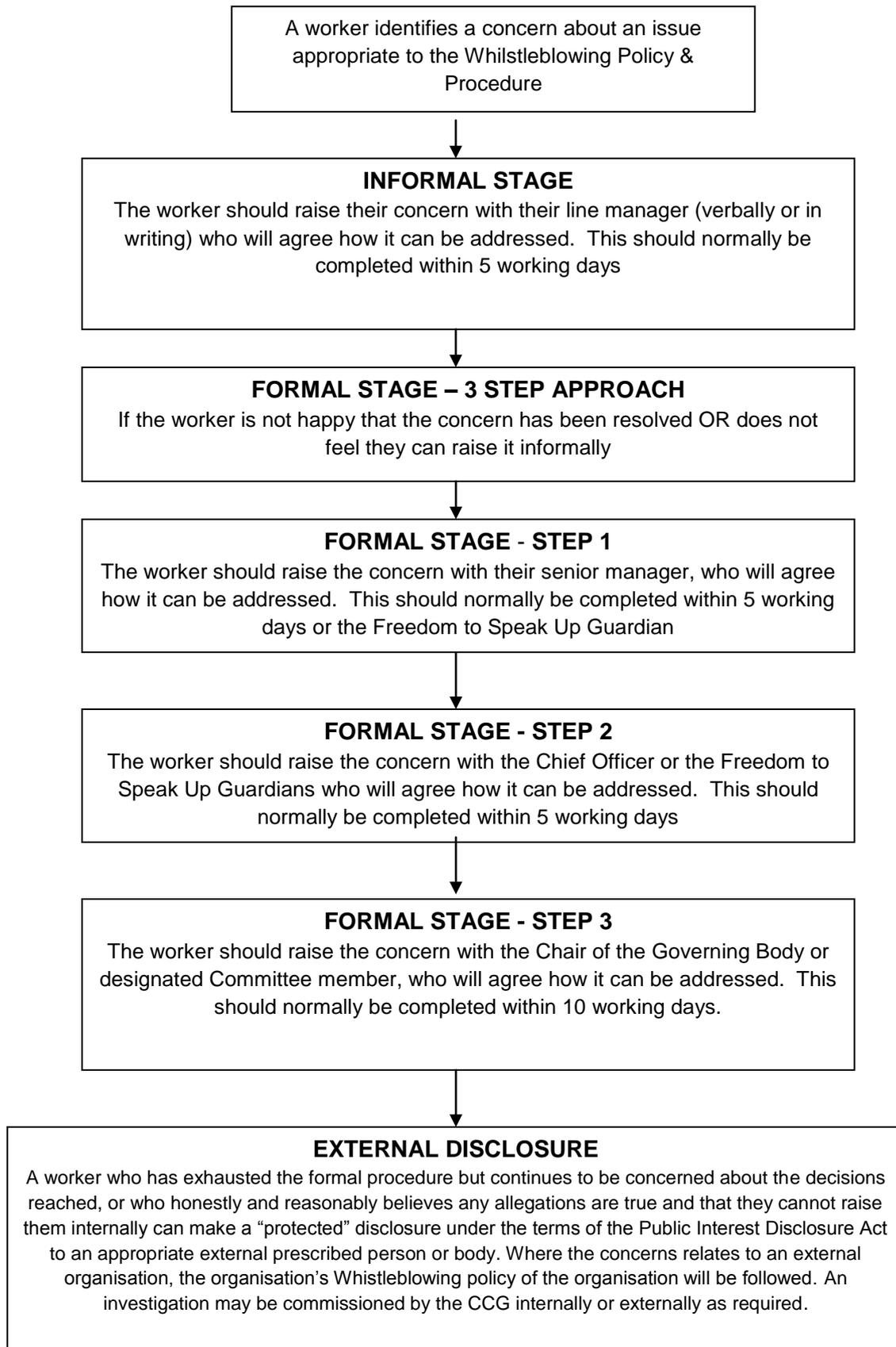
There has also been a change to the scope of 'worker' for the purposes of making a whistleblowing claim. This will ensure that various NHS workers who had been excluded from the legislation are now covered. Although this was not initially part of the changes to be introduced on 25 June 2013, it did go ahead on that date. The change does not apply to disclosures before then.

Examples of Serious Concerns

- Breach of the law
- Miscarriage of justice
- Malpractice or ill treatment of a service user/client/customer by a senior member of staff
- Repeated ill treatment of a person who uses our service, despite a complaint being made
- Sexual or physical abuse of a person who uses our services
- Where a worker is concerned that any child(ren) or vulnerable adult(s) is/are being placed at risk of harm or abuse by another employee and the worker with the concern has not felt able to name the employee involved through following the normal safeguarding policy or procedures due to their situation in the workplace.
- A criminal offence has been committed, is being committed or is likely to be committed
- Suspected fraud or misuse of public funds (e.g. theft, deception)
- Disregard for legislation, particularly but not limited to health and safety at work
- The environment has been, or is likely to be, damaged
- Breach of standing financial instructions
- Showing undue favour over a contractual matter or to a job applicant
- A breach of a code of conduct
- Information on any of the above has been, is being, or is likely to be concealed

(The above list is not meant to be exhausted)

Whistle Blowing Flow Chart



GUIDANCE TO STAFF

Q - What should you do if you suspect malpractice?

Do make an immediate note of your concerns
Do convey your suspicions to someone with the appropriate authority and experience
Do deal with the matter promptly

Don't do nothing
Don't be afraid of raising your concerns
Don't accuse any individuals directly
Don't try to investigate the matter yourself
Don't tell anyone about your suspicions other than those with the proper authority

Do tell the LCFS, or the Director of Finance or contact the NHS National Fraud & Corruption reporting line on 08000 724 725 or report online at www.reportnhsfraud.nhs.uk or The NHS Fraud and Corruption line on 0800 028 40 60 or the local fraud counter fraud specialist on David Parker on Tel: 01924 816 098 and Email: davidparker@nhs.net

GUIDANCE TO MANAGERS

Do be responsive to staff concerns
Do note details
Do try to evaluate the allegation objectively
Do deal with the matter promptly
Do advise the appropriate person:

- Line Manager
- CCG HR representative (either the HR Business Partner or HR Advisor)
- Chief Finance Officer, Lay Member PPI or Lay Member Governance
- Local Counter Fraud Specialist

Don't ridicule suspicions raised by staff
Don't approach or accuse any individuals directly
Don't convey your suspicions to anyone other than those with the proper authority
Don't try to investigate the matter yourself.

GUIDANCE TO STAFF AND MANAGERS

There is a specific criterion to meet under the whistleblowing law when making a protected disclosure. There is a list of 'prescribed persons' of who one can make a protected disclosure to (https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/510962/BIS-16-79-blowing-the-whistle-to-a-prescribed-person.pdf . Please seek independent advice from The NHS and Social Care Whistleblowing Helpline on 08000 724 725 or email enquiries@wbhelpline.org.uk

BRIBERY ACT 2010

This section is provided for information.

Staff are not required to categorise any concerns they have but may find it useful to know how the Bribery Act defines bribery. The Act defines three key offences with regard to bribery, which are:

- Active bribery (offering, promising or giving a bribe);
- Passive bribery (requesting, agreeing to receive or accepting a bribe); and
- Bribery of a foreign public official

It is also an offence for a corporate body not to have adequate preventative procedures in place to prevent bribery. The reporting process outlined in this document should be followed for all genuine suspicions of bribery.

Further Advice and References

Workers should consider the following in seeking further advice and/or reference to relevant and appropriate information and guidance or raising concerns with an outside body.

1. Professional & Representative Bodies :

All staff have the right to consult, seek guidance and support from their professional organisation or Trade Union, and from statutory bodies such as the Nursing & Midwifery Council (NMC) for Nursing, Midwifery and Health Visiting; General Medical Council and the Council for Professions Supplementary to Medicine, etc.

Joint Social Partnership Forum and Public Concern at Work Publication –
Speak Up For A Healthy NHS – How to Implement and Review Whistleblowing Arrangements in your Organisation

<http://www.pcaw.org.uk/files/SpeakupNHS.pdf>

2. NHS:

Workers can refer to the NHS Constitution for guidance

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/170656/NHS_Constitution.pdf

NHS England considers a complaint to be any expression of dissatisfaction with a service we provide. This might arise from the actions of a member of staff, or from an area or programme of work carried out by NHS England.

If you have a complaint concerning the treatment or service provided by the NHS, please contact us:

By telephone: 0300 311 2233 (lines are open Monday to Friday 8.00am – 6.00pm, excluding bank holidays)

By email: England.contactus@nhs.net

Further information can be obtained from the NHS website.

<http://www.nhsemployers.org/>

or

<http://www.nhsemployers.org/practice/whistleblowing.cfm> The NHS and Social Care Whistleblowing Helpline: 08000 724 725 or enquiries@wbhelpline.org.uk

NHS Improvement for concerns about how NHS organisations are being run and other NHS providers. Enquiries to nhsi.enquiries@nhs.net or improvement.nhs.uk or telephone number 020 3747 0000.

The Care Quality Commission <http://www.cqc.org.uk/> or Tel: **03000 616161**
Email: enquiries@cqc.org.uk

NHS Employers together with the Independent Healthcare Advisory Services (IHAS) has recently issued the following Guidance in July 2013 for employers which focuses on sharing information about healthcare workers where a risk to public or patient safety has been identified

<http://www.nhsemployers.org/Aboutus/Publications/Documents/guiding-principles-for-sharing-information.pdf>

In the Freedom to Speak Up report Sir Robert Francis sets out 20 Principles and Actions which aim to create the right conditions for NHS staff to speak up, share what works right across the NHS and get all organisation's up to the standard of the best and provide redress when things go wrong in future.

https://freedomtospeakup.org.uk/wp-content/uploads/2014/07/F2SU_web.pdf

3. Fraud & Corruption:

If a worker suspects any fraudulent or corrupt activity or practice then he or she should refer to the organisation's separate Fraud and Corruption Policy for guidance but as a minimum;

- Report your suspicions to your Local Counter Fraud Specialist or Chief Financial Officer as soon as possible. Contact details will be held locally within the organisation but if there is any doubt ask your line manager for details
- Ring the NHS Fraud and Corruption Reporting Line on 0800 028 40 60; or
- Make a note of all details

4. Personnel/HR Advice

The Chartered Institute of Personnel & Development (CIPD) provides a wealth of legislative and practitioner information covering whistleblowing and related topic;

<http://www.cipd.co.uk/hr-resources/employment-law-faqs/whistleblowing-legislation.aspx>

5. Education and Training in the NHS

Health Education England provides education and training to staff and organisations working within the NHS.

http://www.yorksandhumberdeanery.nhs.uk/pgmde/policies/trainee_support/whistleblowing/

6. Other Public Bodies and Independent Advice

Independent advice can be sought from Public Concern at Work at any stage of the process. <http://www.pcaaw.co.uk/>

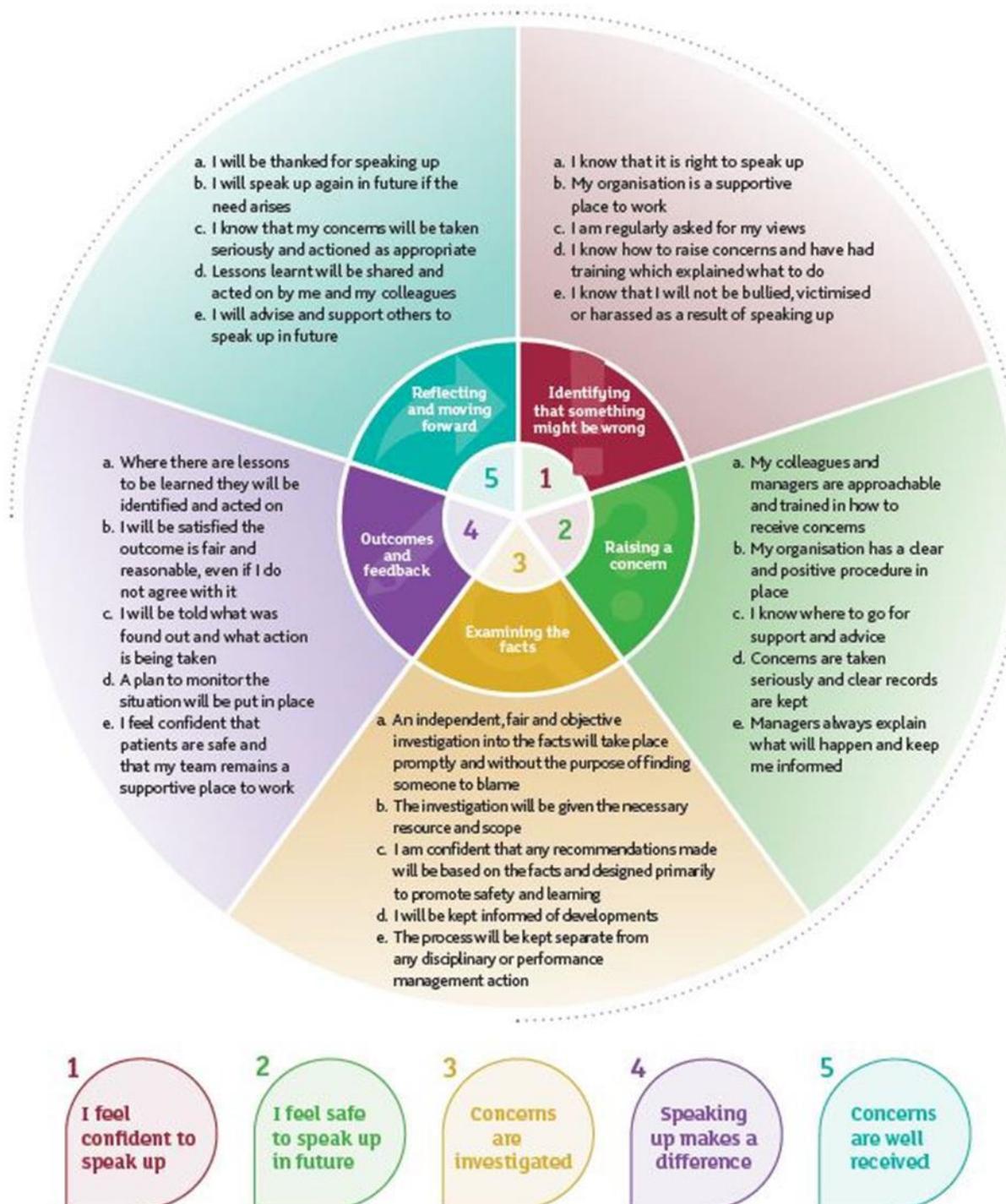
The Home Office - Disclosure and Barring Service:

<https://www.gov.uk/disclosure-barring-service-check/contact-disclosure-and-barring-service>

The Criminal Records Bureau (CRB) and the Independent Safeguarding Authority (ISA) merged into the Disclosure and Barring Service in Dec 2012.

Local Health and Safety Executive	0191 202 6200
The Health and Safety Executive (national information line)	0845 345 0055
The Environment Agency	08708 506 506
National Benefit Fraud Hotline	0800 854 440
Customs and Excise	0800 595 000
Audit Commission (Public Interest Disclosure Line)	0845 5052 2646

A Vision for Raising Concerns in the NHS



Equality Impact Assessment

Title of policy	Whistleblowing Policy	
Names and roles of people completing the assessment	Alison Ewart – HR Business Partner Nadeem Murtuja, Senior Associate Equality and Diversity	
Date assessment started/completed	Started March 2014	Reviewed September 2016

1. Outline

Give a brief summary of the policy	This policy makes provision for workers to raise concerns they may have relating to health service issues safely, at the earliest opportunity and in the right way. There is a clear procedure to assist workers on how to voice concerns so they can be addressed quickly and efficiently.
What outcomes do you want to achieve	Staff to understand the procedure to raise concerns and feel comfortable in doing this. Concerns to be addressed promptly.

2. Analysis of impact

This is the core of the assessment, using the information above detail the actual or likely impact on protected groups, with consideration of the general duty to; eliminate unlawful discrimination; advance equality of opportunity; foster good relations

	Are there any likely impacts? Are any groups going to be affected differently? Please describe.	Are these negative or positive?	What action will be taken to address any negative impacts or enhance positive ones?
Age	No		
Carers	No		
Disability	No		
Sex	No		

Race	No		
Religion or belief	No		
Sexual orientation	No		
Gender reassignment	No		
Pregnancy and maternity	No		
Marriage and civil partnership	No		
Other relevant group	No		

3. Monitoring, Review and Publication	
If any negative/positive impacts were identified are they valid, legal and/or justifiable? Please detail.	No anticipated positive or negative impact on any equality group. The policy is applicable to all employees and adheres to the NHS Litigation Authority Standards, statutory requirements and best practice. The policy makes all reasonable provision to ensure equality of access to all employees. There are no statements, conditions or requirements that disadvantage any particular group of people with a protected characteristic.

3. Monitoring, Review and Publication	
How will you review/monitor the impact and effectiveness of your actions	Concerns can be monitored against the protected groups to check if there are any trends and take action as appropriate. MONITOR: The type of whistle-blowing complaints, and the specific impact on particular equality characteristic groups. To cross-reference this policy with 'grievance types' to establish any correlation including any claims of victimisation (as per the acceptable behaviours and standards policy). To monitor the progression of an employee that has been brave enough to whistleblow to ensure they are not penalised.
Lead Officer	Tazeem Hanif
	Review date: October 2019

4. Equality and Diversity Sign off

Equality Lead Officer	Nadeem Murtuja		
		Date approved:	April 2014

5. Sign off

Lead Officer	Fiona Jeffrey		
Director	Associate Director of Corporate Affairs	Date approved:	September 2015