# FREEDOM TO SPEAK UP POLICY

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INTRODUCTION

Every organisation involved in providing NHS healthcare has a duty of candour to actively foster a culture of safety and learning in which all staff feel safe to raise concerns. This policy document encourages staff to speak up, offers guidance and advice on how to raise concerns and above all, commits to support and protect staff who speak up about our services and practice.

Speak up – we will listen

Speaking up about any concern you have at work is really important. In fact, it’s vital because it will help us to keep improving our services for all patients and the working environment for our staff.

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 leaders and entire board are committed to an open and honest culture. We will look into what you say and you will always have access to the support you need.

The Trust is committed to tackling bullying, malpractice and wrongdoing. All of us at one time or another may have concerns about what is happening at work. This organisation is strongly committed to being transparent, just and open and actively promotes these values in this policy.

You may be worried about raising such an issue and may think it best to keep it to yourself, perhaps feeling it is none of your business, or that it is only a suspicion. You may feel that raising the matter would be disloyal to colleagues, to managers or to the Trust. You may have said something but found you have spoken to the wrong person or raised the issue in the wrong way and are not sure what to do next.

What concerns can I raise?

You can raise a concern about risk, malpractice or wrongdoing you think is harming the service we deliver. Just a few examples of this might include (but are by no means restricted to):

- unsafe patient care
- unsafe working conditions
- inadequate induction or training for staff
- lack of, or poor, response to a reported patient safety incident
- suspicions of fraud (which can also be reported to our local counter-fraud team) on The Fraud and Corruption Reporting Line on 0800 028 40 60
- a bullying culture (across a team or organisation rather than individual instances of bullying).

For further examples, please see the Health Education England video: https://www.youtube.com/watch?v=7W7Q4teKcuQ
Remember that if you are a healthcare professional you may have a professional duty to report a concern. If in doubt, please raise it.

Don’t wait for proof. We would like you to raise the matter while it is still a concern. It doesn’t matter if you turn out to be mistaken as long as you are genuinely troubled.

This policy is not for people with concerns about their employment that affect only them – that type of concern is better suited to our grievance policy: http://intranet.rde.local/intranet/documents/69/13928/Grievance%20Procedure.pdf

1. **POLICY STATEMENT**

   1.1 *Feel safe to raise your concern*

   If you raise a genuine concern under this policy, you will not be at risk of losing your job or suffering any form of reprisal as a result. We will not tolerate the harassment or victimisation of anyone raising a concern. Nor will we tolerate any attempt to bully you into not raising any such concern. Any such behaviour is a breach of our values as an organisation and, if upheld following investigation, could result in disciplinary action. Provided you are acting honestly, it does not matter if you are mistaken or if there is an innocent explanation for your concerns.

   1.2 To raise a concern first tell your line manager or if for whatever reason you do not feel able to, contact the Freedom to Speak Up Guardian on 07919 298635 or via email: raisingconcerns@colchesterhospital.nhs.uk, Director of Nursing or Company Secretary either verbally or in writing and it will be investigated. The dedicated (and anonymous if you wish) reporting line to raise concerns is: 01206 745300 (ext)

2. **SCOPE**

   2.1 A ‘whistleblowing’ concern, for the purposes of this document, is about a danger, risk, malpractice or wrongdoing that affects others. It could be something which adversely affects patients, the public, other staff or the organisation itself. A grievance, on the other hand, is a personal complaint about an individual’s own employment situation: for example, staff members may feel aggrieved if they think a management decision has affected them unfairly or that they are not being treated properly.

   2.2 The Trust’s Board of Directors is committed to running the organisation in the best way possible and to do so we need your help. This procedure is in place to reassure you that it is safe and acceptable to speak up and to enable you to raise any concern that you may have at an early stage and in the right way. Rather than wait for proof, we would prefer you to raise the matter when it is still a concern.

The purpose of this policy is:
- To ensure that all staff can raise any matters of concern they may have about a possible danger, risk, wrongdoing or malpractice including fraud, bribery, theft, that might affect patients, colleagues or the organisation.
- To clarify the rights and responsibilities that staff and others have when raising concerns.
- To provide a mechanism which complies with the Public Interest Disclosure Act (further information on this legislation can be found on the public concern at work website).

3. **EQUALITY STATEMENT**

3.1 The Trust is committed to the Equality Act 2010 and the employment practices within it, and will commit itself to eliminate all unfair discrimination, harassment, bullying and victimisation.

3.2 It will ensure that Equal Opportunity is employed and will not unlawfully, unfairly or unreasonably discriminate or treat individuals less favourably on the grounds of gender, marital status, sexual orientation, religion or belief, disability, age, race, nationality or ethnic origin.

4. **PRINCIPLES OF CONFIDENTIALITY**

4.1 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.
FREEDOM TO SPEAK UP PROCEDURE

5. RAISING CONCERNS

5.1 If you have a concern, then you are advised to act promptly. The sooner that it is raised, the sooner it can be dealt with. You should give as much supporting evidence as possible. It is recognised that raising a concern can be a difficult experience for some staff and managers must consider concerns fully and sympathetically.

5.2 If you have a concern about a danger, risk, malpractice or wrongdoing at work, we hope you will feel able to raise it first with your line manager or lead clinician. This may be verbally or by email or letter. If you feel unable to raise the matter with your line manager for any reason, or if you have raised it with your line manager already and are unhappy with the outcome, please email raisingconcerns@colchesterhospital.nhs.uk or contact:

- Freedom to Speak Up Guardian - 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 stage of raising a concern, with access to anyone in the organisation, including the chief executive, or if necessary, outside the organisation
- Director of Nursing or
- Company Secretary

who will deal with your concern promptly. These are the Trust’s designated officers who have been given special responsibility in the Trust for dealing with ‘whistleblowing’ concerns.

5.3 This does not prevent employees from first seeking informal advice from a more Senior Manager, Non-Executive Director (Raising Concerns Lead), Governor or your Trade Union/Professional body.

5.4 Raising concerns anonymously

Please remember that if you do not tell us who you are it will be much more difficult for us to look into the matter. We will only be able to assess the anonymous information as best as we can. Clearly if you do not tell us who you are we will not be able to protect your position or to give you feedback. Accordingly, you should not assume we can provide the assurances we offer in the same way if you report a concern anonymously.

5.5 Raising concerns with a third party

If you feel unable to raise the concern yourself, you may request support from a trade union representative or work colleague. If you wish to remain anonymous, your concern may be raised by your trade union representative or a work colleague on your behalf.
6. DEALING WITH A CONCERN

6.1 What will we do?
We are committed to the principles of the Freedom to Speak Up review and its vision for raising concerns, We are committed to listening to our staff, learning lessons and improving patient care.

6.2 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.

6.3 Once you have told the Trust of your concern we will assess it and consider what action may be appropriate. This may involve an informal review, an internal inquiry or a more formal investigation, peer review or service review. We will tell you who will be handling the matter, how you can contact them, and what further assistance we may need from you. We will write to you summarising your concerns and setting out how we propose to handle it and provide a timeframe for feedback.

6.4 Investigation
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 (which we will notify you of). Wherever possible we will carry out a single investigation (so, for example, where a concern is raised about a patient safety incident, we will usually undertake a single investigation that looks at your concern and the wider circumstances of the incident). The investigation will be objective and evidence-based, and will produce a report that focuses on identifying and rectifying any issues, and learning lessons to prevent problems recurring.

6.5 If your concern suggests a Serious Incident has occurred, an investigation will be carried out in accordance with the Serious Incident Framework. 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.

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

6.7 Investigations can take some time to reach their conclusion but the Trust will give feedback within 30 calendar days. This helps us identify if we have misunderstood the concern or missed any information, and give you the opportunity to provide feedback and let us know if that is the case. When you raise the concern it will be helpful to know what you think the outcome should be. If you have any personal interest in the matter, we do ask that you tell us at the outset. Where possible, we will give you feedback on the outcome of any investigation.
6.8 Some investigations can be complex and time-consuming – we will keep you updated on the progress of the investigation, and will agree with you how regularly these updates will be. We will tell you, where appropriate, the outcome of the investigation unless this would infringe a duty of confidence we owe to another person. While we cannot guarantee that we will respond to all matters in the way that you might wish, we will strive to handle the matter fairly and properly.

6.9 If you have raised a concern anonymously, we will not be able to respond directly or investigate in full without sufficient detail about the area concerned.

6.10 If you remain dissatisfied, the matter may be referred to the Chair of the Trust’s Board of Directors who would review the procedure and what action has been taken so far, review the time frame and take any necessary action to ensure the concern has been investigated and a response given.

6.4 **How will we learn from your concern?**
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 organisation, or more widely, as appropriate.

6.4 **Board oversight**
The board 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 board supports staff raising concerns and wants you to feel free to speak up.

7. **REFERENCE TO EXTERNAL BODIES**

7.1 If you are unsure whether to use this procedure, or if you want confidential advice at any stage, you may contact:
- Your Professional Body or Trade Union
- The independent whistleblowing charity Public Concern at Work – telephone: 020 7404 6609, or email helpline@pcaw.co.uk – their lawyers can talk you through your options and help you raise a concern about malpractice or wrongdoing at work.
- NHS Health & Social Care Whistleblowing Helpline – telephone 08000 724 725

7.2 While we hope this procedure gives you the reassurance you need to raise your concern internally with us, we recognise that there may be circumstances where you may properly report a concern to an outside body than not at all, such as:
- The Care Quality Commission
- NHS Improvement (the independent regulator of NHS foundation trusts)
- The Audit Commission
• NHS England
• The Health & Safety Executive
• Health Education England for education and training in the NHS
• NHS Protect for concerns about fraud and corruption.

8. THE MEDIA
8.1 You might also contemplate the possibility of disclosing your concern to the media. We would ask you to pause before you do and seek advice first. The media play an important role in our society but we would like to hear about your concerns first so we can direct our efforts into putting it right.

9. SUPPORT FOR WORKERS RAISING CONCERNS
9.1 We recognise that making the decision to raise a concern can be extremely difficult and stressful for individuals who may be concerned about the impact on themselves and their colleagues. Please find below additional support mechanisms for individual:
• Freedom to Speak Up Guardian – telephone 07919 298635 or ext. 5300 or via email: raisingconcerns@colchesterhospital.nhs.uk
• The Health and Wellbeing Department – telephone 01206 745284.
• CIC (the Trust’s free confidential Employee Assistance Service) – telephone 0800 085 1376.
• Trade Union/Staff Side organisations are also able to provide support and information.
• Public Concern at Work – telephone 0207 404 6609.
• NHS Health & Social Care Whistleblowing Helpline - telephone 08000 724 725

9.2 The Trust will not tolerate harassment or victimisation of a worker who has raised a concern; workers in this situation have legal rights with regards to such action. If you feel you are being subjected to such treatment as a result of raising a concern, you should inform the manager dealing with your concern or a designated officer who should take appropriate action including using the Trust’s disciplinary procedure where applicable to remedy the situation. The Trust will sanction those who subject an individual to detriment because they raised a concern. Subjecting an individual to detriment means subjecting the individual to any disadvantage because they raised a concern. This could include (but is not limited to) any of the following:
• Failure to promote
• Denial of training
• Closer monitoring
• Ostracism
• Blocking access to resources
• Unrequested re-assignment or re-location
• Reasonable requests for leave not granted
• Demotion
• Reasonable flexible working requests denied
• Suspension
• Reasonable ‘swap shift’ requests not granted
9.3 The over-riding principle of this procedure is that all staff should be aware that the Trust strives to achieve a culture of openness and dialogue which at the same time upholds patient confidentiality, does not unreasonably undermine confidence in the service and meets the obligations of staff to their employer.

10. CONSULTATION

10.1 This document has been drafted in consultation with Staff Side colleagues.

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

11. REFERENCES

11.1 Freedom to Speak Up Report – an independent review into creating an open and honest reporting culture in the NHS, Sir Robert Francis QC February 2015

- Department of Health/ Social Partnership Forum/ Public Concern at Work publication: ‘Speak up for a healthy NHS: How to implement and review whistleblowing arrangements in your organisation’ 2010.
- British Standards Institution (BSI) code of practice on whistleblowing arrangements available from Public Concern at Work.
- Information about the Public Interest Disclosure Act 1998 is available from the Public Concern at Work website.
- Freedom to speak up: raising concerns (whistleblowing) policy for the NHS, April 2016
- NHS Improvement/NHS England

Associated documents:

- Disciplinary Policy and Procedure
- Grievance Policy and Procedure
- Investigation Policy and Procedure
- Bullying and Harassment Policy and Procedure
APPENDIX A

12. QUICK REFERENCE GUIDE
Whistleblowing

If you are worried that something is wrong or dangerous is happening at work, please do not keep it to yourself. Unless you tell us about any concerns you may have about fraud, safety risks including clinical safety or other wrongdoing, the chances are we will not find out until it is too late.

As some of you may be nervous about raising such matters, here are some tips:-

- Why not contact the Freedom to Speak Up Guardian for support
- Raise it when it is a concern – we will not ask you to prove it
- Keep it in perspective – there may be an innocent explanation
- It will help us if you can say how you think things can be put right
- Stay calm – you are doing the right thing

If for whatever reason you are worried about raising it with your manager, please see steps 1 – 3 below.

How to raise a concern about serious malpractice

1. We hope that you will feel able to tell your line manager but;

   - If for whatever reason you are uneasy about this or your manager’s response does not seem right, you should contact one of the following:-
     - Freedom to Speak Up Guardian
     - Director of Nursing
     - Company Secretary

2. If you want to talk to them in confidence, just say so. If you prefer to put it in writing, that is fine but please tell them who you are. Anonymity will be maintained if requested.

3. If you want confidential advice first, you can talk to your local Trade Union representative. You may also wish to call the independent whistleblowing charity Public Concern at Work on 0207 404 6609.
APPENDIX B

13. GUIDANCE FOR STAFF GOVERNORS/NON-EXECUTIVE DIRECTORS TO WHOM A CONCERN HAS BEEN REPORTED

If a member of staff has approached you to report concerns about a possible wrongdoing within the workplace, please find below some guidance to help you deal with a whistleblowing situation should it arise:

- Thank the person for raising their concern with you informally.
- Respect the worker’s belief that they are raising a genuine concern in the public interest.
- Treat this as being reasonable.
- Take the employee’s concern seriously.
- Acknowledge how they may be feeling, that it may be a difficult or stressful situation, and offer reassurance.

Offer advice about the type of support available to them and the relevant contacts they can speak to including:

- Freedom to Speak Up Guardian
- Director of Nursing or Company Secretary (as the designated legal guardians within the organisation)
- Director of Human Resources and Organisational Development
- Trade Union
- CIC helpline
- Health and Wellbeing Department
- Whistleblowing Helpline
- Citizen’s Advice Bureau
- NHS Health and Social Care Whistleblowing Helpline on 08000 724 725
- Non-Executive Director (Raising Concerns Lead)

Ensure that the concern which is being discussed falls under the correct procedure and should not be referred to another process such as the Grievance Policy.

Informally discuss potential routes available to employees and how best to direct their concern.

If after signposting, the employee wishes to raise a concern, then outline the process as follows:

Raise the issue with their line manager or lead clinician. This may be verbally or in writing through email or letter. If they feel unable to raise the matter with their line manager or if they have raised it with their line manager already and are unhappy with the outcome, advise them to mail raisingconcerns@colchesterhospital.nhs.uk and the Trust raising concerns designated guardians who can deal with their concern:

- Freedom to Speak Up Guardian
- Director of Nursing or
- Company Secretary
If they remain dissatisfied, the matter may be referred to the Chair of the Trust’s Board of directors who will review what action has been taken so far, review the time frame and take any necessary action to ensure the concern has been investigated and a response given.

If they want confidential advice first, then they can talk to their local trade union representative. Alternatively they can call the independent whistleblowing charity Public Concern at Work on 0207 404 6609.
New enquiry received

Signpost to appropriate team

Is the enquiry a raising concern?
- unsafe patient care
- unsafe working conditions
- inadequate induction or staff training
- a bullying culture

Contact enquirer, obtain details, record new enquiry on tracker and share with FTSUG

FTSUG to review and share if appropriate with Exec Board Lead

FTSUG to action with appropriate Divisional level

Is Director action required?

No

Contact to be made with enquirer

Investigation into concerns conducted

Outcome and action plan shared with FTSUG

Exec Board Lead or appropriate Divisional level, supported by the FTSUG, to provide verbal feedback to enquirer

Exec Board Lead or appropriate Divisional level to Draft response feedback

FTSUG to monitor completion of learning actions - monthly

1 day

FTSUG will request progress updates from Exec Board Lead/HR weekly. Updates will be saved to each individual case file within the case tracker

1 day

3 days

5 days

30 days

FTSUG

Freedom to Speak Up Guardian
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