

FREEDOM TO SPEAK UP: RAISING CONCERNS (WHISTLEBLOWING) POLICY

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Name of Sponsor:	Chief Nurse
Name of responsible committee	Governance Sub Committee
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Target audience:	All staff working within or on behalf of NHS Sheffield CCG

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<http://www.intranet.sheffieldccg.nhs.uk/policies-procedure-forms-templates.htm>



POLICY AUDIT TOOL

To be completed and attached to any document which guides practice when submitted to the appropriate committee for consideration and approval.

Please give status of Policy: Revised

1.	Details of Policy	
1.1	Policy Number	HR026/07/2021
1.2	Title of Policy:	Whistleblowing Policy
1.3	Sponsor	Chief Nurse
1.4	Author:	HR Business Partner
1.5	Lead Committee	Governance Sub Committee
1.5	Reason for policy:	Legislative and best employment practice
1.6	Who does the policy affect?	All employees
1.7	Are the National Guidelines/Codes of Practices etc issued?	See section 2.1
	Has an Equality Impact Assessment been carried out?	Yes
2.	Information Collation	
2.1	Where was Policy information obtained from?	See 1.6
3.	Policy Management	
3.1	Is there a requirement for a new or revised management structure for the implementation of the Policy?	No
3.2	If YES attach a copy to this form.	n/a
3.3	If NO explain why.	Current management structure satisfactory
4.	Consultation Process	
4.1	Was there external/internal consultation?	Yes
4.2	List groups/persons involved	Staff Forum Counter Fraud Joint Staff Consultative Forum
4.3	Have external/internal comments been included?	Yes
4.4	If external/internal comments have not been included, state why.	n/a
5.	Implementation	
5.1	How and to whom will the policy be distributed?	All employees via the intranet
5.2	If there are implementation requirements such as training please detail.	Ongoing via mandatory training

5.3	What is the cost of implementation and how will this be funded	No funding required
6.	Monitoring	
6.2	How will this be monitored	Workforce Reports
6.3	Frequency of Monitoring	Quarterly

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DEFINITIONS

Term	Definition
Whistleblowing	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.
Qualifying Disclosure	A qualifying disclosure is one made by an employee who reasonably suspects: <ul data-bbox="456 636 1396 1093" style="list-style-type: none">• 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.

SECTION A – POLICY

1. Policy Statement, Aims and Objectives

1.1 The purpose of the policy is to support employees in their right and duty to raise concerns safely, at the earliest opportunity and in the right way. Sheffield Clinical Commissioning Group (CCG) welcomes the raising of concerns and is committed to dealing with them responsibly and professionally.

If an employee raises a concern, the matter will always be given serious consideration. This policy has been drawn up to assist employees 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.

1.2 The policy aims to:

- Encourage employees to feel confident in raising serious concerns regarding the practice of the CCG
- Provide avenues for employees 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 (Appendix 2)
- Ensure that Employees receive a response to their concerns
- Reassure Employees 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.
- Ensure that applicants for vacancies are not discriminated against where they have, or appear to have, made a protected disclosure.

1.3 This 'standard integrated policy' was one of the recommendations of the review by Sir Robert Francis into whistleblowing in the NHS and is aimed at improving the experience of whistleblowing in the NHS. This policy has been mandated for NHS providers as a minimum standard to help normalise the raising of concerns for the benefit of all patients.

Whilst the policy has not been mandated for CCGs, it has been integrated into this policy as good practice.

2. Legislation and Guidance

2.1 The following legislation and guidance has been taken into consideration in the development of this policy:

- Employment Rights Act 1996 Section 103A
- Employment Rights Act 1996 Sections 43A to 43L
- Enterprise and Regulatory Reform Act 2013 – Whistle blowing
- Management of Health and Safety at Work Regulations 1999 (SI 1999/3242)

Regulation 14

- Police Reform Act 2002 Section 37
- 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)
- The Mid Staffordshire NHS Foundation Trust Inquiry 2013 (The Francis Report), February 2013
- NHS Recruitment – Protected Disclosure Regulations 2018

2.2 This Policy is guided by the relevant legislation on the matter (see Appendix 4 for full list). The Public Interest Disclosure Act 1998 and the Enterprise and Regulation Reform Act 2013, which includes a specific aspect with respect to Whistleblowing, give significant statutory protection to employees who disclose information reasonably and responsibly in the public interest and who may be victimised as a result.

2.3 The Disclosure 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 employee to have proof that such an act is being, has been, or is likely to be committed, a reasonable belief is sufficient.

2.4 In line with the Enterprise and Reform Act 2013, the following common principles will also be adhered to:

2.4.1 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 employee who raised the issue.

- 2.4.2** All Employees will be made aware of the policy on joining the CCG and will be encouraged to read and understand its process. All existing Employees and Managers will be made aware of the policy through the intranet.
- 2.4.3** Employees who have concerns about their employee terms and conditions of employment will not be covered by this policy. Such concerns should be raised through the Grievance Policy. A grievance is usually a complaint by an employee about an action taken in relation to themselves.
- 2.4.4** No employee will be victimised for raising a legitimate concern under this procedure.
- 2.4.5** In the event that misconduct is discovered as a result of any investigation under this policy the Disciplinary Policy will be invoked in addition to any external measures.
- 2.4.6** Where it can be demonstrated that an Employee knowingly supplied false information when raising a concern the Disciplinary Policy will be invoked.
- 2.4.7** NHS Sheffield CCG will treat all disclosures in a confidential and sensitive manner. The identity of the employee making the allegation may be kept confidential so long as it does not hinder or frustrate any investigation. However, the investigation process may reveal the source of the information and the employee making the disclosure may need to provide a statement as part of the evidence required.

3. Scope

- 3.1** This policy applies to those members of staff that are directly employed by NHS Sheffield Clinical Commissioning Group and for whom NHS Sheffield Clinical Commissioning Group has legal responsibility. Seconded staff are covered by the policy of their employing organisation. For those staff covered by a letter of authority / honorary contract or work experience, this policy is also applicable whilst undertaking duties on behalf of NHS Sheffield Clinical Commissioning Group or working on NHS Sheffield Clinical Commissioning Group premises and forms part of their arrangements with NHS Sheffield Clinical Commissioning Group. As part of good employment practice, agency workers are also required to abide by NHS Sheffield Clinical Commissioning Group policies and procedures, as appropriate, to ensure their health, safety and welfare whilst undertaking work for NHS Sheffield Clinical Commissioning Group.
- 3.2** With respect to the NHS Recruitment – Protected Disclosure Regulations 2018, this policy will also apply to applicants for posts being advertised by the organisation.

4. Accountabilities and Responsibilities

4.1 Overall accountability for the whistleblowing lies with the Accountable Officer. Responsibility is delegated to the following:

<p><i>Accountable Officer</i></p>	<ul style="list-style-type: none"> • The Accountable Officer will consider and investigate referrals at the appropriate formal steps in this policy and procedure. • The Chair of the Governing Body or their designated Governing Body member will be responsible for hearing and ensuring an investigation of referrals at the final step in the formal procedure • Maintaining an overview of the corporate ratification and governance process associated with the policy. • Ensuring that the policy is applied fairly, consistently and in a non-discriminatory manner.
<p><i>Human Resources</i></p>	<ul style="list-style-type: none"> • Work in partnership with managers and employee representatives to ensure employees are treated fairly and consistently within the framework of the policy. • To make this policy available to all employees and ensure a high level of awareness within the organisation. • Assist employees to raise issues under this policy. • Provide advice and support to managers and/ or Investigating Officers • Leading the development, implementation and review of the policy. • Ensuring that named contacts in this policy are keep up-to-date as appropriate when changes occur.
<p><i>Line Managers and Recruiting Managers</i></p>	<ul style="list-style-type: none"> • To support all employees 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. • Ensuring they understand and adhere to their obligations in relation to the policy. • Ensuring the policy is applied fairly and consistently to all employees and applicants for vacancies where appropriate.

	<ul style="list-style-type: none"> Ensuring employees are aware of this policy including referring new employees to the policy as part of their induction process.
All Employees	<ul style="list-style-type: none"> To understand their responsibilities under this policy and their statutory regulatory, contractual and/or professional responsibilities. To raise any genuine concern about a risk, malpractice or wrongdoing at work, which may affect patients, the public, other staff, or the CCG itself, at the earliest reasonable opportunity. To comply with any subsequent investigation into any issues raised under this policy. Under the NHS Constitution all staff have responsibilities to the public, their patients and colleagues. Employees 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. All should contribute to a climate where the truth can be heard and the reporting of, and learning from errors is encouraged
Staff Side	<ul style="list-style-type: none"> Ensure they are familiar with the policy and procedure. Advise and represent employees who are members of a recognised Trade Union.

5. Dissemination, Training and Review

5.1 Dissemination

5.1.1 The effective implementation of this policy will support openness and transparency. NHS Sheffield CCG will:

- Ensure all staff and stakeholders have access to a copy of this procedural document via the organisation's website.

- Ensure that relevant training programmes raise and sustain awareness of the management of the Whistleblowing Policy.

5.2 Training

5.2.1 All staff will be offered relevant training commensurate with their duties and responsibilities. Staff requiring support should speak to their line manager in the first instance. Support may also be obtained through the HR Department. This policy should be read in conjunction with:

- Equal Opportunities Policy
- Dignity at Work Policy
- Grievance Policy
- Incident Reporting Policy
- Anti- Fraud, Bribery & Corruption Policy
- Safeguarding Policy

5.3 Review

5.3.1 As part of its development, this policy and its impact on staff, patients and the public has been reviewed in line with NHS Sheffield CCG's Equality Duties. The purpose of the assessment is to identify and if possible remove any disproportionate adverse impact on employees, patients and the public on the grounds of the protected characteristics under the Equality Act.

5.3.2 The policy will be reviewed every three years, and in accordance with the following on an as and when required basis:

- Legislatives changes
- Good practice guidelines
- Case Law
- Significant incidents reported
- New vulnerabilities identified
- Changes to organisational infrastructure
- Changes in practice

5.3.3 policy management will be performance monitored to ensure that policies are in-date and relevant to the core business of the organisation. The results will be published in the regular Governance Sub Committee Reports.

SECTION B – PROCEDURE

1. The importance of raising a concern

Speaking up about any concern you have at work is important because it will help to keep improving the services for patients and the working environment for our employees.

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 management team 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.

2. What concerns can I raise?

2.1 You can raise a concern about risk, malpractice or wrongdoing you think is harming the service we commission. 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 specialist, Robert Purseglove on 01709 428 702, at robert.purseglove@nhs.net or by calling the NHS Counter Fraud Authority helpline on 0800 028 4060)
- A bullying culture (across a team or organisation rather than individual instances of bullying).

For further examples, please see the Health Education England video at www.hee.nhs.uk/our-work/hospitals-primary-community-care/learning-be-safer/raising-responding-concerns

2.2 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 should be raised in accordance with the CCG's grievance policy.

3. 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.

4. 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. However, any member of staff to whom a concern is disclosed may be required to act on behalf of the person raising the concern.
- 4.2** This policy encourages employees to put their name to an allegation wherever possible. Concerns expressed anonymously will be considered at the discretion of the CCG, bearing in mind the:
- Seriousness of the issues raised
 - Credibility of the concern
 - Likelihood of confirming the allegation.
- 4.3** The Senior Management Team and the Governing Body are committed to this policy. Employees 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. Employees 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 employee was mistaken. Of course, this assurance is not extended to someone who maliciously raises a matter they know to be untrue. Unfounded allegations made with malicious intent will be dealt with through the Disciplinary Policy.
- 4.4** Employees 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 Employee. Careful consideration therefore needs to be given to how the details of concerns are communicated. Managers should remind staff

of the importance of this requirement.

- 4.5** 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 an employee believes that he or she is acting in the best interests of a patient or client by disclosing personal information. Employees should also guard against inadvertent disclosure of personal information, where this can be overheard by a third party.
- 4.6** The identity of the employee 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 person raising the concern, 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).
- 4.7** Any employee 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.

5. Who can raise concerns?

- 5.1** Anyone who works (or has worked) in the NHS, or for an independent organisation that provides NHS services can raise concerns. This includes, but is not limited to, agency workers, temporary workers, students, volunteers and governors.

6. Who should I raise my concern with?

- 6.1** In many circumstances the easiest way to get your concern resolved will be to raise it formally or informally with your line manager (or lead clinician or tutor). 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.
- 6.2** If raising it with your line manager (or lead clinician or tutor) does not resolve matters, or you do not feel able to raise it with them, you can contact:
- One of our Freedom to Speak Up Guardians:
 - Mandy Philbin (Chief Nurse) – mphilbin@nhs.net / 0114 305 1075
 - Katie Hodgson (Staff Side Lead) – katie.hodgson@nhs.net / 07976 956576
 - Our Executive Lead with responsibility for whistleblowing, Maddy Ruff (Accountable Officer) can be contacted on 0114 305 1013 or at maddy.ruff@nhs.net

- Our Lay Member with responsibility for whistleblowing is Phil Taylor (Lay Member – Finance, Governance and Strategy) and he is contactable on 07771 843 916 or at phil.taylor7@nhs.net

All these people 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 as detailed in Section 15.

7. Advice and support

Details on the support available to you can be found in Appendix 5. You can also contact your professional body or trade union representative.

8. How should I raise my concern?

You can raise your concerns with any of the people listed in section 6 in person, by phone or in writing. Details of how to raise a concern both informally and formally are detailed in Appendix 1.

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

9. What steps will the organisation take?

9.1 The CCG is 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 Appendix 3).

9.2 The CCG is committed to listening to its employees, learning lessons and improving patient care. Upon 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.

10. Investigation

10.1 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 organisation) and properly trained, and we will reach a conclusion within a reasonable timescale (which we will notify you of).

10.2 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).

- 10.3** 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.
- 10.4** We may decide that your concern would be better looked at under another process; for example, our process for dealing with bullying and harassment, or Safeguarding concerns. If so, we will discuss that with you.

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

11. Communicating with you

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).

12. 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.

13. Governing Body oversight

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 board supports staff raising concerns and wants you to feel free to speak up.

14. Review

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

15. Raising your concern with an outside body

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.

16.

Making a ‘protected disclosure’

16.1

It is hoped that concerns can be dealt with internally. An employee 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.

16.2

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 legislation is to encourage employees to disclose information through appropriate internal channels first rather than going directly to an outside body. As such, the Disclosure Act makes it more difficult for an employee to disclose information to the press and gain protection without first following the above procedures.

16.3

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

16.4

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) – see Section 2.3 (page 9).

16.5

There is also a defined list of ‘prescribed persons’, similar to the list of outside bodies in section 15 of this Policy, whom 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.

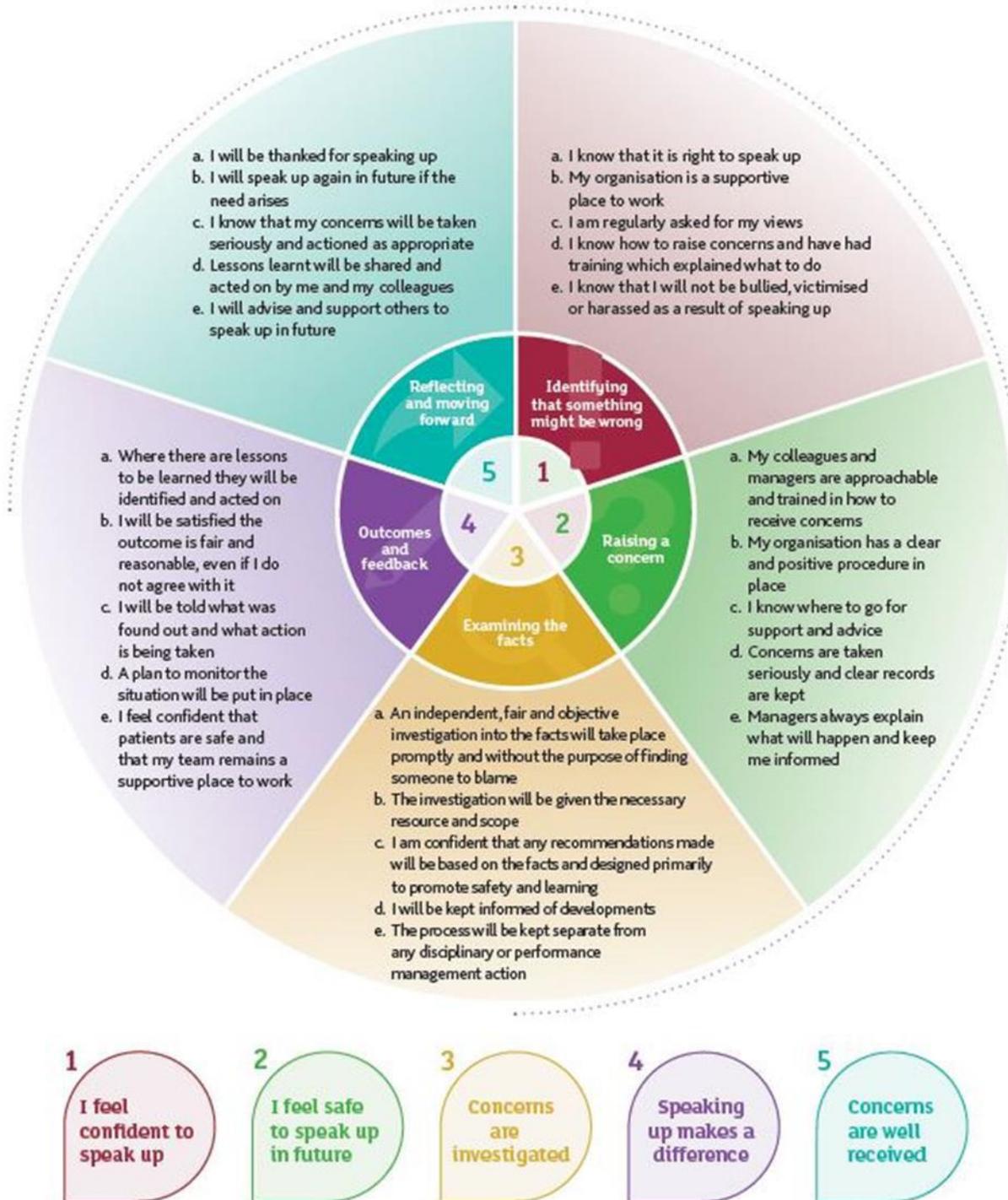
17.

National Guardian Freedom to Speak Up

The 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 1

A vision for raising concerns in the NHS



Source: Sir Robert Francis QC (2015) *Freedom to Speak Up: an independent report into creating an open and honest reporting culture in the NHS*.

APPENDIX 2

EXAMPLES OF SERIOUS CONCERNS

The list below is not meant to be exhaustive but provide examples of the type of concerns that should be raised by an employee should they become aware of them.

- Breach of the law
- Miscarriage of justice
- Malpractice or ill treatment of a service user, client, customer by a 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 an employee 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 Employee 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

APPENDIX 3

INDEPENDENT/PROFESSIONAL ADVICE AND REFERENCE POINTS

Employees may wish to refer to the following in seeking further advice and/or reference to relevant and appropriate information and guidance:

1. Professional & Representative Bodies:

2.

At any point either before raising the concern or at any stage in Whistle Blowing procedure an Employee may involve a Trade Union or Professional Association Representative (i.e.) GMC, RCN or NMC who will be able to provide help and advice.

Support and advice is available from Public Concern at Work and the NAO Comptroller 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 Comptroller and Auditor General National Audit Office 157-197 Buckingham Palace Road London SW1W 9SP Telephone: 020 7798 7999
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NHS:

- 2.1 Employees can refer to the NHS Constitution for guidance
<https://www.gov.uk/government/publications/the-nhs-constitution-for-england/the-nhs-constitution-for-england>
- 2.2 NHS England considers a complaint to be any expression of dissatisfaction with a service they 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 an Employee has a complaint concerning the treatment or service provided by the NHS, they should contact NHS England:

By telephone: 0300 311 2233

By email: England.contactus@nhs.net

Further information can be obtained from the NHS Employers website:

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

<http://www.nhsemployers.org/practice/whistleblowing.cfm>

- 2.3 The NHS and Social Care Whistleblowing can be contacted via their Helpline:

08000 724 725 or enquiries@wbhelpline.org.uk

- 2.4 The Care Quality Commission can be contacted via:
 By telephone: 03000 616161
 By email: enquiries@cqg.org.uk
 Further information can be obtained from their website <http://www.cqg.org.uk/>
- 2.5 NHS Employers together with the Independent Healthcare Advisory Services (IHAS) has issued some Guidance in July 2013 for employers which focuses on sharing information about healthcare Employees where a risk to public or patient safety has been identified
<https://www.nhsemployers.org/-/media/Employers/Documents/SiteCollectionDocuments/Guidance-on-sharing-information-on-healthcare-workers-July-2013.pdf>
- 2.6 The following publication is a point of reference - 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>

3. **HR Advice**

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

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

4. **Other Public Bodies and Independent Advice**

Independent advice can be sought from:

Public Concern at Work at any stage of the process. <http://www.pcaw.co.uk/>

The Home Office - Disclosure and Barring Service:

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

The Health and Safety Executive	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

5. **Fraud Bribery and Corruption**

If an Employee suspects any fraudulent or corrupt activity or practice then he or she should refer to the CCG's separate Anti-Fraud, Bribery and Corruption Policy for guidance.

As a minimum they should make a note of all details and either:

- Contact the CCG's Local Counter Fraud Specialist for advice on 01709 428702 / robert.purseglove@nhs.net; or
- Ring the NHS Fraud and Corruption Reporting Line on 0800 028 40 60 or make an online report at <https://cfa.nhs.uk/reportfraud> ; or
- Report their suspicions to the Director of Finance Julia Newton as soon as possible on 0114 305 1017 or at Julia.newton@nhs.net

APPENDIX 4

KEY LEGISLATIVE PROVISIONS

- Employment Rights Act 1996 Section 103A
- Employment Rights Act 1996 Sections 43A to 43L
- Enterprise and Regulatory Reform Act 2013 – Whistle blowing
- Management of Health and Safety at Work Regulations 1999 (SI 1999/3242) Regulation 14
- Police Reform Act 2002 Section 37
- 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 – specific provisions pertaining to Whistleblowing:

- Section 43B of the Employment Rights Act 1996 has been amended so that an Employee 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 Employee 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.
- There has also been a change to the scope of ‘employee’ for the purposes of making a whistleblowing claim. This will ensure that various NHS Employees who had been excluded from the legislation are now covered

The above changes came into force on 25 June 2013 and do not apply to disclosures before then.

Victimisation of employees 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.

The above legislation gives Employees the right:

- not to be penalised or put at any disadvantage, short of dismissal, by the employer as a result of making a protected disclosure;
- to be automatically treated as having been unfairly dismissed if the reason for their dismissal was that they 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.

The CCG will ensure that Employees receive the full rights and protections afforded them in law when making any such qualifying disclosure.

The NHS Recruitment – Protected Disclosures Regulations 2018 prohibit discrimination by NHS employers in the recruitment of an applicant on the grounds that they appear to have made a protected disclosure.

APPENDIX 5

ASSOCIATED POLICIES

Equality and Diversity Policy

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

Dignity at Work (Prevention of Bullying and Harassment) Policy

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.

Commissioning Safeguarding Adults and Children Policy

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

Recruitment and Selection Policy

This policy aims to support Appointing Officers in providing a fair, consistent and effective approach to the recruitment of all employees and volunteers in accordance with employment law and best practice.

APPENDIX 6

NHS Sheffield CCG Equality Impact Assessment 2014

Title of policy or service	Whistleblowing Policy	
Name and role of officers completing the assessment	HR Lead	
Date assessment started/completed	November 2014 – Updated May 2018	

1. Outline	
<p>Give a brief summary of your policy or service</p> <ul style="list-style-type: none"> • Aims • Objectives • Links to other policies, including partners, national or regional 	<p>NHS Sheffield Clinical Commissioning Group recognises that it is essential that employees are empowered to raise matters of concern about healthcare matters sensibly and responsibly without fear of victimisation and in a manner consistent with their obligations as employees.</p>

2. Gathering of Information

This is the core of the analysis; what information do you have that indicates the policy or service might *impact on protected groups, with consideration of the General Equality Duty.*

	What key impact have you identified?			What action do you need to take to address these issues?	What difference will this make?
	Positive Impact	Neutral impact	Negative impact		
Human rights		X			
Age		X			
Carers		X			
Disability		X			
Sex		X			
Race		X			
Religion or belief		X			
Sexual orientation		X			
Gender reassignment		X			
Pregnancy and maternity		X			
Marriage and civil partnership (only eliminating discrimination)		X			
Other relevant group					

Please provide details on the actions you need to take below.

3. Action plan				
Issues identified	Actions required	How will you measure impact/progress	Timescale	Officer responsible
None				

4. Monitoring, Review and Publication			
When will the proposal be reviewed and by whom?	Annually		
Lead Officer	HR Manager	Review date:	August 2021