

# **“Speak Up” (Whistleblowing) Policy, Procedure and Guidelines**

Version:	5
Consultation:	JNCC, JNCC Policy Subgroup
Ratified by:	Director of HR & Organisational Development Notified to Delivery Committee July 2011
Date ratified:	15 <sup>th</sup> June 2011
Name of originator/author:	C Sparks / K Harrison
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Review date:	May 2014
Scope	All Trust Employees

## **1. Introduction**

- 1.1 It is vital that any concerns with regard to professional competence or wrongdoing by an employee, or any individual undertaking work on the Trust's behalf, is reported and properly dealt with. In line with its values the Trust welcomes genuine concerns and is committed to dealing responsibly, openly and professionally with them. Without the help of its employees, the Trust cannot deliver a safe service and protect the interests of patients, employees and the Trust. The Trust would rather an employee raised an issue when it is just a concern than to wait until it becomes serious.
- 1.2 This policy applies to all employees under a contract of employment with the Trust. It also applies to bank and agency staff, private contractors, trainees and volunteers working with the Trust.
- 1.3 Whilst this policy is not expressly extended to members of the public or patients, it is open to warnings of risks and malpractice that may be raised. In these circumstances, consideration should be given to whether such externally raised issues would be more appropriately raised through the Trust's Complaints Procedure.
- 1.4 The Trust with the support of clinical advisors and staff side have set out in a visual chart the various routes that are available to staff to raise patient related concerns (Appendix A). In the majority of cases the Trust is confident that any concern will be appropriately addressed without recourse to use the process or protections offered by this policy 'Speak Up'.
- 1.5 However, where a concern is raised there is a clear expectation that the manager who it is raised with will respond & quickly establish the immediate facts and make a judgement as to whether there is any substance to the issue. If the Speak Up policy is not applicable however further investigation is required an appropriate Trust policy and procedure e.g. disciplinary policy and procedure will be identified.
- 1.6 It is important that the member of staff who raised the concern is given feedback about whether the fact finding has established no further action, or whether it will be pursued further and if so in what way.

## **2. Purpose**

- 2.1 The aim of this policy is to enable employees to raise their concerns without fear, and encourage a culture of openness, accountability and integrity so that issues are raised at an early stage before they have a chance to become more serious. Employees, who genuinely raise a concern under this policy, will not be at risk of losing their job or suffering any form of retribution as a result. Provided that they are

acting in good faith, it does not matter if they are mistaken or if there is an innocent explanation for their concerns.

- 2.2 The procedure under this policy is for concerns about danger or illegality that has a public interest aspect to it: usually because it threatens others e.g. Patients or members of the public. Where employees are aggrieved about their personal position and there is no additional public interest dimension, then they should use the Trust's Grievance Procedure.
- 2.3 If employees raise a concern anonymously it will be much more difficult for the matter to be investigated and for the Trust to protect their position, or give feedback. Therefore, while the Trust will consider what action may be justified by an anonymous report it will not be able to handle such reports under this policy.
- 2.4 In addition to professional rules, guidelines and codes of conduct, the Trust has a range of policies, procedures and guidelines, which identify the standards of behaviour/professional practice expected at work. The key related policies, procedures and guidelines are set out in Paragraph 12.1 Associated Documentation, copies of which can be obtained from line Managers, or Human Resources, or from the Trust's intranet site.

### **3. Duties**

- 3.1 Responsibility for the development and review of this document lies with the Director of Human Resources and Organisational Development. This responsibility may be delegated to a subordinate. The procedure requires ratification by the Joint Negotiating and Consultative Committee (JNCC) and by the appropriate Board Committee and will be reviewed as determined by changes in legislation or Department of Health guidance.
- 3.2 This procedure provides the opportunity for concerns to be considered at a number of successive stages. Appendix B indicates the people who are nominated as the "designated officers" (paragraph 7.2 Step 2) any of them may be contacted.
- 3.3 The Non-Executive Director who has been designated as having special responsibility under this policy is:

Name: Frank Powell  
Address: c/o 2gether NHS Foundation Trust  
Rikenel  
Montpellier  
Gloucester, GL1 1LY

Tel No: 01452 891165

## 4. Definitions

4.1 For the purposes of this policy the following definitions apply:

- **whistleblowing concern**  
reasonable and honest suspicion an employee has about a possible fraud, danger or other serious risk that threatens patients, colleagues, the public or the Trust's reputation.
- **designated officer**  
senior officer whom the Trust designates to receive whistleblowing concerns.

## 5. Context

5.1 This Policy takes account of The Public Interest Disclosure Act 1998, which provides protection for workers who raise legitimate concerns about specified matters – 'whistleblowing'. Under the Act a 'qualifying disclosure' is one made in good faith by an employee who has a reasonable belief that:

- a criminal offence;
- a miscarriage of justice;
- an act creating risk to health and safety;
- an act causing damage to the environment;
- a breach of any other legal obligation;
- concealment of any of the above;

is being, has been, or is likely to be, committed. It is not necessary for an individual to have proof that such an act is being, has been, or is likely to be, committed – a reasonable belief is sufficient. If an individual believes something is wrong they have no responsibility for investigating the matter – it is the Trust's responsibility to ensure that an investigation takes place.

## 6. General Principles

6.1 All staff should be aware of the importance of preventing and eliminating wrongdoing at work. If as an employee you believe that unethical, illegal, or inappropriate behaviours may be occurring then as a member of staff you are encouraged to raise this as a "whistleblowing" concern at the earliest opportunity. This may also include conduct or behaviours which may be in breach of professional codes.

6.2 Any matter raised under this procedure will be investigated thoroughly, promptly and confidentially, and the outcome of the investigation reported back to the person who raised the issue. If at any stage an

investigation is hampered by the need to maintain confidentiality, the matter will be discussed with the informant to decide the best way forward.

- 6.3 Victimisation or harassment of any employee who raises a “qualified disclosure” in good faith will not be tolerated; any such act will be treated as a serious disciplinary offence. An instruction to cover up wrongdoing is in itself a disciplinary offence.
- 6.4 If misconduct is discovered as a result of any investigation under this procedure the disciplinary procedure will be used, in addition to any appropriate external measures.
- 6.5 Only where false allegations are made maliciously, will it be considered appropriate to act against the whistleblower under the terms of the Trust’s disciplinary procedure.
- 6.6 In order to protect individuals, and those accused of misdeeds or possible malpractice, initial enquires will be made to decide whether an investigation is appropriate and, if so, what form it should take. The overriding principle, which the Trust will have in mind, is the public interest and the interest of patients, clients and staff.

## **7. Procedure**

### **7.1 *How will the process be handled?***

- When a concern is raised an assessment will be undertaken to determine what action should be taken. This may involve an informal review, an internal inquiry or an investigation. The employee who raised the concern will be told who is handling the matter, how they can be contacted and whether any further assistance may be needed. They may be accompanied by their trade union representative or a colleague.
- Employees who raise issues may be asked how the matter might best be resolved. Employees will be asked to declare if they have any personal interest in the matter at the outset. If it is considered that the concerns fall more properly within the grievance or other procedures the employee will be advised of this.
- The employee should make it clear when they raise a concern, whether or not they want to do so in confidence, in order that appropriate arrangements can be made. The Trust will make every endeavour to meet the employee’s request to handle the concern in confidence.
- A timescale for pursuing any action will be agreed based upon the complexity of the issue. In any event a response will be provided within 10 working days of the concern being raised.

- The Trust will endeavor to provide as much feedback as possible. However, it will need to balance this intention against its duty of confidentiality to others.

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

This procedure provides the opportunity for concerns to be considered at a number of successive stages:

### Step one:

- In the first instance, any concerns should be raised with the Line Manager / Lead Clinician so it can be resolved locally. This can be done verbally or in writing. The Manager will decide what action is to be taken in conjunction with their manager.
- The line manager will confirm any action to be taken and provide feedback on the outcome of the process
- In circumstances where your line manager may be involved, or for any reason it may be difficult to approach them, or as a member of staff, you remain dissatisfied please follow step two below.

### Step two:

- In circumstances where Step one is inappropriate or it has failed to resolve the issues, any outstanding matters should be raised with one of the “designated officers” listed in Paragraph 3.2 Duties. The designated officer will arrange to meet with the member of staff raising the concern.
- The employee will have the opportunity to make a written or verbal statement. In either case the designated officer will write a brief summary of the interview, which will be agreed by both parties. The designated officer will report to the Chief Executive, who will be responsible for the commissioning of any further investigation.
- The Chief Executive, or a person with delegated authority, will brief the designated officer about the outcome of the investigation. The designated officer will in turn keep the member of staff informed of the progress of the investigation and confirm the outcome normally within a month of raising a concern under this policy.

### Step three:

If Steps one and two have been followed, however concerns remain, or the matter is so serious that it cannot be discussed with any of the above, please contact the Chief Executive:

Name: Shaun Clee  
Address: 2gether NHS Foundation Trust  
Rikenel  
Montpellier  
Gloucester, GL1 1LY

Tel:No. 01452 891003

If the concern is about the Chief Executive, please contact the Chair.

Name: Rennie Fritchie  
Address: 2gether NHS Foundation Trust  
Rikenel  
Montpellier  
Gloucester, GL1 1LY

Tel:No.: 01452 891608

Department of Health:

The Trust also recognises its accountability within the NHS. In light of this contact can be also made with

- NHS Counter Fraud Line on 08702 400 100 if your concern is about financial malpractice
- Department of Health on 0113 254 5000.

7.3 As an employee if you are unsure whether, or how to, raise a concern, or you want free independent advice at any stage, you may wish to contact:

- your Trade Union or Professional Association. These can be contacted via the branch office at Stroud General Hospital, Trinity Road, Stroud, Gloucestershire, GL5 2HY, Tel: 01453 562274. The administrator for the Chair of staff Side will direct individuals to the appropriate representative of the organisations recognised by the Trust that includes:
  - UNITE
  - British Medical Association (BMA)
  - Chartered Society of Physiotherapists (CSP)
  - UNISON (including British Association of Occupational Therapists, BAOT)
  - RCN
- the charity Public Concern at Work on 020 7404 6609. Their lawyers can give you independent confidential advice at any stage about whistleblowing.
- regulatory bodies.

If the matter relates to a potential fraud, you can make your referral directly to the Local Counter Fraud Service:

Name: Sallie Cheung  
Address: Victoria Warehouse, The Docks, Gloucester, GL1 2EL  
Tel: 01452 318826

## **8. External Contacts**

- 8.1 Whilst it is the Trust's wish that all concerns will be raised and resolved internally, it would rather the matter was raised with an appropriate external regulator than not at all. Employees can contact specific regulating bodies, such as the Health & Safety Executive or the Audit Commission. Where an employee believes that the local response has been inadequate, they can also raise their concerns with a body such as the National Patient Safety Agency or Commission for Health Care Audit and Inspection. Public Concern at Work and staff side organisations will be able to advise about which route is appropriate.
- 8.2 Employees are encouraged to exhaust internal procedures outlined in this procedure before contacting other external sources such as local MPs or the media. Protection for disclosure in these instances are only assured if certain preconditions have been met and staff are strongly encouraged to consult one of the designated officers or their trade union representative for advice before making such disclosures.

## **9. Records**

- 9.1 Where an employee has formally invoked this policy then the manager concerned should record and pass a summary of the concern to the Director of Human Resources & Organisational Development so that it can be logged centrally. Such records should include:
- The date, the service, the risk(s) involved and whether they are ongoing
  - a summary of the concern and its background, the response proposed and any action taken
  - whether confidentiality was requested/explained/promised
  - whether the concern was raised with line management
  - whether feedback was given and any response from the employee
  - any general observations

## **10. Process for Monitoring Compliance**

- 10.1 All recorded whistleblowing incidents and outcomes will be recorded by the designated officer copied to Human Resources who will monitor the policy annually and present the findings to the Committee. The report will include indicators to highlight where grievances and complaints from the public have been raised and recommendations will be made to address any specific gaps or areas of concern which are identified.



- 10.2 This procedure has been 'equality impact assessed' in accordance with the Trust's local arrangements for this process which is compliant with the requirements of the Race Relations (Amendment) Act; the Disability Discrimination Act (amended 2005); the Equality Act 2006 and the Employment Equality Age Regulations 2006.
- 10.3 To ensure compliance of this guidance an audit of the Speak Up policy will be undertaken every three years, commissioned by the Director of HR and Organisational Development. This will involve a selection of a sample of records/documents to be checked against relevant criteria from the policy.
- 10.4 The outcomes of this audit (this may be in the form of exception reporting) will be presented in report format to the Delivery Committee that will be responsible for the development and monitoring of any identified actions within the scope of the audit.
- 10.4 It is suggested that an audit report should contain the following:
- Scope
  - Period Covered
  - Findings
  - Recommendations/Action Plans.

## **11. References**

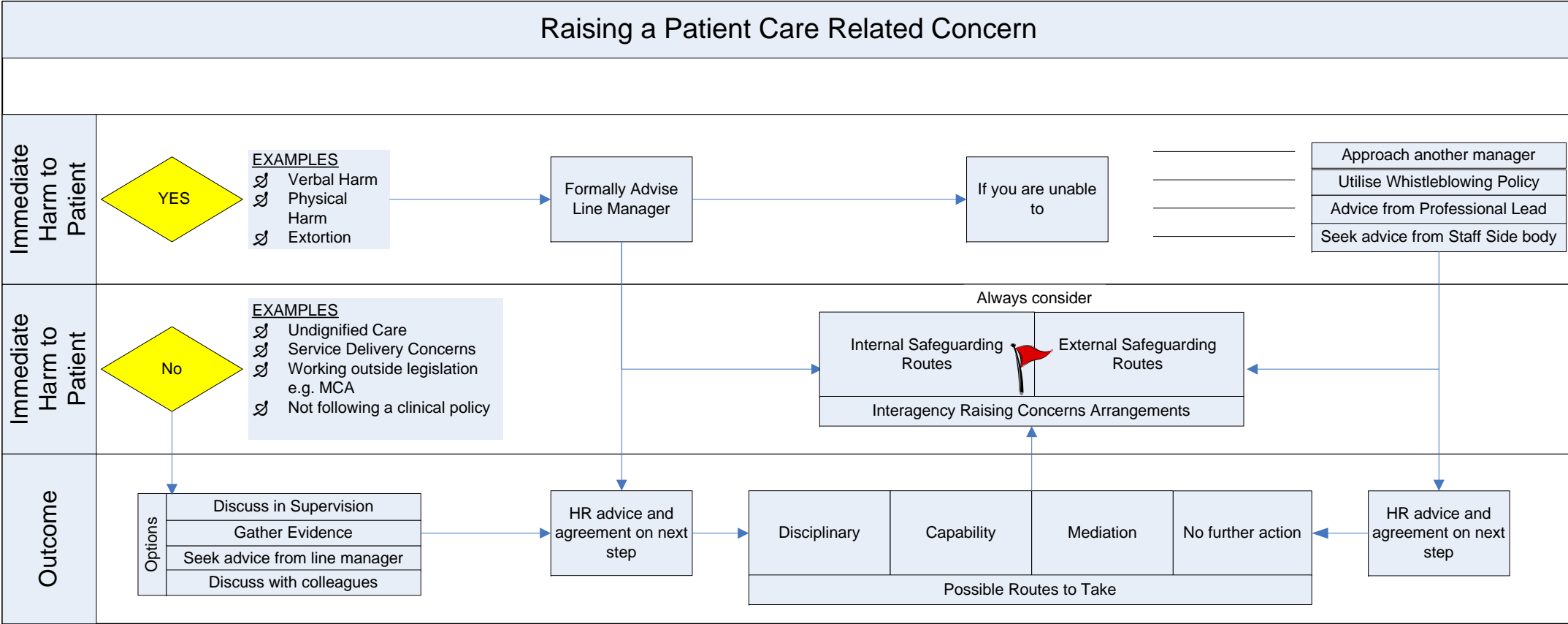
- 11.1 The Trust has to adhere to statutory requirements as a minimum standard and has interpreted these, together with any related guidance, in order to meet best practice. The key related documents used in this policy are:
- *The Public Interest Disclosure Act 1998*
  - *Publicly Available Specification (PAS) 1998:2008 (Developed by Public Concern at Work the independent authority on public interest whistleblowing in collaboration with the British Standards Institution)*
  - *Speak up for a healthy NHS-how to implement and review whistleblowing arrangements in your organisation published by Public Concern at Work and the Social Partnership forum 2010*

## **12. Associated Documentation**

- 12.1 This policy should be seen as operating in conjunction with other Trust policies, including:

- Fraud Policy & Response Plan
- Code of Conduct and Accountability
- Policy & Procedure on Openness
- Disciplinary Policy
- Complaints Policy
- Harassment Policy
- Grievance Procedure
- Hospitality
- Access to Records
- Incident Reporting Procedure
- Flowchart that sets out the various routes to raise patient related concerns
- Safeguarding adults and children's policies

*This list is not exhaustive.*



## **Designated Officers**

### **Executive Directors:**

(All are based at 2gether Trust Headquarters at Rikenel, Montpellier, Gloucester, GL1 1LY)

Shaun Clee  
Chief Executive  
Tel: 01452 891003

Sandra Betney  
Director of Finance and Commerce (Deputy Chief Executive)  
Tel: 01452 891042

Paul Winterbottom  
Medical Director  
Tel: 01452 891144

Simon Thompson  
Chief Operating Officer  
Tel: 01452 891617

Trish Jay  
Director of Quality and Performance  
Tel: 01452 891071

Kay Harrison  
Director HR and Organisational Development  
Tel: 01452 891076

Colin Merker  
Director of Internal Customer Services  
Tel: 01452 891142

### **Locality Directors:**

Andy Moore  
Locality Director – Countywide (Gloucestershire)  
Stroud Road Mental Health Centre  
136 Stroud Road, Gloucester, GL1 5JR  
Tel: 01452 891213

Les Trewin  
Locality Director – Gloucester and Forest of Dean (West)  
Albion Chambers  
111 Eastgate Street, Gloucester  
Tel: 01452 364700

Stuart Conlon  
Locality Director – (Stroud and South Gloucestershire) South  
Acorn House, Horton Road, Gloucester, GL1 3PX  
Tel: 08454 226010

Ted Quinn  
Locality Director – Cheltenham, Tewkesbury and North Cotswolds (North)  
Charlton Lane Centre, Charlton Lane, Gloucestershire, GL53 9DZ  
Tel: 01242 634114

Mark Hemming  
Locality Director – Herefordshire  
Monkmoor Court, 31-34 Commercial Road, Hereford, HR1 2BG  
Tel: 01432 361666

**Complaints Manager:**

TBA  
Tel: 01452 891138  
Rikenel, Montpellier, Gloucester, GL1 1LY

**Chair of Diversity Steering Group:**

Kay Harrison, Director of HR & Organisational Development  
Tel: 01452 891076  
Rikenel, Montpellier, Gloucester, GL1 1LY