

Raising Concerns; a safe alternative to silence (formerly Whistleblowing Policy)	
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Title of Relevant Director:	Chief Executive Officer
Target audience:	All Staff
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This Trust-wide CBR has been developed / reviewed in accordance with the Trust approved ' Development & Management of Trust-wide Corporate Business Records Procedure (Clinical and Non-clinical strategies, policies and procedures) '	Version 9.0
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Summary of Trust-wide CBR: <i>(Brief summary of the Trust-wide Corporate Business Record)</i>	To provide staff with access to a proper and widely publicised procedure for voicing their concerns when they encounter or suspect wrong-doing or malpractice, safe in the knowledge that they will not suffer personal detriment as a result of having done so.
Purpose of Trust-wide CBR: <i>(Purpose of the Corporate Business Record)</i>	Necessary to ensure that employees have the freedom to raise concerns about patient care or matters of business probity or conduct. It enables the Trust to influence the conduct of its employees and deal with issues that prevent the organisation to operate effectively.
Trust-wide CBR to be read in conjunction with: <i>(State overarching/underpinning Trust approved CBRs)</i>	Incident Management Policy Code of Conduct
Relevance: <i>(State one of the following: Governance, Human Resource, Finance, Clinical, ICT, Health & Safety, Operational)</i>	Governance
Superseded Trust-wide CBRs (if applicable): <i>(Should this CBR completely override a previously approved Trust-wide CBR, please state full title and eLibrary reference number and the CBR will be removed from eLibrary)</i>	N/A

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Department/Specialty:	Executive Suite

Version	Title of Trust Committee/Forum/Body/Group consulted during the development stages of this Trust-wide CBR	Date
5.0	Interim Chief Human Resources Officer Chief Officers as a Group	October 2014
5.0	Audit Committee	10 November 2014
5.0	Trust Board	26 th November 2014

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1.0 SCOPE

1.1 This policy applies to all staff who are directly employed by University Hospitals Coventry & Warwickshire NHS Trust (UHCW). It also applies to bank and agency workers, an employee of one of our contractors, our volunteers, students and holders of Honorary Contracts with the Trust.

2.0 INTRODUCTION

2.1 Following the publication of the Francis Report the Trust has reviewed its former Whistleblowing Policy and arrangements to encourage everyone to raise concerns so that issues can be dealt with at the earliest opportunity. We are committed to promoting a climate of openness, dialogue and freedom to speak and have therefore renamed this Policy (formerly the Whistleblowing Policy) to better reflect the culture that we aspire to. We are clear that we want our staff to feel able to speak up without fear of reprisal or consequence, and this Policy sets out the ways in which staff can do this.

2.2 At some point in time, any employee may have had concerns about what is happening at work. These concerns are usually easily resolved but sometimes, they might be of a nature that it is difficult to know what to do; for example malpractice at work or a danger to patients, the public or colleagues, and this Policy provides advice as to who to contact in these circumstances.

2.3 Concerns can be raised at any time and there is no need to wait for proof. We would encourage staff to raise concerns at the earliest opportunity to minimise the impact of the suspected or known malpractice or danger that they are concerned about.

2.4 This Policy is primarily for concerns that put the interest of patients, staff, the public or the Trust as a whole at risk. Where an issue relates to terms or conditions of employment, the Grievance Policy is to be followed as this Policy does not apply to, and cannot be utilised in respect of grievances.

2.5. The Policy links to our values; specifically ‘openness’ and also to the Duty of Candour that came into force in October 2014.

3.0 POLICY STATEMENT

3.1 The Trust Board is committed to achieving the highest possible standards of quality, honesty, openness and accountability in line with the UHCW values; integral to this is fostering an open culture whereby it is not only safe and acceptable for all employees to speak up and raise concerns, but where this is actively encouraged.

3.2 We recognise that our staff are best placed to raise concerns and we welcome the contribution that they can make towards improving safety and standards. There are a number of existing mechanisms in place for staff to raise issues of concern that they encounter on a day-to-day basis. These include reporting incidents through the on-line incident reporting system (Datix), reporting risks that they become aware of and direct conversations or communication that takes place with line managers and other members of the management teams. Concerns raised through these well-established mechanisms are part of normal, good working practices and a culture of reporting and should not generally be regarded as ‘whistleblowing’.

3.3 We would therefore encourage staff to report concerns to their line manager in the first instance. We know however that this can be difficult in some circumstances and this Policy recognises and acknowledges the difficulties that can arise, and provides an additional safeguard to ensure that all concerns can be raised. It is not intended to override or replace existing arrangements that are in place.

3.3 We will not tolerate the victimisation of any individual that raises a genuine concern, and we commit to taking all concerns seriously and to treating individuals fairly. Any individual that raises a genuine concern under this Policy will not be at risk of losing their job or suffering any form of retribution as a result. It does not matter if it is subsequently found that they were mistaken or if there is an innocent explanation and individuals will not be asked to provide proof of their concern(s) at the time that they are raised. We will treat any form of reprisal against a person raising a concern, or any attempt to prevent a concern being raised as a disciplinary matter, which may ultimately lead to dismissal. We will not utilise “gagging clauses” within contracts of employment which actively seek to prevent individuals from speaking out against

concerns that they may have in relation to issues of safety, quality or probity

3.4 The Policy exists to allow genuinely held concerns to be raised, and in the same way that we will not tolerate victimisation or attempts at preventing concerns from being raised, neither will we tolerate individuals using the Policy for personal motives, personal gain or with malicious intent. Disciplinary action may therefore follow in the event that the policy is misused and concerns are raised falsely or maliciously.

3.5 This Policy is not intended to replace or be a substitute for the Grievance or Dignity at Work Policies, or as a route for staff to raise private grievances and will not be applied in such circumstances. Should a concern be raised under this Policy that ought to be dealt with under an existing Policy, then the person raising the concern will be informed of this.

4.0 DEFINITIONS

Concerns: we have made a conscious decision to move away from the term 'whistleblowing'; substituting this with the word 'concern' throughout this Policy. In the context of the Policy examples of concerns are:

- Unacceptable practices in healthcare matters
- Fraud or other financial irregularity
- Corruption
- Offering or taking bribes
- Dishonesty
- Mis-reporting performance data
- Criminal activity
- Endangering the health and safety of an individual(s)
- Deliberate concealment or destruction of any information relating to a concern
- Malpractice in the work-place
- Bullying

It should be noted that this list is not intended to be exhaustive and in the event of uncertainty, it is better to report a concern early in order to ensure that both patients and staff are protected.

Grievance: a complaint relating to an employee's own personal terms and conditions

or about a decision affecting an employee at work, for which a separate policy is available.

5.0 DUTIES AND RESPONSIBILITIES

5.1 The Trust Board;

The Trust Board has overall responsibility for ensuring that the organisation operates in accordance with all applicable statutory and regulatory requirements and will therefore approve this Policy. Approval will also be required from the Trust's Corporate Business Records Group as this policy constitutes a Corporate Business Record.

5.2 The Chief Executive Officer

The Chief Executive Officer is responsible for ensuring that mechanisms are in place for staff to report concerns and for bringing these to the attention of the Trust Board where this is warranted. The Director of Corporate Affairs will produce this Policy on behalf of the Chief Executive Officer and will also provide appropriate support.

5.3 Audit Committee;

The Audit Committee is responsible for reviewing the effectiveness of the arrangements that the Trust has in place for staff to raise concerns and will therefore periodically review this Policy and its effectiveness.

5.4 Designated Officers:

Designated Officers are responsible for ensuring that all concerns that are raised with them are dealt with in the appropriate way. The following individuals are Designated Officers that can be contacted by any member of staff with concerns that cannot be dealt with more appropriately through other mechanisms:

- Any Chief Officer of the Trust Board
- Chairman
- Audit Committee Chair (Trust Board lead for Whistleblowing)
- Director of Corporate Affairs
- Local Counter Fraud Specialist

Contact details can be found in appendix 1 to this policy. Changes to the Designated

Officers may take place from time to time and any such change does not require the Policy to go through the approval process again.

5.5 Local Counter Fraud Specialist (LCFS)

Is responsible for investigating concerns relating to fraud, bribery or corruption in line with guidance from NHS Protect. Where a concern relates to a potential fraud, bribery or corruption, staff should contact the Trust's Local Counter Fraud Specialist (LCFS) Richard Loydall directly (contact details are set out in appendix 1) or the Trust's Chief Finance Officer. Any Manager made aware of possible fraud, bribery or corruption should also contact Richard Loydall at the earliest opportunity.

5.6 Line Managers

Are responsible for acting upon and investigating all concerns that are brought to their attention, providing advice and support to staff, and for ensuring that this Policy is communicated to the staff that they are responsible for. Line Managers should be aware that raising concerns often takes a great deal of courage and must support staff that do so throughout the duration of the process. The level and type of support required will vary depending on the nature of the concern that is raised but advice should be sought from Human Resources and Occupational Health and from other support services as appropriate.

5.7 All Employees

Are responsible for taking immediate action and raising concerns that they may have through the appropriate channels, and for speaking out to safeguard the health and well-being of those in our care.

5.8 Human Resources

Are responsible for guiding and supporting managers and employees in relation to the use of this Policy.

6.0 POLICY DETAILS

6.1 Legislative & Governance Framework

6.1.1 This policy complies with the Public Interest Disclosure Act 1998 ("the Act"), which provides a framework of legal protection against victimisation or dismissal for workers who raise a reasonable and honest suspicion or genuine concerns about

wrong doing or malpractice in the workplace, where these concerns are raised in accordance with the provisions of the Act.

6.1.2. In addition, section 21 of the NHS Agenda for Change Terms and Conditions of Service Handbook states that all employees working in the NHS have both a contractual right and duty to raise any concerns they may have about malpractice, patient safety, financial impropriety or any serious risks that they consider to be in the public interest.

6.1.3 The NHS Constitution makes it clear that staff should aim to raise any genuine concern that they may have about a risk, malpractice or wrong-doing at work (such as a risk to patient safety, fraud or breaches of patient confidentiality), which may affect patients, the public, other staff or the organisation itself, at the earliest reasonable opportunity.

6.1.4 This Policy complements existing guidelines such as the NMC Code of Professional Conduct and GMC Guidance on Contractual Arrangements in Health Care. Staff have a duty under these arrangements to make known areas of concern/unsafe practice in relation to patient care.

7.0 RAISING A CONCERN

A concern can be raised either verbally or in writing; we would however encourage any individual reporting a concern and any manager receiving a report of a concern to keep an accurate record of any action that they take as a result.

7.1 How to Raise a Concern

7.1.1 Option 1

Raise your concern with your line manager; he or she will assess the concern and decide what action to take or if further information or advice is required.

7.1.2 Option 2

If you feel that you cannot raise the concern with your line manager then you can speak to one of the senior managers within your department or Group i.e. General Manager or Head of Department. Advice on who to report your concern to can also be obtained from the Human Resources Department.

7.1.3. Option 3

If you feel that you cannot use option 1 or option 2 then you can raise your concern with any of the following:

1. Associate Directors of Nursing
2. Matrons
3. Clinical Directors
4. Associate Directors of Quality

7.1.4 Option 4

If you have tried options 1-3 but feel that your concern has not been addressed or if the matter is so serious that it cannot be discussed with any of these persons then you should speak to the appropriate Chief Officer, the Chair of the Trust or the Chair of the Audit Committee.

7.2 Reporting to External Bodies

We have taken great care to ensure that this Policy provides a full range of options for reporting concerns internally, and that it provides access to the most senior individuals within the Trust. In order to ensure that public confidence in the Trust is not undermined unnecessarily, we therefore expect anyone wishing to raise a concern to do so internally in the first instance before referring matters to the media, the Police, the Care Quality Commission, Members of Parliament or other external agencies.

Contacting external bodies should only be considered if all of the internal procedures have been tried and the concern has not been dealt with properly but If however you have exhausted options 1-4 and you still feel that your concern has not been properly dealt with then you can contact the bodies known as prescribed bodies as listed in appendix 2.

7.3 Independent Advice

If you would like some impartial and independent advice on how to raise a concern then this can be sought from the following:

1. NHS Whistleblowing helpline; 08000 724 725 (weekdays between 0800 and 1800 – out of hours answering service on weekends and public holidays) or www.wbhelpline.org.uk
2. Public Concern at Work: 020 7404 6609 or refer to www.pcaw.co.uk (their

lawyers can give independent confidential advice, at any stage, about whistleblowing.

3. National Fraud and Corruption Reporting Line **0800 028 40 60** (all calls to this line are treated in confidence.)
4. ACAS www.acas.org.uk

7.4 How Concerns will be dealt with

Once a concern has been raised it will be logged and documented by the individual with whom it is raised, and he or she will then make an initial assessment of what actions need to be taken. There are a range of options available to look into the concern raised including an informal review, an internal inquiry or a full investigation. The person with whom the concern has been raised must keep the person raising it informed as to who will be handling it, how that person can be contacted and any further information that will need to be provided by the individual reporting. The person raising the concern may also be asked how they feel that the concern can best be resolved, and will also be asked whether they have any personal interest in the matter; this is so that an assessment can be made as to whether it would properly fall within the Trust's Grievance or other procedure and taken forward in a more appropriate manner.

Individuals raising concerns can also request written confirmation of how it will be handled should they wish.

8.0 CONFIDENTIALITY

Whilst we aspire to openness, it is recognised that this policy is in place to deal with malpractice and as such, staff wishing to report a concern outside of the existing channels may have concerns about doing so and may wish for their identity to be protected. Equally, when a concern is raised, we might not be able to tell the person raising it the exact action that we are taking, if this would breach a duty of confidentiality that we owe to another individual.

In the spirit of an open culture, we will not presume that a concern is raised confidentially unless the individual raising it states that they wish this to be the case. In the event that confidentiality is requested this will be respected as far as possible but at the same time, it must be recognised that the purpose of this Policy is to address and resolve concerns and prevent harm. Prevention of harm being the

priority, there may be occasions when we are obliged to disclose the identity of the person raising the concern, for example if there is a subsequent court case and the Police require the details for evidential purposes. In the event that it becomes necessary for us to disclose identity or other relevant information for regulatory or statutory purposes we will inform the individual beforehand in order that we can offer support.

In considering whether to raise allegations in confidence, it is also important to realise that where concerns have previously been raised on an open basis, other staff may assume that the same individual is the source, whether or not this is the case. Although we are clear that we will not tolerate victimisation or harassment as a result of raising concerns and will take action accordingly, we cannot prevent other staff from making assumptions, and this is another reason why we encourage raising concerns in an open way.

8.1 Patient Confidentiality

People that are in our care have a right to confidentiality and the right to expect that we will only use the information that we hold about them for the purpose for which they gave it to us. In order to preserve confidentiality, the general rule is that information should only be discussed with someone outside of the healthcare team if the person has given his or her consent.

There are however very limited exceptions to this which allow staff to pass on information without permission, if they believe that someone is at risk of harm and sharing the information would be in their best interest. These decisions will by their very nature always be complex and as such, staff are advised to seek advice before revealing the identity of a patient or service user.

9.0 SAFEGUARDING CONCERN

Safeguarding the health and wellbeing of those in our care means these people should not be exposed to abuse. Please refer to the Trust policies and guidance documents for any Safeguarding concerns, i.e. the Trust Safeguarding Reporting Flowchart and the Trust Policy on Protection of Adults at risk and any procedures relating to Safeguarding Children.

10.0 PROTECTION OF INDIVIDUALS RAISING CONCERNS

If an individual raises a genuine concern under this Policy then he or she will not be at risk of losing their job or suffering any kind of retribution as a result. Every concern that is raised will be assumed to have been raised genuinely and in the public interest and we will not ask for proof.

We are very clear that the Trust is responsible for investigating concerns that are raised and for taking any disciplinary action, up to and including dismissal of any employee who is found to have harassed or victimised someone that has raised concerns. We will also take action against anyone that knowingly or maliciously makes false allegations under this policy.

11.0 ANONYMOUS CONCERNS

We would rather concerns be raised anonymously than not at all, but doing so does create difficulties, and it is for that reason that we do not encourage concerns to be raised in this way. It is more difficult to investigate a concern when it is raised anonymously, because for example we cannot seek further information when it is needed. We are also unable to protect the person raising the concern or give feedback if we do not know who they are.

Although we are committed to taking all concerns seriously, and will consider what action we can take and what actions are justified as a result of an anonymous disclosure; ultimately we may not be able to handle such matters under this Policy.

12.0 DISSEMINATION AND IMPLEMENTATION

12.1 This policy will be available to all employees on the Trust's intranet site.

12.2 The re-launch of the newly named policy will be communicated via the Trust's internal communications mechanisms.

13.0 MONITORING COMPLIANCE

13.1 The use of this Policy will be monitored via the annual NHS Staff Survey and by local surveys such as Staff Impressions

13.2 The effectiveness of the Policy will also be reviewed by the Audit Committee on an annual basis as one of the key systems of internal control

13.3 Monitoring Table

Aspect of compliance or effectiveness being monitored	Monitoring method	Individual department responsible for the monitoring	Frequency of the monitoring activity	Group / committee which will receive the findings / monitoring report	Group / committee / individual responsible for ensuring that the actions are completed
Use of policy	Referrals	CEO/DOCA	Annually	Audit Committee	CEO

13.4 This policy will be reviewed after 2 years from the date of issue, or earlier as appropriate.

14.0 STAFF COMPLIANCE STATEMENT

All staff must comply with this Trust-wide Corporate Business Record and failure to do so may be considered a disciplinary matter leading to action being taken under the Trusts Disciplinary Procedure. Actions which constitute breach of confidence, fraud, misuse of NHS resources or illegal activity will be treated as serious misconduct and may result in dismissal from employment and may in addition lead to other legal action against the individual/s concerned.

A copy of the Trust's Disciplinary & Appeals Procedure is available from eLibrary.

15.0 EQUALITY & DIVERSITY STATEMENT

Throughout its activities, the Trust will seek to treat all people equally and fairly. This includes those seeking and using the services, employees and potential employees. No-one will receive less favourable treatment on the grounds of sex/gender (including Trans People), disability, marital status, race/colour/ethnicity/nationality, sexual orientation, age, social status, their trade union activities, religion/beliefs or caring responsibilities nor will they be disadvantaged by conditions or requirements which cannot be shown to be justifiable. All staff, whether part time, full-time, temporary, job share or volunteer; service users and partners will be treated fairly and with dignity and respect.

16.0 REFERENCES AND BIBLIOGRAPHY

NHS Employers, Speaking Up Charter

<http://www.nhsemployers.org/your-workforce/retain-and-improve/raising-concerns-at-work-whistleblowing/speaking-up-charter>

Nursing Times Speak Out Safely Campaign

<http://www.nursingtimes.net/opinion/speak-out-safely>

Whistleblowing Arrangements Code of Practice

<http://www.pcaw.org.uk/bsi>

NHS Employers Raising Concerns at Work

<http://www.nhsemployers.org/your-workforce/retain-and-improve/raising-concerns-at-work-whistleblowing>

Francis Report Recommendations:

<http://www.midstaffpublicinquiry.com/report>

17.0 UHCW ASSOCIATED RECORDS

Dignity at Work Policy

Equal Opportunities Policy

Disciplinary Procedure

Grievance and Disputes Procedure

Incident Management Policy

Procedure for Investigation & RCA

Counter Fraud, Bribery and Corruption Policy

Code of Business Conduct Policy

Appendix 1

- Any Chief Officer of the Trust Board
- Chairman
- Audit Committee Chair (Trust Board lead for Raising Concerns)
- Director of Corporate Affairs
- Local Counter Fraud Specialist

Chief Officers	Contact No
Andy Hardy, CEO	Ext. 27614
David Moon, CFO	Ext. 27610
David Eltringham, COO	Ext. 27611
Mark Radford, CNO	Ext. 27615
Meghana Pandit, CMO	Ext. 27612
Chairman	
Andy Meehan	Ext. 27599
Audit Committee Chair	
Trevor Robinson	trevor.robinson@uhcw.nhs.uk or please contact the Exec. Suite
Director of Corporate Affairs	
Rebecca Southall	Ext. 27607
Local Counter Fraud Specialist	
Richard Loydall	richard.loydall@nhs.net

Appendix 2

External Bodies (prescribed bodies)¹ with whom concerns can be raised in the event that they have not been properly dealt with by the Trust:

Care Quality Commission about matters relating to the regulation and provision of health and social care.

CQC National Customer Service Centre
Citygate
Gallowgate
Newcastle upon Tyne NE1 4PA
Tel: 03000 616161
www.cqc.org.uk

General Medical Council

about matters relating to the registration and fitness to practise of a member of a profession regulated by the General Medical Council.

General Medical Council
Fitness to Practise Directorate
3 Hardman Street
Manchester M3 3AW
Tel: 0161 923 6602
Email: practise@gmc-uk.org

General Pharmaceutical Council

about matters relating to the registration and fitness to practise of a member of a profession regulated by the General Pharmaceutical Council.

Investigating Team
General Pharmaceutical Council
25 Canada Square
London E14 5LQ
Tel: 020 3365 3603
Email: concerns@pharmacyregulation.org

Health and Care Professions Council

about matters relating to the registration and fitness to practise of health and care professional.

Health and Care Professions Council
Park House
184 Kennington Park Road
London SE11 8BU
Tel: 0845 300 6184
www.hpc-uk.org

¹ <https://www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies--2>

National Health Services Trust Development Authority

about the performance of English NHS trusts, including clinical quality, governance and management of risk.

The Contact Centre NHS Trust Development Authority Southside Victoria Road
London SW1E 6QT

Tel: 020 7932 1980

Email: ntda.enquiries@nhs.net

Nursing and Midwifery Council

about matters relating to the registration and fitness to practise of a registered nurse or midwife and any other activities in relation to which the Council has functions.

Nursing and Midwifery Council

23 Portland Place

London W1B 1PZ

Tel: 020 7637 7181

Email: whistleblowing@nmc-uk.org

www.nmc-uk.org

Monitor

about the regulation and performance of NHS foundation trusts.

Monitor

Wellington House

133-135 Waterloo Road

London SE1 8UG

Tel: 020 3747 0000

Email: enquiries@monitor.gov.uk

www.nhsft-regulator.gov.uk