



RAISING CONCERNS: 'We Care, We Listen, We Act'

This Procedural document supersedes: Whistleblowing Policy - Voicing your Concerns - CORP/EMP 14 v.4



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The Trust discourages the retention of hard copies of policies and can only guarantee that the policy on the Trust website is the most up-to-date version. **If, for exceptional reasons, you need to print a policy off,** it is only valid for 24 hours.

Author/reviewer: (this version)	L Robinson, Staff Governor
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Target audience:	Trust Wide

Amendment Form

Please record brief details of the changes made alongside the next version number. If the procedural document has been reviewed **without change**, this information will still need to be recorded although the version number will remain the same.

Version Date Issued Brief Sumi		Brief Summary of Changes	Author	
Version 6	September 2016	Policy title renamed following the National Whistleblowing policy and reference to Freedom to Speak Up Guardian role	L. Robinson	
Version 5	3 April 2014	Amended in line with Enterprise and Regulatory Reform Act 2013 that amended the Employment Rights Act 1996. This document has also been reviewed in line with Trust APD document and should be read in full.	Diane Culkin	
Version 4	January 2011	 NHS constitution Speak up for the NHS Changes to organisation Non executive Director identified 	H Selvidge	
Version 3	Dec 08	The policy has been re-drafted and will need to be re-read in full	J Lang	
Version 2 May 2005		Addition of paragraph on "sexual behaviour" following the Ayling Inquiry	H Selvidge	

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1. INTRODUCTION

1.1. Doncaster and Bassetlaw Hospitals NHS Foundation Trust (DBH) is committed to providing the highest standard of care and governance. For this standard to be maintained the Trust actively encourages a climate of open communication, transparency and candour about matters of concern, and supports implementation of Sir Robert Francis's recommendations following the Mid Staffordshire investigation.

- 1.2. At one time or another we all may have concerns about things that are happening at work and usually these concerns can be easily resolved. However, when the concern feels serious because it is about a possible danger, professional misconduct or financial malpractice that might affect patients, colleagues, or the Trust itself, it can be difficult to know what to do.
- 1.3. This policy has been developed to provide guidance on how to raise concerns in a responsible and constructive manner, without fear of victimisation, ensuring that these issues are dealt with in a fair, timely and consistent manner across the Trust. It should be read in conjunction with any relevant professional code of conduct/guidelines which it is intended to complement.
- 1.4. Issues of concern that may be raised through this policy include:-
 - Healthcare matters such as suspected negligence, mistreatment or abuse of patients or issues relating to the quality of care provided.
 - Concerns about the professional or clinical practice or competence of colleagues, other members of staff or other workers, including those members of staff who have non-clinical roles.
 - Malpractice involving immoral, illegal, or unethical professional conduct or neglect of a professional duty.
 - The treatment of other staff, including suspected harassment, discrimination or victimisation.
 - Health, safety and environment issues.
 - Suspicion or knowledge of theft, fraud, corruption, bribery or other financial malpractice.
 - Employment standards and/or working practices.
 - Criminal offences or miscarriages of justice.
 - Failure to comply with any other legal obligation.
 - Deliberate concealment of any of the above.
- 1.5 This policy applies to all employees, and all areas of the Trust, including permanent, temporary and bank employees. The staff of our contractors (including agency workers) and volunteers may also raise concerns using this policy without fear of recrimination.
- 1.6 Under the 2016 terms and conditions for doctors and dentists in training the role of Guardian for Safe Working Hours has been established. This role will ensure that issues of

compliance with safe working hours are addressed as they arise and will provide assurance to the Board of Directors that doctors' working hours are safe.

2. PURPOSE

- 2.1 The purpose of this policy is to encourage and enable staff to raise clinical and other concerns within the Trust in a constructive and positive manner, rather than overlooking a problem or "whistle blowing" elsewhere.
- 2.2 By its use, the Trust aims to encourage an open culture, and to reassure staff that concerns raised correctly under this policy will be listened to and acted on appropriately. It has been developed in response to the Public Interest Disclosure Act 1998, whereby employees who raise legitimate concerns that they reasonably believe are in the public interest are protected from adverse treatment by the Trust or from suffering a detriment, such as bullying and harassment from another worker. This policy sets out the responsibility of employees and other workers and enables managers to demonstrate accountability.
- 2.3 The policy is intended to address concerns promptly where the interests of others, or of the Trust itself are at risk. It does not address individual or collective issues, which are more properly dealt with under the Trust's other policies, such as the Grievance and Dispute Procedure or Fair Treatment for All Policy.

3. DUTIES AND RESPONSIBILITIES

- 3.1 The **Chief Executive** is ultimately responsible for ensuring there is an effective system in place for employees to raise issues relating to Raising Concerns (Whistleblowing).
- 3.2 Local Freedom to Speak up Guardian this role has been established to provide confidential advice to staff who may not know who they should raise their concern with, and to ensure that anyone who does raise a concern is appropriately supported and not subject to any detrimental treatment.
- 3.3 These functions are delegated to all Executive Directors who have responsibility for:
 - Ensuring this Policy is adhered to;
 - The provision of advice and information relating to Raising concerns (Whistleblowing).
- 3.4 All **Trust managers** have a duty to:
 - Develop and create a culture where employees can discuss concerns.
 - Take the employee's concerns seriously and understand the difficult position they may be in.
 - Evaluate the basis of any concerns brought to their attention, taking prompt action to resolve the concern or to refer to an appropriate person.
 - Seek appropriate advice

- Keep the employee informed of the process.
- Monitor and review the situation.
- Inform appropriate members of the Trust i.e. the Director of People and Organisational Development.

3.5 All **employees** are responsible for:

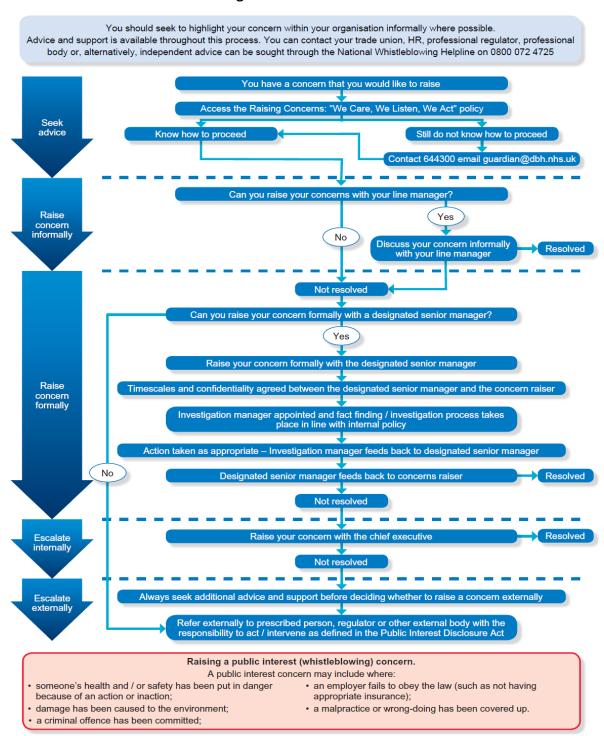
- Raising their concerns as soon as possible in an objective and factual way, in line with this policy and the accompanying procedure.
- Keeping records, where possible, of any incidents and potential witnesses
- Co-operating with any investigation, if appropriate, including being available for interview, providing a statement and/or documentation.
- Maintaining the confidentiality of patients and staff.
- All reported concerns will be dealt with complete confidence and can be defined broadly as "protected disclosure".

4. PROCEDURE – DECIDING WHETHER TO RAISE A CONCERN

- 4.1 This can be a hard decision. You might feel it's not your business, or someone else will do something, or you don't have any evidence, or you are being disloyal to your colleagues, or you will be victimised. Or you might have seen someone else raising a concern and experiencing some of the issues above.
- 4.2 However, you must always consider the needs of our patients, and your responsibility to them as your first priority. You should also remember that it is your duty to raise issues so others can investigate them and sort them out. And finally consider what might happen if you don't raise the issue and something does go wrong. Some questions which may be helpful in reaching this decision can be found in **Appendix 1**.
- 4.3 If you raise genuine concerns under this policy that you reasonably believe are in the public interest, the Trust will support you. This means that you will not be at risk of reprisal, victimisation, discrimination or any form of disciplinary sanction as a result of raising your concerns. Nor will your continued employment, opportunities for future training or promotion be prejudiced because you have raised a legitimate concern. If you are subsequently found to be mistaken, this does not matter and you will still be protected.
- 4.4 Whilst the Trust encourages the raising of genuine concerns, this must be exercised with proper regard to individual' and patients' rights to confidentiality and by observing the appropriate procedure for raising such concerns.
- 4.5 You are, therefore, reminded of your duties of confidentiality and responsibilities to the Trust. However, this does not preclude you from expressing concerns about misconduct, malpractice, risks or potential incidents. Whilst areas of concern may be raised with external bodies without first raising them with the Trust, if such disclosures are not justified under the *Public Interest Disclosure Act*, the action taken could be regarded as a breach of duty and may lead to disciplinary action.

- 4.6 If you raise an issue, as far as possible, your confidence will be protected. However, where disciplinary/criminal action follows, you might need to give a statement and therefore reveal your identity, but you will be informed and supported.
- 4.7 Unauthorised disclosure of information, particularly information relating to the care and treatment of individual patients, will be regarded as a most serious matter and will normally warrant disciplinary action.

4.8 Process flowchart for raising concerns



5. ANONYMOUS CONCERNS -

5.1 The Trust cannot ignore anonymous concerns and will therefore take all reasonable steps to investigate anonymous reports. However, anonymous reports are more difficult to deal with, and there can be no real report back on what has happened as a result. We would want to encourage open reporting, but it is better to anonymously report something than not report it at all. If you feel you need to make an anonymous report, it may not be dealt with under this policy specifically, but it will be investigated as thoroughly as possible and a separate log of anonymous reports will be kept in People and Organisational Development (P&OD) or in the Complaints Management Team, depending on whether it involved specific staff or not. Any action taken and outcome will be filed in these two places for future reference.

6. INDEPENDENT ADVICE

- Free, independent and confidential advice on whether and how to raise a concern about serious malpractice at work can be obtained at any stage from:
 - NHS Whistleblowing Helpline on: 08000 724725 or online at www.wbhelpline.org.uk or via email at enquiries@wbhelpline.org.uk the website offers specific advice for NHS staff. Additionally, advice can be sought from the relevant Trade Union or Professional Associations.

Advice can also be sought from:-

 Care Quality Commission on 03000 616161 or via email at: enquiries@cqc.org.uk. The website offers further advice at www.cqc.org.uk

7. TRAINING/SUPPORT

- 7.1 Staff will receive instruction and direction regarding Whistleblowing advice and information from a number of sources:
 - Trust Policies and Procedures
 - Line manager
 - Fraud Awareness Training
 - Other communication methods (e.g. Staff Brief/Team Meetings)

REF: CORP/EMP 14 v.5

8. MONITORING COMPLIANCE WITH THE PROCEDURAL DOCUMENT

- 8.1 Awareness and compliance with this policy will be monitored annually by the responses to the Staff Survey.
- 8.2 Any concern raised by an employee under this policy must be reported, anonymously if appropriate to the Director of People and Organisational Development (P&OD). P&OD will log the name of the manager notifying the concern, the nature of the concern and the date. P&OD Case Management Team will monitor resolution of the concern and monitor trends across the Trust of such concerns.
- 8.3 The Director of P&OD will be responsible for monitoring that this procedure is followed and may be consulted at any stage through the process to offer advice to those involved.

9. EQUALITY IMPACT ASSESSMENT

An Equality Impact Assessment (EIA) has been conducted on this procedural document in line with the principles of the Equality Analysis Policy (CORP/EMP 27) and the Fair Treatment For All Policy (CORP/EMP 4). A copy is attached at Appendix 3.

The purpose of the EIA is to minimise and if possible remove any disproportionate impact on employees on the grounds of race, sex, disability, age, sexual orientation or religious belief. No detriment was identified.

10. ASSOCIATED TRUST PROCEDURAL DOCUMENTS

Key policies for you to refer to are:-

- Disciplinary Procedure CORP/EMP 2
- Fraud Policy and Response Plan CORP/FIN 1 (D)
- Grievance and Dispute Procedure CORP/EMP 3
- Information Management & Technology (IM&T) Security Policy CORP/ICT 2
- Fair Treatment for All Policy- CORP/EMP 4
- Policy for Supporting Staff Involved in Incidents, Complaints and Claims CORP/RISK 4
 v.3
- Risk Management Strategy CORP/RISK 10
- Serious Incidents (SI) Policy CORP/RISK 15 v.3
- Standing Financial Instructions, including Gifts, Hospitality & Sponsorship CORP/FIN 1 B
- Standing Orders CORP/FIN 1 A

11. REFERENCES

Francis Report – Duty of Care Order

- Public Concern at Work, "Speak up for a Healthy NHS" http://www.pcaw.org.uk/files/SpeakupNHS.pdf
- Public Interest Disclosure Act 1998 www.legislation.gov.uk

APPENDIX 1

QUESTIONS TO CONSIDER WHEN DECIDING TO RAISE A CONCERN (WHISTLE BLOW)

The following questions have been compiled by the charity **Public Concern at Work** to help individuals who are unsure whether or how to raise a concern:

- Is someone (e.g. a patient) unaware that they are being exposed to a risk that you would not take or expose your loved ones to?
- If the tables were turned and someone had a concern about your clinical practices, how would you want them to raise the issue?
- How can the risk be addressed so that the least damage is caused to the colleague involved?
- Have you talked to your colleagues or your team (if not, why not)?
- Can you find a solution within your team?
- Is there a trusted senior colleague or friend you can discuss the issue with first?
- If you have known of the risk for some time, why are you minded to raise the issue now?
- What do you think would be a satisfactory outcome?
- What obstacles are there to it?
- What is your motivation?
- Do you know that you can contact the NHS Whistleblowing Helpline to discuss in confidence whether or how to raise a concern on 08000 724725 or via www.wbhelpline.org.

IF IN DOUBT - RAISE IT!

REF: CORP/EMP 14 v.5

APPENDIX 2

HOW TO RAISE YOUR CONCERNS

- 1.1 The Whistleblowing Policy provides four different steps in raising a concern that falls within the scope of this policy. You can be accompanied by a companion who may be a Trade Union Representative or professional association representative or a work colleague not involved in the issue/area which is causing concern.
- **Step One** In the first instance, you should raise this with your **work team or line** manager, verbally or in writing.
- 1.3 Step Two If you feel unable to approach your line manager for any reason or feel that they have not investigated the issue thoroughly under Step One, you should raise the matter with the Matron, Business Manager, Clinical Manager, Head of Nursing, General Manager, Care Group Director a Senior Manager responsible for the Directorate or Care Group. You should do this in writing within five days of Step One and indicate whether or not you wish to raise the matter in confidence so that appropriate arrangements can be made.
- **Step Three** If Steps One and Two have been followed, or you can't raise the matter with any of the people in Step Two for any reason and you still have concerns or feel that the matter has not been dealt with, you should write to either the **Chief Executive or responsible Executive Director.**
- 1.5 Step Four If you wish to raise a concern internally but do not feel happy using the normal management chain for any reason you should write to, or e-mail the Director of People and Organisational Development, the Freedom to Speak up Guardian at guardian@dbh.nhs.uk or a Non-Executive Director via the Chairman's office, Doncaster Royal Infirmary.

2. OUR RESPONSE TO YOUR CONCERNS

- 2.1 Arranging the Initial Meeting. The aim is for a meeting between you and whoever you chose to raise the concern with to take place within 5 working days of making a verbal or written request. The relevant manager will make the arrangements to meet promptly, with due regard to confidentiality and discretion. The option of being accompanied or represented by a trade union representative or colleague will be offered to provide support. Further contact will then be at a mutually agreed time.
- **2.2 The Initial meeting.** At the first meeting, the manager should:
 - Thank you for raising the issue, regardless of the circumstances
 - Remind you that moral support is available from your trade union or professional association

- Ask for your view on how the concern may best be resolved.
- Make notes which all parties involved in the initial meeting will be asked to sign as confirmation that they are an accurate reflection of the meeting that has taken place.
- Inform the Director of People and Organisational Development that the concern has been raised (anonymously if appropriate).
- 2.3 Initial response. The manager will take a decision on what action to taken and agree this with you. This may take the form of an informal review, an internal inquiry or a more formal investigation involving outside bodies such as the Police or NHS Protect. If a formal investigation is launched then the Trust's Disciplinary Policy will be followed. An initial response to the individual who has raised a concern (whistleblower) will be made in writing within 5 working days of the discussion. The response will summarise the concern and set out the planned action, including who is handling the matter.
- **2.4 Looking into a concern.** We are committed to responding in an open and transparent way. Everyone involved should feel that matters have been dealt with thoroughly and fairly. The investigating manager may seek advice from any Executive Director depending on the nature of the concern.
- **2.5 Feedback to the person(s) raising concerns.** In the spirit of developing a learning culture, at the conclusion of the investigation, you will be asked for their opinion on how the concern was handled. You will also be given as much feedback as appropriate in respect of the outcome, as long as this does not infringe on the a duty of confidence owed to someone else.
- 2.6 Dissatisfaction with the Trust's Response. Through this policy, we will try to respond to concerns in an open and transparent way. If you are dissatisfied with the response, you can go to other levels within the Trust, the NHS Whistlblowing Helpline (www.wbhelpline.org.uk) the relevant trade union or professional body, or the external bodies detailed below.
- 2.7 Informing Other Agencies/Bodies. Whilst we encourage the raising of concerns internally, we also recognise that there may be circumstances where it is appropriate to report matters to outside agencies, including regulators or the police. We would prefer you to raise matters internally, but it is much better to raise a concern with the appropriate regulator than not at all, as long as this is in good faith and there is evidence to back up the concern. Public Concern at Work or the relevant Trade Union will be able to give advice on the circumstances in which an outside body can be contacted safely.
- 2.8 The regulatory bodies relevant to the NHS include:
 - Care Quality Commission <u>www.cqc.org.uk</u>
 - NHS Improvement www.improvement.nhs.uk
 - NHS Protect www.nhsprotect.nhs.uk
 - The Audit Commission <u>www.audit-commission.gov.uk</u>

- HM Revenue & Customs <u>www.hmrc.gov.uk</u>
- Health & Safety Executive <u>www.hse.gov.uk</u>
- The Charity Commission <u>www.charity-commission.gov.uk</u>
- The Occupational Pensions Regulatory Authority <u>www.opra.gov.uk</u>
- 2.9 Reporting Fraud & Corruption. The Trust must comply with NHS Provider Standards in respect of allegations of Fraud & Corruption and a separate policy entitled 'The Fraud, Bribery and Corruption Policy & Response Plan' exists to detail the specific action required of staff in respect of concerns of this type. Any member of staff or manager presented with a concern about fraud or corruption <u>must</u> at the earliest opportunity report their concerns in the first instance directly or indirectly to either:
 - The Local Counter Fraud Specialist (LCFS)
 - The Director of Finance, Information and Procurement
 - NHS Fraud & Corruption Reporting Line on: 0800 028 40 60
 - Online at: www.reportnhsfraud.nhs.uk
- 2.10 The Public Interest Disclosure Act 1998 will not protect an employee who makes a rash disclosure. A rash disclosure includes reporting to the media a concern that falls within the scope of this policy that could and should have been raised within the Trust.

APPENDIX 3 - EQUALITY IMPACT ASSESSMENT PART 1 INITIAL SCREENING

Doncaster and Bassetlaw Hospitals Wis



NHS Foundation Trust

Service/Function/Policy/	CSU/Executive Directorate and	Assessor (s)	New or Existing	Date of Assessment	
Project/Strategy	Department		Service or Policy?		
CORP/EMP 14 v 5	Department of People and	Diane Culkin	Existing	11 th March 2014	
Whistleblowing Policy –	Organisational Development				
Voicing your Concerns					

- 1) Who is responsible for this policy? Department of People and Organisational Development
- 2) Describe the purpose of the service / function / policy / project/ strategy? The policy sets out the appropriate process for 'workers' to raise concerns about unlawful conduct, financial malpractice or dangers to the public or environment. The aim of the policy is to protect workers who raise concerns in good faith and make sure their concerns are listened to without fear that their job will be at risk for making the disclosure.
- 3) Are there any associated objectives? The policy is in line with the 'Public Interest Disclosure Act 1998'
- 4) What factors contribute or detract from achieving intended outcomes? Detract Staff lack of awareness of the policy and appropriate action to take. Contribute – Staff awareness, evidence of effective use of policy
- 5) Does the policy have an impact in terms of age, race, disability, gender, gender reassignment, sexual orientation, marriage/civil partnership, maternity/pregnancy and religion/belief? No – open to all 'workers' which includes contractors, agency workers or any other health care worker who has a contract of service or similar with the Trust
 - If yes, please describe current or planned activities to address the impact N/A
- 6) Is there any scope for new measures which would promote equality? Monitoring of issues raised through the policy could be undertaken.
- 7) Are any of the following groups adversely affected by the policy?

Protected Characteristics	Affected?	Impact
a. Age	No	Nil
b. Disability	No	Nil
c. Gender	No	Nil
d. Gender Reassignment	No	Nil

REF: CORP/EMP 14 v.5

e. Marriage/Civil Partnership	No	Nil
f. Maternity/Pregnancy	No	Nil
g. Race	No	Nil
h. Religion/Belief	No	Nil
i. Sexual Orientation	No	Nil

8) Provide the Equality Rating of the service/ function/policy/project/strategy

Outcome 1 X	Outcome 2	Outcome 3	Outcome 4
Outcome I A	Outcome E	Outcome 5	Outcome 4

^{*}If you have rated the policy as having an outcome of 2, 3 or 4, it is necessary to carry out a detailed assessment and complete a **Detailed**Equality Analysis form in Appendix 4

Date for next review: March 2017, or earlier if changes to policy required

Checked by: Ruth Cooper Date: 12 March 2014

APPENDIX 4 - RAISING CONCERNS - YOUR LOCAL GUARDIANS

