

## POLICY CONTROL SHEET

(updated September 2012)

Policy Title and ID number:	Raising Concern Policy (Staff) – Gen 6.21			
Sponsoring Director:	Director of Human Resources and Organisational Development			
Implementation Lead:	Senior HR Manager - Corporate			
Impact:	(a) To patients	Yes		
	(b) To Staff	Yes		
	(c) Financial	Yes		
	(d) Equality Impact Assessment (EIA)	Completed: Yes / No		
	(e) Counter Fraud assessed	Completed: Yes / No		
	(e) Other			
Training implications:	To be incorporated into induction: Yes			
Date of consultation:	<b>Approval Process</b>	<b>Date</b>	<b>Local Consultation</b>	<b>Date</b>
	Executive Led Committee/Board		Joint Partnership Forum:PRG	27.9.13, 25.10.13
	Board Committee:		Local Negotiating Committee	2.10.13
	• Clinical Governance		Infection Control Committee:	
	• Non Clinical Governance & Risk		Health & Safety Board	
	• Audit Committee		Quality Safety Improvements & Effectiveness Board	
	• Finance Committee			
	• RATS		Investment Board	
	Trust Board Approval / Ratification		Patients Experience Board	
	Other:		Information Governance Board	
			Workforce Board	7.11.13
Approval/Ratification at Trust Board:		Version Number:	4	
Date on Policy Warehouse:		Team Brief Date:		
Circulation Date:		Date of next review:		

For completion by ET for new policies only:				
Additional Costs			Budget Code:	Revenue or Non Revenue
	(a) Training	£		
	(b) Implementation	£		
	(c) Capital	£		
	(d) Other	£		

**RAISING CONCERNS POLICY**

**Document ID: Gov 6.21**

**SPONSORING DIRECTOR: DIRECTOR OF HUMAN RESOURCES  
AND ORGANISATIONAL DEVELOPMENT**

## RAISING CONCERNS POLICY

POLICY ID: GEN 6.21

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#### Abbreviations

HR = Human Resources  
PCaW = Public Concern at Work  
PIDA = Public Interest Disclosure Act

## RAISING CONCERNS POLICY

### 1. STATEMENT OF INTENT

- 1.1 The Trust is committed to the delivery of a high quality and safe patient care. It is therefore vital that staff feel empowered and able to speak up wherever patient safety may be compromised or errors occur. Staff need to feel able to raise concerns, confident in the knowledge that the organization has a culture of openness and transparency in the best interests of patient safety.
- 1.2 The Francis Report recommends that:
  - Reporting of incidents of concern relevant to patient safety, compliance with fundamental standards or some higher requirement of the employer needs to be not only encouraged but insisted upon.
- 1.3 The Trust has developed this policy to reassure staff that it is safe and acceptable to speak up and enable staff to raise any concern they may have.
- 1.4 This policy has been developed to provide guidance for employees, volunteers and contractors on how to raise genuine concerns about conduct and / or malpractice. The definition of these terms is: crime, failure to comply with any legal duty (e.g. negligence, breach of contract), a miscarriage of justice, danger to health and safety or the environment and the attempt to cover up these issues. Examples may include fraud and corruption, abuse of patients / service users or unsafe practices
- 1.5 This policy is not intended to override any guidance of any professional bodies to whom different staff groups within the Trust will be registered but aims to provide general guidance to all staff relating to whistleblowing and should always be read in conjunction with professional codes of practice as appropriate.

### 2. INTRODUCTION

- 2.1 All of us at one time or another have concerns about what is happening at work. Usually these concerns are easily resolved. However, when they are relating to malpractice such as; unlawful conduct, fraud, clinical malpractice or dangers to the public or the environment it can be difficult to know what to do.
- 2.2 You may be worried about raising such issues or may want to keep the concerns to yourself, perhaps feeling it's none of your business or that it's only a suspicion. You may feel that raising the matter would be disloyal to colleagues, managers or to the Trust, or may be seen as disloyal by others. You may decide to say something but find that you have spoken to the wrong person or raised the issue in the wrong way and are not sure what to do next.

- 2.3 This policy enables you to raise your concerns at an early stage and in the right way, without waiting for proof.
- 2.4 All members of staff within the Trust have a responsibility to each other as well as patients. Any concerns within the workplace which may put the safety of patients at risk must be reported immediately through the relevant channels which in the first instance should be your line manager.
- 2.5 If something is troubling you which you think should be addressed or investigated, we advise you to be proactive and use this policy to determine what action you can or should take. The policy covers Trust employees, volunteers, contractors and agency staff.
- 2.6 If you are raising a concern you are generally worried about an issue, wrongdoing or risk which affects others. You are acting as a witness to what you have observed, or to risks that have been reported to you, and are taking steps to draw attention to the situation which could adversely affect those in your care, staff or the organisation.
- 2.7 The Public Interest Disclosure Act 1998 (PIDA 1998) provides protection for employees who raise legitimate concerns about specified matters. These are called “qualifying disclosures”. From 25<sup>th</sup> June 2013, changes to the law on whistle blowing, by virtue of the Enterprise and Regulatory Reform Act 2013, have redefined a “qualifying disclosure” as any disclosure of information, that in the reasonable belief of the employee, is made in the public interest, examples may include;
- 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
  - unauthorized disclosure of confidential information
  - a concealment of any of the above is being or is likely to be committed.

Further information about the act can be found at [www.pcaw.co.uk/law/uklegislation.htm](http://www.pcaw.co.uk/law/uklegislation.htm)

### **3. IMPLEMENTATION**

- 3.1 This policy has been developed in line with best practice guidelines as well as through consultation with trade union representatives within the Trust.
- The Trust will provide adequate resources to enable managers to effectively implement the procedures outlined in the Raising Concerns policy.
  - The Trust will provide appropriate HR support to managers and staff to take appropriate action when dealing with concerns raised through the Raising Concerns policy

- The Trust will conduct a communication campaign to launch the updated policy encouraging staff to feel able to speak out should they have any concerns and ensuring that managers and staff are aware of how to take appropriate action when dealing with concerns raised through the Raising Concerns policy.

#### **4 MANAGEMENT ARRANGEMENTS**

- 4.1 The Chief Executive of the Trust is ultimately responsible for ensuring there is an effective system in place for employees to raise issues relating to Raising Concerns. The Board is responsible for ensuring that there are satisfactory policies and procedures in place and that they are functioning effectively. Within the policy there are certain key managers whose specific functions are outlined below.
- 4.2 All Executive Directors have a responsibility to:
- Ensure this policy is adhered to;
  - Provide advice and information relating to Raising Concerns.
- 4.3 All Trust managers have a duty to:
- Develop and create a culture where employees can discuss concerns
  - Take employee concerns seriously
  - Consider them carefully and arrange investigation
  - Understand the difficult position the employee may be in
  - Seek appropriate advice
  - Take prompt action to resolve the concern or refer it on to an appropriate person
  - Keep the employee informed of the process
  - Monitor and review the situation
  - Inform appropriate members of the Trust e.g. Chief Executive
- 4.4 All Trust employees, volunteers and contractors have a duty to raise a concern. There are a wide range of situations when you may feel it necessary to raise a concern using the principles outlined in this policy. The list enclosed in the procedure in appendix A, paragraph 1.4 is intended for guidance and is not exhaustive:

#### **5 REVIEW DATE**

- 5.1 This policy will be reviewed every 24 months or in line with relevant legislative changes

#### **6 REFERENCES**

##### **Key legislation.**

1. Public interest Disclosure Act 1998
2. Mental Capacity Act (2005)
3. Data Protection Act (1998)

4. The Bribery Act 2010
5. Enterprise and Regulatory Reform Act 2013

### **Professional Codes of Practice/Further Guidance**

- a. NMC (2010) Raising and Escalating Concerns  
[www.nmc-uk.org/Nurses-and-midwives/Raising-and-escalating-concerns](http://www.nmc-uk.org/Nurses-and-midwives/Raising-and-escalating-concerns)
- b. The Code: Standards of conduct, performance and ethics for nurses and midwives [2008]
- c. Raising and acting on concerns about patient safety – GMC 2012  
[www.nhsemployers.org/.../speakingupcharter/.../SpeakingUpCharter](http://www.nhsemployers.org/.../speakingupcharter/.../SpeakingUpCharter)
- d. Standards of conduct, performance and ethics – hcpc 2012
- e. “Speak up for a healthy NHS” Guide – Public Concern at work and NHS Social Partnership Forum  
[www.pcaw.org.uk/files/SpeakupNHS](http://www.pcaw.org.uk/files/SpeakupNHS)
- f. NHS Constitution
- g. The “Speaking up” charter – NHS Employers 2012  
[www.nhsemployers.org/.../speakingupcharter/.../SpeakingUpCharter](http://www.nhsemployers.org/.../speakingupcharter/.../SpeakingUpCharter)
- h. British Standards Institute Whistleblowing arrangements Code of Practice 1998

### **1.0 DECIDING WHETHER TO RAISE A CONCERN**

- 1.1 There are common feelings or experiences that can be barriers to raising a concern. Sometimes concerns are not raised because it feels none of one's business; it is only a suspicion without hard evidence; it is being disloyal to colleagues, managers or the Trust; it didn't go according to plan when it was raised previously, or other people had a poor experience of previously raising concerns.
- 1.2 It is important however for someone considering raising a concern to be clear about the limits of their responsibility and to remember that if you raise a concern you are a witness, not a complainant. The role of the raiser is to let the facts speak for themselves and to allow the responsible manager to determine what action to take. The Trust would prefer staff to raise matters sooner rather than waiting for proof.
- 1.3 The Trust appreciates that it may be difficult to decide whether or how to raise a concern, for this reason staff are asked to consider the implications of not raising the concern. Some questions which may be helpful in reaching this decision can be found in Appendix B. Also if you think you need to raise a concern but are unsure, you may wish to approach a trade union representative, or the HR Department in confidence to talk this through.
- 1.4 There are a wide range of situations when you may feel it necessary to raise a concern using the principles outlined in this policy, the following list is intended for guidance and is not exhaustive:
  - Danger or risk to health and safety, such as health and safety violations
  - Clinical malpractice including the abuse of patients
  - Issues regarding staff conduct, such as unprofessional attitudes or behaviour, including concerns related to equality and diversity
  - Issues regarding care delivery involving any staff member
  - Issues related to the environment of care in the broadest sense, such as resources, products, people, staffing or organisation wide concerns
  - Issues related to the health of a colleague which may affect their ability to practice safely
  - Misuse or unavailability of clinical equipment, including lack of adequate training
  - Financial malpractice including criminal acts, suspected bribery and fraud
- 1.5 Malpractice is defined as "immoral, illegal, or unethical professional conduct or neglect of professional duty.

### **2.0 YOUR SAFEGUARDS AND CONFIDENCE**

- 2.1 If you raise a genuine concern under this policy, be assured that you will not be at risk of losing your job or suffer any form of retribution as a result of doing so.
- 2.2 Any investigation arising does not presume guilt; it is conducted to establish the facts of a matter. There may be positive benefits irrespective of whether malpractice is found, for example changes to Trust policies and procedures.
- 2.3 If you have done something wrong yourself and raise it under this policy you will not have immunity for your own wrongdoing. However the Trust will take proper account of your coming forward or raising it. If you would prefer to bring along a work colleague or trade union representative when raising a concern that would be acceptable at any stage.
- 2.4 The Trust will not tolerate the harassment or victimisation of anyone raising a genuine concern and promotes the raising of genuine concerns openly. However it is recognised that you may prefer to raise a concern in confidence under this procedure. If you ask that your identity remain anonymous it will not be disclosed without your consent unless required by law however you must understand that there may be practical or legal limits to this confidentiality where the concern cannot be resolved without revealing your identity, or that others may guess who has raised the concern. If you raise your concern anonymously, it will be much more difficult for the matter to be addressed which in turn could impact on public safety. So whilst anonymous reports will be considered the Raising Concerns policy is most effective if you tell us who you are.

### **3.0 HOW TO RAISE A CONCERN**

- 3.1 Although the Trust supports and encourages responsible whistleblowing, it is recognised that staff may still be anxious about raising concerns and may wish to do this privately. It is therefore important to specify if the concern is being raised in confidence at the outset, so that appropriate arrangements can be made. The Raising Concerns Procedure provides four different steps in raising a concern that falls within the scope of the policy.
- 3.2 Throughout the process an individual may 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.
- 3.3 You should keep a clear written record of your concern and any steps that you have taken to resolve it, including who the concern was raised with, on what date and an outline of the concern. Whilst you should also keep a record of any written or verbal communication that you send or receive from your employer, be aware of the need to protect confidentiality. For example if you need to refer to an incident with a particular patient or client, record details of the event and take appropriate steps to maintain confidentiality.

- 3.4 A member of staff must be aware that if they do raise a concern for the Trust to investigate then they will be expected to cooperate fully with all aspects of the Trust's investigation of the concern.
- 3.5 **Stage one:** You should raise your concern internally with your line manager; this may be done verbally or in writing, explicitly stating that you are making a disclosure in the Raising Concerns Policy.
- 3.6 **Stage two:** If you feel unable to raise the matter with your line manager or your line manager is suspected to be involved or is condoning malpractice, employees are required to raise the matter with their next line manager, for whatever reason please raise the matter with the relevant Trust Director. Prior to raising the matter with the relevant Director you have the option to raise the matter with a professional supervisor.
- 3.7 **Stage three:** If you have raised your concerns with your line manager or with the relevant Director, but feel that it has not been addressed properly, that inadequate action has been taken or that you feel the matter is so serious that you cannot discuss it with any of the above you should contact an Executive Director. Appropriate contact details can be found in section 7 of the Raising Concerns procedure.
- 3.8 **Stage four:** If these channels have been followed and you still have concerns, or if you wish to raise a concern internally but do not feel happy using the normal management chain as outlined above you may contact one of the following:
- Audit Committee / Senior Independent Director (Non-Executive Director)
  - Local Security Management Specialist
  - Local Counter Fraud Specialist
  - Director of Human Resources and Organisational Development.
  - Any Non Executive Director
- 3.9 **Stage five:** If you have followed all internal mechanisms for raising a concern and you still feel there is an issue then please refer to section 6.8 of this procedure for further guidance on informing other agencies/regulatory bodies relevant to the NHS.

Although there is no need for you to provide firm evidence of the wrongdoing before raising a concern, it will help if you provide any evidence that you do have.

#### **4.0 FRAUD AND CORRUPTION**

- 4.1 If the issue relates to potential fraud and/or corruption you should refer to the Trust's formal policy and response plan for detected or suspected fraud.
- 4.2 You should refer any concerns about fraud directly with the Trust's Local Counter Fraud Specialist or the Director of Finance and Information. If you feel this is not appropriate you can call the NHS National Fraud and Corruption Reporting Line on 08000284060 (Monday to Friday 08.00 – 18.00)

## **5.0 ESCALATING YOUR CONCERN EXTERNALLY TO A REGULATORY ORGANISATION**

- 5.1 While it is hoped that this policy gives you the reassurance you need to raise such matters internally it is recognised that there may be circumstances where you can report matters to outside bodies, such as regulators or the police.
- 5.2 If you have raised your concern internally but feel it has not been addressed properly, or if you feel unable to raise your concern at any level in your organisation, you may consider that you need to raise your concern outside your place of work. For example, clinical leaders may choose this route if they feel their concerns have not been addressed adequately within their organisation.
- 5.3 In order that your concern can be investigated and for your own protection under current legislation this should be with a recognised healthcare organisation that has the authority to investigate the issue. This could be a regulator of health and social care services, or a regulator of health professionals.
- 5.4 You should only consider this route if you have exhausted all of the above procedures and inadequate action has been taken to address your concern. Raising your concerns externally, e.g. to a Member of Parliament (MP) or the Press without clear evidence of first raising the concern internally or with a regulatory organisation, would only be considered appropriate and provide you with protection under the terms of the PIDA (Public Interest Disclosure Act), in the most extreme circumstances.
- 5.5 If you are unsure whether to use this policy or you want independent advice at any stage, you may contact the independent charity Public Concern at Work (PCaW). PCaW can be contacted through their website which is listed in section 6.8 of this procedure, or via the telephone number which is listed in section 7.0 of the procedure.
- 5.6 PCaW is an independent authority on public interest whistleblowing. It was established as a charity in 1993 following a series of scandals and disasters and has played a leading role in putting whistleblowing on the governance agenda and in influencing the content of legislation in the UK and abroad. PCaW promotes compliance with the law and good practice in organizations across all sectors. In practical terms, PCaW focuses on the responsibility of workers to raise concerns about malpractice and on the accountability to those in charge to investigate and remedy such issues. PCaW lawyers can give you free confidential advice at any stage about how to raise a concern about serious malpractice at work.
- 5.7 Public Concern at Work will be able to advise you on such an option and on the circumstances in which you may be able to contact any outside body safely.

## **6.0 THE TRUST'S RESPONSE TO CONCERNS**

- 6.1 **Arranging the Initial Meeting:** The Trust aims for a meeting with the employee raising their concerns 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 / professional representative or colleague will be offered to provide support.
- 6.2 **The Initial Meeting:** At the first meeting, the manager should remind the person raising the concern that moral support is available from their trade union or professional association if they feel it is needed. The person raising the concern will be asked if they have a personal interest in the matter, in case the matter falls more properly within other policies such as the Trust Grievance procedures or the Harassment policy. The manager may ask for their view on how the concern may best be resolved. Notes will be made at the initial meeting 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.
- 6.3 **Initial Response:** The manager will assess what action should be taken. 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 the NHS Counter Fraud and Security Management Service. An initial response to the 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.
- 6.4 **Looking into a Concern:** The Trust is committed to responding to concerns raised under this policy in an open and transparent way. All parties involved in looking into concerns should feel that the matters have been investigated thoroughly and fairly. The investigating manager may seek advice from any Executive Director depending on the nature of the concern.
- 6.5 **Feedback to the Raiser of the Concern:** While the main purpose of the policy is to enable the Trust to investigate concerns raised under this policy and take appropriate steps to deal with them, due consideration will be given to the personal support needs of the employee raising the concern. In the spirit of developing a learning culture, at the conclusion of the investigation, the raiser of the concern may be asked for their opinion on how the concern was handled. They will be given as much feedback as appropriate in respect of the outcome, providing this does not compromise confidentiality elsewhere.
- 6.6 **Supporting the Person under Investigation:** The Raising Concerns procedure must be fair to and respect the needs of the person about whom the concern is being raised. They should be informed of the nature of their alleged conduct or behaviour and be reminded of their right of access to support and advice from their trade union. They should have the opportunity to put their side of the story and be kept

fully informed of the progress and outcome of the review or investigation. Details of the concern should be confined to those who need to know in order to conduct the investigation. If all investigations have been carried out under the Raising Concerns policy then it may be necessary to progress the investigation to the Trust's Disciplinary Procedure. (In the case of medical and dental practitioners this will be progressed to the Maintaining High Professional Standards for Medical and Dental Practitioners policy.)

**6.7 Dissatisfaction with the Trust's Response:** The Trust will normally respond to concerns in an open and transparent way. If the whistleblower is dissatisfied with the response, however they may approach the Chief Executive or a member of the Executive Team, or the Chair of the Audit Committee.

**6.8 Informing Other Agencies / Bodies:** Whilst the Trust encourages the raising of concerns internally, it also recognises that there may be circumstances where it is appropriate to report matters to outside agencies, including regulators or the police. It is preferable to raise a concern with the appropriate regulator than not at all, and there is evidence to support 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. The regulatory bodies relevant to the NHS include:

- NHS Barnsley Clinical Commissioning Group (CCG) [www.barnsleyccg.nhs.uk](http://www.barnsleyccg.nhs.uk)
- Care Quality Commission (CQC) [www.cqc.org.uk](http://www.cqc.org.uk)
- NHS Protect [generalenquiries@nhsprotect.gsi.gov.uk](mailto:generalenquiries@nhsprotect.gsi.gov.uk)
- Monitor Independent Regulator of NHS Foundation Trust [www.monitor-nhsft.gov.uk](http://www.monitor-nhsft.gov.uk)
- HM Revenue & Customs [www.hmrc.gov.uk](http://www.hmrc.gov.uk)
- Health & Safety Executive [www.hse.gov.uk](http://www.hse.gov.uk)
- The Charity Commission [www.charity-commission.gov.uk](http://www.charity-commission.gov.uk)
- The Occupational Pensions Regulatory Authority [www.opra.gov.uk](http://www.opra.gov.uk)
- Public Concern at Work [www.pcaw.co.uk](http://www.pcaw.co.uk)
- Nursing and Midwifery Council [www.nmc-uk.org](http://www.nmc-uk.org)
- General Medical Council [www.gmc-uk.org](http://www.gmc-uk.org)
- Health Professions Council [www.hpc-uk.org](http://www.hpc-uk.org)

## **7. CONTACT DETAILS FOR RAISING WHISTLEBLOWING CONCERNS**

### **Trust Chairman**

01226 435000

### **Chief Executive**

01226 434514

### **Medical Director**

01226 434405

### **Chief Nurse**

01226 434349/4351

### **Director of Finance and Information**

01226 434336

**Chief Operating Officer**

01226 434334

**Director of Human Resources and Organisational Development**

01226 436383

**Senior Independent Director/Audit Committee Chair (Non Executive Director)**

01226 435000

**Local Counter Fraud Specialist**

01709 428701

**Local Security Management Specialist**

01226 431386

**Internal Audit Manager**

01709 428712

**Chief Nurse**

**NHS Barnsley Clinical Commissioning Group**

**01226 433706**

**National NHS Fraud & Corruption Reporting Line**

0800 028 40 60

**Public Concern at Work**

020 74046609

**National Whistleblowing Helpline**

08000 724 725

Free advice for the NHS and Social Care

## APPENDIX B

### Questions to consider when deciding whether to raise a concern under the Raising Concern Policy.

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 own 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 you team?
- Is there a trusted senior colleague or friend you can discuss the issue with first?
- If you have known of the risk for someone 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?