

Freedom to Speak Up, Expressions of Concern and (Whistleblowing) Policy

Policy reference – HR018

SUMMARY	The raising concerns Freedom to Speak Up, Expressions of Concern and (Whistleblowing) policy is designed to support workers to raise concerns safely at the earliest opportunity in the right way. Any matter raised will be investigated thoroughly, promptly and confidentially.
AUTHOR	NHS England, NHS Improvement and Human Resources
VERSION	4.0 FINAL
EFFECTIVE DATE	June 2020
APPLIES TO	Applicable to all CCG employees, contractors, agency staff, volunteers and visitors.
APPROVAL COMMITTEE	CCG Remuneration and Nomination Committee
REVIEW DATE	November 2021

This policy has been aligned to Greater Huddersfield and North Kirklees CCGs in light of shared staff working across the CCGs.

**THIS POLICY HAS BEEN SUBJECT TO AN EQUALITY IMPACT ASSESSMENT
VERSION CONTROL SHEET**

Version	Date	Author	Status/ Approval Body	Circulation
0.1	Sept 2013	Kelly Brook	Draft	Circulated to SMT for comment
0.2	18.11.2013	Kelly Brook	Draft	Updated following comments from SMT
0.3	17.04.2014	Vera Savarani	Draft	Updated following further comments from SMT. Updated EIA incorporated.
0.4	03.06.2014	Vera Savarani	Draft	Minor amendments following Social Partnership Forum.
1.0	Sept 2014	Kelly Brook	Final	Minor amend following Remuneration Committee
1.1	Sept 2016	Rebekah Drury	Draft	Adaptation of the National Whistleblowing Policy (NHSE, April 2016) to incorporate Calderdale CCG procedure and requirements.
2.0	Oct 2016	Rebekah Drury	Final	Minor amendment following Remuneration Committee
2.1	18.09.2018	Tazeem Hanif	Draft	Policy aligned to GH/NK CCGs and submitted to SMT for comment – policy agreed.
2.2	28.09.2018	Tazeem Hanif	Draft	Policy agreed electronically by Trade Unions at the Social Partnership Forum.
3.0	14.11.2018	Tazeem Hanif	Final	Policy approved by the Remuneration Committee, in line with the electronic policy approval process.
4.0	26.06.2020	Tazeem Hanif	Final	Section A1.7 updated to reflect the new Freedom to Speak Up Guardian. Reference to appendix 3 added to D1.1 and link to prescribed persons list added to D1.2. Remuneration and Nomination Committee notified electronically of amendments in line with the electronic policy approval process.

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1. Purpose

- 1.1. Individual workers working for the Clinical Commissioning Group (“CCG”), have a right and duty to raise matters of concern that they may have. The purpose of this policy is to enable any individual worker to raise concerns at the earliest opportunity and have access to the support they need.
- 1.2. This policy has been drawn up in order to assist and support workers on how to raise concerns and for the CCG to ensure that there is a procedure in place where issues can be addressed professionally and effectively.
- 1.3. The ‘standard integrated policy’ was one of a number of recommendations of the review of Sir Robert Francis into whistleblowing in the NHS, aimed at improving the experience of whistleblowing in the NHS. It is expected that this policy (produced by NHS Improvement and NHS England) will be adopted by all NHS organisations in England as a minimum standard to help normalise the raising of concerns for the benefit of all patients.
- 1.4. The CCG local processes have been integrated into this policy to provide more detail about how we look into a concern. This policy must be read in conjunction with the Freedom to Speak Up: Raising Concerns (Whistleblowing) Policy for the NHS <https://improvement.nhs.uk/resources/freedom-to-speak-up-whistleblowing-policy-for-the-nhs/>

2. Principles

- 2.1. The CCG is committed to encouraging a culture of openness where workers can express their ideas and/or concerns as a meaningful contribution towards improving health services and the working environment of the workers.
- 2.2. This policy is guided by the Public Interest Disclosure Act 1998 legislation that gives significant statutory protection to workers who disclose information reasonably and responsibly in the public interest and who may be victimised as a result. The Act provides protection for workers who raise a legitimate concern about a specific matter known as a qualifying disclosure. This is made by a worker who suspects (list is not exhausted):
 - A criminal offence has been committed, is being committed or is likely to be committed;
 - A miscarriage of justice has occurred, is occurring or is likely to occur;
 - That the health or safety of any individual has been, is being or is likely to be endangered;
 - Financial fraud and mismanagement;
 - That a person has failed, is failing or is likely to fail to comply with any legal obligation to which they are subject to;
 - Malpractice or ill treatment;
 - That the environment has been, is being or is likely to be damaged.
- 2.3. Any matters raised under this policy will be investigated thoroughly, promptly and confidentially and the outcome of the investigation reported back to the worker who raised the issue. The CCG will keep the worker’s identity confidential unless required to disclose it by law.

- 2.4. No worker will be bullied or victimised for raising a matter under this procedure for raising a legitimate concern. Any such behaviour is a breach of the CCG values and behaviours and, if upheld following investigation, may result in disciplinary action. This is on the basis that the worker has acted honestly and it does not matter if the worker is mistaken or if there is an innocent explanation or the concerns raised.
- 2.5. In the event that misconduct is discovered as a result of any investigation under this policy, the CCG's Disciplinary Policy and Procedure will be invoked. Where it can be demonstrated that a Worker knowingly supplied false information when raising a concern the CCG's Disciplinary Policy and Procedure will be invoked.
- 2.6. Confidentiality will be maintained in all aspects of this policy and records will be stored and processed in-line with Data Protection legislation and the Common Law Duty of Confidence.

3. Responsibility

- 3.1. Good working relations are vital for the CCG to operate successfully and provide services. There is a joint responsibility for management, Trade Unions and employees to accept the responsibility of working together on issues in good faith and with the shared intention of facilitating good working relations.

3.2. Line Managers

- It is the responsibility of the line manager or other manager to ensure that they support all workers raising concerns, responding to and where necessary investigating the concerns raised at the appropriate steps set out within this policy;
- That this policy is brought to the attention of all workers within their area of responsibility including through the induction process of new starters.

3.3. Workers

- It is the responsibility of the worker to understand their responsibilities under this policy and their contractual and/or professional responsibilities;
- Raising a genuine concern at the earliest opportunity;
- Complying with any subsequent investigation to concerns raised under this policy.

3.4. Human Resources

- The key responsibilities for Human Resources are to provide advice and support on the application of this policy.

3.5. Trade Union/Staff Side Representatives

- It is the responsibility of the Trade Union and Staff Side representative to assist workers to raise concerns under this policy.

3.6. Independent/Professional Advice

Free independent and confidential advice can be obtained from the Whistleblowing helpline for NHS and Social Care on 08000 724 725. For matters relating to concerns about fraud and corruption, staff should contact either the NHS Fraud and Corruption line on 0800 028 4060 or the CCGs local counter-fraud specialist at olivia.townsend@nhs.net

4. Scope

- 4.1. This policy covers all workers in the CCG and not just directly employed staff.

5. Equality Statement

- 5.1. In applying this policy, the CCG will have due regard for the need to eliminate unlawful discrimination, promote equality of opportunity, and provide for good relations between people of diverse groups, in particular on the grounds of the following characteristics protected by the Equality Act (2010); age, disability, sex, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, carers and sexual orientation. A consistent Equality Impact Assessment is used for all policies and procedures.

6. Accountability

- 6.1. The Chief Officer is accountable for this policy.

7. Implementation and Monitoring

- 7.1. The Remuneration and Nomination Committee is responsible for the formal approval of this policy. Following approval, the policy will be disseminated to staff via internal communication methods and available through the staff intranet.
- 7.2. The policy and procedure will be reviewed periodically by the HR Team in conjunction with Trade Union representatives. Where review is necessary due to legislative change, this will happen sooner.
- 7.3. The Governing Body will be given high level information about all concerns raised by staff through this policy and what is being done to address the problems. Similar high level information will also be included in the CCG annual reports.

A. Procedure

- A1.1 **How to raise a concern?** It is really important to speak up about a concern a worker has at work. In accordance with the CCG's duty of candour, the senior leaders and all the Governing Body members are committed to an open and honest culture and will look into what the worker says and provide the necessary support that is needed.
- A1.2 A worker can raise a concern about risk, malpractice or wrongdoing that potentially harms the services that the CCG delivers or commissions. In particular, workers should also be vigilant to issues that impact on the duty the CCG has for safeguarding and promoting the welfare of children and vulnerable adults. Workers must be aware of the CCG's procedure for raising concerns about the welfare of anyone with whom they have contact, and should adhere to the CCG's Safeguarding Policy. This policy also helps provide an alternative route for workers who believe their concerns have not been addressed adequately.
- A1.3 The CCG works closely with service providers who are bound by the duty of candour. Should any worker associated with the CCG have any concerns relating to any external organisation, they should follow the procedure for raising these concerns through the Quality or Contracting teams depending upon the nature of the concern.
- A1.4 When dealing with matters under this policy there should always be a consideration of the potential safeguarding concerns e.g. whether or not an adult at risk or a child has suffered abuse. Should safeguarding concerns be identified, a multi-agency safeguarding concern must be raised and the CCG 'Safeguarding Children and Adults at Risk Policy' gives guidance on this. The West Yorkshire Consortium Inter Agency Safeguarding Children Procedures Manual can be found online at <http://westyorkscb.proceduresonline.com/index.htm>. For adults at risk: [Multi-Agency Safeguarding Adults Policy and Procedures for West Yorkshire, North Yorkshire and York December 2015](#)
- A1.5 This procedure should only be used in cases where an employee has identified a concern about a health service issue connected with the delivery of care services and does not replace other procedures such as the Grievance Policy where there are concerns about matters of employment.
- A1.6 **Who should I raise my concern with?** In many circumstances the easiest way to get a concern resolved will be to raise it formally or informally with the line manager (or lead clinician). Where a worker does not think it is appropriate to do this, the worker can use any of the options set out below, in the first instance.
- A1.7 If raising it with the line manager (or lead clinician) does not resolve matters, and the worker does not feel able to raise it with them, the worker can contact one of the following people below:
- The CCG Freedom to Speak Up Guardian is **Professor P.W. Roberts, Lay Member (Audit, Governance and Conflicts of Interest)**. You can make contact with Professor Roberts via the CCG's reception number on 01422 307400. You will be asked to leave contacts details so that he can get in touch with you, but there is no requirement to explain the reason for your call. This is an important role identified in the Freedom to Speak Up review to act as an independent and impartial source of advice to staff at any stage of raising a concern, with access to anyone in the organisation, including the Chief Officer, or, if necessary, from those outside the organisation.
 - A Human Resources representative.

- A1.8 All these people have been trained in receiving concerns and will provide information about where a worker can access support. If for any reason the worker does not feel comfortable raising a concern internally, they can raise concerns with external bodies (see section d). Concerns relating to Fraud and Corruption at the CCG should be referred to either the Local Counter Fraud Specialist via Olivia.townsend@nhs.net or the NHS Fraud and Corruption Reporting Line 0800 028 40 60
- A1.9 There are two main stages in this procedure **informal** and **formal**. The **informal** stage enables the individual to raise the matter with their line manager or Head of Service either verbally or in writing. The formal stage enables the matter to be raised with a senior manager, SMT lead, Governing Body member, Counter Fraud Specialist or the Freedom to Speak Up Guardian.
- A1.10 The worker can also be supported at the meeting by a Trade Union representative or another person who is not acting in a legal capacity but there as support.

B. Stage 1 – Informal Approach

- B1.1 The aim should always be for a worker's concerns raised under this procedure to be resolved informally, between the worker and their line or professional manager. Most concerns will normally be resolved successfully in this way. If a worker does not feel they can raise their concern through the normal procedure outlined below, they can refer the matter to another manager, to the Chief Officer or their designated deputy, or to the Freedom to Speak Up Guardian.
- B1.2 Where the concern involves worker's the line manager, the worker should raise the issue, in the first instance, with an alternative manager or with the Freedom to Speak up Guardian.
- B1.3 The manager should acknowledge receipt of the concern within two working days.
- B1.4 When a worker raises a concern, particularly which they consider is damaging to the interests of a patient or client, managers should try to resolve the problem as soon as possible. Where a worker's concern can be acted upon, action should be taken promptly and the worker notified quickly of the action taken.
- B1.5 Where action is not considered practicable, or in cases where the worker's concerns are groundless, the worker should be given a prompt and thorough explanation of the reasons for this. If the concern cannot, at the present time, be discussed or disclosed into the public domain, then the worker will be advised of the reason for this by the manager to whom they raised their concern. (See paragraph C1.1 for circumstances where the worker feels that this response is unsatisfactory).
- B1.6 The process should normally be completed within five working days of receipt of the concern. If the nature of the concern means this is not possible, the worker should be given an approximate timeframe for this to happen and an agreement made as to how they will be kept up-to-date. The worker should also be advised about the further procedural stages which are available under this procedure.
- B1.7 A worker will continue to be protected under the Public Interest Disclosure Act if they have followed this policy and procedure, and the response given is unreasonable in the circumstances or in the opinion of the worker is unsatisfactory.

C. Stage 2 – A Three Step Formal Approach

- C1.1 If a worker feels that the issue has not been addressed by the informal approach then they may invoke stage 2 (formal) of this procedure, which starts with a Head of Service - this should be someone not involved at the informal stage. If a worker does not feel they can raise their concern through the normal procedure outlined below, they can refer the matter to the Freedom to Speak Up Guardian.
- C1.2 Depending on the nature of the concern, there may be occasions when other policies or procedures may be introduced, for example, the Disciplinary Policy and Procedure. If at any stage there is sufficient concern to require a formal investigation, the Whistleblowing meeting should be terminated and an explanation given about the steps to be taken for the investigation. The outcome of these procedures may need to remain confidential.
- C1.3 Should a worker (for whatever reason) not wish to give their name, their concern will be addressed as far as possible. Workers should appreciate in this situation that it will be more difficult for management to look into the matter, protect the person's position or give feedback. It must be explained to them that the CCG will do everything it can to ensure their confidentiality is maintained but that this cannot always be guaranteed, for instance, if the concern led to a disciplinary investigation, or there was a legal requirement to disclose it. There would have to be very exceptional circumstances for a worker who was implicated not to be able to see and challenge evidence against them. Under this procedure workers will be protected from any reprisals arising from raising a legitimate concern.
- C1.4 Where the formal 3 step procedure is invoked a record will be made of the key details at each appropriate step and shared with the worker. All management decisions will be confirmed in writing. At the conclusion of each step in the formal procedure the worker will be advised that the timescale is five working days for invoking the next step of the procedure. If the worker fails to invoke the next step after the five days, it will be assumed they are satisfied with the outcome and do not wish to proceed to the next step. These time limits may be extended with the agreement of both parties, for example, if further information or authority regarding the issue is required.
- C1.5 At any step in the formal procedural stages workers may request the assistance of their Trade Union representative or another person not acting in a legal capacity, and they may be accompanied at any meeting arranged to consider their concern.
- C1.6 Step 1 – Referral to a Head of Service**
- C1.6.1 If the worker is not satisfied with the response provided at the informal stage then they may raise their concern with a Head of Service.
- C1.6.2 The Head of Service may consult relevant parties and arrange a meeting with the worker promptly, normally within five working days of receipt of the concern - this may not always be practicable, but the meeting must not be unreasonably delayed. The worker will be able to clarify further and explain their concern and the Head of Service will give a written response normally within five working days of the meeting.

If a more detailed enquiry is required, the Head of Service will need to ensure that the worker is kept informed of the progress of the investigation throughout the process. These time limits may be extended with the agreement of both parties, for example, if further information or authority regarding the issue is required.

C1.7 Step 2 – Referral to the Chief Officer or a designated deputy

C1.7.1 If the worker is not satisfied with the response from the Head of Service they will have 5 days whereby they may raise their concern with the Chief Officer or a nominated deputy.

C1.7.2 The Chief Officer or a nominated deputy may consult relevant parties. They will then arrange a meeting with the worker, normally within five working days of receipt of the concern. The member of staff will be able to clarify further and explain their concern and the Chief Officer or a nominated deputy will give a written response within five working days of the meeting. Where this is not practicable e.g. because an investigation is being undertaken, this should be explained to the worker and the worker will be kept updated. All attempts will be made to ensure the process is not unreasonably delayed.

C1.8 Step 3 – Referral to the Governing Body

C1.8.1 If the worker remains dissatisfied with the outcome, or when they initially raise their concern they do not feel (for whatever reason) that they can raise their concern through the normal procedure outlined above, they may instead refer the matter directly to the Chair, Freedom to Speak up Guardian or another Governing Body member, who will arrange to hear the issues or concerns under this procedure.

C1.8.2 The Chair or designated representative will normally meet the worker within ten working days of receipt of the concern. The member of staff will be able to clarify further and explain their concern and the Chair or other Governing Body member will give a written response within ten working days of the meeting. Where this is not practicable for example, because an investigation is being undertaken, this should be explained to the worker and the worker will be kept updated. All attempts will be made to ensure the process is not unreasonably delayed.

D. Referral to an External Body

D1.1 It is hoped that concerns can be dealt with internally. A worker who has exhausted the formal procedure, but continues to be concerned about the decisions reached, or who honestly and reasonably believes any concerns are true and that they cannot raise them internally, can make a “protected” disclosure under the terms of the Public Interest Disclosure Act 1998. A list of organisations to which a worker can make a potential disclosure is listed in appendix 3.

D1.2 This protected disclosure should be made to an appropriate prescribed person, depending on the nature of the concern. There is a defined list of 'prescribed persons' who a worker can make a protected disclosure to; this list is available at <https://www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies--2/whistleblowing-list-of-prescribed-people-and-bodies>

D1.3 Disclosure of concerns to the media should be seen as a last resort when all other options have been exhausted. Workers are advised that they should seek advice from their trade union, professional association or legal representative before approaching the media. A worker may face disciplinary action for any unjustifiable disclosure that might undermine public confidence in the health service. For example, where the member discloses an unbalanced picture or is malicious in their disclosures they would not be protected by legislation.

D1.4 This policy and procedure exists to ensure that staff concerns can be addressed and dealt with, without reference to any bodies outside the organisation. The broad aim of the Act is to encourage workers to disclose information through appropriate internal channels first, rather than going directly to an outside body (see appendix 3). As such, the Act makes it more difficult for workers to disclose information to the press and gain protection without first following the above procedures.

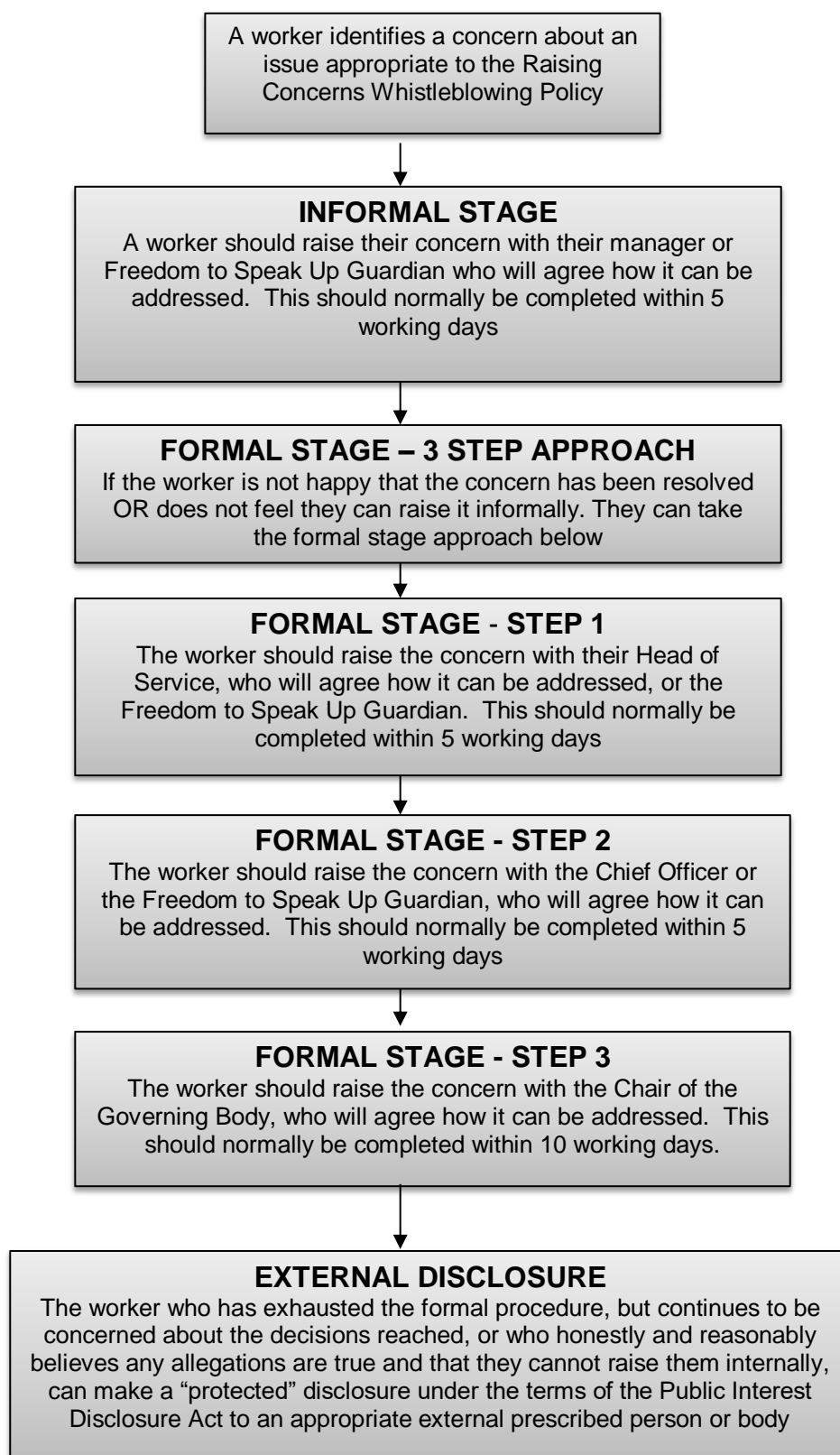
E. Investigation

E1.1 Where you have been unable to resolve the matter quickly (usually within a few days) with your line manager, we will carry out a proportionate investigation – using someone suitably independent (usually from a different part of the organisation) and properly trained – and we will reach a conclusion within a reasonable timescale (which we will notify you of). Wherever possible we will carry out a single investigation (for example, where a concern is raised about a patient safety incident, we will usually undertake a single investigation that looks at your concern and the wider circumstances of the incident. The investigation will be objective and evidence-based, and will produce a report that focuses on identifying and rectifying any issues, and learning lessons to prevent problems recurring.

F. Whistleblowing Flowchart

F1.1 This flowchart summarises the usual process for making a Whistleblowing disclosure using the internal informal and formal procedures. Workers are entitled to make a disclosure to any CCG manager, the Freedom to Speak Up Guardian or to make a protected disclosure to an external body.

Appendix 1 - Whistleblowing Process



Appendix 2 - A vision for raising concerns in the NHS



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

Appendix 3 – Raising Concerns with an outside body

Workers can raise concerns outside the organisation with:

[NHS Improvement](#) for concerns about:

- How NHS trusts and foundation trusts are being run
- Other providers with an NHS provider licence
- NHS procurement, choice and competition
- The national tariff

[Care Quality Commission](#) for quality and safety concerns

[NHS England](#) for concerns about:

- Primary medical services (general practice)
- Primary dental services
- Primary ophthalmic services
- Local pharmaceutical services

[Health Education England](#) for education and training in the NHS

[NHS Counter Fraud Authority](#) for concerns about fraud and corruption.

Appendix 4 - Equality Impact Assessment

Title of policy	Freedom to Speak Up: Raising Concerns (Whistleblowing) Policy		
Names and roles of people completing the assessment	Tazeem Hanif (HR Business Partner) Jayne O'Connell (Equality and Diversity Advisor)		
Date assessment started/completed	August 2018	10.09.2018	
1. Outline			
Give a brief summary of the policy	This policy makes provision for workers to raise concerns they may have relating to health service issues in a safe and confidential manner.		
What outcomes do you want to achieve	Workers to understand the procedure that is in place to raise concerns and feel comfortable in doing so.		
2. Analysis of impact			
This is the core of the assessment, using the information above detail the actual or likely impact on protected groups, with consideration of the general duty to; eliminate unlawful discrimination; advance equality of opportunity; foster good relations			
	Are there any likely impacts? Are any groups going to be affected differently? Please describe.	Are these negative or positive?	What action will be taken to address any negative impacts or enhance positive ones?
Age	No		
Carers	No		
Disability	Yes - The only concern is how accessible the policy is and how it is advertised/promoted. Is it accessible to staff with visual impairments/dyslexia.	Positive	The policy will be promoted to the CCG staff forum or where applicable staff workshops and cascaded to teams and individuals. The policy is also available on the intranet for staff to access. Different formats of the policy can be made to individuals with visual impairments or dyslexia.
Sex	No		
Race	No		
Religion or belief	No		
Sexual orientation	No		
Gender reassignment	No		

Pregnancy and maternity	No		
Marriage and civil partnership	No		
Other relevant group	No		
If any negative/positive impacts were identified are they valid, legal and/or justifiable? Please detail.			
		There is no anticipated positive or negative impact on any equality group. The policy is applicable to all workers and adheres to the NHS Litigation Authority Standards, statutory requirements and best practice. The policy makes all reasonable provision to ensure equality of access to all workers. There are no statements, conditions or requirements that disadvantage any particular group of people with a protected characteristic.	
4. Monitoring, Review and Publication			
How will you review/monitor the impact and effectiveness of your actions		Concerns can be monitored against the protected groups to check if there are any trends and to take action as appropriate. To monitor the whistleblowing complaints and the specific impact on particular equality groups and ensure that workers are not staff penalised when raising a concern.	
Lead Officer	Tazeem Hanif	Review date:	November 2021
5. Sign off			
Lead Officer	Jayne O'Connell (Equality and Diversity Advisor)		
	Date approved:	10.09.2018	