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|-----------------------------|-----------------------------------|-------------|-------------------------------|
| Report Title | Freedom to Speak Up | | |
| Sponsoring Executive | Kam Dhami, Director of Governance | | |
| Report Authors | Freedom to Speak Up Guardians | | |
| Meeting | Trust Board | Date | 1 st November 2018 |

1. Suggested discussion points *[two or three issues you consider the Committee should focus on]*

The Trust has made huge strides with our speak up culture over the last two years. One part of that is our Freedom to Speak up Guardians whose first report is appended at **Part B**. There is a national expectation that Trust Boards complete a self-review of Guardian functions and freedom to speak up arrangements and our inclusive process to devise and oversee that is described at **Part A** for approval.

Part C of this paper is our updated and revised draft Speak Up Policy which will replace the prior Whistleblowing Policy when it is approved in December. It is presented to the Board in draft form pre-consultation.

The Board will wish to take a view of the Guardians' recommendations noting that the Chair of Audit and Risk Management, Marie Perry, is our nominated Speak Up Non-Executive Lead.

2. Alignment to 2020 Vision *[indicate with an 'X' which Plan this paper supports]*

| | | | | | |
|----------------|---|--------------------------|--|-------------------------------------|---|
| Safety Plan | X | Public Health Plan | | People Plan & Education Plan | X |
| Quality Plan | | Research and Development | | Estates Plan | |
| Financial Plan | | Digital Plan | | Other <i>[specify in the paper]</i> | X |

3. Previous consideration *[where has this paper been previously discussed?]*

This is the first report compiled by the Freedom To Speak Up Guardians

4. Recommendation(s)

The Board is asked to:

- NOTE** the expectations of NHS Improvement and the National Guardian's office in relation to the Freedom to Speak Up agenda.
- AGREE** to receive bi-annual reports from the Freedom to Speak Up Guardians and frequency of reporting to the Audit and Risk Management and People and OD Committees.
- APPROVE** the proposed approach to the Freedom to Speak Up Board self-review

5. Impact *[indicate with an 'X' which governance initiatives this matter relates to and where shown elaborate]*

| | | | | | | |
|----------------------------|-------------------|---------------------|--|---|---|-----------------------|
| Trust Risk Register | | Risk Number(s): n/a | | | | |
| Board Assurance Framework | | Risk Number(s): n/a | | | | |
| Equality Impact Assessment | Is this required? | Y | | N | x | If 'Y' date completed |
| Quality Impact Assessment | Is this required? | Y | | N | x | If 'Y' date completed |

SANDWELL AND WEST BIRMINGHAM HOSPITAL NHS TRUST**Report to the Trust Board: 1st November 2018****Freedom to Speak Up Self-Review**

- 1) Effective speaking up arrangements help to protect patients and to improve the experience of NHS workers. Having a healthy speaking up culture is evidence of a well-led Trust and we are having some positive results in finding early resolution following appointment of our nine Freedom to Speak up (FTSU) Guardians in July 2016 and our three successful Speak Up Days.
- 2) The Board is receiving its first FTSU Guardians' report this month and it is suggested that this happens bi-annually. Quarterly activity reports will be presented to the People and OD Committee on the cases handled by the FTSU Guardians' and provides a place to highlight any emerging trends or themes from the issues of concern being raised by staff. Additionally, twice yearly the Audit and Risk Management Committee will be presented with a report to allow monitoring of the Trust's speak up governance arrangements, including the work of the FTSU Guardians.
- 3) NHS Improvement and the National Guardian's Office have published a guide setting out expectations of boards in relation to Freedom to Speak Up to help boards create a culture that is responsive to feedback and focussed on learning and continual improvement.
https://improvement.nhs.uk/documents/2468/Freedom_to_speak_up_guidance_May2018.pdf
- 4) The guide includes a self-review tool against the standards expected which enables boards to carry out in-depth reviews of leadership and governance arrangements in relation to FTSU and identify areas to develop and improve.
- 5) An initial self-review, including supporting data points, is being circulated to Board members inviting comments, views and challenges. The FTSU Guardians will be asked to carry out the same exercise separately. The two submissions will then be reviewed for commonality and divergence in order to reach a shared position. The outcome of the joint self-review and resulting improvement plan will be presented to the December Audit and Risk Management Committee, which the FTSU Guardians will be invited to attend. Bi-annual updates on progress in achieving the improvement plan will be received as part of the Freedom to Speak Up Guardian's report to the Board.
- 6) The Board is asked to:
 - a) **NOTE** the expectations of NHS Improvement and the National Guardian's office in relation to the Freedom to Speak Up agenda.
 - b) **AGREE** to receive bi-annual reports from the Freedom to Speak Up Guardians and frequency of reporting to the Audit and Risk Management and People and OD Committees.
 - c) **APPROVE** the proposed approach to the Freedom to Speak Up Board self-review

Kam Dhami
Director of Governance

25th October 2018

SANDWELL AND WEST BIRMINGHAM HOSPITAL NHS TRUST**Report to the Trust Board: 1st November 2018**Freedom to Speak Up Guardians' Report**1. Introduction and purpose**

- 1.1 The Trust has nine Freedom to Speak up Guardians (FTSUG's) who currently work across both acute / community settings raising the profile of the guardians and supporting staff to find ways to raise concerns.
- 1.2 Concerns can range from low level examples requiring advice and signposting to sensitive and complex situations. The ultimate role of the FTSUG is to find the best way for staff to raise concerns in a safe and supportive way.
- 1.3 The majority of staff raising concerns to the FTSUG's have already attempted alternative methods and often ask to remain anonymous. Staff request anonymity for a variety of different reasons with each example being very individual. It is important to respect the wishes of the staff member whilst also aiming to find ways to resolve the concern.
- 1.4 FTSUG's are aware that the role is not to replace formal methods of raising concerns and the remit is not ultimately to "investigate" the concern, however it is the experience of the FTSUG's that help to achieve the best outcome is often required. SWBH's FTSUG's feel hugely loyal to the promises of the trust and have a wealth of experience in dealing with difficult situations. There is a genuine passion to improve both the staff and patient experience.

https://improvement.nhs.uk/documents/2468/Freedom_to_speak_up_guidance_May2018.pdf

2. National data on FTSU Cases (to provide some context)**2.1 Speaking up data report 2017/18 – National Guardian Office**

- **7,087** cases were raised to Freedom to Speak Up (FTSU) Guardians in NHS trusts and foundation trusts.
- The number of cases raised each quarter over the year increased:

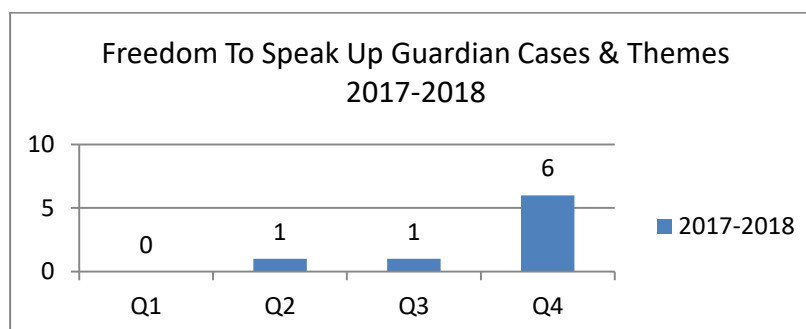
| Quarter | Cases |
|-----------------------|--------------|
| Q1 (April – June '17) | 1,447 |
| Q2 (July – Sept '17) | 1,515 |
| Q3 (Oct – Dec '17) | 1,939 |
| Q4 (Jan – Mar '18) | 2,186 |
| Total | 7,087 |

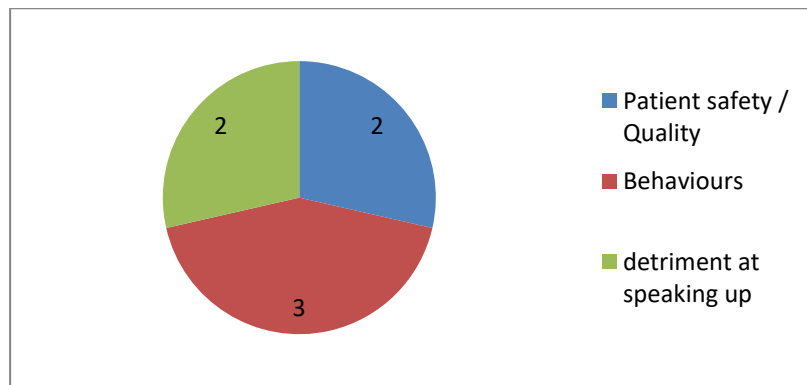
- 2.2 Average number of cases per trust is largest amongst **combined acute and community trusts** (an average of 43 cases per trust reported over the year). More cases (**2,223**, 31% of the total) were raised by **nurses** than other professional groups.
- 2.3 The National Guardian's Office asked Freedom to Speak Up Guardians in all trusts and foundation trusts for information on Freedom to Speak Up cases raised with them in the first quarter of 2018/19 (1 April to 30 June). The latest results reveal that 97 per cent of trusts have provided data this quarter.
- 2.4 Q1 data headlines form the National Guardian Office Q1 2018 /19 (national context)
- 2,348 cases were raised to Freedom to Speak Up Guardians / ambassadors / champions
 - 731 of these cases included an element of patient safety / quality of care
 - 1,003 included elements of bullying and harassment
 - 110 related to incidents where the person speaking up may have suffered some form of detriment
 - 264 anonymous cases were received
 - 12 trusts did not receive any cases through their Freedom to Speak Up Guardian
 - 223 out of 230 NHS trusts sent returns

3. SWBH FTSUG -Activity data

2017/18

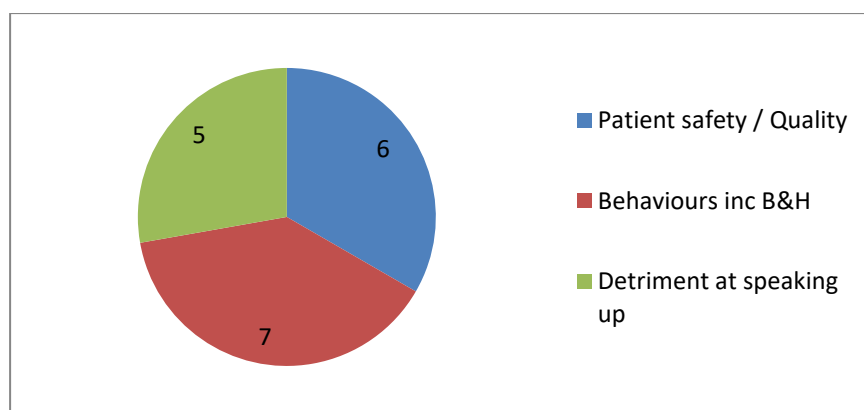
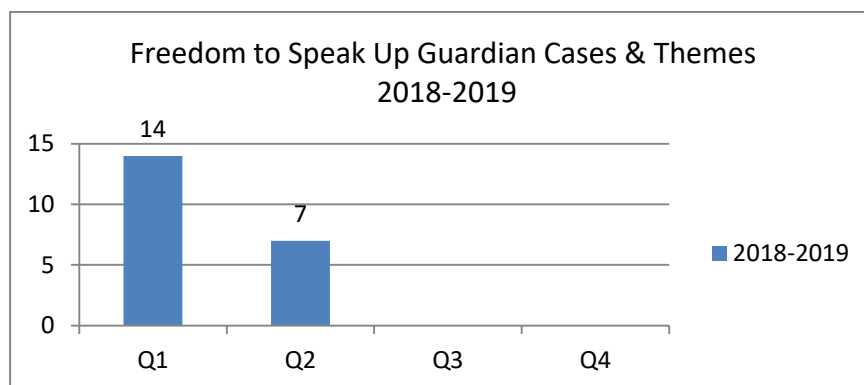
| Quarter | Cases | Type |
|-----------------------|---------------|--|
| Q1 (April – June '17) | Nil submitted | - |
| Q2 (July – Sept '17) | 1 | Patient safety / quality |
| Q3 (Oct – Dec '17) | 1 | Behaviours including bully & harassment |
| Q4 (Jan – Mar '18) | 6 | Patient safety / quality x1 Behaviours x2 Suffered detriment at speaking up x2 |
| Total | 8 | |





2018/19

| Quarter | Cases | Type |
|-----------------------|-----------|---|
| Q1 (April – June '17) | 14 | Patient safety / quality x2 Bullying and harassment x5 Suffered detriment at speaking up x4 |
| Q2 (July – Sept '17) | 7 | Patient safety / quality x4 Bullying and harassment x2 Suffered detriment at speaking up x1 |
| Total | 21 | |



4. Improvements

- Increase in FTSU cases since in post
- Improved data collection since Q1 2017
- Ability to help resolve low level concerns / advice / signposting / support each other
- Acknowledgment that some cases are very complex, sensitive with staff requesting to remain anonymous
- Cohesive supportive group

Changes

- FTSUG's would welcome earlier involvement in planning Speak Up days
- Speak up Days have been useful but FTSUG's would now like to avoid the "bells & whistles" and explore other types of forums
- FTSUG to expand on themes collected
- Consider utilising other information to compliment FTSU data

Improve / links with

- National Guardian Office
- Executive team
- Trust Board
- Internal & External networks

5. CQC Well-led review

Opportunity requested to discuss finding of CQC review on FTSU role

6. Events attended / networking / Trust events

Two FTSUG's attended Regional meeting 11th October Royal Orthopaedic Hospital;

- National Guardian Office (NGO) present for advice & support
- Provided clarity on national vision for role
- Opportunity to share good practice
- Opportunity as a trust of 9 FTSUG's to have a far reaching positive impact across the trust

Speak Up Day 1 – 27th September 2017 – How do staff feel about raising concerns

- Pledges
- Badges
- Stands
- Highlighting different ways of raising concerns

Speak Up day 2 – 16th May 2018 – Mood Boards

- How safe do you feel to raise a concern
- Speaking up / raising a concern makes a positive difference
- I will be given feedback if I raise a concern
- I will be thanked for raising a concern

Speak Up day 3 – 19th September – "Simple Things Done well"

Opportunity to select top three from the list below;

- More flexible working approaches
- Improved communication about change
- Raising concerns being simpler
- More printers and computers
- IT that works every day
- The vacancy process being too slow
- The right uniform to do my job
- Getting equipment fixed quickly
- Guaranteed car parking
- Improved personal security at work

6. Training and support

On-site bespoke Training – 21st June 2017 (attended by all FTSUG)

Delivered by:

Public Concern at Work

7-14 Great Dover Street

London SE1 4YR Tel: 020 7404 6609

Fax: 020 3096 7710 Email: whistle@pcaw.org.uk www.pcaw.org.uk

7. Future areas of focus

- Completion of Self-Assessment tool to help shape future focus
- Set up regular meetings with executive team for 2019
- Link some of themes / cases to HR / OD data (sickness / stress at work / exit interviews)
- Additional training for FTSUG's
- Host a regional FTSU forum & invite Dr Henrietta Hughes as National Guardian Lead

8. Recommendations

The Board is asked to:

- Provide feedback to Guardians
- Support to use the self-assessment outcomes to help shape future focus
- Commitment to develop an integrated vision (aligning NGO and trust vision of the FTSUG role)
- Inform Guardians if a NED has a special interest in supporting the role

Freedom to Speak Up Guardians

- | | |
|------------------|--------------------|
| • Rosie Auld | • Natasha Thompson |
| • Rachel Clarke | • Harpal Tiwana |
| • Ian Galligan | • Dermot Reilly |
| • Sandra Kennell | • Susan Whalen |

POLICY STATUS: PRE-CONSULTATION DRAFT

FREEDOM TO SPEAK UP (WHISTLEBLOWING) POLICY

| | |
|-----------------------------------|------------------------------|
| Policy author | Head of Corporate Governance |
| Accountable Executive Lead | Director of Governance |
| Approving body | Trust Board |
| Policy reference | SWBH/ORG/134 |

ESSENTIAL READING FOR THE FOLLOWING STAFF
GROUPS:

1 – All employees

GROUPS WHICH SHOULD BE AWARE OF THE
POLICY FOR REFERENCE PURPOSES:

1 – All employees

POLICY APPROVAL
DATE:

xxxx

POLICY
IMPLEMENTATION
DATE:

xxxx

DATE POLICY TO
BE REVIEWED:

xxxx

DOCUMENT CONTROL AND HISTORY

| Version No | Date Approved | Date of implementation | Next Review Date | Reason for change (e.g. full rewrite, amendment to reflect new legislation, updated flowchart, etc.) |
|-------------------|----------------------|-------------------------------|-------------------------|---|
| 1 | July 2009 | July 2009 | August 2011 | Full review |
| 3 | June 2014 | June 2014 | June 2017 | |
| 4 | June 2017 | June 2017 | September 2017 | Review date extended |
| 5 | October 2018 | December 2018 | December 2021 | Updating line with new national policy |

FREEDOM TO SPEAK UP (WHISTLEBLOWING) POLICY

KEY POINTS

1. If you have a concern about a possible danger, professional misconduct or financial malpractice, please use this policy so we can look into it.
2. The policy applies to all employees, bank staff, agency workers, secondees, honorary contract holders, trainees, students, contractors, volunteers and external bodies working within the Trust
3. This Policy does not replace the Trust's existing policies and procedures regarding incident reporting, grievances, reporting cases of potential fraud or corruption, or complaints, nor does it replace the normal lines of communication between employees and their managers
4. Employees who raise a concern through the freedom to speak up process are protected against victimisation by legislation and against any reprisal by the Trust
5. You are encouraged to raise concerns openly, however you may also feel the need to raise them in confidence or anonymously
6. You should consider raising your concerns with your line manager in the first instance, or if you do not feel confident to do so, then you may raise your concerns with a Freedom to Speak Up Guardian.
7. The Chief Executive and the Non-Executive Director freedom to speak up lead may be approached if you feel the matter is sufficiently serious or that other means of raising your concern have been exhausted.
8. While you are encouraged to raise your concerns internally, we recognise that there may be circumstances where you would wish to report your concerns to an outside body (Prescribed Body)
9. An internal helpline is in place which you may access if you wish to seek general advice on how to raise a concern. The contact number is 0121 507 5751.
10. Safecall, a totally independent company specialising in this field of work, can be used to report a concern, anonymously if wished. The contact number is 0800 915 1571.

**PLEASE NOTE THAT THIS LIST IS DESIGNED TO ACT AS A QUICK
REFERENCE GUIDE ONLY AND IS NOT INTENDED TO REPLACE THE NEED
TO READ THE FULL POLICY**

FREEDOM TO SPEAK UP (WHISTLEBLOWING) POLICY

1. INTRODUCTION

- 1.1 Sandwell and West Birmingham Hospitals NHS Trust (hereafter the Trust) is committed to the provision of safe, high quality health care in all aspects of its services to patients, visitors, the local community and employees.
- 1.2 The Trust recognises that there may be occasions where individuals have concerns about what is happening at work. These are usually 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 for people to know what to do.
- 1.3 You may be worried about raising such an issue and may think it best to keep it to yourself, perhaps feeling it is none of your business or that it is only a suspicion. You may feel that raising the matter would be disloyal to colleagues, to managers or to the organisation. You may have said something but found that you have spoken to the wrong person or raised the issue in the wrong way and are not sure what to do next.
- 1.4 The Trust is committed to tackling malpractice and wrongdoing and has introduced the Freedom to Speak Up (Whistleblowing) Policy to enable you to raise concerns that you may have at an early stage and in the right way. We would rather that you raised the matter when it is just a concern instead of waiting for proof. We are also committed to the principles of the national Freedom to Speak up Review and its vision for raising concerns (see Appendix 1)
- 1.5 If you have a reasonable suspicion that malpractice or wrong doing is occurring, has occurred or is likely to occur, please use this Policy to let us know so that we can look into it.
- 1.6 This Policy supports our values, in particular “caring and compassionate” and “open and accountable”, as well as our Customer Care Promises.
- 1.7 It is acknowledged that there are a number of avenues by which employees can and should raise concerns, for example by completing an incident form for a specific incident (available on the Intranet), via a safeguarding adult/child route, reporting cases of potential fraud or corruption to the Local Counter Fraud Specialist or via the PREVENT route. These routes should be used where appropriate, however this Policy provides processes for you to follow in the event that you feel there are no other routes available, or if you believe that your concerns have not been addressed.

2. OTHER POLICIES TO WHICH THIS POLICY REFERS

- 2.1 Incident Reporting Policy (ORG/050)
- 2.2 Grievance and Disputes policy (HR/007)
- 2.3 Counter Fraud, Bribery and Corruption Policy (Finance/01)
- 2.4 Dignity at Work Policy (HR/009)
- 2.5 Disciplinary Policy (HR/003)

3. PURPOSE AND SCOPE

3.1 This policy guides individuals on how they should bring concerns to the attention of the Trust and set's out the Trust's approach when concerns are raised to ensure the matter can be appropriately dealt with.

3.2 The aims of the Freedom to Speak Up (Whistleblowing) Policy are to:

- a. ensure that all those who work for us and with us understand how to raise a concern about a possible danger, professional misconduct or financial malpractice, and encourages them to do so;
- b. Demonstrate the Trust's commitment to openness and accountability; and
- c. Locally clarify the responsibilities of the Trust and its employees as required under The Public Interest Disclosure Act 1998 (PIDA).

3.3 What concerns can I raise?

You can raise a concern about risk, malpractice or wrongdoing you think is harming the service we deliver. Just a few examples of this might include (but are by no means restricted to):

- Unsafe patient care
- Unsafe working conditions
- Inadequate induction or training for employees
- Lack of, or poor, response to a reported patient safety incident
- Suspicion of fraud (which can also be reported to our local counter-fraud team – **insert contact details**)
- A bullying culture (across a team or the organisation rather than individual instances of bullying)

This list is examples only and does not constitute a complete list.

3.4 Who can raise concerns?

This Policy applies to all employees, bank workers, agency workers, secondees, honorary contract holders, trainees, students, contractors, volunteers and external bodies working within the Trust, all of whom are referred to under the collective term "employees" for the purposes of this Policy.

3.5 Remember that if you are a healthcare professional you may have a professional duty to report a concern. **If in doubt, please raise it.**

3.6 Do not wait for proof. We would like you to raise the matter while it is still a concern. It does not matter if you turn out to be mistaken as long as you are genuinely troubled.

3.7 This Policy does not replace normal lines of communication between employees and their managers so that matters of concern may still be dealt with through normal management / advisory channels.

3.8 This policy is not for people with concerns about their employment that affect them only – that type of concern is better suited to our Grievance Policy. If you are aggrieved about your employment or how you have been treated please refer to the Grievance &

Disputes Policy and the Dignity at Work Policy. If you have a concern about financial misconduct or fraud, please see our Counter Fraud, Bribery and Corruption Policy.

4. TERMS AND DEFINITIONS

| | |
|---|--|
| Freedom to Speak Up (Whistleblowing) concern | Reasonable and honest suspicion an employee has about fraud, a possible danger or other serious risk that threatens patients, colleagues, the public or the organisation's own reputation. |
| Whistleblowing | When an employee reports suspected wrongdoing at work, which they reasonably believe is in the public interest. |
| Employee | Someone who works in or for the Trust i.e. employees, bank workers, agency workers, secondees, honorary contract holders, trainees, students, contractors, volunteers and external bodies working within the Trust |
| Open whistleblowing | Where the employee openly raises the whistleblowing concern and does not request confidentiality. |
| Confidentiality | Where the employee's name is known but will not be disclosed without their consent, unless required by law. |
| Helpline | Independent service offering confidential advice to an employee on whether and how they can raise a whistleblowing concern internally or externally. |
| External hotline | External reporting facility that passes reports back to a senior or designated officer in the Trust. |
| External disclosure | Raising a speak up (whistleblowing) concern externally with a regulator or independent supervisory body, or as appropriate the police, MPs or the media. |
| Anonymity | Where the employee does not identify himself or herself at any stage to anyone. |
| The Act | The Public Interest Disclosure Act 1998 (PIDA) protects employees by providing a remedy if they suffer a workplace reprisal for raising a concern which they believe to be genuine. |
| Protected disclosure | <p>For an employee's disclosure to be protected by PIDA, it must be a 'protected disclosure'. The employee must ensure that the information is of a 'qualifying' nature' which is summarised as follows:</p> <ul style="list-style-type: none"> • The disclosure should be based on reasonable belief and made in the public interest. , • A disclosure should be made with honest intent and without malice. • Reasonably believe that they are making the disclosure to the right 'specified person'. |

| | |
|------------------------|---|
| Prescribed body | <p>A 'prescribed body' is one that is identified under PIDA as able to receive concerns about organisations. Most regulators, such as the Care Quality Commission, are prescribed bodies.</p> <p>Employees can raise their concerns with a prescribed body, such as the CQC, or any other body, if the concern is relevant to that body. Such disclosures are protected under PIDA, where the person speaking up meets the criteria for disclosure. They must also reasonably believe that the matter is substantially true and relevant to the regulator.</p> <p>There is more information about this on the Public Concern at Work website.</p> |
|------------------------|---|

5. GENERAL PRINCIPLES

5.1 Protection of employees

- 5.1.1 Employees who raise a concern about possible malpractice are protected in two ways. Firstly, statutory protection against victimisation is provided by the Public Interest Disclosure Act 1998 (the Act). Secondly, the Trust undertakes to not take reprisal against people who raise genuine concerns, and also guarantees where possible, anonymity.
- 5.1.2 It is important that users of this Policy understand that the commencement of an investigation does not presume guilt and that the reporting of concerns should not, accordingly, be delayed

5.2 Statutory protection

- 5.2.1 The Act encourages people to raise concerns about malpractice in the workplace, and requires employers to respond by addressing the message, not acting against the messenger. It does this by preventing an employer taking disciplinary action against, or victimising, an employee who genuinely raises a concern.
- 5.2.2 In addition to employees, the Act covers trainees, agency staff, contractors, home workers, and every professional in the NHS.
- 5.2.3 A disclosure based on reasonable belief to the Trust will be "protected" (i.e. any reprisals taken by the employer will be unlawful) if the person speaking up has a reasonable suspicion that the alleged malpractice has occurred, is occurring or is likely to occur.
- 5.2.4 The Act also protects disclosures made to outside bodies where the person speaking up has a reasonable belief that their allegation(s) are substantially true and made in the public interest.

5.3 Feel safe to raise your concern

- 5.3.1 The Trust Board, Chief Executive and the staff unions are committed to this Policy. If you raise a genuine concern under the Freedom to Speak Up (Whistleblowing) Policy, you will not be at risk of losing your job or suffering any form of reprisal as a result. We will not tolerate the harassment or victimisation of anyone raising a concern. Nor will

we tolerate any attempt to bully you into raising any such concern. Any such behaviour is a breach of our values as an organisation and, if upheld following an investigation, could result in disciplinary action.

- 5.3.2 Providing you have a reasonable belief that the concern you are raising is in the public interest it does not matter if you are mistaken or if there is an innocent explanation for your concerns. So please do not think we will ask you to prove it.
- 5.3.3 Only where unfounded allegations are made maliciously, will it be considered appropriate to act against the employee who raised the concern. This will normally be under the Trust's disciplinary policy.
- 5.3.4 The Trust is also liable should it fail to take reasonable steps to prevent the harassment or victimisation of people speaking up by their colleagues.

5.4 Confidentiality

- 5.4.1 We hope that you will feel comfortable raising your concern openly, but we also appreciate that you may want to raise it confidentially. This means that while you are willing for your identity to be known to the person you report your concern to, you do not want anyone else to know your identity. If you would prefer to raise your concern in confidence, then so say from the outset.
- 5.4.2 In these circumstances we will not disclose your identity without your consent, unless required to do so by law. If a situation arises where the Trust is not able to resolve the concern without revealing your identity (for instance because evidence is needed in a court of law, or the Trust's Disciplinary Policy is used), we will discuss with you whether and/or how the matter can best proceed.
- 5.4.3 Whilst pursuing the aim of openness, it is imperative that confidentiality is maintained and employees are reminded that raising a concern, even where warranted, does not give a person the right to disclose confidential information gained through their employment, e.g. that relates to treatment of patients, personal details about colleagues, the business of the Trust or is covered by the Data Protection Act.

NB: This does not preclude the raising of concerns, for example, about the treatment of patients.

5.5 Anonymity

- 5.5.1 The Trust appreciates that some employees may wish to raise their concern anonymously and in these circumstances we will look into the matter. Please remember that if you do not tell us who you are it may be more difficult for us to do this if we are unable to discuss the matter with you. Also, we will not be able to protect your position or to give you feedback. Accordingly you should not assume we can provide the assurance we offer in the same way if you report a concern confidentially.

6. WHO SHOULD I RAISE MY CONCERN WITH?

- 6.1 In many circumstances the easiest way to get your concern resolved will be to raise it informally with your line manager (or lead clinician or tutor). Where you do not think it is appropriate to do this, you can use any of the options set out below in the first instance. These include, but are not limited to, the following:

- Our Freedom to Speak Up Guardians (contact details on Connect) who act as an independent and impartial source of advice to employees at any stage of raising a concern, with access to anyone in the organisation, including the Chief Executive, or if necessary, outside the organisation.
- Through your trade union representative
- At your team meeting / briefing
- Via an incident report, if the issue relates to a specific incident

Additional mechanisms to raise a concern can be found in **Appendix 2**.

- 6.2 Many issues can be investigated and resolved without the need to resort to the formal elements of this Policy, as the Trust is committed to ensuring that the Trust is as risk-free as possible, for both employees and its patients.
- 6.3 If you feel that your concern has not been resolved after raising it via one or more of the mechanisms listed in **Appendix 2**, or consider it to fall under the scope of the Freedom to Speak Up (Whistleblowing) Policy then you may wish to move onto the formal elements of the Policy set out below.

7. HOW TO RAISE A SPEAK UP (WHISTLEBLOWING) CONCERN – 4 STEPS

- 7.1 Preferably, any concern that you have must be personally observed or experienced. If a friend or colleague tells you about wrongdoing you must encourage them to report it.
- 7.2 Please remember that you do not need to have firm evidence before raising a concern. However, we do ask that you explain as fully as you can the information or circumstances that gave rise to your concern.
- 7.3 If you want to raise the matter confidentially, please say so at the outset so that appropriate arrangements can be made.
- 7.4 You will be thanked for raising your concerns. All concerns will be given full and sympathetic consideration. You will be treated with respect and understanding and it will be recognised that raising a concern within the auspices of this Policy can be a difficult experience.
- 7.5 The stages for raising and escalating speak up (whistleblowing) concerns are described below and set out in diagrammatic form in **Appendix 3**.
- 7.6 It is possible to take one step at a time and only go as far as necessary to have your concern properly addressed. There may be occasions, however, where there is good reason to take two or more steps at a time. The steps do not have to be taken sequentially.
- 7.7 You can raise concerns in person, by email, on-line or by post at any step of the process.

Step One

- 7.8 If you have a concern about a risk, malpractice or wrongdoing at work, we hope you will feel able to raise it first with your line manager or next level of manager, giving the nature of your concern and the reasons for it, so that they can take appropriate action.
- 7.9 In cases of suspected fraud or other corruption these should be raised with the Trust's Local Counter Fraud Specialist and/or Director of Finance.

- 7.10 If you do not feel confident in raising the issue with their line manager in the first instance, **Step two** of the process may be invoked.

Step Two

- 7.11 If you feel unable to raise the matter with your line manager or their manager, for whatever reason, or you do not feel this is appropriate or Step One has not worked please raise the matter with one of the Trust's Freedom to Speak Up Guardians.
- 7.12 The Freedom to Speak up Guardians have been given special responsibility and will:
- Treat your concern confidentially unless otherwise agreed;
 - Ensure you receive timely support to progress your concern;
 - Escalate to the Chief Executive any indications that you are being subject to detriment for raising your concern;
 - Remind the organisation of the need to give you timely feedback on how your concern is being dealt with;
 - Ensure you have access to personal support (e.g. via Occupational Health, a Trade Union Representative) since raising your concern may be stressful; and
 - If you want to raise the matter in confidence, say so at the outset so that appropriate arrangements can be made.
- 7.13 The Freedom to Speak Up Guardians have been given special training in dealing with speak up (whistleblowing) concerns.

Step Three

- 7.14 If Steps One and Two have been followed and you still have concerns, or if you feel that the matter is too serious and you cannot discuss it with any of the above people, please contact the Chief Executive or Non-Executive Director (NED) Speak Up (Whistleblowing Lead). Initial contact with the NED can be made by emailing them at **Xxxxxxxxxxxxxx**. When doing so, and is applicable make it clearly understood that your concern has already been raised under the Freedom to Speak Up (Whistleblowing) Policy.

Step Four

- 7.15 While we hope that this Policy gives you the reassurance you need to raise your concern internally with us (Steps One, Two and Three), we recognise that there may be circumstances where you can properly report a concern to an outside body (Step Four). In fact, we would rather you raised a matter with the appropriate Prescribed Body than not at all. Public Concern at Work or your trade union will be able to advise you on such an option if you wish.

The following section provides further information on raising a concern externally and details of the prescribed regulatory bodies and independent sources of advice are available on the Intranet.

- 7.16 An alternative to Steps 1, 2 and 3 is available to you, particularly if you feel uneasy about speaking to someone in the organisation. The Trust has commissioned a totally independent company specialising in this area of work called Safecall that can be used by employees to report concerns, anonymously if wished. This information will be

passed back, in confidence, to the Trust to forward on to the most appropriate person for action. The contact details for Safecall are shown below:

Telephone: 0800 915 1571

Online: www.safecall.co.uk/report or swbh@safecall.co.uk

8. RAISING A CONCERN EXTERNALLY

8.1 You may wish to raise your concern externally with a 'Prescribed Body' if:

- a. You have exhausted all the internal reporting procedures and remain dissatisfied with the outcome.
- b. You feel your concern is so serious that it cannot be discussed with any of the people mentioned in Steps One, Two and Three.
- c. You want independent external advice, at any stage
- d. You feel unable to raise the concern internally from the outset because you think it will be covered up or you will be treated unfairly if you complain.

8.2 Healthcare concerns can be raised externally to:

- The Care Quality Commission on 03000 616161, enquiries@CQC.org.uk or CQC National Correspondence, Citygate, Gallowgate, Newcastle upon Tyne, NE1 4PA.

A full list of the 'Prescribed Bodies' for raising concerns externally, regarding fraud, data protection and health and safety for example, can be found here:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/222517/dg_177605.pdf

In certain circumstances, wider disclosure, for example to the police, an MP or the media, may also be protected under the Public Interest Disclosure Act 1998. A number of additional tests will apply when wider disclosures are made.

8.3 Firstly, the employee must:

- a. Show that he or she reasonably believed that the malpractice falls within the matters for which the person is prescribed
- b. Reasonably believe that the information, and any allegation contained in it, are substantially true; and
- c. Not act for personal gain.

8.4 In addition, one or more of the following conditions must be met:

- a. Whether there is good reason to believe that the individual who raised the concern would suffer a detriment by their employer or any of its employees, if the matter was raised internally or with the appropriate 'Prescribed Body';
- b. In the absence of an appropriate 'Prescribed Body or Person', the employee reasonably believes that disclosure to the employer would result in destruction or concealment of information about the wrongdoing;
- c. The employee has previously disclosed substantially the same information to his/her employer or to a 'Prescribed Body or Person'.

8.5 Employees are encouraged to follow the process outlined in the Policy before involving outside agencies and before considering any course of action involving the media.

9. HOW WE WILL ADDRESS YOUR CONCERN

- 9.1 Once you have told us your concern your line manager, Freedom to Speak Up Guardian, Head of Corporate Governance or someone else that you have reported this to will record what you have told them on a confidential portal to ensure it is captured accurately, investigated and responded to properly.

The portal is available on our intranet, Connect, at [xxxxxxxxxxxxxxxxxx](#)

- 9.2 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 and we will reach a conclusion within a reasonable timescale (which we will notify you of).

- 9.3 An assessment will be made on the appropriate way forward to address your concerns. In all cases someone suitably independent and appropriately trained will be appointed to review the concern, conduct an information-gathering exercise and develop a management action plan. In certain circumstances the individual may need to be someone external to the Trust.

- 9.4 Wherever possible we will carry out a single investigation (so, for example, where a concern is raised about a patient safety incident, we will usually undertake a single investigation that looks into your concern and the wider circumstances of the incident in accordant with Trust policy).

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.

We may decide that your concern would be better looked at under another process; for example, our process for dealing with bullying and harassment. If so, we will discuss that with you.

- 9.5 We will tell you who will be handling the matter, how you can contact them, and what further assistance we may need from you. We will also write to you summarising your concern and setting out how we propose to handle it and provide a timetable for feedback. If we have misunderstood the concern or there is any information missing please let us know.

- 9.6 When you raise the concern it will be helpful to know how you think the matter might best be resolved. If you have any personal interest in the matter, we do ask that you tell us at the outset. If we think your concern falls more properly within our grievance, bullying and harassment or other relevant procedure, we will let you know.

- 9.7 Whenever possible, we will give you feedback on the outcome of any investigation. Please note, however, that we may not be able to tell you about the precise actions we take where this would infringe a duty of confidence we owe to another person.

- 9.8 While we cannot guarantee that we will respond to all matters in the way that you might wish, we will strive to handle the matter fairly and properly. By using this Policy you will help us to achieve this.

- 9.9 Where action is not considered practicable or appropriate, we will provide a prompt and through explanation of the reasons for this, and may also provide information regarding what further action is available within the Trust policies, where appropriate. Where any required action will involve taking disciplinary action or other action against a third party, this will remain confidential to that third party.

- 9.10 If on receiving the final response to the concerns raised, you feel that the investigation has not been adequate, you can raise this with a senior manager of your choosing or the nominated Non-Executive Director Lead for Speaking Up (Whistleblowing) at swb-tr.SWBH-GM-Whistleblowing@nhs.net
- 9.11 In recognition that raising a concern can be a difficult experience for some employees, the Occupational Health Department will provide confidential support and access to a staff counselling service. Employees are also reminded that trade union representatives may be able to provide support to them.
- 9.12 If at any stage you experience reprisal, harassment or victimisation for raising a genuine concern please contact the Chief Executive directly on his mobile telephone (number available through IVOR) or email.

10. ROLES AND RESPONSIBILITIES

10.1 The Trust Board

The Trust has responsibility to support individuals who have genuine concerns and to ensure that these concerns are addressed appropriately and responsibly. The Board will consider high level information that it receives about all concerns raised by employees through this policy and what has been done to address any problems.

10.2 The Chief Executive

The Chief Executive is ultimately responsible for ensuring effective corporate governance within the organisation and therefore supports the Trust-wide implementation of this policy.

10.3 Freedom to Speak Up (FTSU) Guardians

The FTSU Guardians are responsible for ensuring that the Trust promotes an open culture where all employees feel empowered to speak up when they have concerns which may be a matter of public interest. The Guardians will ensure that the Trust Board is sighted on matters and will link in with the National Guardians Office to support the wider Freedom to Speak Up movement in the NHS.

10.4 The Non-Executive Director Freedom to Speak Up (Whistleblowing) Lead

The Non-Executive Director Freedom to Speak Up (Whistleblowing) Lead will seek assurance that the Policy is working effectively and that issues raised are being dealt with in an appropriate and timely manner. They may be contacted directly by employees in the event that they believe their concern is not being handled in accordance with this Policy.

10.5 Director of Governance

The Director of Governance will ensure that concerns are managed effectively through this policy in a timely way and that all necessary reporting is carried out and learning shared.

10.6 Line Managers

Line managers should ensure that concerns brought to them by employees are taken seriously and properly reported on the confidential portal on Connet, the Trust intranet, and then investigated within the set timelines. Managers are responsible for providing support to individuals and doing everything in their power to ensure that the person raising the concern is not victimised or treated detrimentally due to their actions under this Policy.

10.7 Employees

Employees have a responsibility to bring genuine concerns about practice, process or issue in the workplace to the attention of the Trust and are encouraged to use the internal mechanisms and policies available to them. Proof of wrong doing is not required, merely a reasonably held concern.

11. AUDITABLE STANDARDS/PROCESS FOR MONITORING EFFECTIVENESS

11.1 The Audit and Risk Management Committee will receive an anonymous and confidential report of all concerns raised under this Policy twice a year. The report will provide assurance that the Policy is working effectively and that issues raised are being dealt with in an appropriate and timely manner. The report will also provide assurance that individuals raising concerns under this Policy are protected from detrimental treatment, dismissal or other disadvantage as a result of raising their concern. The Director of Governance will complete the report for the Audit and Risk Management Committee and the Executive People and OD Delivery Committee will review any lessons learned from anonymised cases.

11.2 Key performance indicators that will be used to monitor effectiveness of this Policy are:

- a. Response times for providing the outcome of the investigation of the concerns.
- b. Evidence that actions to address the concerns have been completed
- c. Employee satisfaction indicators
- d. Number of concerns escalated to the Chief Executive or Non-Executive Director

12. AWARENESS AND TRAINING

12.1 Awareness of the existence of this Policy will be made via the usual Trust communication mechanisms; these consist of posters, TeamTalk, Heartbeat, the daily Staff Bulletin and a letter provided with payslips.

12.2 Individual managers will be responsible for making employees aware of the processes and procedures set down in this Policy.

12.3 Training will be provided for line managers in responding to and investigating whistleblowing concerns. This will be a co-production between Management and the local trade unions.

13. EQUALITY AND DIVERSITY

13.1 As part of its development, this Policy and its impact on equality have been reviewed in line with the Trust's Equality and Diversity Policy. The purpose of the assessment is to minimise and if possible remove any disproportionate impact on service users and people employed by the Trust on the grounds of race, sex, disability, sexual orientation or religious belief.

13.2 This Policy was reviewed and no detriment identified.

14. REVIEW

- 14.1 This Policy will be reviewed in three years. Earlier review may be required in response to exceptional circumstances, organisational change or relevant changes in legislation or guidance.

15. FURTHER ENQUIRIES

- 15.1 Further information about this Policy can be obtained from the Head of Corporate Governance

A vision for raising concerns in the NHS

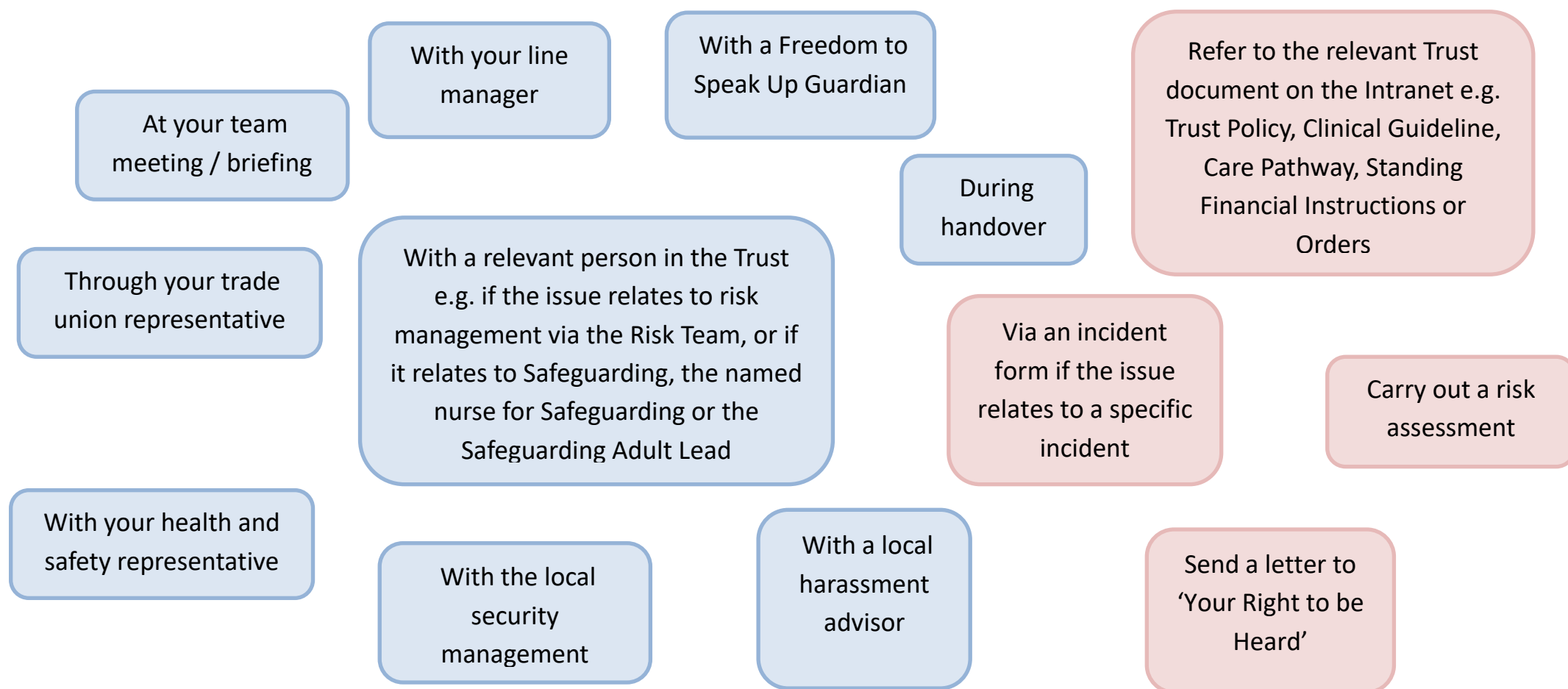


Source: Sir Robert Francis (2015) *Freedom to Speak Up: an independent report into creating an open and honest reporting culture in the NHS*

Raising a concern at work

The Trust has various ways by which you can raise issues that are causing you concern or find answers to a query.

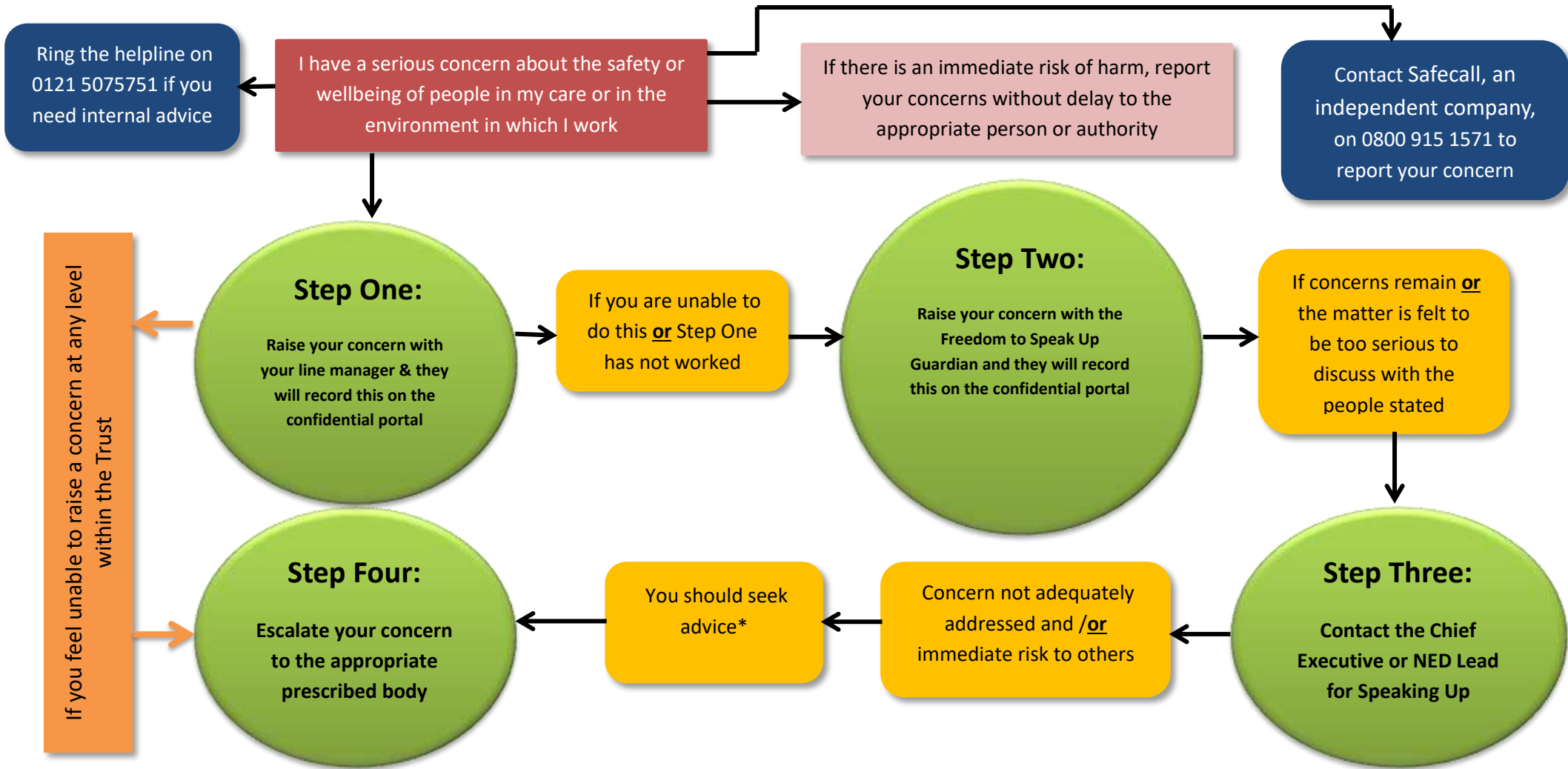
These include, but are not limited to, the following:



Freedom to Speak Up (Whistleblowing) Policy

Stages for raising and escalating serious concerns

This flowchart should be read in conjunction with the whole policy



* Independent, confidential advice is available from your professional body, trade union or Public Concern at Work. Students can also speak to their university, tutor, lecturer or mentor.

WHERE CAN I GET EXTERNAL HELP AND ADVICE FROM?

Independent Organisations

Health Service Ombudsman
0345 015 4033
www.ombudsman.org.uk

Public Concern at Work (PcaW)
020 7404 6609
helpline@pcaw.co.uk
www.pcaw.co.uk

Regulatory Bodies and Organisations

General Medical Council
Regents Place, 350 Euston Road, London, NW1 3JN
www.gmc-uk.org
Tel: 0161 923 6602

Health Professions Council
Park House, 184 Kennington Park Road, London SE11 4BU
www.hpc-uk.org
Tel: 0845 300 4472 or 020 7840 9802

Nursing and Midwifery Council
23 Portland Place, London, W1B 1PZ
www.nmc-uk.org
advice@nmc-uk.org
Tel: Advice Centre, confidential service 020 7333 9333

A full list of other regulators of healthcare professionals is available at:
www.nmc-uk.org/general-public/other-healthcare-regulators

Regulators of Health and Social Care Services

Care Quality Commission (CQC)
Finsbury Tower, 103–105 Bunhill Row, London EC1Y 8TG.
Tel: 03000 616 161
www.cqc.org.uk

Monitor
4 Matthew Parker Street, London SW1H 0NP.
Tel: 020 7340 2400

Other Regulators

General and Social Care Council
Tel: 0845 070 0630

www.gsc.org.uk

Health and Safety Executive (HSE)

Redgrave Court, Merton Road, Bootle, Merseyside, L20 7HS

www.hse.gov.uk

Tel: 020 7717 6000

National Fraud Line

Tel: 0800 284060

A list of other regulators is available at www.pcaw.co.uk/legislation or 020 7404 6609

Trade Unions

In the first instance please contact your local trade union representatives however the registered trade union offices can be contacted at the contact addresses as detailed below:

British Dental Association (BDA)

64 Wimpole Street, London, W1G 8YS. Tel: 0207 9350 875. enquiries@bda.org

British Dietetic Association

5th Floor, Charles House, 148-149 Great Charles Street, Queensway, Birmingham, B3 3HT Tel: 0121 200 8080 Fax 0121 200 8081 www.bda.uk.com

British Medical Association (BMA)

BMA House, Tavistock Square, London WC1H 9JP Tel: 020 7387 4499. www.bmahouse.org.uk

British Orthoptic Society (BOS)

Salisbury House, Station Road, Cambridge, CB1 2LA Tel: 01353 66 55 41 email: bios@orthoptics.org.uk

Chartered Society of Physiotherapy (CSP)

14 Bedford Row, London, WC1R 4ED. Tel: 0207 306 6666

Federation of Clinical Scientists (FCS)

The Association for Clinical Biochemistry and Laboratory Medicine, 130-132 Tooley Street, London, SE1 2TU
Tel: 020 7403 8001 Fax: 020 7403 8006

Association of First Division Civil Servants (FDA)

8 Leake Street, London, SE1 7NN Tel. 020 7401 5555 [info@fda.org.uk/](mailto:info@fda.org.uk)

GMB

Regional Office, Will Thorne House, 2 Birmingham Road, Halesowen, West Midlands, B63 3HP, Tel: 0121 550 4888, www.gmb-westmidlands.org.uk

Royal College of Midwives (RCM)

15 Mansfield Street, London, W1G 9NH, Tel: 0207 312 3535, www.rcm.org.uk

Royal College of Nursing (RCN)

RCN West Midlands Regional Office, Lyndon House, 58-62 Hagley Road, Edgbaston, Birmingham B16 8PE Tel: 0345 772 6100 (charged as a local rate call) email: [westmidlands.region@rcn.org.uk/](mailto:westmidlands.region@rcn.org.uk)

The Society of Radiographers

207 Providence Square, Mill Street, London, SE1 2EW Tel: 020 7740 7200

Union of Construction, Allied Trades and Technicians

2 Wentworth House, Vernon Gate, Derby, DE1 1UR Tel: 01332 203 656 Fax: 01332 203 858 Email:
[eadmin@ucatt.org.uk/](mailto:eadmin@ucatt.org.uk)

Unison West Midlands

24 Livery Street, Birmingham, B3 2PA Tel: 0845 355 0845 www.unison.org.uk email:
westmidlands@unison.co.uk

Unite (West Midlands Region)

Transport House, 9-17 Victoria Street, West Bromwich, B70 8H Tel: 0121 553 6051 www.uniteunion.org/