A manager’s guide to raising (whistleblowing) concerns
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Introduction

Having a positive reporting culture, where open dialogue is part of normal every day practice, is key to the delivery of safe and compassionate care. Clear arrangements, in line with the national raising (whistleblowing) concerns policy and guidelines, need to be put in place to encourage and support staff to raise concerns without the fear of repercussion or reprisal.

This guide is part of our Draw the line campaign resources, which have been produced in partnership with NHS England. These resources outline the key principles managers in all NHS settings should adopt to foster a more open and responsive reporting culture. It is a practical toolkit that managers can use to ensure that the correct process has been followed when dealing with concerns raised by staff.

Dealing with concerns

Raising concerns can save lives, jobs, money and the reputation of professionals and organisations. It is an early alert system that contributes towards staff and patient wellbeing when dealt with properly.

Staff may raise issues about poor patient care, breach of health and safety, or other types of malpractice such as fraud. Sometimes the issues they raise may turn out to be misdirected and these can be more easily explained. Other issues raised will need more detailed conversations with the individual(s) concerned to determine the seriousness of the situation and identify what action will need to be taken. In all cases, it is important that the issue being raised is acknowledged, taken seriously, and due consideration is given to ensure it is dealt with effectively.

Ignoring concerns puts the reputation of your organisation at risk and can damage the public confidence in the services you provide.

The voice of staff, patients and other service users can provide you with a unique insight into the effectiveness of your frontline services.

Harnessing this insight can help ensure that local arrangements are developed based on experience and learning.

The Freedom to Speak Up review, led by Sir Robert Francis QC, recognised that progress has been made in the NHS since the report into the failings at Mid Staffordshire. There are still a number of issues that need to be addressed as a priority if we are to continue building a culture of improvement and learning.

The NHS Staff Survey and other analysis carried out by some of the professional regulators show that many staff do feel safe raising concerns. Lessons can be taken from organisations where staff are supported to have open discussions about issues that concern them as part of everyday practice, and they are encouraged to get involved in driving the quality and safety of the services they deliver.
A good raising concerns culture:
✓ has strong leadership and commitment from the board/senior management team
✓ is underpinned by a clear raising (whistleblowing) concerns policy and arrangements
✓ offers a range of different channels to enable staff to raise issues easily and confidently
✓ is an integral part of values based recruitment, induction, appraisal and training
✓ requires effective communication and engagement with staff
✓ provides ongoing opportunity for reflective practice and learning
✓ needs robust and consistent response systems
✓ should celebrate success, as well as focusing on things that have gone wrong.

National policy for raising (whistleblowing) concerns
On 1 April 2016, NHS Improvement introduced a standard integrated policy for raising (whistleblowing) concerns for the NHS. All NHS organisations in England are required to adopt or align their local arrangements with the national NHS raising (whistleblowing) concerns policy by 31 March 2017.

The policy clearly sets out the minimum standard staff can expect from their employer when raising concerns using internal processes, including information about how they can escalate concerns to an appropriate external body (known as a prescribed body) should they need to, such as the Care Quality Commission, Healthwatch England, NHS England or NHS Improvement.

Further information about the national policy can be found on NHS Improvement’s website. A list of prescribed bodies can be found on the GOV website.

Our model process flowchart for raising concerns has been produced to use in your local policy. It has a number of editable fields, which allows you to add your organisation’s logo and the details of who staff can contact if they have a concern. It also signposts to independent advice, which is available from the whistleblowing helpline now known as ‘Speak Up’.

We have also produced the flowchart in a poster format so that you can display this in staff areas/notice boards.

To determine how effective your organisation is in relation to raising concerns, our self-assessment tool helps you identify what is working well and the areas which may need improvement.

Freedom to Speak Up guardians
The NHS Standard Contract outlines that all NHS trusts and foundation trusts are required to have appointed a Freedom to Speak Up guardian (FTSU) by April 2017. Similarly, all primary care providers are required to have the same arrangements in place by September 2017.

Research¹ shows that a large number of staff will raise a concern internally at least twice. This will usually be with their manager and/or other lines of management, giving employers the ideal opportunity to resolve issues raised early on.

¹ Bridging the Gap (Whistleblowing Helpline) and Whistleblowing - The Inside Story (Public Concern at Work)
Your organisation may have one dedicated FTSU guardian, or a number of guardians across a range of professions.

FTSU guardians have responsibility for raising the profile of raising concerns and the importance of getting it right. They are tasked with supporting staff to raise and handle issues effectively. They also have responsibility for reporting to the board and senior management teams on the effectiveness of local arrangements, identifying and making recommendations for improvement, where necessary. Where there is serious misdirection or failure by the organisation to deal with issues, FTSU guardians have the ability to escalate issues to the relevant regulator or other prescribed body.

You should refer to your organisation’s raising concerns policy to identify your FTSU guardian. This can be found by contacting the human resources department or on the organisation’s intranet. If you are still unsure who your FTSU guardian is, details can be obtained through the National Guardian’s Office by emailing enquiries@nationalguardianoffice.org.uk

**Communication and engagement**

Effective staff engagement is key when looking to change organisational culture and improve services.

Good staff engagement:

- helps you identify areas for improvement
- improves staff morale and productivity
- reduces sickness absence
- empowers staff to deliver high quality patient-centred services
- improves the patient experience.

Staff should have a clear understanding of the definition and process of raising concerns. The organisational values and culture should be introduced at the recruitment stage and form an integral part of staff induction, training, and continually reinforced throughout their employment journey.

There are many ways to spread the word. For example, you can display posters and leaflets on the intranet, in team meetings, staff briefings, pay slips or in designated staff areas.

It is important to consider how you engage and communicate with members of staff who work remotely, like those in community settings, or shift/part-time workers who may not have the opportunity to be part of team briefings or updates.

Your engagement and communications plan also needs to include staff who may fall under one of the protected characteristics. This will identify barriers staff might face and for these to be considered when you are developing local policies and processes.

For staff already in post, raising concerns should feature in regular one to one conversations, as part of the staff appraisal. Working with your communications team and staff side representatives will be useful to ensure messaging is clear and understood by all.

**Recruiting the right staff with the right values**

Values based recruitment (VBR) can help ensure that new staff have the necessary values and behaviours that are closely aligned with that of your organisation, as well as the right skills required for the role.
Linking staff objectives to your organisational values makes it easier for them to identify areas of concern.

**Getting it right – roles and responsibilities**
The effectiveness of local arrangements will depend on managers at every level in the organisation.

Staff will expect managers to listen to them and take the necessary action when issues are raised.

If reported early enough, managers may be able to put the matter right informally. In some cases, the issues raised will need to be more formally investigated, with serious or repeated issues being referred to other relevant departments or external bodies.

Concerns will vary both in nature and severity. Understanding all available reporting routes within your organisation will help you to reduce some of the anxiety that staff may face when raising a concern.

Having open and honest conversations about issues that concern staff as part of your team meetings, staff briefings and one to ones will help normalise the process. This will enable you to share lessons learned and identify good practice. It will also help to reinforce that raising concerns is everyone’s responsibility.

Working with your organisation’s FTSU guardian and human resources department will be key to ensure you have the appropriate support mechanisms in place to enable you to deal with issues appropriately and effectively.

**Public Interest Disclosure Act**
The Public Interest Disclosure Act (PIDA) grants protection to employees, including certain workers, contractors, trainees and agency staff, who make a disclosure about issues that are in the interest of the wider public. This differs to issues relating to an employee’s personal terms of employment - see further information in the section below on raising (whistleblowing) concerns vs. a grievance. The Act, often referred to as the whistleblowing law, protects employees by stating that employers should not victimise staff should they raise a concern internally or to a prescribed regulator. As somebody who has responsibility for dealing with issues raised by staff, it will be important that you are familiar with the rights afforded by the Act.

**Alternative reporting channels**
While we would want to encourage staff to raise concerns with their manager or supervisor, there will be occasions when staff feel unable to do so. This could be because he/she is involved, or in instances where the concern was not properly addressed by them when raised initially.

The most effective arrangements involve a combination of different channels through which staff can raise and escalate concerns. Although each individual channel may present its own barriers such as concerns about anonymity, confidentiality or independence, by offering a number of different routes you are more likely to counter-balance some of these barriers for staff.
Once reporting mechanisms are in place, it is important that these are widely communicated and are made readily accessible to all staff.

Reporting channels should be periodically reviewed and changed over time, as the culture within the organisation develops.

**Anonymous concerns**

Concerns that are raised anonymously must be treated as credible until all steps have been taken to establish its seriousness, and you are able to validate the allegation. Anonymous communication may be submitted by email, letter or telephone.

If you are unsure whether to take the concern forward, you should talk to your FTSU guardian and/or human resources department, who will be able to advise you on the right course of action.

If you decide that the concern cannot be validated, due to a lack of information or evidence, a brief outline of the matter should be sent to the FTSU guardian identified in your organisation’s policy. A record will be kept in case something on the same subject is subsequently raised by other members of staff.

When dealing with anonymous concerns, you should explain to the individual that:

- detailed investigations may be more difficult, or even impossible to progress, if they choose to remain anonymous and cannot be contacted for further information.
- the information and any documentation they provide may not be fully understood and require contact to verify points.
- their identity may be revealed via some other route once the investigation has been instigated.
- it may be much more difficult to demonstrate to a tribunal that they have suffered some form of detriment as a result of raising a concern.

**Confidentiality**

There may be many good reasons as to why a member of staff wishes their identity to remain confidential. Confidentiality is not a requirement of Public Interest Disclosure Act (PIDA). In fact, the Act encourages staff to raise their concerns openly. The ability for staff to feel confident to raise concerns openly will depend on the organisational and team/department culture and individual behaviour. Your local policy should identify a confidential route for staff to raise concerns, this may include offering a dedicated email address or internal helpline.

If a member of staff requests confidentiality, you will need to respect it as far as is reasonably possible and should only refer to their identity on a strictly need to know basis. The same degree of confidentiality should be afforded to other individuals that may be implicated in the concern being raised.

It will be important for you to make clear to the member of staff, that it may not always be possible to keep their identity confidential where this may restrict the investigation or, you are required by law, to disclose their identity. In any such circumstances, you must advise the individual raising the concern before proceeding.
Raising (whistleblowing) concerns vs. a grievance

A grievance relates to a personal complaint made by an individual about their own employment situation, as opposed to being in the wider public interest.

Someone raising a (whistleblowing) concern usually has no direct personal interest in the issues they are raising. They are simply trying to alert others to poor practice, behaviour or actions that they feel need urgent attention. These issues will always have a wider implication hence the public interest element. For example, an impact on patients, other members of staff, the public or the organisation’s reputation.

In a grievance, the individual would be expected to be able to provide evidence about the issues they are raising, while there is no such expectation on an individual raising a (whistleblowing) concern. In the case of the latter, it will be down to the manager, or someone else in the organisation, to investigate the issues the individual is raising.

Many concerns are regularly raised with managers as part of normal everyday practice, which provides them with the ideal opportunity to intervene before issues can escalate into something much more serious. These informal routes for raising concerns shouldn’t undermine or compromise formal reporting of concerns.

Ensuring staff understand the differences is important so that they know which process to follow. When dealing with issues, managers should be mindful that personal complaints may sometimes uncover an underlying issue which, when further investigated, may be in the public interest. For example, where the complaint relates to discrimination. In such cases, managers will need to carefully consider and assess the facts and decide the best course of action. It will be important to record how you have reached this decision in case of being asked to provide evidence of their actions by a regulator, employment tribunal or court.

Examples of a grievance include issues which directly relate to an individual, such as:

- pay and working conditions
- terms of employment and workplace rules
- allegations of unfair treatment at work
- bullying and harassment
- disagreements between co-workers.

Difficult conversations

Raising concerns can lead to difficult conversations and the way they are handled can significantly impact the situation. Some situations can be complex, so it is important that managers understand who they can go to within the organisation for further advice and support. Managing sensitive or difficult issues are an integral part of line management and there are some practical steps you can take to ensure the best possible outcome when dealing with concerns. These practical steps are outlined in the checklist provided in appendix one.

Examples of a (whistleblowing) concern includes issues which relate to others i.e. staff, patients or the public:

- threats to health or safety
- poor practice
- committing fraud (e.g. theft, corruption, bribery or embezzlement)
- abuse of authority
- a deliberate attempt to cover up any of the above.
ACAS has also developed some useful guidance on Challenging conversations and how to manage them.

**Supporting staff and providing feedback**

The two main barriers those raising concerns face are a fear of reprisal and, that no action will be taken if they do make the decision to raise issues. Being open and honest with staff throughout the process and providing feedback, as far as might be appropriate to do so, can help to alleviate these worries. Feedback is vital so that those raising concerns understand how their disclosure has been handled and is dealt with.

Often, the person raising concerns will expect to influence the action the organisation might take or be able to make a judgement on whether an issue has been resolved. This means it will be important that you manage these expectations early on in the discussion.

It is also important that appropriate support is offered to staff raising concerns, and those who have concerns raised against them, right the way through the process, not just at the point of them raising a concern. Managers will find it helpful to work closely with their FT SU guardian and human resources to explore any counselling, stress management or mediation.

**Training**

Training should be provided to all staff so that they understand the organisation’s policy and local arrangements. It should also be provided to those with responsibility for handling concerns, so they feel confident and equipped to handle these situations effectively. It is good practice to include the handling of (whistleblowing) concerns as part of any disciplinary and grievance training. Training should be offered at regular points to make sure it stays fresh in the minds of everyone in the organisation and to capture any newcomers to the organisation.

Health Education England (HEE) commissioned Public Concern at Work to deliver an online training package on raising and handling concerns in the NHS. This is accessible by going to the [e-learning for healthcare website](http://example.com). The training package can be used by both staff and managers alike, providing examples and time for reflection/discussion.

The whistleblowing helpline now known as ‘Speak Up’ also provides support for managers on how to positively respond to staff who raise concerns. You can find out more on the [Speak Up website](http://example.com).

**Vexatious or malicious concerns**

It is important that you make clear to staff that vexatious, malicious or false allegations made with the deliberate intent of harming colleagues, their department or the organisation will not be tolerated and will result in formal action being taken against them.

Be clear and reassure staff that action will not be taken against anyone who raises a genuine concern, even where they are subsequently found to be mistaken. Staff are not required to evidence proof their concerns, it is the responsibility of the manager to undertake the appropriate investigation to ascertain whether or not the issues raised are justified and what action should be taken.
Bullying, harassment and victimisation

As a manager, you have a legal duty to protect and support individuals who have raised a concern to ensure they are not subjected to any form of bullying, harassment or other forms of victimisation.

In order to provide a defence in any employment tribunal claim against unfair treatment, employers must be able to evidence that they have taken all reasonable steps to minimise the risk of any such behaviour.

The same protection and support should be offered to individuals who have experienced concerns raised against them.

Further information about tackling bullying can be found on the NHS Employers website.

Re-building relationships and teams

After a concern has been raised, it is worthwhile spending time with all those concerned to help re-build relationships and teams. Seek support from human resources and staff side.

Sometimes the employment relationship breaks down irretrievably, so it will be important for managers to explore options for re-engagement or re-deployment when the individual raising the concern feels unable to return to their existing position or team.

The emotional impact on all those directly involved should not be under-estimated. Having access to external mediation and early reconciliation can be helpful to manage the breakdown of relationships within teams and in continuing to support individuals who have raised concerns.

Further information and resources

- Draw the line logo
- Self-assessment tool
- Raising concerns resources including: model process flowchart, tip tips for reporting concerns, posters and podcasts
- Frequently asked questions
- Staying on course – supporting doctors in difficulty through early and effective action
- Legislation and policy
- Effective organisational development
- Effective staff engagement
- Tackling bullying in the workplace
- Values based recruitment tools and resources
- List of prescribed bodies where concerns can be escalated.
Appendix One:
Manager checklist: responding to concerns

Understanding your organisation’s arrangements when dealing with (whistleblowing) concerns and your responsibilities as a manager, is essential to supporting staff throughout the process. Below is a checklist which is intended to offer some helpful prompts for you to deal with issues effectively and professionally.

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<thead>
<tr>
<th>STEP 1: PREPARATION</th>
<th>STEP 2: PROCESS</th>
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<tbody>
<tr>
<td>□ Make sure you are aware of and understand your organisation’s raising (whistleblowing) concerns policy and your responsibilities as a manager when handling concerns raised by staff.</td>
<td>□ Always offer individuals a scheduled conversation in a private environment.</td>
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<tr>
<td>□ Have regular conversations with staff as part of team meetings/one to ones and the appraisal/performance process to make sure they are aware of and understand the organisation’s local arrangements and are confident to use them.</td>
<td>□ Be mindful that individuals may not feel comfortable meeting face-to-face. In such cases, offer them opportunity to talk at a mutually convenient time over the telephone.</td>
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<td>□ While you should encourage staff to follow internal processes, it is equally important for them to know how to raise concerns with a regulator or other relevant body, and when it would be appropriate to do so.</td>
<td>□ Where you have arranged a face-to-face meeting, remind the individual that they have a right to bring someone with them for support during the conversation should they wish to. This may be a colleague from another team/department or union representative.</td>
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<tr>
<td>□ All communications with staff should make clear the differences between a grievance and raising a (whistleblowing) concern. They can then make a more informed judgement about how to raise issues with you or other lines of management.</td>
<td>□ For face-to-face meetings, consider whether you require a note taker to take an accurate record of the discussion. This should be agreed with the individual raising the concern in advance.</td>
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<tr>
<td>□ Reinforce the organisation’s stance and actions to be taken where individuals raise malicious or false allegations and/or subject colleagues who have raised concerns to bullying, harassment or other forms of victimisation. Ensure staff are clear about where they can go for advice and support should they be subjected to any such negative behaviours.</td>
<td>□ Engage with the organisation’s Freedom to Speak Up (FTSU) guardian/other designated officer and/or human resources to ensure you have all the advice and support you need to deal with issues quickly and effectively.</td>
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<td>□ Engage with the organisation’s Freedom to Speak Up (FTSU) guardian/other designated officer and/or human resources to ensure you have all the advice and support you need to deal with issues quickly and effectively.</td>
<td>□ All staff and managers should be encouraged to undertake appropriate training on raising and responding to concerns.</td>
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### Step 3: During the Meeting

- Thank the individual for raising the matter with you.
- Commit to taking their issues seriously.
- If the individual has requested confidentiality, respect this as far as is reasonably possible, referring to their identity strictly on a need to know basis. The same degree of confidentiality should be offered to other individuals implicated in issues being raised. Make clear any circumstances when keeping their identity confidential may not be guaranteed.
- Recognise that this may be a troubling time for them and offer reassurance.
- Listen carefully to the issues being raised and determine whether or not it should be handled under the raising (whistleblowing) concerns policy.
- If it is very clear that the issues raised do not fall under the raising (whistleblowing) concerns policy, explain why to the individual. You may wish to seek further advice from human resources before advising them on the appropriate route to take.
- Focus on the issues being raised - avoid making any pre-judgements about the individual raising the concern.
- Reinforce that it is the organisation’s position to support and protect those who genuinely raise concerns, even if their issues prove to be mistaken.
- Outline what advice and support is available to them, signposting to the FTSU guardian, human resources, trade union representation, occupational health and/or external bodies such as the Speak Up or Public Concern at Work (PCaW).
- Manage expectations about what can be shared once the investigation has concluded. Due to legal obligations of confidentiality, it may not be possible to provide information about any disciplinary action taken against other members of staff.
- Be clear on what the individual should do if he/she feels victimised or bullied by colleagues or peers as a direct result of them raising a concern, offering support and reassurance.
- Ensure you make clear, concise notes of all discussions/meetings (including dates of when they took place). You should offer a copy to the individual raising the concern to ensure you have fully understood the issues being raised and to confirm agreed actions to be taken, if any are identified. Retain all notes securely, to maintain confidentiality.
- Assess any immediate risk and decide whether escalation/investigation is required outside the management structure and report any safety issues to the appropriate departments/bodies.

### Step 4: After the Meeting

- Determine whether other staff, patients or their families, need to be involved in the investigation process.
- If the situation arises where it is not possible to resolve the concern without revealing the individual’s identity beyond a ‘need to know’ basis (for example, where you are legally obliged to disclose it) you must advise the individual before proceeding.
- Explore mediation/counselling/coaching where team relationships in a team have broken down, seeking support from human resources and/or staff side. This may be particularly helpful in preventing any risk of bullying or harassment from colleagues and peers that may be resultant from an individual raising concerns.

### Step 5: Next Steps

- Upon conclusion of any investigation, inform the individual raising the concern of the outcome and any actions taken/proposed (subject to normal requirements to protect the confidentiality of staff). If no action is to be taken, the reasons for this should be explained to the individual raising the concern.
- Feedback outcomes to the FTSU guardian so that they can accurately report to the board/governance teams on how effective internal processes have been and make recommendations for improvement.
- All records and correspondence should be marked ‘in confidence’ and be kept securely in line with the organisation’s record management policy. At all stages, documentation should be managed in compliance with the requirements of the Data Protection Act 1998 (as amended).
- Once the matter has been concluded, ask the individual raising the concern for their feedback on the process to ensure improvements are made based on lived experiences and learning.
- If the individual raising the concern is unhappy with the way that their issues have been handled, they should be encouraged to raise this with the FTSU guardian. If they continue to be dissatisfied, the individual should be informed of their right to escalate this to the director of human resources, the chairman of the organisation or one of the non-executive directors of the board, as may be deemed appropriate.
- It may be the case that the individual continues to be dissatisfied, to the extent that they choose to leave the organisation. If this is the case, you should inform human resources as a matter of urgency and arrange a meeting to try and understand and resolve the member of staff’s ongoing concerns.