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# **RAISING CONCERNS AT WORK (WHISTLEBLOWING)**

## **NGH-PO-002**

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**POLICY**

**Version Control Summary**

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| 9.1     | February 2016 | Director of Workforce & Transformation | Ratified       | Inclusion of Freedom to Speak Up Guardian information & reference to the National policy |
| 9       | January 2016  | Director of Workforce & Transformation | Ratified       | Full Review  |
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| 8       | Aug 2013      | HR                                     | Chair Approved |  |
| 7.1     | Feb 2012      | HR                                     | Ratified       |  |

**POLICY**

## SUMMARY

This policy sets out the procedures for staff and managers in relation to raising a concern at work (whistleblowing).

It emphasises the expectation for there to be an informal healthy and open dialogue between staff and managers as part of normal day to day work to enable concerns to be raised and dealt with promptly.

Section 7 gives details on what raising a concern is, examples of concerns, best practice and general principles on how they should be raised and dealt with, along with the procedures to be followed for internal and external disclosures and information on the Trust's Freedom to Speak Up Guardian.

It also covers the law, monitoring arrangements, interim measures during investigations and advice and support for staff.

The appendices give further supporting information on:

- Appendix 1 – Tips for Staff, gives general information on raising concerns raised
- Appendix 2 – Tips for Manager, gives general information on dealing with concerns raised
- Appendix 3 – The Public Interest Disclosure Act 1998 (PIDA)
- Appendix 4 – Procedure Flowchart.

This policy does not cover personal concerns that relate to an individual's employment or how they are being treated at work. Issues of this nature should be raised through alternative policies and/or procedures such as the Grievance Procedure or the Bullying, Harassment and Victimisation Policy.

In addition this policy does not cover making complaints about poor care by service users and if a service user or individual has a complaint about poor care they should be directed to the Complaints Department for further information.

Other policies and documents that can also be referenced are:

- Disciplinary Policy
- Stress Management Policy
- Supporting Staff Involved in an Incident, Complaint or Claim Policy.

In addition on 1 April 2016, NHS Improvement and NHS England published the first, integrated national whistleblowing policy, with the aims of standardising the way in which staff are supported to raise concerns within NHS organisations and improving patient safety, which can also be referred to in conjunction with the Trust policy. A copy of this can be found on the NHS Improvement website

at: [https://improvement.nhs.uk/uploads/documents/whistleblowing\\_policy\\_30march.pdf](https://improvement.nhs.uk/uploads/documents/whistleblowing_policy_30march.pdf)

## POLICY

## 1. INTRODUCTION

All staff, patients and service users have a right to work, or be cared for, in an environment that has their care, safety and wellbeing at the heart of everything the Trust does and that is why the Trust needs to be made aware of anyone or anything that is preventing or hindering the Trust from providing the best possible care.

All staff at one time or another will have concerns about what is happening in the workplace. Usually these are easily resolved, through a simple conversation, resulting in prompt action that can contribute towards quality of care and compassion, along with staff and patient wellbeing.

Each member of staff carries a personal and professional responsibility to maintain the standards applicable to their role. This includes those set out in codes of conducts by any appropriate professional regulatory body for doctors, nurses and other health professionals, especially the professional duty of candour.

The Trust is committed to having an open culture where staff can raise concerns, or whistleblow. This should be part of the normal day to day routine of the organisation, so staff can feel confident and safe to speak up without any fear of repercussion or reprisal due to raising a concern. In addition the Public Interest Disclosure Act 1998 (PIDA) provides legal protection from detriment for workers who raise some concerns (make a disclosure) that they reasonably believe is in the public interest. It also includes prohibiting the use of “gagging” clauses in contracts of employment or settlement agreements with employees which seek to prevent the disclosure of information that is in the public interest.

Any staff found to be bullying, harassing or victimising another member of staff who has raised a concern will be dealt with in accordance with the Bullying, Harassment and Victimisation Policy, which could result in disciplinary action being taken. Likewise, where it is found that a member of staff has raised a concern maliciously, that they knew to be untrue, it may result in disciplinary action being taken under the Trust’s Disciplinary Policy.

The NHS Constitution Staff Rights ensure that staff can raise any concern with their employer, whether it is about safety, malpractice or other risk in the public interest and pledges that staff will be encouraged and supported to raise concerns at the earliest opportunity, and that the employer will respond to and, where necessary investigate the concerns raised and act consistently with the Public Interest Disclosure Act 1998.

In addition the Staff Responsibilities within the NHS Constitution, expect that staff should aim to raise any genuine concern they may have about a risk, malpractice or wrongdoing at work (such as risk to patient safety, fraud or breaches of patient confidentiality), which may affect patients, the public, other staff or the organisation itself, at the earliest reasonable opportunity.

The policy will be applied fairly and consistently to all employees regardless of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation; whether working full or part-time or whether employed under a permanent, temporary or fixed-term contract.

In addition we have a commitment to improving the health and wellbeing of individuals and this is reflected through our Clinical Services Strategy and our Health and Wellbeing Strategy. Through this policy we will endeavour to support staff to protect and enhance their own health and wellbeing.

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**2. PURPOSE**

This purpose of this policy is to establish clear processes to enable staff to raise concerns, for dealing fairly and reasonably with concerns that have been raised and to encourage staff to bring concerns to the attention of appropriate people within the Trust who can take the relevant action.

**3. SCOPE**

This policy applies to all members of staff employed under a contract of employment, including students, bank workers, agency workers, holders of honorary contracts and volunteers, in accordance with the specific roles defined in section 6 of this policy

**4. COMPLIANCE STATEMENTS**

**Equality & Diversity**

This document has been designed to support the Trust’s effort to promote Equality and Human Rights in the work place and has been assessed for any adverse impact using the Trust’s Equality Impact Assessment tool as required by the Trust’s Equality and Human Rights Strategy. It is considered to be compliant with current equality legislation and to uphold the implementation of Equality and Human Rights in practice.

**NHS Constitution**

The contents of this document incorporates the NHS Constitution and sets out the rights, to which, where applicable, patients, public and staff are entitled, and pledges which the NHS is committed to achieve, together with the responsibilities which, where applicable, public, patients and staff owe to one another. The foundation of this document is based on the Principals and Values of the NHS along with the Vision and Values of Northampton General Hospital NHS Trust.

**5. DEFINITIONS**

|  |  |
|--|--|
| <p><b>Bullying</b></p>                     | <p>Bullying may be characterised as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient.</p>                                     |
| <p><b>Freedom to Speak Up Guardian</b></p> | <p>A person appointed by the Trust Board to act in a genuinely independent capacity to work alongside the Trust Board and members of the executive team to help support the organisation to become a more open, transparent place to work.</p> |

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|                                  |   |
|----------------------------------|---|
| <b>Harassment</b>                | Harassment as defined in the Equality Act 2010 is unwanted conduct related to a relevant protected characteristic, which has the purpose or effect of violating an individual's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that individual.                                      |
| <b>Pastoral Support</b>          | The provision of support and advice.  |
| <b>Protected Characteristics</b> | These are defined in the Equality Act of 2010 as: <ul style="list-style-type: none"> <li>• Age</li> <li>• Disability</li> <li>• Gender Reassignment</li> <li>• Marriage and Civil Partnership</li> <li>• Pregnancy and Maternity</li> <li>• Race</li> <li>• Religion or Belief</li> <li>• Sex</li> <li>• Sexual Orientation.</li> </ul> |
| <b>Victimisation</b>             | Victimisation is when an employee is treated less favourably than others because they have made or supported a complaint or raised a grievance or is suspected of doing so. An employee is not protected from victimisation if they have maliciously made or supported an untrue complaint.   |
| <b>Whistleblowing</b>            | Making a disclosure in the public interest regarding malpractice or wrongdoing in the workplace.  |

**6. ROLES & RESPONSIBILITIES**

|  |  |
|--|--|
| <b>Chief Executive and the Trust Board</b>                         | Are responsible for ensuring there is a policy in place.   |
| <b>Director of Workforce &amp; Transformation</b>                  | Is responsible for developing the policy and ensuring the provision of training and advice.  |
| <b>Director of Corporate Development, Governance and Assurance</b> | Is the nominated Freedom to Speak Up Guardian for the Trust.   |
| <b>Managers &amp; Directors</b>                                    | Are responsible for implementing this policy and the procedures outlined within it, seeking advice from their HR Business Partner/Advisor at the earliest possible stage. They should ensure that all their employees are aware of the existence of this policy. |
| <b>HR Business Partners/Advisors</b>                               | Are responsible for advising managers who are using the policy and will be present at meetings where appropriate.  |

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| <b>Trade Unions/Professional Organisation Representatives</b> | Are responsible for supporting their members and providing them with advice and representation in relation to this policy, where appropriate.  |
| <b>All Trust Employees</b>                                    | Have a responsibility to follow the procedures detailed in this policy. Employees also have a responsibility to: <ul style="list-style-type: none"> <li>• Support the Trust to achieve its Vision</li> <li>• To act at all times in accordance with the Trust's Values</li> <li>• Follow duties and expectations of staff as detailed in the NHS Constitution – Staff Responsibilities</li> <li>• To adhere to, at all times, any Professional and NHS Code of Conducts for their area of work.</li> </ul> |

**7. SUBSTANTIVE CONTENT**

**7.1. What is Raising a Concern or Whistleblowing?**

This is when a member of staff speaks out about something that they are concerned about at work because they think it needs bringing out in the open for the public good. The member of staff is not usually directly or personally affected by the concern or wrongdoing and should be seen as the messenger alerting others to a concern so that it can be addressed.

It can be a hard decision to do this, but ultimately staff who speak out could prevent a serious incident from occurring and save lives in the future.

Raising concerns are different to a raising a grievance, as this relates to a personal complaint made by a member of staff about their own employment situation, as opposed to being in the public interest. The Trust has a Grievance Procedure which can be utilised by staff if they wish to raise a personal problem or complaint regarding something wrong or unfair about their own employment.

Raising a concern is also different to a service user, or individual making a complaint. If an individual wishes to make a complaint they should be directed to the Complaints Department for further information.

**7.2. Examples of Concerns that can be Raised**

The most common types of concerns that can be raised via this policy are:

- Malpractice, unsafe practice or ill treatment of a patient/service user
- Threats to an individual's health or safety
- Fraudulent or criminal activity
- Disregard for legislation
- Damage to the Trust and/or its property
- A deliberate attempt to cover up any of the above.

These are examples only and does not constitute a complete list of the potential wrongdoing that can occur in the workplace.

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### 7.3. Raising Concerns - General Principles

The Trust is committed to having an open culture where staff can raise concerns. This should be part of the normal day to day routine of the organisation, so staff can feel confident and safe to speak up without any fear of repercussion or reprisal due to raising a concern.

Encouraging a healthy dialogue, which enables staff to question and challenge in informal ways, is an effective way of making the raising of concerns part of everyday practice. This could include the following, for example:

- Open door policy/practice
- Huddles
- Handovers
- Staff/team meetings
- 1:1's
- Supervision meetings
- Appraisals
- Team away days
- Service/quality improvement reviews
- Board to ward visits
- QuEST reviews
- Core Brief.

The Trust advocates raising concerns internally with the organisation first, preferably on an informal basis so, if the issue is related to patient care/safety it can be addressed immediately. The informal procedure detailed in this policy aims to encourage staff to do so. The policy also details the formal procedures that can be utilised, should they be required.

In addition, a nominated 'Freedom to Speak Up Guardian' for the Trust will be available to staff to listen to any concerns, give them information on the Trust processes and signpost them to the most appropriate person, policy or procedure. The current Freedom to Speak Up Guardian is Catherine Thorne, Director of Corporate Development, Governance and Assurance and she will be supported by a team of trained volunteers. She can be contacted via ext 4206 or [raising.concerns@ngh.nhs.uk](mailto:raising.concerns@ngh.nhs.uk)

Appendix 1 - Tips for Staff, gives general information on raising concerns. The Trust processes can be found at section 7.7.

### 7.4. Dealing with Concerns Raised - General Principles

The over-riding principles in dealing with concerns that have been raised are that they must be taken seriously, considered carefully and addressed speedily. The aim should always be to quickly put the matter right informally, but where this is not possible more formal processes may be required to investigate.

The nature of raising concerns can often lead to difficult conversations about sensitive or difficult issues and how these are handled can impact on the situation in question. Managers and Trust leaders who have concerns raised with them can do a lot to help reduce some of the anxiety that staff face when raising a concern.

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In addition it is vital that learning from concerns raised also takes place. By discussing the lessons learnt and seeking the views of the team, to identify better ways of working, this helps to reinforce that raising concerns is everyone's responsibility. Depending on the nature of the concern it should be considered that reflective learning/practice may need to involve other departments within the Trust such as Professional Practice and Development, if the concern has highlighted a wider Trust issue.

Appendix 2 - Tips for Managers, gives general information on dealing with concerns raised. The Trust processes can be found at section 7.7.

## **7.5. Confidentiality**

It is hoped that staff will feel able to raise their concerns openly. However the Trust recognises the difficulties individuals may face in voicing their concerns.

If an individual would prefer for their identity to be kept confidential, they should advise that this is the case from the outset. In these circumstances the Trust will make every effort to keep their identity a secret. However there may be circumstances in which, due to the nature of the disclosure and any subsequent investigations, including legal or police investigations, this may not be possible. If this situation arises the Trust will make every effort to discuss this with the individual concerned.

It is also imperative that patient confidentiality is maintained and that raising a concern, even where warranted, does not give a member of staff the right to disclose confidential information gained through their employment, e.g. patient's personal details or records/information.

The Trust appreciates that some staff may wish to raise their concern anonymously and in these circumstances the Trust will still endeavour to look into the matter. However it may be more difficult for the issue to be addressed if there is little, or no confirmed evidence to substantiate the allegations and the Trust is unable to obtain further information, due to being unable to discuss the matter with the individual who has raised the concern.

More action is likely, or possible if concerns are not raised anonymously and a concern could be raised as a team/group of colleagues if a member of staff does not want their individual identity to be known.

## **7.6. The Law**

This policy has been written to take into account the Public Interest Disclosure Act 1998, which protects workers from suffering unfair treatment or being victimised because they have made a disclosure.

Further information regarding the Act can be found in Appendix 3.

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## 7.7 The Procedure

### 7.7.1 Stage One - Informal

The raising of concerns are best dealt with on an informal basis to resolve matters as soon as is practicable and to prevent a situation from escalating and becoming more serious. Should an employee require some advice prior to raising a concern they can access advice and guidance from various sources and these are detailed in section 7.10.

The first step when raising a concern is for the employee to discuss the issue informally with their line manager, or another appropriate manager within their department, before considering a formal disclosure. However it is recognised that if a very serious incident has occurred this stage of the process may be inappropriate and therefore, in exceptional circumstances, the issue should be raised formally.

As detailed in section 7.3 and Appendix 1 there are many ways that concerns can be raised informally as part of the day to day practice of the Trust and the individual concerned must decide for themselves, how they wish to raise the concern. However in cases where the concern relates to the care and/or safety of patients, visitors or other members of staff the Trust urges the raising of the concern at the earliest opportunity.

Following the principles described in section 7.4 and Appendix 2 the manager, to whom an informal disclosure has been, made must take disclosure seriously and endeavour to resolve the issue quickly and informally. It is however recognised that in serious circumstances a more formal process may be required, as detailed in section 7.7.2.

It is important that appropriate feedback is always given to the individual who raised the concern on the actions taken to resolve the issue.

The concern and outcome details must then be emailed to [whistleblowing@ngh.nhs.uk](mailto:whistleblowing@ngh.nhs.uk) for recording and monitoring by Human Resources. See section 7.8 for more detail.

### 7.7.2 Stage Two - Formal

It is important to remember that making disclosures through the formal route can be a stressful process for all parties involved and it is for these reasons it is recommended that every effort be made to try and resolve issues through the informal route.

Only in exceptional circumstances should this formal process be used without trying to resolve the issue at the Stage One.

To raise a concern at Stage Two the employee must write a formal letter to the line manager of the person who dealt with the concern at Stage One or a senior manager within their Directorate, requesting the matter be dealt with under Stage Two, stating what the concern is, including any relevant facts, dates, names and specific examples. The letter must also give the reasons why the informal process has not resolved the matter or could not be used.

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When a manager receives a formal concern, they must write to the employee to advise them that their concern will be looked in to. The letter must also outline the nature of their concern and that they could be interviewed as part of the process.

The manager should contact their designated HR Business Partner/Advisor to discuss the concern that has been raised and the appropriate or initial course of action. Depending on the nature and severity of the concern raised this could include one or more of the following, which will be determined on a case by case basis:

- Informal Review (e.g. Values in Practice)
- Internal Enquiry
- External Enquiry/Investigation
- Formal Investigation - such as disciplinary
- Referral to an external agency/organisation - such as Counter Fraud or the Police.

Where it is determined that a formal investigation is appropriate an Investigating Officer will be appointed. The employee will be invited to attend an interview to discuss their concern. The letter must advise them that they have the right to be accompanied by either a representative of a trade union/professional organisation or a work colleague.

The investigating officer will conduct a prompt, swift, proportionate, fair and blame-free investigation, to establish the facts, as soon as it practicable and produce a report on their findings. This report should include documentation from the employee's manager in relation to any previous informal meetings/discussions that have taken place regarding the matter.

If the Investigating Officer determines that there is a case to answer in relation to the concern that has been raised, action will be taken in accordance with the appropriate Trust policy, such as the Disciplinary Policy and if a hearing is required a Hearing Manager, who has the appropriate level of authority, will then be appointed. Any reports produced and evidence collated as part of the investigation will be used at any subsequent hearing.

Where referral to an external agency/organisation has taken place there may be a requirement for the Trust to cease or suspend an enquiry or investigation until any official investigations/proceedings have taken place. This may include, in some circumstances, investigations by Counter Fraud as these may supercede the Trust's policies. A decision regarding this will be taken on a case by case basis.

In certain circumstances it may be appropriate to consider undertaking a Values in Practice exercise. This could be considered in situations where the concern relates to or affects a number of staff in a team or department, for example. Values in Practice is a listening event that can take the form of meeting with individuals on a 1:1 basis or group work. Approval to conduct a Values in Practice exercise must be sought from the Director of Workforce and Transformation or the Deputy Director of Human Resources.

It is important that appropriate feedback is always given to the individual who raised the concern on the processes undertaken and the course of action taken to resolve the issue, taking into account any issues of confidentiality. Therefore the manager, to

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whom the concern was raised with, must be advised of any decisions made so that they can inform the employee who raised the concern, in writing, of the course of action to be taken following the conclusion of any enquiries or investigations. The letter should include an outline of the process that was undertaken during the enquiry or investigation. In the case of a more formal investigation if it has determined that there is a case to answer the employee must be advised that they may be called as a witness at any subsequent hearing/s.

The concern and outcome details must then be emailed to [whistleblowing@ngh.nhs.uk](mailto:whistleblowing@ngh.nhs.uk) for recording and monitoring by Human Resources. See section 7.8 for more detail.

### **7.7.3 Stage Three - Formal**

Stage Three of the formal procedure should not be used without exhausting Stage One and/or Two of the process.

To raise a concern at Stage Three the employee must write a formal letter to the line manager of the person who dealt with the concern at Stage Two or a senior manager within their Division, requesting the matter be dealt with under Stage Three, stating what the concern is, including any relevant facts, dates, names and specific examples. The letter must also give the reasons why the previous stages in the process have not resolved the matter or could not be used.

It will be the role of the line manager of the person who dealt with the concern at Stage Two or a senior manager within the Division to review the process/es previously undertaken and the action taken to resolve the issue to ensure that it was dealt with appropriately.

If it is determined that Trust processes were not followed and/or the action taken was not appropriate then the matter should be looked into again by following the process outlined in 7.7.2 above. The employee must be written to and advised that the concern is being looked into again.

If it is determined that Trust processes were followed and the action taken to resolve the issue was appropriate then the employee must be written to and advised of this.

### **7.7.4 Stage Four - External**

An employee may wish to raise a concern externally, if they have exhausted all the internal reporting procedures and they feel that the issue has not been resolved, or they feel that they are unable to raise the concern internally at any level from the outset.

If a disclosure is made externally there are conditions that need to be satisfied before it will be protected by the Public Interest Disclosure Act 1998 (PIDA), see Appendix 3 for full details.

Provided the criteria and procedural requirements of PIDA are met, protected disclosures under the Act in relation to the NHS and healthcare concerns can be raised externally to the following 'Prescribed Persons' (correct as at February 2016):

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- **Care Quality Commission** about matters relating to the provision of health and social care.

CQC National Customer Service Centre, Citygate, Gallowgate, Newcastle upon Tyne, NE1 4PA. Tel: 03000 616161. [www.cqc.org.uk](http://www.cqc.org.uk)

or

Healthwatch England, Skipton House, 80 London Road, London, SE1 6LH. [www.healthwatch.co.uk](http://www.healthwatch.co.uk)

- **General Dental Council** about matters relating to the registration and fitness to practise of a member of a profession regulated by the General Dental Council.

Fitness to Practise Team, General Dental Council, 44 Baker Street, London, W1U 7AL. Tel: 0845 222 4141. Email: [fitnesstoppractise@gdc-uk.org](mailto:fitnesstoppractise@gdc-uk.org). [www.gdc-uk.org](http://www.gdc-uk.org)

- **General Medical Council** about matters relating to the registration and fitness to practise of a member of a profession regulated by the General Medical Council.

General Medical Council, Fitness to Practise Directorate, 3 Hardman Street, Manchester, M3 3AW. Tel: 0161 923 6602. Email: [practice@gmc-uk.org](mailto:practice@gmc-uk.org). [www.gmc-uk.org](http://www.gmc-uk.org)

- **General Optical Council** about matters relating to the registration and fitness to practise of a member of a profession regulated by the General Optical Council.

Compliance Manager, General Optical Council, 10 Old Bailey, London, EC4M 7NG. Tel: 020 7580 3898. [www.optical.org](http://www.optical.org)

- **General Pharmaceutical Council** about matters relating to the registration and fitness to practise of a member of a profession regulated by the General Pharmaceutical Council.

Investigating Team, General Pharmaceutical Council, 25 Canada Square, London, E14 5LQ. Tel: 020 3365 3603.  
Email: [concerns@pharmacyregulation.org](mailto:concerns@pharmacyregulation.org)

- **Health and Care Professions Council** about matters relating to the registration and fitness to practise of health and care professional.

Health and Care Professions Council, Park House, 184 Kennington Park Road, London, SE11 8BU. Tel: 0845 300 6184. [www.hpc-uk.org](http://www.hpc-uk.org)

- **Health Education England** about matters relating to the education and training for health care workers and ensuring sufficient skilled and trained health care workers are available for the delivery of services.

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Health Education England, 1st Floor Blenheim House, Duncombe Street, Leeds, LS1 4PL. [www.hee.nhs.uk](http://www.hee.nhs.uk)

- **Monitor** about the regulation and performance of NHS foundation trusts.

Monitor, Wellington House, 133-135 Waterloo Road, London, SE1 8UG. Tel: 020 3747 0000. Email: [enquires@monitor.gov.uk](mailto:enquires@monitor.gov.uk). [www.gov.uk/monitor](http://www.gov.uk/monitor)

- **National Health Service Commissioning Board (also known as NHS England)** about matters relating to the delivery of primary medical, dental, ophthalmic and pharmaceutical services in England.

NHS England, PO Box 16738, Redditch, B97 9PT. Tel: 0800 072 4725. Email: [enquiries@wbhelpline.org.uk](mailto:enquiries@wbhelpline.org.uk)

- **NHS Business Services Authority** about the performance of services intended to monitor and take action on fraud, corruption or other unlawful activity in relation to the health service in England; the delivery of security management in the health service in England.

NHS Protect, Skipton House, 80 London Road, London, SE1 6LH. <http://www.nhsbsa.nhs.uk/Protect.aspx>

- **NHS Trust Development Authority** about the performance of English NHS trusts, including clinical quality, governance and management of risk.

The Contact Centre, NHS Trust Development Authority, Southside Victoria Road, London, SW1E 6QT. Tel: 020 7932 1980. Email: [ntda.enquiries@nhs.net](mailto:ntda.enquiries@nhs.net)

- **Nursing and Midwifery Council** about matters relating to the registration and fitness to practise of a registered nurse or midwife and any other activities in relation to which the Council has functions.

Nursing and Midwifery Council, 23 Portland Place, London, W1B 1PZ. Tel: 020 7637 7181. Email: [whistleblowing@nmc-uk.org](mailto:whistleblowing@nmc-uk.org)

Members of the House of Commons (MPs) are also included in the list of 'Prescribed Persons'.

Raising concerns with the police or the media are also protected under the PIDA law, but only under certain circumstances. Going to the media should always be the last resort and the Trust would recommend that any employee considering this should obtain advice first from the National Whistleblowing Helpline (see section 7.10).

## 7.8. Monitoring of Concerns Raised

There is an ongoing requirement for the Trust to report the number and types of concerns that have been raised internally. Therefore all managers who have had a concern raised with them must ensure that it is reported to Human Resources via the [whistleblowing@ngh.nhs.uk](mailto:whistleblowing@ngh.nhs.uk) email. On each occasion, as soon as the concern has been raised, the following information needs to be provided:

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- The department the concern relates to
- The name of the manager the concern was raised with
- If the concern was raised by:
  - A staff member
  - Anonymously
  - A Trade Union Representative
  - The CQC (or other prescribed person)
  - Other.
- The date the concern was raised
- The nature of the concern raised:
  - Quality of Care
  - Patient Safety
  - Malpractice
  - Fraud
  - Criminal Act
  - Disregard for legislation
  - Damage to the Trust and/or property
  - Suspected conflict of business interests
  - Deliberate concealment of any of the above.

When the investigation into the concern has concluded and/or the issue resolved a further email will need to be sent to [whistleblowing@ngh.nhs.uk](mailto:whistleblowing@ngh.nhs.uk) to advise of the following information:

- Outcome of the concern raised
  - Wholly substantiated
  - Partially substantiated
  - Not substantiated.
- Action taken
  - Informal Review (e.g. Values in Practice)
  - Internal Enquiry
  - External Enquiry/investigation
  - Formal Investigation - such as disciplinary
  - Formal Hearing - type
  - Sanction - type and level
  - Referral to an external agency/organisation - such as Counter Fraud or the Police.
- Lessons Learnt/Sharing Required
- Date concern resolved.

This information will be collated by Human Resources for reporting purposes only and therefore no information should be provided that could identify any staff member or persons involved in the concern that has been raised, with the exception of management who are dealing with it.

## 7.9 Interim Measures During Investigations

If the nature of the disclosure warrants further or more in depth investigation it may be necessary, in some circumstances, for the manager in conjunction with their designated HR Business Partner/Advisor, to consider if any interim measures are required whilst the investigation takes place. These may include, without prejudice:

## POLICY

- Temporary redeployment of the person/s alleged to be involved
- Suspension/exclusion of the persons/s alleged to be involved
- Temporary redeployment of the person making the disclosure, but only if they agree to this.

## 7.10 Advice

People who have raised concerns often say they feel isolated and unsure of what to do. Likewise some people would like some guidance prior to raising a concern. If required, it is important to access appropriate advice and support at an early stage from any of the following sources:

- Trust Freedom to Speak Up Guardian (see section 7.3)
- Work colleagues and managers
- Trade union or professional body representatives
- Public Concern at Work on 0207 4046609 or [helpline@pcaw.co.uk](mailto:helpline@pcaw.co.uk) or [www.pcaw.org.uk](http://www.pcaw.org.uk)
- National Whistleblowing Helpline on 0800 724725 or [enquiries@wbhelpline.org.uk](mailto:enquiries@wbhelpline.org.uk) or [www.wbhelpline.org.uk](http://www.wbhelpline.org.uk).

Further advice and guidance can also be sought from the Citizens Advice Bureau and in some cases obtaining advice from a public law solicitor may be appropriate.

## 7.11 Support

It is important to maintain contact with the person who has made the disclosure on a regular basis to provide pastoral support.

Therefore the manager who the disclosure was made to must maintain regular contact with the employee who made raised it. The individual should be advised of any associated timelines, where possible, for the conclusion of the matter.

In some cases consideration can be given to the provision of pastoral support to an employee by a member of staff who is independent to the case.

The Trust recognises that when individuals are involved in this type of process they may require additional support during and after the event and support can be obtained from:

- Trade Union/Professional Organisation Representatives
- The Hospital's Chaplaincy Department
- Occupational Health.

Staff can also refer to the Trust's Supporting Staff Involved in an Incident, Complaint or Claim Policy which is available on the intranet.

If as a result of a concern being raised, working relationships have broken down within a team or department, consideration may need to be given to if any

## POLICY

arrangements need to be put in place to assist parties to rebuild their working relationship, either during or following the conclusion of the matter. This may include training, mentoring, supportive management or other suitable options.

Following the resolution of a concern being made it is important to check that the 'whistleblower' is not being victimised as a result of raising a concern. The employee's line manager or a nominated manager is responsible for ensuring that this check takes place, and that any unacceptable behaviour is dealt with in accordance with Trust policies.

## **8. IMPLEMENTATION & TRAINING**

This policy is applicable with immediate effect within the Trust, from the date that it is published on the intranet. The Governance Department will ensure that any previous versions are removed. The HR Business Partners/Advisors, supported by Learning & Development and in conjunction with Trade Union colleagues, where practicable, will conduct awareness raising sessions upon the release of a new or updated policy or upon an identification of need through the monitoring of the process within individual directorates. HR Business Partners/Advisors will advise managers when using the policy. Human Resources will make Trust staff aware of this version of the policy through the HR Bulletin, and new starters aware of it through their contract of employment and the Trust Induction.

**9. MONITORING & REVIEW**

| Minimum policy requirement to be monitored                               | Process for monitoring  | Responsible individual/ group/ committee | Frequency of monitoring | Responsible individual/ group/ committee for review of results | Responsible individual/ group/ committee for development of action plan | Responsible individual/ group/ committee for monitoring of action plan |
|--|---|--|-------------------------|--|---|--|
| Total number of concerns raised & outcomes across the Trust are recorded | Concern & outcome details emailed to <a href="mailto:whistleblowing@ngh.nhs.uk">whistleblowing@ngh.nhs.uk</a> | Corporate HR Officer                     | Monthly                 | Workforce Committee  | Workforce Committee   | Workforce Committee  |
| Concerns investigated under the Disciplinary Policy are recorded         | Case details are recorded on the ESR Case Database  | HR Business Partners/Advisors            | Monthly<br><br>Annually | Workforce Committee<br><br>Equality & Diversity Staff Group    | Workforce Committee<br><br>Equality & Diversity Staff Group             | Workforce Committee<br><br>Equality & Diversity Staff Group            |

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**10. REFERENCES & ASSOCIATED DOCUMENTATION**

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Department of Health (2013). *NHS Constitution: the NHS belongs to us all*. [online]. London. Department of Health. Available from [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/170656/NHS\\_Constitution.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/170656/NHS_Constitution.pdf) [Accessed 24 November 2014]

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Northampton General Hospital NHS Trust (2015) *Data Protection and Confidentiality*. NGH-PO-334. Northampton. Northampton General Hospital NHS Trust

Northampton General Hospital NHS Trust (2015) *Disciplinary*. NGH-PO-028. Northampton. NGHT

Northampton General Hospital NHS Trust (2015) *Electronic Mail and Internet*. NGH-PO-10-2 Northampton. Northampton General Hospital NHS Trust

Northampton General Hospital NHS Trust (2015) *Grievance*. NGH-PR-041 Northampton. NGHT

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Northampton General Hospital NHS Trust (2014) Supporting Staff involved in an Incident, Complaint or Claim Policy. NGH-PO-245. Northampton. NGHT

Public Interest Disclosure Act 1998 (c. 23) [online] London. HMSO. Available from: <http://www.legislation.gov.uk/ukpga/1998/23/contents> [Accessed 15 June 2015]

## **APPENDICES**

Appendix 1 - Tips for Staff

Appendix 2 - Tips for Managers

Appendix 3 - Public Interest Disclosure Act 1998 (PIDA)

Appendix 4 - Procedure Flowchart

**Appendix 1 – Tips for Staff**

**RAISING CONCERNS AT WORK - TIPS FOR STAFF**

Here are some top tips to help you make your decision in an informed way and to help you access any support you may need.

|          |  |
|----------|--|
| <b>1</b> | <p><b>Read the Raising Concerns at Work (Whistleblowing) Policy</b></p> <p>It will tell you:</p> <ul style="list-style-type: none"> <li>• What type of concerns are covered</li> <li>• When and how a concern should be raised and who with</li> <li>• Where you can get internal and external advice (i.e. Trust Freedom to Speak Up Guardians, National Whistleblowing Helpline)</li> </ul> <p>You need to follow the policy to make sure you remain protected under the law (excludes students and volunteers) – this is called the Public Interest Disclosure Act 1998 (PIDA).</p> |
| <b>2</b> | <p><b>Raise the concern immediately or at the earliest opportunity</b></p> <p>If you believe that something is wrong, you do not need proof. Speaking out early could stop the issue from becoming more serious, dangerous or damaging.</p>  |
| <b>3</b> | <p><b>Think about whether your concern can be discussed in an informal way</b> or at things like supervision meetings, at your appraisal, team or departmental meetings or at staff forums.</p>  |
| <b>4</b> | <p><b>Find out if other colleagues share your concerns</b></p> <p>If so, you may be able to raise your concern as a group - there can be strength in numbers.</p>  |
| <b>5</b> | <p><b>Try to sort things out internally first</b></p> <p>But if you are not satisfied, then you might need to tell someone outside the Trust. This might mean telling your professional regulator or the CQC.</p> <p>Reporting anything to the media should always be the last thing you turn to. Try all the other places talked about in the policy first – particularly if what you want to report involves private or confidential information.</p>  |
| <b>6</b> | <p><b>When you report your concern, focus on as much factual information/evidence as possible</b></p> <p>This means things like being specific about dates and times, what happened and the order of events, who was involved and any witnesses.</p> <p>Act honestly and professionally at all times in the interests of patients and service users.</p>   |
| <b>7</b> | <p><b>Try to present the situation as clearly and with as much information as possible – either verbally or in writing</b></p> <p>Identify what you believe to be the key issues and risks. For example, is there a risk to the patient/service user or is it to do with a professional/clinical practice etc.?<br/>Writing it down will help you to get your thoughts in order particularly if you are upset, worried or feeling emotional about it. Your trade union and the Whistleblowing</p>  |

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|    | <p>Helpline can offer support.</p> <p>Provide as much supporting information as you can, for example files or emails. Always ask for further advice, for example from the Information Governance Department, your Trade Union or professional body, if these contain private or confidential information.</p>  |
| 8  | <p><b>Check out the process and what will happen next</b></p> <p>Talk about what might happen next with your manager or the person dealing with the concern.</p> <p>You will need to give them a reasonable amount of time to check the facts and to find out more, if they need to, before they feed back to you.</p> <p>Respect the fact that your manager may need to keep some information private and confidential if it relates to other people.</p> <p>Try to cooperate with any investigation into what you have reported and the attempts to resolve the issues and put things right.</p> <p>You are entitled to get support from a work colleague or union representative at any meeting to discuss your concerns or during any investigation that takes place.</p>  |
| 9  | <p><b>Keep track of what is happening</b></p> <p>Even if you raise your concern verbally, you should also keep a record in writing of any discussions relating to your concern. This means things like the dates things happened, who you talked to, what was said, what the response was.</p> <p>One way of keeping track of things is to email the manager/person dealing with it after any discussion with a summary of the main points. Make it clear that you are raising a concern in line the Trust's Raising Concerns at Work Policy and the Public Interest Disclosure Act 1998 (PIDA).</p>   |
| 10 | <p><b>Maintain confidentiality</b></p> <p>It is best if you can speak out openly about what you think, although you can ask for your identity to be kept confidential.</p> <p>The person/manager with whom you talk about things should make every effort to protect your identity. However, there may be times when, because of the nature of the investigation or what you want to say, it will be necessary to say who you are publicly. If this is going to happen then the person you raise your concerns with should make every effort to let you know first.</p> <p>Remember, if you work in a small team then people you work with might guess or work out your identity. If this happens, tell your manager and let him/her know if you are being treated badly as a result.</p> <p>Concerns raised anonymously, where you do not reveal your name, can be more difficult to deal with and investigate in the best way. More action is likely and possible if your identity is known when you report something.</p> |
| 11 | <p><b>If you are not satisfied...</b></p> <p>If you feel your concern has not been addressed or the issues have not been resolved to achieve a solution and positive outcome, you should use the sources of support and help available to pursue the matter. Not speaking up might mean that poor care will carry on and may even get worse.</p>   |

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|    | <p>If this is the case, you will need to refer to the Trust's Raising Concerns at Work Policy in order to be clear about what action you can take and where you can go next internally.</p> <p>If there is nothing more you can do internally, then you can raise a concern externally (with a prescribed body) and the Trust policy gives details regarding this. If you do this, you need to have reason to believe that the information you give and any allegation you make is substantially true. If you only suspect something, then that is not enough when you report concerns outside of where you work. You can raise your concern with a regulator such as the Care Quality Commission even if you have left your job.</p> <p>Talking to the police or the media are also protected under the PIDA law, but only under certain circumstances. For example, if you genuinely believe you would be victimised or bullied if you raised the matter internally or with a regulator, you would probably be protected.</p> <p>Going to the media should always be the last resort. Doing this could have an impact on your employment and it is a good idea to get advice before telling anyone outside of work.</p> <p>If you are leaving your employment, your employer may ask you to sign a settlement agreement. Before doing this you should always seek advice from an independent advisor.</p> |
| 12 | <p><b>Remember...</b></p> <p>PIDA is there to protect you. So if you are being bullied or experience bad treatment as a result of raising a concern report this as per the procedures in the Trust's Bullying, Harassment and Victimisation Policy.</p> <p>Sources of good advice are detailed in the Raising Concerns at Work (Whistleblowing) Policy and remember, the Whistleblowing Helpline is available to help advise on the whistleblowing process and their phone number is 08000 724725.</p>  |

## Appendix 2 – Tips for Managers

### DEALING WITH CONCERNS RAISED AT WORK - TIPS FOR MANAGERS

Here are some top tips to help you deal with the concern in a fair and reasonable manner.

|   |   |
|---|---|
| 1 | <p><b>Consider your management style</b></p> <p>It's important that you are approachable, and foster a climate of openness and mutual respect.</p>  |
| 2 | <p><b>Be prepared</b></p> <p>Read and understand the Trust's Raising Concerns at Work (Whistleblowing) Policy, so that you understand your role and responsibilities as a manager in how to respond to and handle concerns raised.</p>  |
| 3 | <p><b>Offer support and encourage early action</b></p> <p>Support and encourage staff to raise concerns at the earliest opportunity. Concerns at work could be a regular agenda item for discussion in normal communication and regular meetings such as 1:1 meetings, team meetings and departmental meetings.</p> <p>Focus on constructive discussion and dialogue, finding a solution, making improvements and dealing with risk.</p> <p>Be approachable and encourage staff to check if they are unsure what is appropriate and to admit mistakes rather than concealing them, so that they can be remedied.</p> <p>Identify any training or development needs for staff to support competency in the role.</p> |
| 4 | <p><b>Listen carefully to any member of staff raising a concern</b></p> <ul style="list-style-type: none"> <li>• Commit to taking the matter seriously.</li> <li>• Thank the person for raising it (even if you think they may be mistaken).</li> <li>• Acknowledge how they may be feeling, that it may be a difficult or stressful situation, and offer reassurance.</li> <li>• Respect the member of staff's belief that they are raising a genuine concern in the public interest.</li> <li>• Treat this as being reasonable.</li> <li>• Avoid prejudging whether this is correct or valid until an appropriate investigation has taken place.</li> </ul>   |
| 5 | <p><b>Respond positively and clearly</b></p> <ul style="list-style-type: none"> <li>• Reassure the person that the concern will be looked into promptly and (where appropriate) investigated thoroughly and fairly as soon as possible.</li> <li>• Manage expectations of the individual. Discuss next steps, reasonable timeframes, and arrangements for feedback on the outcome.</li> <li>• Respect a member of staff's request for confidentiality and any concerns about their job or career, but explain any circumstances where there may be limits on confidentiality.</li> <li>• Offer advice about the type of support available to them or where they can</li> </ul>                                      |

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|   | <p>seek independent advice.</p> <ul style="list-style-type: none"> <li>• Be clear on what the member of staff should do and where they should go if they experience any reprisals or unacceptable behaviour, e.g. bullying, harassment or victimisation, from managers or colleagues.</li> <li>• Give the individual a copy or refer them to the Raising Concerns at Work (Whistleblowing) Policy.</li> </ul>   |
| 6 | <p><b>Ensure a fair process of investigation</b></p> <ul style="list-style-type: none"> <li>• Ensure any investigation is carried out fairly and thoroughly.</li> <li>• Keep an open mind. You may not want to believe all that you hear, but it's important to remain objective.</li> <li>• Focus on the information that is being disclosed, not on the member of staff who is raising the concern.</li> <li>• Don't let personal views influence your assessment of the issues.</li> <li>• Recognise any strong emotions you may have and ask for help if you need it. (It is not unusual to have feelings such as anger, shock or distress).</li> </ul>   |
| 8 | <p><b>Assess how serious and urgent the risk is</b></p> <ul style="list-style-type: none"> <li>• Decide whether the concern would be best dealt with under the Raising Concerns at Work (Whistleblowing) Policy or some other policy/procedure (such as grievance).</li> <li>• Don't dismiss the disclosure as an exaggeration or being trivial unless there is clear evidence to support this assessment.</li> <li>• Decide whether the assistance of, or referral to, senior managers or a specialist function (e.g. Finance) is desirable or necessary.</li> <li>• Where there are grounds for concern, take prompt action, as per the Trust's policy, to ensure that it is investigated or if the concern is potentially very serious or wide-reaching make sure this is escalated to the most appropriate person within the organisation to undertake further investigations.</li> </ul> |
| 8 | <p><b>Maintain good communication with the member of staff who raised the concern</b></p> <ul style="list-style-type: none"> <li>• Keep the member of staff advised and informed on progress.</li> <li>• Update on any changes or delays in process.</li> <li>• Give feedback on the outcome to the member of staff.</li> <li>• Explain any action to be taken (or not), but maintain confidentiality where this involves other parties.</li> <li>• Explain any mistaken perceptions or misunderstandings which may have occurred.</li> <li>• Ideally feedback should be given face to face and followed up in writing.</li> </ul>  |
| 9 | <p><b>Act fairly</b></p> <ul style="list-style-type: none"> <li>• Understand that you are accountable for your actions.</li> <li>• Be clear on any action taken or not taken and the reasons for this.</li> </ul>   |

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|    | <ul style="list-style-type: none"> <li>• Never attempt to ignore or cover up evidence of wrongdoing.</li> <li>• Always remember that you may have to explain how you have handled the concern.</li> <li>• Don't ever penalise someone for making a disclosure that proves unfounded if, despite making a mistake, s/he genuinely believed that the information was true.</li> </ul>  |
| 10 | <p><b>Seek appropriate advice and/or support where required</b></p> <ul style="list-style-type: none"> <li>• Always seek advice from your designated HR Business Partner/Advisor, especially if you are uncertain about how to proceed.</li> <li>• They will also be able to support and advise you throughout any investigations you need to undertake into the issues raised, and in undertaking any actions required as a result of evidence being presented.</li> </ul>  |
| 11 | <p><b>Keep clear concise records of all discussions</b></p> <ul style="list-style-type: none"> <li>• Date(s), what was said, response given by whom.</li> <li>• Keep a record/log of all concerns raised (can be anonymised).</li> <li>• Note the nature of the concern.</li> <li>• Record how the investigation was conducted,</li> <li>• Record outcome, decisions or action taken.</li> <li>• Retain record for a minimum of five years.</li> <li>• Email <a href="mailto:whistleblowing@ngh.nhs.uk">whistleblowing@ngh.nhs.uk</a> when the concern is raised and again when resolved to provide information for Trust reporting and monitoring requirements.</li> </ul>  |
| 12 | <p><b>Follow up action</b></p> <ul style="list-style-type: none"> <li>• Consider if the outcome of any investigations require action under another policy/procedure, such as the Disciplinary Policy.</li> <li>• Are there alternative ways to achieve constructive, positive solutions for future improvement rather than simply apportioning blame?</li> <li>• Address any issues of competence or ability highlighted, via training and development.</li> <li>• Make recommendations across the organisation where appropriate i.e. feed into the 'bigger picture' and take remedial, proactive and preventative action where it is needed.</li> <li>• Take steps to help share any learning, establish long-term solutions and prevent recurrence of the issue elsewhere in the organisation.</li> <li>• Raise any issues identified in other relevant forums e.g:             <ul style="list-style-type: none"> <li>○ Health and safety</li> <li>○ Risk assessment</li> <li>○ Incident reporting</li> <li>○ Quality reviews</li> </ul> </li> </ul> |

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|    | <ul style="list-style-type: none"> <li>○ Service or performance reviews</li> <li>○ Business planning discussions.</li> </ul>   |
| 13 | <p><b>Ensure the process has a positive outcome</b></p> <ul style="list-style-type: none"> <li>● Publicise and 'celebrate' positive outcomes/actions/improvements resulting from someone raising a concern and speaking up (the person need not be named). This may encourage others to do the same.</li> <li>● Provide appropriate feedback on the outcome to the person raising the concern.</li> <li>● Build or rebuild working relationships and teams after a concern has been raised (the whistle has been blown) with appropriate support and advice.</li> <li>● Check on the member of staff's wellbeing at regular intervals to ensure they have not suffered any disadvantage, bullying, harassment or victimisation as a consequence of raising a concern.</li> </ul> |

## Appendix 3 - Public Interest Disclosure Act 1998 (PIDA)

### PUBLIC INTEREST DISCLOSURE ACT 1998

#### What is the Public Interest Disclosure Act 1998 (PIDA)?

The Public Interest Disclosure Act 1998 (PIDA) protects individuals who raise a concern or 'whistleblow' from detrimental or unfavourable treatment and victimisation from their employers and co-workers after they have made a qualifying disclosure of a concern in the public interest.

The Act allows people to apply to an Employment Tribunal for a remedy or compensation if they feel they have suffered bad treatment as a result of whistleblowing. The Employment Tribunal route is, however, not an easy one. It is important to take advice from a Trade Union, solicitor or an independent helpline at an early stage for support through this process.

#### Who is covered?

The Act covers all workers including those on temporary contracts or supplied by an agency, and trainees. PIDA does not cover volunteers or Governors (who are not employees of the Trust), and does not usually cover students. Students should take advice if from their university tutor or lecturer, their mentor, professional body, trade union or independent helpline, if they are thinking of raising concerns during their placements.

#### Is everyone automatically protected if they make a disclosure?

To qualify for protection under PIDA a disclosure should be in relation to a concern which is in the "public interest". The public interest means the public good, not what is of interest to the public, and not the private interests of the person raising the concern. Whilst there is no longer a requirement for someone to have good faith when they raise a concern, an employment tribunal has the power to reduce any compensation award by up to 25% if it considers that the disclosure was made in bad faith (for example if the whistleblower's motives were to pursue a personal grudge against their manager).

#### What is a qualifying disclosure?

PIDA details six subject areas under which disclosures have to fit so as to be "qualifying disclosures":

- Criminal offences
- Failure to comply with legal obligations
- Miscarriages of justice
- Threats to health and safety of an individual
- Damage to the environment
- A deliberate attempt to cover up any of the above.

#### Are all disclosures protected under PIDA?

Certain conditions must be met for a whistleblower to qualify for protection under the legislation, depending on to whom the disclosure is being made and whether it is being made internally or externally. To be protected, the disclosure must be in the public interest, the individual must have a reasonable belief that the information shows that one of the

## POLICY

categories of wrongdoing listed in the legislation has occurred or is likely to occur (see above), and the concern must be raised in the correct way.

### Internal disclosures

Workers are encouraged to make internal disclosures (raise concerns with their employer) with the view that employers will then have an opportunity to address the issue. If a worker makes a qualifying disclosure internally to an employer (or other reasonable person), they will be protected.

### External disclosures

If a disclosure is made externally there are conditions which need to be satisfied before a disclosure will be protected. One of these conditions must be met if a worker is considering making an external disclosure.

- If the disclosure is made to a “prescribed person” (a list of prescribed persons is made under PIDA, and you can find details of relevant prescribed persons for the NHS and social care from the Government’s website [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/431221/bis-15-289-blowing-the-whistle-to-a-prescribed-person-list-of-prescribed-persons-and-bodies-2.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/431221/bis-15-289-blowing-the-whistle-to-a-prescribed-person-list-of-prescribed-persons-and-bodies-2.pdf)), the worker must reasonably believe that the concern that they are raising is one which is relevant to that prescribed person (i.e. comes under their area of responsibility as a regulator) and that the disclosure is substantially true.
- A worker can also be protected if they reasonably believe that the disclosure is substantially true, the disclosure is not made for personal gain, it is reasonable to make the disclosure, and one of the following conditions apply:
  - At the time he/she makes the disclosure, the worker reasonably believes that he/she will be subjected to a detriment by his/her employer if he/she makes a disclosure to his/her employer; or
  - The worker reasonably believes that it is likely that evidence relating to the failure/ wrongdoing will be concealed or destroyed if the disclosure is made to the employer; or
  - The worker has previously made a disclosure to his/her employer.
- Additional conditions apply to other, wider disclosures to the police or the media. These disclosures can be protected if the worker reasonably believes that the disclosure is substantially true, the disclosure is of an exceptionally serious nature, and it is reasonable to make the disclosure.

Please note that these conditions do not apply to disclosures made to legal advisors in the course of obtaining legal advice.

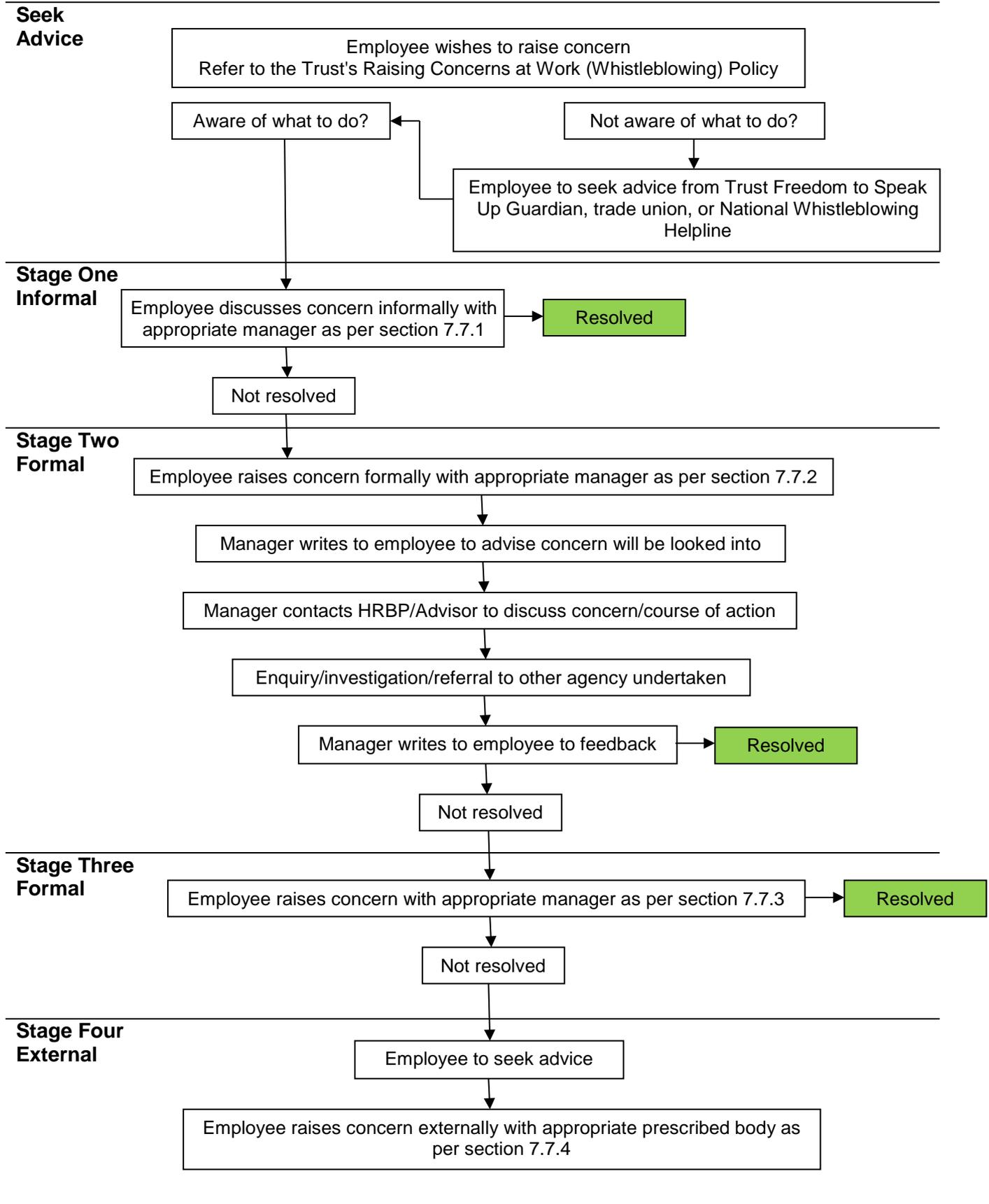
### **Is there protection against bullying, harassment and victimisation?**

The government has now extended whistleblowing protection to allow workers who blow the whistle protection against bullying and harassment by co-workers. Co-workers who victimise whistleblowers could be held personally liable for their actions. Where bullying and harassment has taken place by co-workers, employers can be held vicariously liable (also responsible) for the actions of these employees unless they can show that they took reasonable steps to prevent victimisation.

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**Appendix 4 - Procedure Flowchart**

**Raising Concerns at Work Procedure Flowchart**



**POLICY**

# Raising Concerns at Work (Whistleblowing) Policy 2015

## #Ngh-PO-002

**Area of Work**

Human Resources

**Person Responsible**

Sarah Kinsella

**Created**

20th November, 2015

**Last Review**

20th November, 2015

**Status**

Complete

**Next Review**

20th November, 2018

## Screening Data

What is the name, job title and department of the lead for this procedural document?

Andrea Chown, Deputy Director of Human Resources, ext 5986

What are the main aims, objectives or purpose of this procedural document?

This purpose of this policy is to establish clear processes for dealing fairly and reasonably with concerns that have been raised by staff and to encourage staff to bring concerns to the attention of appropriate people within the Trust who can take the relevant action.

Who is intended to benefit from this procedural document?

This policy applies to all members of staff employed under a contract of employment, including students, bank workers, agency workers, holders of honorary contracts and volunteers.

Is this a Trustwide, Divisional, Directorate only or Department only procedural document?

Trustwide

Is there potential for, or evidence that, this procedural document will not promote equality of opportunity for all or promote good relations between different groups?

No

Is there potential for, or evidence that, this proposed procedural document will affect different protected groups/characteristics differently (including possibly discriminating against certain groups/protected characteristics - see below)?

Age

Disability

Gender Reassignment

Marriage & Civil Partnership

Pregnancy & Maternity

Race

Religion or Belief

Sex

Sexual Orientation

No

If the answer to one or both of the questions above is 'yes', the full Equality Analysis process must be undertaken.

If the answer to both of the questions above is 'no' then the full Equality Analysis process is not required and the Organisational Sign-Off can be now be completed.

Based on the answers given, to the questions above, is a full Equality Analysis required?

No

### **Recommend this EA for Full Analysis?**

No

### **Rate this EA**

Low

## **Organisation Sign-off Data**

Do you have any recommended actions?

If you have made any recommended actions have you advised the procedural document lead of these?

N/A

### **Comments**

Consideration should be given to ensuring that this document is made available in alternative formats to enable access for staff who may be not be able to access it in its current format.

### **Next Review Date**

2018-11-20

# Outstanding Actions

No outstanding actions

**FORM 1a- RATIFICATION FORM - FOR COMPLETION BY DOCUMENT LEAD**

Note: Delegated ratification groups may use alternative ratification documents approved by the procedural document groups.

**DOCUMENT DETAILS**

|   |  |
|---|--|
| Document Name:  | Raising Concerns at Work (Whistleblowing) Policy |
| Is the document new?  | No   |
| If yes a new number will be allocated by Governance   | New Number                                       |
| If No - quote old Document Reference Number   | NGH-PO-002                                       |
| This Version Number:  | 9.1  |
| Date originally ratified:   | Nov 2000   |
| Date reviewed:  | April 2016                                       |
| Date of next review: a 3 year date will be given unless you specify different                               | January 2019                                     |
| If a Policy has the document been Equality & Diversity Impact Assessed? (please attach the electronic copy) | Yes  |

**DETAILS OF NOMINATED LEAD**

|                |  |
|----------------|--|
| Full Name:     | Andrea Chown (inc Sarah Kinsella)  |
| Job Title:     | Deputy Director of HR (Corporate HR Officer)   |
| Directorate:   | Human Resources  |
| Email Address: | <a href="mailto:Andrea.chown@ngh.nhs.uk">Andrea.chown@ngh.nhs.uk</a><br>( <a href="mailto:sarah.kinsella@ngh.nhs.uk">sarah.kinsella@ngh.nhs.uk</a> ) |
| Ext No:        | 5986 (5770)  |

**DOCUMENT IDENTIFICATION**

|  |  |
|--|--|
| Keywords: <b>please give up to 10</b> – to assist a search on intranet | In addition to policy title – bullying, harassment, equality, victimisation, malpractice, wrongdoing, disclosure |
|--|--|

**GROUPS WHO THIS DOCUMENT WILL AFFECT?**

( please highlight the Directorates below who will need to take note of this updated / new policy )

|                              |                                 |                            |
|------------------------------|---------------------------------|----------------------------|
| Anaesthetics & Critical Care | Gynaecology                     | Medicine                   |
| Child Health                 | Haematology                     | Nursing & Patient Services |
| Corporate Affairs            | Head & Neck - inc Ophthalmology | Obstetrics                 |
| Diagnostics                  | <b>Human Resources</b>          | Oncology                   |
| Facilities                   | Infection Control               | Planning & Development     |
| Finance                      | Information Governance          | Trauma & Orthopaedics      |
| General Surgery              |                                 | Trustwide                  |

TO BE DISSEMINATED TO: NB – if Trust wide document it should be electronically disseminated to Head Nurses/ Dm's and CD's .List below all additional ways you as document lead intend to implement this policy such as; as presentations at groups, forums, meetings, workshops, The Point, Insight, newsletters, training etc below:

| Where                  | When    | Who          |
|------------------------|---------|--------------|
| Trust Induction        | Monthly | New Starters |
| Contract of Employment | Ongoing | New Starters |

FORM 1 & 2 - To be completed by document lead

|                    |         |           |
|--------------------|---------|-----------|
| HR Bulletin        | Monthly | All Staff |
| 1:1 meetings/DMB's | Monthly | Managers  |

**FORM 2 - RATIFICATION FORM to be completed by the document lead**

**Please Note:** Document will not be uploaded onto the intranet without completion of this form

**CONSULTATION PROCESS**

*NB: You MUST request and record a response from those you consult, even if their response requires no changes. Consider Relevant staff groups that the document affects/ will be used by, Directorate Managers, Head of Department ,CDs, Head Nurses , NGH library regarding References made, Staff Side (Unions), HR Others please specify*

| Name, Committee or Group Consulted | Date Policy Sent for Consultation | Amendments requested? | Amendments Made - Comments |
|------------------------------------|-----------------------------------|-----------------------|----------------------------|
|                                    |                                   |                       |                            |
|                                    |                                   |                       |                            |

**Existing document only - FOR COMPLETION BY DOCUMENT LEAD**

|  |          |   |
|--|----------|---|
| Have there been any significant changes to this document?<br><i>if no you do not need to complete a consultation process</i> |          | No addition of reference to Freedom to Speak Guardian (FSG) and national policy |
| <b>Sections Amended:</b>   | YES / NO | <b>Specific area amended within this section</b>                                |
| Re-formatted into current Trust format   | No       |   |
| Summary/ Introduction/Purpose  | YES      | Summary – FSG & national policy added   |
| Scope  | YES      |   |
| Definitions  | YES      | FSG added   |
| Roles and responsibilities   | YES      | FSG added   |
| Substantive content  | YES      | 7.3 – FSG added<br>7.10 – FSG added   |
| Monitoring   | YES      |   |
| Refs & Assoc Docs  | YES      | National policy added   |
| Appendices   | YES      |   |

| <b>FORM 3- RATIFICATION FORM (FOR PROCEDURAL DOCUMENTS GROUP USE ONLY)</b>  |   |   |   |
|---|---|---|---|
| <b>Read in conjunction with FORM 2</b>  |   |   |   |
|   | <b>YES / NO / NA</b>                              | <b>Recommendations</b>  | <b>Recommendations completed</b>  |
| <b>Consultation</b> Do you feel that a reasonable attempt has been made to ensure relevant expertise has been used?   | <b>YES</b>  |   |   |
| <b>Title</b> -Is the title clear and unambiguous?   | <b>YES</b>  |   |   |
| Is it clear whether the document is a strategy, policy, protocol, guideline or standard?  | <b>YES</b>  |   |   |
| <b>Scope</b> -Is the target audience clear and unambiguous?   | <b>YES</b>  |   |   |
| <b>Purpose</b> Is the purpose for the development of the document clearly stated?   | <b>NO</b>   | Include process for staff to raise concerns   | Done  |
| <b>Definitions</b> –is it clear what definitions have been used in the  | <b>YES</b>  |   |   |
| <b>Roles &amp; Responsibilities</b> Do the individuals listed understand about their role in managing and implementing the policy?  | <b>YES</b>  |   |   |
| <b>Substantive Content</b> is the Information presented clear/concise and sufficient ?  | <b>NO</b>   | Remove references to Freedom to Speak Up Guardians until such time as they are in place<br><br>7.7.2 – clarity that the different types of action that could be taken will be on a case by case basis<br><br>7.7.4 – reference counter fraud as an organisation that an external disclosure could be made to. | Removed 7.3, 7.10 & Appendix 1<br><br>Done<br><br>Not changed – as not an official prescribed body under PIDA legislation |
| <b>Implementation &amp; Training</b> – is it clear how this will procedural document will be implemented and what training is required?   | <b>YES</b>  |   |   |
| <b>Monitoring &amp; Review</b> (policy only) -Are you satisfied that the information given will in fact monitor compliance with the policy?   | <b>YES</b>  |   |   |
| <b>References &amp; Associated Documentation / Appendices</b> - are these up to date and in Harvard Does the information provided provide a clear evidence base? Are the reference provided using Harvard Referencing format? | <b>YES</b>  |   |   |
| Name of Ratification Group  | Ratified Yes:                                     | Date of Meeting:  |   |
|   | Ratified No:                                      |   |   |
|   | Ratified subject to amendments and chair approval |   |   |
| Name of Ratification Group  | Ratified Yes:                                     | Date of Meeting:  |   |
|   | Ratified No:                                      |   |   |
|   | Ratified subject to amendments and char approval  |   |   |