

FREEDOM TO SPEAK UP / WHISTLEBLOWING POLICY

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VERSION NUMBER:	4.1
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CONSULTATION GROUPS:	Policy Sub-Group Joint Partnership Committee PORG
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POLICY SUMMARY
This Policy sets out the rights and responsibilities of staff when raising issues of concern about what is happening at work and aims to make it clear that individual members of staff in the Organisation have a legal right and a duty to raise with their managers or the Trust Board any matters of concern they may have about safety, clinical practice, malpractice or wrong doing which may affect patients, the public, other staff or the organisation itself.
The Trust monitors the implementation of and compliance with this policy in the following ways:
Regular reporting to People, Equality and Culture Committee. Annual reporting to Executive Team and Trust Board. Quarterly reporting to the National Guardians Office.

Services	Applicable	Comments
Trustwide	✓	

The Director responsible for monitoring and reviewing this policy is The Executive Director of Major Projects & Programmes

ESSEX PARTNERSHIP UNIVERSITY NHS FOUNDATION TRUST

FREEDOM TO SPEAK UP / WHISTLEBLOWING POLICY

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ESSEX PARTNERSHIP UNIVERSITY NHS FOUNDATION TRUST

FREEDOM TO SPEAK UP (WHISTLEBLOWING) POLICY

Assurance Statement

The Organisation acknowledges the legal right and duty of workers to raise any matters of concern in accordance with this guidance.

In June 2022 NHS England published a National Freedom to Speak up Policy (*Freedom to Speak up Policy for the NHS*), mandated for all NHS Organisations to implement by 31 January 2024. The Trust has therefore adopted this policy (Appendix 1).

This Policy has taken into consideration this guidance. Other documents/guidance that was considered in the drawing up of this policy includes; The Speaking Up Charter, NHS Employers, October 2012, Circular EL(93)51 issued in June 1993 by the NHS Management Executive, Maintaining Clinical Excellence Report published by the Chief Medical Officer, 1996, The Public Interest Disclosure Act (PIDA) 1998, Enterprise and Regulatory Reform Act 2013, the Fit and Proper Person's Test, 2014, the Freedom to Speak up Review, 2015, EPUT's core values and Raising Concerns at Work, published by Whistleblowing Helpline, March 2014; and NHS Improvement's Freedom to Speak Up: raising concerns (whistleblowing) policy for the NHS April 2016.

This policy also compliments professional or ethical rules guidelines and codes of conduct on freedom of speech, such as, for example, the NMC Code of Professional Conduct, the GMC Guidance on Contractual Arrangements in Health Care the NHS Constitution and Duty of Candour.

The management of this policy within the Trust will be applied and demonstrate the Trust's corporate values and behaviours. These values being:

- We Care
- We Learn
- We Empower

In demonstrating these behaviours and values, supporting the achievement of its strategic priorities to:

- Deliver safe, high quality integrated care services
- Enable each other to be the best that we can be
- Work together with our partners to make our services better
- Help our communities thrive

1.0 INTRODUCTION

- 1.1 This Policy sets out the rights and responsibilities of staff when raising issues of concern about what is happening at work and aims to make it clear that:
- Individual members of staff in the Organisation have a legal right and a duty to raise with their managers or the Trust Board any matters of concern they may have about safety, clinical practice, malpractice or wrong doing which may affect patients, the public, other staff or the organisation itself.
 - The Board of Directors is committed to running the organisation in the best way possible. This policy is in place to reassure staff that it is safe and acceptable to speak up and to enable staff to raise any concerns they may have at an early stage and in the right way. Rather than wait for proof we would prefer staff to raise the matter when it is still a concern.
 - The Executive Director responsible for the Freedom to Speak Up agenda in the Trust is the Executive Director of People and Culture.
 - The Trust has in place a Principal Freedom to Speak up Guardian and Local Champions. They are an independent and impartial source of advice to staff, who is able to facilitate access to anyone in the organisation, including the Chief Executive, or if necessary refer staff to outside the organisation to the National Guardian Office
- 1.2 The Trust believes in the importance of raising concerns at work and is committed to encouraging workers to raise concerns openly and transparently as part of normal day to day practice and feels that this mechanism plays an important role in improving quality of service user support and patient safety, ensuring high quality and compassionate care is delivered based on individual human rights.

2.0 DUTIES

- 2.1 This policy applies to all staff who work for the Trust in full-time or part-time roles in a substantive or temporary capacity. It also applies to bank workers, students, trainees, people who are self-employed, employed through an agency, contractors or those working as a volunteer.
- The principles and support mechanisms will also be applicable for students who wish to raise concerns to their education and training providers.
- 2.2 Former employees may also raise concerns in line with this policy and procedure. All concerns must be raised ideally within three months of the last day of employment.
- 2.3 It is an expectation that all staff will raise any concerns about safety, clinical practice, malpractice or wrong doing which may affect patients, the public, other staff or the organisation itself. Every manager has a duty to ensure that staff are able to express their concerns through all levels of management of the Organisation. Managers must ensure that any staff concerns are dealt with

thoroughly and fairly and that the staff member raising the concern does not receive any detrimental treatment as a result of raising their concern.

Individual members of staff in the Trust have an obligation to safeguard all confidential information to which they have access, particularly information about individual service users or clients, which under all circumstances is strictly confidential, in line with the General Data Protection Regulation, 2016 (GDPR).

- 2.4 All workers in the healthcare sector should be mindful of the expectations and requirements when identifying concerns in the workplace. Workers registered with a professional regulatory body such as Nursing and Midwifery Council (NMC), General Medical Council (GMC) and Health and Care Professionals Council (HCPC) have to adhere to their respective codes of conduct. Professional codes of conduct usually place a duty on the practitioner to raise concerns where they see instances of poor practice or wrong doing, acting in the best interests of services users and protecting service users from danger. The NHS Constitution emphasises the importance of honesty and openness. It pledges that the NHS will “encourage and support all staff in raising concerns at the earliest reasonable opportunity”. The professional Duty of Candour makes a clear requirement to be open with patients and families when mistakes occur. The Freedom to Speak Up review encourages an environment where staff feel it is safe to raise concerns with confidence that they will be listened to and the concerns will be acted upon across the NHS.
- 2.5 If something is troubling a member of staff which they think the Trust should know about or believe should be looked into, please use this policy, the accompanying procedure and the associated appendices. Any concerns can be raised using this procedure not just concerns relating to patients. If, however, a member of staff wishes to make a complaint about the Trust or about how they have been treated, which is not in the public interest, please use the Dignity, Respect and Grievance Policy, HR2.
- 2.6 If a bank employee wishes to make a complaint about the Trust or about how they have been treated, which is not in the public interest, please use the Temporary Workers Conduct & Complaints Policy and Procedure.
- 2.7 If staff have a concern about financial misconduct or fraud, please refer to the Fraud & Bribery Policy (CP11). Guidelines for Staff must be followed in the event that the suspicion may be considered to fall within the remit of fraud and / or corruption.

3.0 PRINCIPLES

- 3.1 The policy’s accompanying procedure sets out the process to be followed when raising and dealing with a concern.
- 3.2 Individuals raising a concern will be provided with the opportunity to be accompanied by an accredited representative of a Trade Union or Trust work colleague at each stage of the process.
- 3.3 Any clauses within employment contracts that conflict with the protections provided by Public Interest Disclosure Act (PIDA) are void.

Such settlement agreements (previously called compromise agreements) are commonly referred to as ‘gagging clauses’. The Government now requires an inclusion in settlement agreements to make it clear that staff can make a disclosure in the public interest in accordance with PIDA, regardless of any confidentiality clause. This means that settlement agreements cannot be used by employers in an attempt to stop employees from whistleblowing.

4.0 MONITORING OF IMPLEMENTATION AND COMPLIANCE

- 4.1 The Board of Directors has delegated responsibility to the audit committee for the monitoring and review of this policy which will be reviewed annually.
- 4.2 The Principal Freedom to Speak Up Guardian in conjunction with Employee Relations will record and report on formal whistleblowing concerns raised.
- 4.3 Training is available to all workers and managers on how to raise a concern. This will include information in the Trust induction on how to raise concerns. It is recommended that all new workers complete the training module as part of their local induction process and all existing workers undertake the training module at regular intervals throughout their employment. In particular everyone in leadership and managerial positions should be given regular training on what to do when a concern is raised.

5.0 POLICY REFERENCES / ASSOCIATED DOCUMENTATION

- Speak up for a healthy NHS – How to implement and review whistleblowing arrangements in your organisation). DoH 2nd July 2010 in conjunction with the Social Partnership Forum and Whistleblowing Helpline.
- Circular EL(93)51 issued in June 1993 by the NHS Management Executive, The Public Interest Disclosure, Act 1998, and in line with our core values (see appendix 1).
- Professional or ethical rules guidelines and codes of conduct on freedom of speech, such as, for example, the NMC Code of Professional Conduct, and the GMC Guidance on Contractual Arrangements in Health Care.
- NHS Employers – The Speaking Up Charter. October 2012
- The Public Interest Disclosure Act (PIDA) 1998
- Enterprise and Regulatory Reform Act 2013
- Raising Concerns at Work, published by Whistleblowing Helpline, March 2014
- NHS Constitution
- Professional Duty of Candour
- Fit and Proper Person’s Test, 2014,
- Freedom to Speak up Review, 2015
- Freedom to Speak up (whistleblowing) policy for the NHS April 2016

6.0 REFERENCE TO OTHER TRUST POLICIES/PROCEDURES

- Fraud and Bribery Policy CP11
- Dignity, Respect and Grievance Policy HR2
- Employee Wellbeing, Sickness & Ill-Health Policy/Procedure HR26
- Disciplinary (Conduct) Policy and Procedure HR27A
- Capability Policy and Procedure HR27B
- Maintaining High Professional Standards – HR32

END
