

# Raising Concerns (Freedom to Speak Up) Policy

## CG17

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<b>Applies to:</b>	All those who are employed, contracted or seconded by NHS Resolution
<b>Version:</b>	5
<b>Date of JNC review:</b>	30 <sup>th</sup> August 2023
<b>Date of SMT review:</b>	18 <sup>th</sup> October 2023
<b>Date of ARC review:</b>	7 <sup>th</sup> November 2023
<b>Date of Board approval:</b>	24 <sup>th</sup> January 2024 (approved offline on 16 <sup>th</sup> February 2024, formally ratified at the 20 <sup>th</sup> March 2024 Board meeting)
<b>Next review date:</b>	January 2027
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## 1. Speaking up – we are listening

We welcome our staff speaking up and as an organisation we are committed to listening and taking action to improve.

The NHS People Promise commits to ensuring that 'we each have a voice that counts, that we all feel safe and confident to speak up and take time to really listen to understand the hopes and fears that lie behind the words'

This is how we improve and make NHS Resolution a place where people are excited to work, thrive and stay. We are keen for everyone to feel empowered to speak up and be supported, and managers should be supported to develop skills on how to listen and respond and act on those concerns.

To support staff speaking up there are a variety of informal and formal routes available.

Whilst this policy is not focussed on 'whistleblowing' (see section on Making a 'protected disclosure'), it does provide more detail about how we will look into a concern raised within NHS Resolution and how the principles of speaking up will be implemented. The Board and the Senior Management Team believe this creates a culture which celebrates openness and commitment to safety and improvement, where everyone should feel empowered to speak up and be supported, and managers should be trained how to listen and respond and act on those concerns.

## 2. Who should I raise my concern with?

As an organisation we are keen for people to have a variety of routes available to raise concerns. We hope that this helps everyone feel empowered to speak up and subsequently action is taken to address the issues. Some concerns raised may be better addressed through existing HR policies and procedures (e.g. HR02 – Employee Resolution (Grievance and Dignity at Work) policy and procedure), and the FTSU guardians together with HR can better advise the most appropriate route.

The routes are (note, this is not an exhaustive list):

- **Line Manager:** In many circumstances the most appropriate way to get your concern resolved will be to raise it with your line manager. Often concerns can be dealt with promptly by way of discussion with your line manager or if the concern directly involved them, their line manager (senior manager or service Director).
- **Your senior manager (or service Director):** this may be your line manager's manager, unless the concern directly involves them.
- **Human resources (HR):** if you consider it is not appropriate to approach either your line manager or another senior manager or you don't feel confident to do so, you should approach the HR Advisory team who will consider how best the concerns may be addressed. HR can provide advice on resolving the issue, signpost to information and support.
- **Union Representative:** via the Unison website or representative.
- **Staff Engagement Group (SEG)**

- **Local Counter Fraud Specialist (LCFS):** where you are concerned about fraud or potential fraud (also refer to CG09 – Anti Fraud, Bribery and Corruption Procedure and Policy)
- **FTSU Guardians:** Freedom to Speak up Guardians are able to provide support and guidance for staff to speak up when they feel that they are unable to do so by other routes. Our Guardians will make sure people who speak up are thanked, that the issues they raise are responded to, and make sure that the person speaking up receives feedback on the actions taken. . Guardians also work proactively to tackle barriers to speaking up. Freedom to Speak Up Guardians are appointed by the organisation that they support and adhere to the guidance and the Speak Up policy issued by the National Guardian's Office (NGO).

The details of our Guardians are available on the Intranet (Connect) under Support>Freedom to Speak Up. Guardians can be contacted by email at [nhsr.freedomtospeakup@nhs.net](mailto:nhsr.freedomtospeakup@nhs.net).

Our SMT lead acts as a support to the guardians, ensuring actions are being followed up on, ensuring key themes are brought to SMT attention if required, making connections within the organisation if required and supporting in complying with the statutory requirements. They are not given detail of individual cases.

Our Board lead (Non-Executive Director responsible for Freedom to Speak Up) is the Chair of the Audit & Risk Committee. They provide independent support for the FTSU Guardians; provide a fresh pair of eyes to ensure that investigations are conducted with rigor; and helps escalate issues, where needed. They also provide a route for the FTSU Guardians to report directly to the Audit and Risk Committee and to the Board on whether they are confident that the FTSU arrangements are robust and working effectively, and to escalate any thematic concerns they want to be resolved.

In exceptional circumstances, you may directly approach the Board lead (Non-Executive Director and Chair of the Audit & Risk Committee). If you wish to raise any FTSU concerns around SMT members, the Chair of the Board or Non-Executive Directors, you should contact the Board lead directly.

- The **National Guardian's Office:** is a body established as a result of the recommendations from the 2015 Freedom to Speak Up review. Its objectives are to:
  - Provide advice and support on the role of Freedom to Speak Up Guardians for NHS organisations in England.
  - Carry out case reviews
  - Put support in place for a Freedom to Speak Up Guardian network.
  - Establish a programme of engagement events.
  - Support the roll-out of training for Freedom to Speak Up Guardians

### 3. Scope

- This policy is in line with the Public Interest Disclosure Act 1998 which protects workers from detrimental treatment or victimisation from their employer if, in the public interest, they 'blow the whistle' on wrongdoing.
- This policy applies to all who work for NHS Resolution including its employees, agency workers, secondees and contractors.
- This policy does not form part of an employee's contract of employment.
- This policy is not designed for individual members of staff who wish to raise specific concerns about their employment that affect only them – that type of concern is usually better suited to our Employee Resolution (Grievance and Dignity at Work) policy and procedure [HR02].
- This policy does not address concerns which may be raised relating to a patient or a healthcare practitioner or other employee or a service or an organisation external to NHS Resolution. Any concern of this nature should be referred to the Significant Concerns Group.

### 4. Equality Impact Assessment

NHS Resolution aims to design and implement services, policies and measures that meet the diverse needs of our service, population and workforce, ensuring that none are placed at a disadvantage over others. It is a requirement that we conduct equality impact assessments on all policies and services within the organisation.

The purpose of the assessment is to minimise and, if possible remove any disproportionate impact on employees on the grounds of race, sex, disability, age, pregnancy and maternity, marriage and civil partnership, gender reassignment, sexual orientation, religious or other belief. As part of its development, this policy and its impact on equality have been reviewed in consultation with trade union and other employee representatives in line with NHS Resolution's equality impact assessment tool (Appendix A).

### 5. What concerns can I raise?

You can raise a concern about any risk, malpractice or wrongdoing being carried out by a member of NHS Resolution staff that you think is harming the service provided by NHS Resolution. Just a few examples of this might include (but are by no means restricted to):

- unsafe working conditions
- inadequate induction or training for staff
- deliberate breach of information governance rules
- absence of a response to a reported incident under our incident reporting policy and procedure [CG11]
- suspicion of fraud [where we will need to contact Local Counter Fraud Specialist in accordance with Anti-Fraud, Bribery and Corruption Policy and Procedure [CG09]]

- suspicion of criminal activity
- behaviours not in line with our PEER values e.g. bullying across a team or organisation (rather than individual instances of bullying which should be referred to HR to be managed under the Employee Resolution (Grievance and Dignity at Work) policy and procedure [HR02])
- breach of a legal or professional obligation.

You may have a professional duty to report a concern (e.g., you are a healthcare professional or hold a legal qualification). If in doubt, please raise it. Please do not feel you need to wait for proof. We would like you to raise the matter while it is still a concern.

## 6. Feel safe to raise your concern

An open and honest culture is extremely important to us at NHS Resolution. We are committed to supporting you if you have a concern that falls within the scope of this policy. We would expect anyone raising concerns to do so in adherence to our PEER values (Professional, Expert, Ethical, Respectful). If you raise a genuine concern in good faith under this policy, you will be supported by the organisation – you will not be at risk of losing your job or suffering any form of detriment as a result of raising a concern. We will not tolerate the harassment or victimisation of anyone raising a concern. Nor will we tolerate any attempt to bully you into not raising a concern. Any such behaviour is a breach of our values as an organisation and, if upheld following investigation, could result in disciplinary action.

Provided you are acting in good faith and present your concern with honesty, it does not matter if the concern transpires to be without substance, there may be a reasonable and appropriate explanation for the issue raised.

## 7. Confidentiality

It is hoped you will feel comfortable raising your concerns freely and as part of our routine way of conducting business and working with each other. We do however appreciate that you may want to raise them confidentially. By confidentially we mean that while you are willing for your identity to be known to the person you report your concern to, you do not want anyone else to know your identity. In these circumstances, we will keep your identity confidential. Exclusions to this applies in the following situations:

- where it is necessary to provide information at a resolution hearing or disciplinary hearing;
- to progress safeguarding adults / children issues;
- to address potential **serious** issues;
- to address potential cases of fraudulent activity or
- to provide information to other external agencies (e.g. to refer to professional bodies in line with professional standards and / or where sharing information is required by a statutory duty or other legal process).

You can raise a concern anonymously, but this could make investigations more difficult and we may not be able to provide you with feedback directly.

Freedom to Speak Up Guardians may raise broad themes arising from issues or concerns with senior managers or Human Resources to ensure learning is taken forward and will report to the Senior Management Team. We will not attribute any concerns to any specific individual.

## 8. Advice and support

Employees who are involved in raising concerns are reminded that NHS Resolution provides access to an Employee Assistance Programme which includes advice and a free confidential counselling service. The services can be accessed via the freephone number 0800 716 017 or via the online portal: [www.healthassuredeap.co.uk](http://www.healthassuredeap.co.uk).

You can also contact the Whistleblowing Helpline <https://speakup.direct/> for the NHS and social care, your professional body or trade union (Unison) representative.

You can also contact the following organisations:

- Speak Up Direct provides free, independent, confidential advice on the speaking up process.
- The charity Protect provides confidential and legal advice on speaking up.
- The Trades Union Congress provides information on how to join a trade union.
- The Law Society may be able to point you to other sources of advice and support.
- The Advisory, Conciliation and Arbitration Service gives advice and assistance, including on early conciliation regarding employment disputes

## 9. What will we do?

We are committed to dealing with concerns in accordance with the vision for raising concerns set out in the set out in the National Speak Up Policy for the NHS.

We are committed to listening to our staff, learning lessons and improving the services we provide. Where concerns are raised directly with the Freedom to Speak Up Guardian you will receive an acknowledgement within two working days where possible and where contact details have been provided. The secure central record will record the date the concern was received, whether you have requested confidentiality, a summary of the concerns and an on-going record of when we have given you updates or feedback.



## 10. Investigation

Where you have not been able to resolve a concern with your line manager or other relevant person under section 2, the Freedom to Speak Up Guardian will work with you to determine how best to deal with your concern. Depending on who you report your concerns to, the matter to be taken forward as an investigation of the concerns. This will be supported by advice from HR.

This may involve carrying out a proportionate investigation in line with the following principles:

- the investigation is conducted by a suitably independent investigator
- the investigation is completed promptly within an agreed timescale
- the investigation has a level of independence that is proportionate to the gravity and complexity of the concern
- wherever possible the concern will be addressed by a single investigation that will also where appropriate look at any wider issues relevant to the concern raised
- the investigation will be objective and evidence based.

The investigation will produce a report that focuses on identifying and rectifying any issues, and learning lessons to prevent problems recurring.

Depending on the concern, the Freedom to Speak Up Guardian may seek advice from Human Resources to inform whether your concern would be better looked at under another process, for example our process for dealing with bullying and harassment. If so, we will discuss this with you before the process is implemented. Any employment issues (that affect only you and not others) identified during the investigation will be considered separately.

## 11. Communicating with you

We will treat you with respect at all times. We will discuss your concerns with you to ensure we understand exactly what you are worried about. We will tell you how long we expect the investigation to take and keep you up to date with its progress. Wherever possible, we will share the full investigation report with you (while respecting the confidentiality of others recognising that some matters may be strictly confidential; as such it may be that we cannot even share the outcome with you).

## 12. How will we learn from your concern?

The focus of the investigation will be in improving the service we provide and is not aimed at disciplinary matters. Where it identifies improvements that can be made, we will track them to ensure necessary changes are made, and are working effectively. Lessons will be shared with teams across the organisation, or more widely, as appropriate.



To facilitate this Freedom to Speak Up Guardians meet regularly with the HR&OD team and with senior managers as needed. These meetings are to feedback on themes which have arisen from individual feedback. The themes will never be attributable to individuals nor will individuals be discussed or identified. An example of a theme might be that a particular policy is unclear and therefore individuals and line managers find it not as easy as it might be to use in practice. The requested action might be to clarify the policy. The SMT is committed to responding to thematic feedback from the FTSU Guardians.

### 13. Audit and Risk Committee and Board oversight

The NHS Resolution Audit and Risk Committee will receive an annual report on the effectiveness of the arrangements for the freedom to raise concerns including achievements of the past year, confirmation that legal requirements have been met, forward priorities and themes arising from the Guardians work. The ARC will in turn report to the Board. These reports will include usage of the policy, and will cover such matters as to whom the concerns were raised and the broad themes of areas of concern. The report will not attribute any concerns to any specific individual.

The Audit and Risk Committee Chair, who is the Board representative for FTSU meets regularly with the FTSU Guardians, and with the SMT representative to ensure that they are receiving effective organisational support to carry out their role.

We will include similar reporting in our Annual Report.

### 14. Review

We will review the effectiveness of this policy and local process at least every three years, with the outcome published and changes made as appropriate.

### 15. Raising your concern with an organisation outside NHS Resolution

The aim of this policy is to provide an internal mechanism for reporting, investigating and remedying wrongdoing in the workplace. If you do however feel it necessary to do so you may raise your concern outside the organisation and if so you may wish to discuss with those named at section 2 of this policy steps to take this forward, and the relevant authority to do so.

### 16. Making a 'protected disclosure'

There is a difference between raising concerns and whistleblowing. The law sets out several criteria that must be met for raising concerns to qualify as whistleblowing. If all of the conditions set out in the law are met, the person who is blowing the whistle has legal protections to stop them suffering any disadvantage from their employer because of what they have done. Whistleblowing law provides protection for workers ("whistleblowers") who raise a legitimate concern about specified matters – a protected disclosure – which means that you shouldn't be treated unfairly or lose your job because you 'blow the whistle'.

Examples of concerns which may be considered as protected disclosures include:

- criminal offence, e.g. fraud
- someone's health and safety is in danger
- risk or actual damage to the environment
- a miscarriage of justice
- you consider the organisation is breaking the law
- you believe someone is covering up wrongdoing

There are however very specific criteria that need to be met for an individual to be covered by whistleblowing law when they raise and report a concern (to be able to claim the protection that accompanies it). There is a defined list of 'prescribed persons or bodies' who you can make a 'protected disclosure' as defined in the Public Interest Disclosure Act 1998 to.

To help you consider whether you might meet these criteria, please seek independent advice from the Whistleblowing Helpline <https://speakup.direct/> for the NHS and social care, Protect (formerly known as Public Concern at Work) <https://protect-advice.org.uk/> or a legal representative.

## 17. Implementation

Following the approval of any changes to this Policy, the updated Policy will be published on the Intranet (Connect) and communicated to all staff through the weekly staff bulletin (This Week). Where roles and/or responsibilities have changed within this Policy, direct communication will be made by the Policy Author to the relevant staff and training provided (where necessary).

## 18. Links to related policies and procedures

CG09	Anti-Fraud, Bribery and Corruption Policy and Procedure
CG11	Incident reporting policy and procedure
HR02	Employee Resolution (Grievance and Dignity at Work) policy and procedure
	Significant concerns framework
	Public Interest Disclosure Act 1998

## 19. Document control

Date	Author	Version	Reason for change
2023 review			
Policy Author Freedom to speak up colleague review	Tinku Mitra Lorraine Hutchings, Niamh McKenna	V5.1 Draft	First review
Internal HR policy review group Joint Negotiating Committee (JNC) review	Karen Stone  Arthur Keitch	V5.2 Draft	Second review
Freedom to Speak Up Non-Executive Director lead review  Operational Delivery Group (ODG) representatives review	Charlotte Moar  Kamal Bedi, David Gurusinghe, Disa Young	V5.3 Draft	Third review
18 <sup>th</sup> October 2023 SMT meeting  7 <sup>th</sup> November 2023 ARC meeting	SMT members  ARC members	V5.4 Draft	Fourth review. Endorsed for approval.
24 <sup>th</sup> January 2024 Board meeting	Board members	V5 Final	Approved offline on 16 <sup>th</sup> February 2024 following 24 <sup>th</sup> January 2024 Board meeting. Formally ratified at the 20 <sup>th</sup> March 2024 Board meeting.
06 March 2024	S Hassell	V5	Fixed some broken hyperlinks

## Equality impact assessment tool

To be completed and attached to any procedural document as part of main document sited between version control sheet and contents page

No.	Does the document/guidance affect one group less or more favourably than another on the basis of:	Yes/No	Comments
1.	Race	No	
2.	Ethnic origins (including gypsies and travellers)	No	
3.	Culture	No	
4.	Nationality	No	
5.	Age	No	
6.	Disability - learning disabilities, physical disability, sensory impairment and mental health problems	No	
7.	Gender	No	
8.	Gender reassignment	No	
9.	Marriage and civil partnership	No	
10.	Pregnancy and maternity	No	
11.	Religion and belief	No	
12.	Sex	No	
13.	Sexual orientation including lesbian, gay and bisexual people	No	
14.	Is there any evidence that some groups are affected differently?	No	
15.	If you have identified potential discrimination, are there any exceptions valid, legal and/or justifiable?	N/A	
16.	Is the impact of the document/guidance likely to be negative?	No	
17.	If so, can the impact be avoided?	N/A	
18.	What alternative is there to achieving the document/guidance without the impact?	N/A	
19.	Can we reduce the impact by taking different action?	No	
<b>Names and Organisation of individuals who carried out the Assessment: Please give contact details</b>		<b>Date of the Assessment</b>	
Tinku Mitra, Deputy Director of Corporate and Information Governance		October 2023	