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Version	Date	Comment
1	No Record	New Policy
2	August 2011	Scheduled Review
3	June 2013	Scheduled Review
4	October 2015	Updated to take account of Freedom to Speak Up Review and Francis Report 2015 findings

### Equality Impact Assessment

This document has been reviewed in line with the Trust's Equality Impact Assessment guidance and no detriment was identified. This policy applies to all regardless of protected characteristic - age, sex, disability, gender-re-assignment, race, religion/belief, sexual orientation, marriage/civil partnership and pregnancy and maternity.

### Dissemination and Access

This document can only be considered valid when viewed via the East & North Hertfordshire NHS Trust Knowledge Centre. If this document is printed in hard copy, or saved at another location, you must check that it matches the version on the Knowledge Centre.

### Associated Documentation

Anti-Fraud and Bribery Policy, the Grievance Procedure, Safeguarding Children Policy, Safeguarding Adults Policy, Being Open Policy, other patient safety policies and the Disciplinary Policy.

### Review

This document will be reviewed within three years of issue, or sooner in light of new evidence.

## 1.0 INTRODUCTION AND SCOPE

Following the Freedom to Speak Up review and the Francis Report 2015 findings, we have reviewed our policy to reassure and support all staff that it is safe and desirable to speak up and to encourage and enable them to raise any concerns they may have as soon as possible and in the right way.

This policy applies to all those who work for us: whether full-time or part-time, self-employed, employed through an agency or as a volunteer. The policy also applies to students undertaking their training within the Trust and employees of any subsidiary wholly owned by the Trust.

You should raise concerns about your daily working environment, for example about one-off equipment failures or an individual shift staffing level, with your line manager. The Trust would prefer staff to raise concerns early to their line manager, rather than wait for a problem to occur that affects a service user or carer.

This policy is designed to address concerns that are likely to fall outside of these daily occurrences and where staff may feel that the issue requires a different route to bring the matter to attention of a higher level within the organisation, for example the matter is of a very sensitive nature involving the competence of a colleague.

Additionally, you can use this policy to raise concerns where a routine concern already raised with a line manager is not being dealt with appropriately. This policy should be used where you have concerns that the interests of others or of the organisation itself are at risk.

Reporting of concerns can also apply to staff that have left the Trust's employment. Ex-employees may raise concerns under this policy within 3 months of leaving the Trust and these will be managed in accordance with Trust policies and procedures.

This policy will be used in conjunction with other associated Trust policies, such as the Anti-Fraud and Bribery Policy, the Grievance Procedure, Safeguarding Children Policy, Safeguarding Adults Policy, Being Open Policy, other patient safety policies and the Disciplinary Policy. This list is not exhaustive.

This most recent version of this document and all other policy documents can be obtained via the East & North Hertfordshire NHS Trust Knowledge Centre.

## 2.0 DUTIES

The Trust has an obligation, led by the Board and Chief Executive to ensure concerns are dealt with in the appropriate manner to ensure a high level of service provision.

We all have a responsibility to raise concerns and to seek to improve practice and to enhance patient and carer experience and safety. Where professional codes of practice/conduct exist, failure to raise concerns may also be a breach of these codes.

The NHS Constitution supports anyone raising a concern by confirming the need to protect staff from detriment in employment, and by noting the right not to be unfairly treated or dismissed for 'whistleblowing' or reporting wrongdoing in the workplace.

It identifies the duty of staff to raise any genuine concern about a risk, malpractice, or wrongdoing at work (such as a risk to patient safety, fraud or breach of patient confidentiality), which may affect patients, the public, other staff or the organisation itself, at the earliest reasonable opportunity.

It commits the Trust to supporting all staff in raising such concerns, and where necessary, investigating the claim and acting consistently with the Public Interest Disclosure Act 1998.

This commitment is also underpinned by the 'Speaking Up' Charter, which has been agreed by NHS Employers in partnership with NHS regulators, professional regulatory bodies, health unions and professional associations.

## 3.0 PROTECTING STAFF WHO RAISE CONCERNS

The Trust Board and the staff unions and professional associations are committed to this policy. If you raise a genuine concern under this policy, you will not be at risk of losing your job or suffering any detriment (such as reprisal or victimisation). Provided you are acting in good faith, it does not matter if you are mistaken or if there is an innocent explanation for your concerns. Of course we do not extend this assurance to someone who maliciously raises a matter they know is untrue.

With these assurances, we hope you will raise your concern openly. However, we recognise there are circumstances when you may prefer to speak to someone in confidence first. If this is the case, please say so at the outset. If you ask us not to disclose your identity, we will not do so without your consent unless required by law. You should understand that there may be times when we are unable to resolve a concern without revealing your identity, for example where your personal evidence is essential. In such cases, we will discuss with you whether and how the matter can best proceed.

Please note that if you do not tell us who you are it will be much more difficult for us to look into the matter. We will not be able to protect your position or to give you feedback. Accordingly you should

not assume we can provide you these assurances in the same way if you report a concern anonymously.

#### 4.0 ADVICE AND SUPPORT

If you are unsure about raising a concern at any stage you can get confidential and independent advice from the RCN, UNISON, BMA, UNITE or any other recognised Trade Union or Professional Association. You can also contact the organisation Public Concern at Work (See Appendix 1 for contact details).

The NHS Whistleblowers Helpline can also provide impartial advice. (See Appendix 1 for contact details).

#### 5.0 TRUST VALUES

The Trust has the following values, which outline the way in which staff should conduct themselves and behave in the workplace, and which are intended to encourage a culture of openness. It is an individual's responsibility to be aware of the Trust values and appropriate behaviours that are expected within the workplace:

<b>P</b>	Patients – we put our patients first
<b>I</b>	Improvement – we strive for continuous improvement
<b>V</b>	Value – we value everybody
<b>O</b>	Open – we are open and honest
<b>T</b>	Team – we work as a team

#### 6.0 HOW TO RAISE A CONCERN

At any stage you may raise a concern either on your own or you may prefer to come forward with a colleague, Trade Union representative or other adviser (not acting in a legal capacity).

##### Step One

In the first instance you should raise any concerns about a risk, malpractice or wrongdoing at work with your line manager, professional adviser or lead clinician. This may be done verbally or in writing.

##### Step Two

If you feel unable to raise a concern with your line manager, professional adviser or lead clinician, please raise the matter with one of the following:

- Deputy Director of Workforce and OD
- Deputy Director of Nursing
- Any Executive Director
- Chief Executive
- Head of Internal Audit (contact details in Appendix 1 – externally provided by PwC)
- The Employee Relations Advisory Service (ERAS)

The people above have been given special responsibility and training in dealing with whistleblowing concerns. If you want to raise the matter in confidence, please say so at the outset so that appropriate arrangements can be made.

You can also raise a concern via the Datix incident reporting system.

To provide greater staff confidence in the handling of concerns the Trust may also commission an independent external provider to receive and collate the initial reporting of staff concerns and then escalate these to the individuals listed above.

### **Step Three**

If these channels have been followed and you still have concerns, or if you feel the matter is so serious that you cannot discuss it with any of the above, you should contact the Trust's Whistleblowing Guardian.

The Whistleblowing Guardian is an independent Non Executive Director with special responsibility for this area, who can be contacted via the Company Secretary at the Lister Hospital at the address given in Appendix 1.

If, the concern being raised is about the Chief Executive, this should be made to the Chairman of the Trust, who may be contacted through the Company Secretary via the contact details given in Appendix 1.

These people have been given special responsibility and training in dealing with whistleblowing concerns. If you want to raise the matter in confidence, please say so at the outset so that appropriate arrangements can be made.

Additionally, concerns can be raised with the NHS Whistleblowers Helpline, the GMC or CQC which are all external to the Trust. Contact details can be found in Appendix 1.

## **7.0 HOW THE TRUST WILL HANDLE YOUR CONCERN**

Once you have told us of your concern, we will assess it and consider what action may be appropriate. This may involve an investigation or an internal inquiry. We will tell you who will be handling the matter, how you can contact them, and what further assistance we may need from you, if you have not raised the concern anonymously.

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

It will be important to establish clearly if the issue raised is in the public interest and should be dealt with as a concern using this policy or whether it should be categorised in another way and dealt with via another policy (e.g. grievance).

## **8.0 RAISING A CONCERN EXTERNALLY**

While we hope this policy gives you the reassurance you need to raise your concern internally with us, so we can act on your concern quickly. We recognise there may be circumstances where you can properly report a concern to an outside body. Your union, the CQC, the GMC or *Public Concern at Work* will be able to advise you on such an option if you wish, and the Trust notes your lawful right to raise such a concern externally where appropriate.

## 9.0 TRUST PROCESS FOR INVESTIGATING A CONCERN

### 9.1 Investigation

When a Trust officer receives information about a concern from an employee who is raising a concern under this policy, then that officer will need to contact the Employee Relations Advisory Service who will also notify the Deputy Director of Workforce and OD as a matter of urgency. If the Deputy Director of Workforce and OD is unavailable for more than 24 hours, for example if they are on leave, then the matter should be escalated to the Director of Workforce and OD.

These officers will need to decide whether the concern can be investigated by an investigating officer, or whether the issue is sufficiently serious or complex such that an internal inquiry may be required (see section 9.2 of this policy).

The Deputy Director of Workforce and OD or the Director of Workforce and OD may then assign the investigation to an investigating officer, normally by agreement with the Director of Operations, or if more appropriate, by agreement with the Chief Executive. The investigating officer should not have had any previous involvement with the matter raised. The need for confidentiality must be an important consideration at all times.

The Employee Relations Advisory Service and the Deputy Director of Workforce and OD will provide HR support to the investigating officer, if this is required.

Alternatively, the case will be referred to the Chief Executive or the Trust Chairman so that an internal inquiry can be set up as per section 9.2 of this policy.

The investigating officer will need to log the investigation with the Company Secretary and Employee Relations Advisory Service on a confidential basis, and the name of the person raising the concern will be anonymised within the case log where requested. An investigation will be carried out to establish the facts of the incident or complaint, before deciding if there is a formal case to answer, and whether to proceed under Trust policies or procedures. In cases of suspected fraud, this will be passed for investigation in the first instance to the Local Counter Fraud Service (LCFS).

All employees raising concerns have the right to be represented by their Trade Union or Professional Organisation Representative or accompanied by a colleague (other than a person acting in a legal capacity). The right to representation does not include relatives or friends.

The Investigating Officer will send a letter inviting the individual who raised the initial concern to attend an investigatory meeting for which the employee will be given no less than 7 working days' notice. If they wish to be accompanied at the investigatory meeting, it is the employees' responsibility to contact their representative at the earliest opportunity. An employee who cannot attend a meeting should inform the Investigating Officer in advance whenever possible. If an employee's representative cannot attend on a proposed date, the employee can suggest another date, so long as it is a reasonable amount of time (and within two weeks maximum) after the original date proposed by the employer. A summary of the investigatory meeting will be made and provided to the employee to sign and date as a record of the meeting. Once agreed, the summary, together with any statement the employee may have provided, will be considered as the employee's full statement.

The Investigating Officer may choose to obtain evidence from other employees and/or patients/members of the public. Witnesses will generally be asked to provide a statement that must be signed and dated by them as a true and accurate record of the events.

The investigating officer should aim to conclude the investigation within one month from obtaining the employee's full statement. Any extension will need to be by agreement with the Company Secretary and if appropriate the Whistleblowing Guardian.

Once all the evidence has been considered and collected in the form of a written report, the Investigating Officer will recommend whether there is a case to answer and whether the matter should be progressed under another Trust policy or procedure, such as the Trust's Disciplinary Policy and Procedure. Should the recommendation be that there is no case to answer, the Investigating Officer will write to the employee to confirm this and send a copy to the Employee Relations Advisory Service.

The manager to whom the disclosure was made will offer to keep the member of staff who has raised the concern informed about the investigation. However, it should be noted that the Trust might not be able to disclose the precise action taken where this would breach a duty of confidentiality.

Where there is no case to answer, but the employee held a genuine concern and was not acting maliciously, the manager to whom the disclosure was made should ensure that the employee suffers no reprisals and that appropriate support is provided including the Employee Assistance Programme. Only where a concern is made maliciously, will it be considered appropriate to consider disciplinary action against the employee.

## **9.2 Internal Inquiry**

If the concern raised is very serious or complex, an internal inquiry may be held. The constitution of the investigatory team will depend upon the issues to be investigated and will usually be approved by the Chief Executive or Trust Chairman as appropriate in consultation with the Whistleblowing Guardian. An Investigation Chair will be appointed by the Chief Executive or Trust Chairman to oversee the investigatory team and the scope of the investigation, and a lead will be appointed within the investigatory team by the Chair. Timescales for the investigation will also need to be agreed with the Chair, usually with an initial timeframe of thirty days. The Chair may also need to consider and approve any resourcing requirements needed to support the investigatory team. The principles by which the investigation will be carried out will be as set out in the section of this policy on the Trust Process for Investigating a Concern as set out above.

## **9.3 Anonymous Concerns**

If an anonymous concern is received an investigation team will meet to discuss the contents of the concern as directed by the Whistleblowing Guardian. However without talking to the employee(s) through an interview and without the collection of any additional facts, a full investigation may not be possible.

The Trust has implemented 'Speak In Confidence', which is an anonymous dialogue platform via secure email that enables staff to raise concerns, issues of bullying and harassment and surface ideas. Employees using the service choose who to direct their message to. The employee will have the option of selecting one from ten senior staff members across the Trust. The web address for 'Speak in Confidence' is detailed in Appendix 1.

## **10.0 POLICY MONITORING**

A review of all cases dealt with under this policy will be undertaken on an anonymised basis, to see whether the cases were handled appropriately and to identify any lessons learned, themes or requirements for policy update. This will be undertaken at least twice a year and present by the Company Secretary to the Trust Audit Committee and into the private section of the Trust Board.

## Appendix 1

### Useful Contacts

#### **Company Secretary**

**(Will also support contact with the Trust Whistleblowing Guardian – Alison Bexfield, Vice Chair/Non-Executive Director)**

Jude Archer  
Internal location code L66  
East and North Hertfordshire NHS Trust  
Lister Hospital  
Coreys Mill Lane  
Stevenage  
Herts  
SG1 4AB

Telephone: 01438 314333 extension 5454  
Mobile: 07917 836804  
Email: [jude.archer@nhs.net](mailto:jude.archer@nhs.net)

#### **Head of Internal Audit**

Tim Merritt  
Baker Tilly  
Email: [tm.merritt@bakertilly.co.uk](mailto:tm.merritt@bakertilly.co.uk)

#### **Employee Relations Advisory Service (ERAS)**

[Telephone: 01438 285757 extension 5757](tel:01438285757)  
[Email: eras.enh-tr@nhs.net](mailto:eras.enh-tr@nhs.net)

#### **Speak In Confidence – a secure and anonymous platform to raise a concern**

<http://www.speakinconfidence.com/enht>

#### **Local Counter Fraud Service (LCFS)**

Chris Hooper  
Baker Tilly  
Mobile: 07748 517 353  
Email: [chris.hooper@bakertilly.co.uk](mailto:chris.hooper@bakertilly.co.uk)

#### **NHS Whistleblowers Helpline**

Telephone: 08000 724 725.

**Public Concern at Work**

Website: [www.pcaw.org.uk](http://www.pcaw.org.uk)  
Telephone: 0207 404 6609.

**Regulatory Bodies**

CQC (Care Quality Commission) [www.cqc.org.uk](http://www.cqc.org.uk)  
NHS Counter Fraud Service [www.nhsbsa.nhs.uk/fraud](http://www.nhsbsa.nhs.uk/fraud)  
Health & Safety Executive [www.hse.gov.uk](http://www.hse.gov.uk)  
The Charity Commission [www.charity-commission.gov.uk](http://www.charity-commission.gov.uk)  
Health Protection Agency [www.hpa.org.uk](http://www.hpa.org.uk)  
Health and Care Professions Council [www.hcpc-uk.org](http://www.hcpc-uk.org)  
General Medical Council [www.gmc-uk.org](http://www.gmc-uk.org)  
Nursing and Midwifery Council [www.nmc-uk.org](http://www.nmc-uk.org)

**REFERENCES****NHS Constitution**

[www.dh.gov.uk](http://www.dh.gov.uk)

**Speaking Up Charter**

[www.nhsemployers.org](http://www.nhsemployers.org)