

# Raising Concerns Policy

## CG17

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<b>Applies to:</b>	All those who are employed, contracted or seconded by NHS Resolution
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## 1. Speaking up – we are listening

The principles in this policy originate from a number of recommendations of the review by Sir Robert Francis into whistleblowing in the NHS, aimed at improving the experience of whistleblowing in the NHS and to make raising concerns part of every member of staff's normal working life. Whilst this policy is not focussed on whistleblowing, 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?

In many circumstances the most appropriate way to get your concern resolved will be to raise it informally with your line manager. Often concerns can be dealt with promptly by way of discussion with your line manager. There are also a number of routes you can raise a concern through our HR policies and procedures, such as:

- HR02 – Grievance policy and procedure
- HR17 – Dignity at work

If raising a concern with your line manager does not resolve matters, or you do not feel able to raise it with them, and you do not want to use the routes through the HR policies you can contact one of the following people to seek advice on raising your concern:

- Your senior manager (or service Director), unless the concern directly involves them.
- If you consider it is not appropriate to approach either your line manager or another senior manager, you should approach the Head of HR and OD who will liaise with the Chief Executive to advise on any overlap with other policies and how best the concerns may be addressed

In addition to all other raising concerns channels, Freedom to Speak up Guardians have been appointed to provide guidance for the member of staff.

Our Guardians are:

- Elaine Offei-Dodoo
- Kirsty O'Reilly
- Lorraine Hutchings

The role of the guardian is explained in 3 below.

In exceptional circumstances, you may directly approach the Board representative for Freedom to Speak Up Mike Pinkerton (Non-Executive Director). In cases involving the Chair, you should contact Mike Pinkerton directly.

They can be contacted by email at [freedomtospeakup@resolution.nhs.uk](mailto:freedomtospeakup@resolution.nhs.uk)

### 3. What is a Freedom to Speak Up Guardian?

Freedom to Speak Up Guardians support staff to speak up when they feel that they are unable to do so by other routes. They ensure that 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 support their organisation to tackle barriers to speaking up. Freedom to Speak Up Guardians are appointed by the organisation that they support and adhere to the guidance issued by the National Guardian's Office (NGO).

### 4. National Guardian Freedom to Speak Up

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.

### 5. Scope

- 5.1. 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.
- 5.2. This policy applies to all who work for NHS Resolution including its employees, agency workers, secondees and contractors.
- 5.3. This policy does not form part of an employee's contract of employment.
- 5.4. This policy is not for people with concerns about their employment that affect only them – that type of concern is usually better suited to our grievance policy and procedure (HR02).
- 5.5. 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 organization external to NHS Resolution. Any concern of this nature should be referred to the significant concerns group.

### 6. 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. This is appended at Annex A.

## 7. What concerns can I raise?

7.1. 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
- lack of, or poor, response to a reported patient safety incident
- deliberate breach of information governance rules
- absence of a response to a serious reported incident under our incident reporting policy [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
- bullying across a team or organisation (rather than individual instances of bullying which should be referred to be managed under the dignity at work policy and procedure – HR17)
- breach of a legal or professional obligation.

7.2. For further examples, please see the video entitled Raising Concerns which has been produced by Health Education England and which is available from <https://www.youtube.com/watch?v=zjau1Ey0di8>. A link to key contacts is shown below:

<https://www.hee.nhs.uk/sites/default/files/documents/Raising%20concerns%20contacts.pdf>

7.3. If you are a healthcare professional you may have a professional duty to report a concern. 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.

## 8. Feel safe to raise your concern

8.1. 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.

- 8.2. 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.

## 9. Confidentiality

- 9.1. We hope 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 unless we are required to disclose it by law (for example, by the police).
- 9.2. 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.
- 9.3. 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 may report to the Senior Management Team. We will not attribute any concerns to any specific individual.

## 10. 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](#) for the NHS and social care, your professional body or trade union representative.

## 11. What will we do?

We are committed to dealing with concerns in accordance with the vision for raising concerns set out in the Freedom to Speak Up review available at:

<https://www.gov.uk/government/groups/whistleblowing-in-the-nhs-independent-review>.

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 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.

## 12. Investigation

Where you have not been able to resolve a concern with your line manager or other relevant person named at (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 as outlined at (2) above, we may refer the matter to one of the Freedom of Speak Up Guardians to take forward 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 suitable 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.

## 13. 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).

## 14. 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.

## 15. Audit and Risk Committee and Board oversight

The NHS Resolution Audit and Risk Committee will receive reports on the effectiveness of the arrangements for the freedom to raise concerns, and 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.

We will include similar reporting in our Annual Report.

## 16. Review

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

## 17. 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.

## 18. 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 to.

To help you consider whether you might meet these criteria, please seek independent advice from the [Whistleblowing Helpline](#) for the NHS and social care, [Protect](#) (formerly known as Public Concern at Work) or a legal representative.

## 19. Related policies

CG09	Anti-Fraud, Bribery and Corruption Policy and Procedure
CG11	Incident reporting policy and procedure
HR02	Grievance policy and procedure
HR17	Dignity at Work Policy and Procedure
	Significant concerns framework

## 20. Document control

Date	Author	Version	Reason for change
2020 review			
Freedom to speak up Guardian review	Lorraine Hutchings/Elaine Offei-Dodoo	v.1.0	First review
Operations Review Risk Group	All members	v.2.0	Second review
JNC	Arthur Keitch	v.2.0	Third review
SMT	SMT members	V3.0	Fourth review
Board	Chair	V4.0	Fifth review

## 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 Head of Corporate and Information Governance		October 2020	