



## FREEDOM TO SPEAK UP (RAISING CONCERNS) POLICY

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Document Author = Cath Cox, Head of HR Business Partners				
This document is controlled. If you would like to suggest amendments to this document please contact the document author.				

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## **1. STATEMENT OF INTENT**

**Yorkshire Ambulance Service NHS Trust (the Trust) is wholly committed to honesty, openness and accountability. We support and endorse the findings and recommendations of the independent Freedom to Speak Up Review of February 2015.**

**Having an open reporting culture is key to the delivery of safe and compassionate care. For it to be effective, the raising of concerns (often referred to as “whistleblowing”) should be embraced as a normal part of employment practice, where staff feel confident and safe to speak up without fear of any repercussion or reprisal.**

**Raising concerns can save lives, jobs, money and the reputation of professionals and organisations. It is a valuable early alert system, which when communicated and dealt with properly, contributes towards quality care and compassion along with staff and patient well-being.**

## **2. INTRODUCTION**

2.1 This policy outlines the commitment of the Trust to honesty, openness and accountability within the organisation.

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2.3 This policy and accompanying guidance have been written with due consideration of the NHS Constitution, the law, the recommendations of the Francis Report and the Freedom to Speak Up Review, to outline clearly the process employees should follow in order to raise genuine concerns.

2.4 The Trust recognises that it is sometimes not easy for employees to raise concerns and has established an appropriate and safe framework for staff to understand when and how to raise concerns. The Trust has an established mission statement and values which clearly support and underpin this framework.

## **3. PRINCIPLES**

3.1 The Trust will not tolerate an organisational culture where poor patient care is accepted and ignored.

3.2 This policy supports the principles of the Public Interest Disclosure Act 1998 that no employee will be victimised for raising genuine concerns internally.

3.3 The Trust will provide the necessary and appropriate support to any member of staff who raises a genuine concern. This will include support for release of time and expenses. These will be reviewed on a case by case basis via the Risk & Safety Team.

3.4 The Trust aims to provide a working environment where employees feel empowered, confident and safe to raise issues internally.

3.5 Any action taken as a result of an employee raising a concern will be treated in the strictest of confidence accepting that dealing with concerns may require some information being used.

3.6 Any genuine concern will be investigated swiftly and effectively to minimise any risk to patients or staff.

3.7 It is the responsibility of every employee to raise genuine concerns when there is a possibility of risk to patients or colleagues.

3.8 We encourage staff to raise concerns first via their line manager or supervisor. If it cannot be resolved at this level staff should raise concerns via another manager and if at this point resolution is still not reached the Freedom to Speak Up process should be accessed

3.9 Compromise agreements containing clauses seeking to prevent disclosures protected under the Public Interest Disclosure Act 1998 are not acceptable.

To be covered by whistleblowing law when you raise your concern (to be able to claim the protection that accompanies it) you must reasonably believe two things:

- i. you are acting in the public interest (so your concern needs to be more than a personal grievance)
- ii. your disclosure tends to show past, present or future wrongdoing that falls into one or more of the following categories:
  - criminal offence
  - failure to comply with a legal obligation
  - miscarriage of justice
  - danger to the health or safety of any individual
  - damage to the environment and/or
  - covering up the wrongdoing in the above categories.

#### **4. WHAT DOES A GOOD RAISING CONCERNS CULTURE NEED?**

4.1 In order to create positive culture in which staff feel they can safely raise concerns we need to consider:

- leadership and management commitment
- clear policies and arrangements
- effective communication and engagement with all staff
- openness and transparency
- including this in values based recruitment, employment and appraisal
- training
- feedback

4.2 It is crucial that all Trust staff understand the principles of raising concerns.

4.3 Research has shown that a large number of staff will raise a concern internally at least twice (usually with their line manager or middle manager), giving the Trust the ideal opportunity to deal with concerns early on.

## **5. ROLES AND RESPONSIBILITIES**

5.1 Managers should ensure that all staff have a clear understanding about what raising concerns refers to, and the process. It is important to consider how to engage and communicate with staff to ensure that they are familiar with policies and procedures and feel supported in using them. Managers should ensure that they are aware of the options for reporting routes as outlined in Trust policy.

5.2 The line manager will typically be the person that staff will come to when they have concerns and managers are therefore ideally placed to cascade information and champion a positive culture.

5.3 Staff should familiarise themselves with the process for raising concerns and should, if possible, raise their concerns with their immediate line manager in the first instance.

5.4 Many staff will be anxious when raising a concern and as the first point of contact the manager can do a great deal to help reduce some of the anxiety that staff face. Concerns will vary both in nature and severity and it is important that staff know the available reporting channels and have confidence that their concerns will be addressed effectively.

5.5 In many cases the line manager will be able to quickly put the matter right informally, in others there may be a need to investigate and, for serious or repeated issues, refer these appropriately.

5.6 Encouraging a healthy dialogue which enables staff to question and challenge in a very informal way, as part of team meetings, staff briefings and 1:1s are effective ways of making the raising of concerns more normalised as part of everyday practice.

5.7 By talking about lessons learned and seeking views to identify better ways of working helps to reinforce that raising concerns is everyone's responsibility.

5.8 A strong organisational approach to raising concerns not only promotes the value of openness, transparency and candour, but encourages staff to treat patients with compassion, respect and dignity.

## **6. WHO CAN RAISE A CONCERN?**

6.1 Anyone who works (or has worked) in the NHS, or for an independent organisation that provides NHS services, including agency workers, temporary workers, students and volunteers, can raise concerns.

## **7. WHEN SHOULD STAFF RAISE A CONCERN?**

7.1 All employees are encouraged to raise genuine concerns regarding the following:

- Abuse of clients / patients.
- Clinical malpractice, including ill treatment of a patient or client.
- Criminal offences, which have been committed or are likely to be committed.
- Financial malpractice, including fraud or suspected fraud.
- Disregard for legislation, particularly in relation to Health and Safety at work.
- Damage or the risk of damage to the environment or Trust property.
- Failure to comply with any legal duty
- A deliberate attempt to cover up any of the above

(This list is not exclusive or exhaustive)

## **8. ALTERNATIVE REPORTING CHANNELS**

8.1 There will be occasions where a member of staff doesn't feel able to raise a concern with their direct line of management or supervision – possibly because he/she is involved or in cases where the concern wasn't addressed by them in the first instance.

For these situations, it is important that staff are aware of other reporting channels, for example, another member of the management team, Chief Executive, freedom to speak up champion or guardian.

8.2 Alternatively, you can raise your concern outside the organisation with:

- Monitor for concerns about:
  - NHS foundation trusts
  - other providers licensed by Monitor
  - NHS procurement, choice and competition
  - the national tariff
- NHS Trust Development Authority for concerns about non-foundation NHS trusts
- Care Quality Commission for quality and safety concerns
- NHS England for concerns about:
  - primary medical services (general practice)
  - primary dental services
  - primary ophthalmic services
  - local pharmaceutical services
- Health Education England for education and training in the NHS
- any other relevant prescribed person – you can find a list at [www.gov.uk](http://www.gov.uk)

## **9. FREEDOM TO SPEAK UP – INTERNAL PROCESS**

9.1 A structured internal process has been developed to enable staff who wish to raise a concern to do so within a clear framework. This is attached at Appendix 1.

9.2 The Trust has appointed a number of Freedom to Speak Up (FTS) Guardians who represent all areas of the Trust. These are staff members who have volunteered to take a lead role in this work and will be available for advice and support should staff prefer not to take the matter via their usual management line.

9.3 The Trust also has a Lead Guardian in place and this person will have regular and direct contact with the Chief Executive and will also be the key link to the National Guardian based in the Care Quality Commission.

9.4 A list of current FTS Guardians and contact details is attached at Appendix 3

9.5 Additional support is available for staff at every stage of this process via the Trusts Employee Wellbeing Services and from trade union safety representatives.

## **10. INVESTIGATION & CONFIDENTIALITY**

10.1 Where you have been unable to resolve the matter with your line manager, we will investigate – using someone suitably independent (usually from a different part of the organisation) and properly trained – and we will reach a conclusion within a reasonable timescale (which we will notify you of). The investigation will be objective and evidence based, and will produce a report that focuses on learning lessons to prevent problems recurring.

10.2 We may decide that 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 that with you. Reports of fraud should be made to our local counter-fraud team.

10.3 Any employment issues identified during the investigation will be kept separate.

10.4 We hope you will feel comfortable raising your concern openly, but we also appreciate that you may want to raise it confidentially. Therefore, we will keep your identity confidential, if that is what you want, unless required to disclose it by law (for example, by the police). You can choose to raise your concern anonymously, but that may make it more difficult for us to investigate thoroughly and give you feedback on the outcome.

## **11. THE VALUE OF OPENESS AND ACCOUNTABILITY**

11.1 Many organisations have policies and procedures in place to support staff but for these to be effective staff need to feel empowered to raise concerns.

11.2 For it to work effectively in practice, the Board needs to demonstrate commitment to ensuring that everyone in the organisation is responsible for the safety and well-being of patients and service users. This includes speaking up when things aren't right.

11.3 Organisations who promote raising concerns are more likely to be viewed by their staff as better employers and better service providers.

## **12. CONSEQUENTIAL BEHAVIOURS AND BULLYING**

12.1 It is important to be clear on the Trust's view on false allegations and the action that will be taken if a concern is raised maliciously.



12.2 It is also important however, to reassure staff that they are not required to evidence proof of their concerns and if they are genuinely mistaken, there will be no action taken against them.

12.3 Managers need to take all reasonable steps to ensure that an individual who has raised a concern is not bullied or victimised by staff.

12.4 Managers should be very clear that victimisation of someone who has raised a concern and the raising of malicious false allegations are not acceptable and will be dealt with formally.

### **13. RE-BUILDING RELATIONSHIPS AND TEAMS**

13.1 After a concern has been raised, it is important to spend time with all those concerned, to help re-build relationships and teams with support from HR and trade unions if needed.

13.2 The emotional impact on all those directly involved cannot be underestimated. Having access to external mediation and early reconciliation can be helpful in managing any breakdown of relationships within teams and in continuing to support individuals who have raised concerns.

13.3 Sometimes the employment relationship breaks down irretrievably therefore it is important for managers to explore options for redeployment where the person raising concerns feels unable to return to their post or team. In these situations advice should always be sought from HR.

13.4 Having clear processes in place reduces:

- sickness absence
- low staff morale
- poor relations/performance
- time consuming formal proceedings such as grievances or tribunals

13.5 In cases where colleagues subject a member of staff to any form of victimisation as a result of raising a concern and the employer cannot evidence that all reasonable measures were put in place to minimise the risk of any such victimisation – then the employer may be held vicariously liable.

### **14. PROCESS FOR REVIEW AND REVISION**

This policy will be reviewed in five years' time unless legislative or other changes necessitate an earlier review.

### **15. ASSOCIATED DOCUMENTATION**

This policy operates in conjunction with the following documents:

- Freedom to Speak Up – Route Map
- Freedom to Speak Up (Raising Concerns) – Guidance Document
- FTS Guardians – Contact List
- Freedom to Speak Up – Standard Operating Procedure
- Issue Resolution (Grievance) Policy
- Bullying & Harassment Policy

## **16. REFERENCES**

NHS Employers: [www.nhsemployers.org.uk](http://www.nhsemployers.org.uk)

## **Appendix 1 – FTS Route Map**

Landscape version to be inserted when agreed amendments complete

## **Appendix 2**

### **Freedom to Speak Up – Guidance for Staff**

#### **1. Background**

Yorkshire Ambulance Service NHS Trust (the Trust) is wholly committed to honesty, openness and accountability. We support and endorse the findings and recommendations of the independent Freedom to Speak Up Review of February 2015.

Having an open reporting culture is key to the delivery of safe and compassionate care. For it to be effective, the raising of concerns (often referred to as “whistleblowing”) should be embraced as a normal part of employment practice, where staff feel confident and safe to speak up without fear of any repercussion or reprisal.

Raising concerns can save lives, jobs, money and the reputation of professionals and organisations. It is a valuable early alert system, which when communicated and dealt with properly, contributes towards quality care and compassion along with staff and patient well-being.

A member of staff may have a concern about inappropriate patient care, a breach of health and safety malpractice or fraud. No matter what the issue is, it is important it is dealt with effectively.

The Freedom to Speak Up Review led by Sir Robert Francis QC recognises that much progress had been made in the NHS since the report into the failings at Mid Staffordshire. However, there are still issues that need to be addressed as a priority if we are to continue building a culture of improvement and learning.

Ignoring concerns is not an option. Doing so risks the reputation of the Trust and damages the public confidence in the services we provide.

#### **2. Raising Concerns v Issue Resolution (Grievance)**

For all staff and managers, making an early distinction between raising a concern and raising an issue is important and will ensure that matters are dealt with via the most appropriate process. The Issue Resolution (Grievance) Policy is in place to enable employees to deal with individual or collective issues between themselves and their employer.

If a member of staff or a manager is unsure about the most appropriate process to follow, advice can be sought from the HR department or from trade union representatives.

An issue (grievance) relates to a personal complaint made by an individual about their own employment situation, as opposed to being in the public interest.

However it is important to be aware that personal complaints may uncover an underlying issue which, when investigated, may be in the public interest – for example where the complaint is in relation to bullying and harassment.

In such cases managers will need to carefully consider and assess the facts and decide on the best course of action. It is important to keep a record of how the decision was reached in case of being asked to provide evidence by a regulator, employment tribunal or court.

### **3. Difficult Conversations**

The nature of raising concerns can often lead to difficult conversations and the way in which they are handled by both parties can impact on more than the situation in question. Some situations can be complex so it's good to be prepared, understand the different approaches available and seek assistance when needed.

Having sensitive or difficult issues is an integral part of raising concerns for both staff and managers and there are some practical steps you can take to ensure the best possible outcome when raising, discussing and dealing with concerns.

Having a planned conversation at the first available opportunity is key. Take time to find out the facts and check YAS policies. If at this stage you feel you need support then seek this from a senior manager, HR or trade union representative.

ACAS guidance outlines some helpful steps managers can take for both informal and formal conversations:

- set the tone
- be calm and professional
- reassure your staff member
- focus on the issue not the person
- make notes
- keep an open mind
- ask questions and explore the issue together

Individuals raising concerns will be assured that the matter will be investigated and they will receive feedback on the concern.

The individual will be provided with copies of the conversation paperwork and will be referred to appropriate local policies.

It is important that staff feel support them during and after time the concern is raised and the support required can be discussed at the initial meeting.

Staff confidence can be damaged if appropriate feedback is not given after a concern has been raised.

### **4. Supporting staff**

For staff to raise concerns, they need to feel supported and empowered to do so at an early stage. One way to encourage this is to regularly talk about the importance and benefits at team meetings and during 1:1s.

Responding positively to a concern is key. Managers need to be approachable, open and prepared.

Understanding the Trust's Raising Concerns Policy will help managers and staff to identify roles and responsibilities and when to seek advice.

Staff should be given the opportunity to raise any concerns during their PDR.

## **5. Protecting and informing staff throughout the process**

Two of the main reasons people are reluctant to raise a concern are fear of any repercussions and lack of feedback. A positive raising concerns culture, where staff feel they can raise any issues with their line manager; and managers are open and honest with staff throughout the process, providing feedback where possible, can help to alleviate these.

There are lots of ways managers, ambassadors and champions can support staff following the point at which a concern is raised.

Counselling, stress management or, in some cases mediation, can support an individual through what can be a daunting time.

## **6. Continual improvement checklist**

- Learn from concerns. Consider ways to develop positive solutions and offer training and development where possible.
- Keep the Board informed and share learning to help prevent recurrence of the issue elsewhere in the organisation.
- Work with other forums and parts of the organisation to raise issues – ensuring system wide learning.
- Spread positive outcomes (the individual doesn't have to be named) and help encourage other staff to do the same.
- Provide feedback to the individual who raised the concern and spend time helping to re-build working relationships where they may have been broken
- Speak regularly to the member of staff who raised the concern to ensure they haven't suffered any untoward consequences, paying attention to their emotional and physical wellbeing.

## **Appendix 3**

### Trust FTS Guardians & Other Useful Contact Details