



# **Freedom to Speak Up Policy (incl. Raising Concerns/Whistleblowing)**

**Author: Freedom To Speak Up Guardian**

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Document Author = Luzani Moyo, Freedom to Speak Up Guardian

Associated Documentation:

- Freedom to Speak Up – Route Map
- FTSU Guardians – Contact List
- YAS Behavioral Framework
- Dignity and Respect at Work Policy
- Grievance Policy

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## Staff Summary

Yorkshire Ambulance Service NHS Trust is wholly committed to honesty, openness and accountability.
Having an open reporting culture is key to the delivery of safe and compassionate care.
The Trust aims to provide a working environment where employees feel empowered, confident and safe to raise issues internally.
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 is an effective way of making the raising of concerns more normalised as part of everyday practice.
Speaking up can improve the quality and safety of patient care, staff wellbeing and workplace culture. It can identify things that can be improved.
The Trust recognises that it is sometimes not easy for employees to raise issues or concerns and has established an appropriate and safe process for staff wishing to raise concerns.
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.
The issues raised through the Freedom to Speak Up Guardian will be likely to primarily relate to patient or staff safety, aspects of organisational culture which may impact on staff confidence in raising concerns, or other matters in the public interest. However, staff from any department should feel able to raise issues or concerns about any topic via the Freedom to Speak Up process, with the confidence that they will be heard and the appropriate route for resolution considered.
We encourage staff to raise issues or concerns first via their line manager or supervisor. If they cannot be resolved at this level staff can raise concerns via another manager and if at this point resolution is still not reached the Freedom to Speak Up (FTSU) process can be accessed. Trade union representatives are also available to support staff in raising concerns.
The Dignity at Work or Issue Resolution Policies and Procedures are also in place to support employees wishing to raise personal issues or grievances and wherever possible the Trust will encourage the use of these options first to address issues. Reports of fraud should be made to the Trust's local counter-fraud team.
This policy supports the principles of the Public Interest Disclosure Act 1998 that no employee will be victimised for raising genuine concerns internally.
Any issue or concern will be investigated swiftly and effectively to minimise any risk to patients or staff.
Managers need to take all reasonable steps to ensure that an individual who has spoken up is protected from any adverse consequences.
After a person has spoken up, we recognise that this can sometimes create stresses and strains on relationships and where necessary the Trust will work with trade unions and others to support individuals and teams to resolve these.

### 1.0 Introduction

- 1.1 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.
- 1.2 Having an open reporting culture is key to the delivery of safe and compassionate care. For it to be effective, the raising of issues or 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.

- 1.3 Speaking up can save lives, jobs, money and the reputation of professionals and organisations. It is a valuable early alert system, which contributes towards the safety and quality of patient care and staff well-being.
- 1.4 There are a range of processes available in the Trust to support staff who wish to raise work-related concerns, including the person's immediate supervisor or more senior manager in the department, and HR processes including those relating to dignity and respect and issue resolution. Trade union representatives are also available to support staff in raising issues or concerns.
- 1.5 The Freedom to Speak Up Guardian and Freedom to Speak Up processes do not replace the role of line managers or other Trust processes, but act as a safety net, complementing these other routes for raising issues or concerns, for example in situations where staff do not feel confident to speak up via other routes or the issue remains unresolved after the route map for raising concerns has been followed.

## **2.0 Purpose/Scope**

- 2.1 This policy outlines the commitment of the Trust to honesty, openness and accountability within the organisation.
- 2.2 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.
- 2.3 We hope you will feel comfortable raising your concern openly, but we also appreciate that you may want to raise it confidentially. This means 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. 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, without giving anyone your name, but it is important to recognise that this may make it more difficult for us to investigate thoroughly and give you feedback on the outcome.
- 2.4 The Trust recognises that it is sometimes not easy for employees to speak up and has established an appropriate and safe process for staff wishing to raise concerns. The Trust has an established 'Behavioural Framework' which clearly supports and underpins this process.

## **3.0 Process**

### **3.1 When should staff raise a concern?**

- 3.1.1 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.
- 3.1.2 The issues raised through the Freedom to Speak Up Guardian will be likely to primarily relate to patient or staff safety, aspects of organisational culture which may impact on staff confidence in raising such concerns, or other matters in the public interest. They may relate for example to:
  - Abuse of clients / patients.
  - Safety or quality of clinical care

- Behaviours which have or may impact negatively on patient safety or quality, staff well-being or openness and transparency in the Trust
  - Criminal offences, which have been committed or are likely to be committed.
  - 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
  - Financial malpractice, including fraud or suspected fraud.
  - A deliberate attempt to cover up any of the above
- 3.1.3 Staff are encouraged to speak to their line manager or make use of the range of processes available to them for raising concerns. However, staff from any department should feel able to raise issues or concerns about any topic via the Freedom to Speak Up process, with the confidence that they will be heard and the appropriate route for resolution considered.

## **3.2 Freedom to Speak Up – Internal Process**

- 3.2.1 A structured internal process has been developed to enable staff who wish to raise a concern to do so within a clear framework. The Freedom to Speak Up Route Map is accessible via the Freedom to Speak Up page on Pulse.
- 3.2.2 The Trust has a FTSU 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's Office.
- 3.2.3 The Trust has also appointed Freedom to Speak Up (FTSU) Advocates 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. Contacts details for the FTSU Guardian and Advocates can be found on the Freedom to Speak Up page on Pulse.

## **3.3 Support for staff raising concerns**

- 3.3.1 The Trust aims to provide a working environment where employees feel empowered, confident and safe to raise issues internally.
- 3.3.2 The Trust aims to address any organisational cultures where poor patient care or poor services appear to be accepted or ignored. Concerns raised are not limited to patient care but includes other issues that maybe in the public interest.
- 3.3.3 This policy supports the principles of the Public Interest Disclosure Act 1998 that no employee will be victimised or suffer a detriment for raising concerns internally.
- 3.3.4 The Trust will provide the necessary and appropriate support to any member of staff who raises a 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.
- 3.3.5 Any action taken as a result of an employee speaking up will be treated in the strictest of confidence accepting that dealing with concerns may require some information to be shared with relevant parties.
- 3.3.6 Any concern will be looked into swiftly and effectively to minimise any risk to patients or staff.

- 3.3.7 It is the responsibility of every employee to speak up if there is a possibility of risk to patients or colleagues. Healthcare Professionals also have a professional responsibility to raise concerns that could impact on the quality & safety of care.
- 3.3.8 If in doubt, please raise it. Provided that there is no malicious intent, colleagues are encouraged to raise the matter while it is still a concern and this can be done with or without any evidence, especially where there is an element of potential risk to patient, staff or public safety.
- 3.3.9 We encourage staff to raise issues or 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 (FTSU) process can be accessed. Staff can also still raise concerns with their Union safety representative at any point.
- 3.3.10 Concerns about policy and procedure or terms or conditions of work may best be suited to be raised through the grievance procedure. If unsure of the best route to raise a concern, staff can take advice from their manager, the Human Resources advisor, their Freedom to Speak up Guardian/ Advocate or from their Trade Union representative. Staff are however encouraged to raise their concerns internally before going to the press or external parties.
- 3.3.11 The Dignity at Work or Issue Resolution Policies and Procedures are also in place to support employees wishing to raise personal issues or grievances and where possible the Trust will encourage the use of these options first to address issues. Where issues are raised via Freedom to Speak Up, we will consider whether they can first be addressed through the management process or one of the Trust's other procedures.
- 3.3.12 The main focus of this policy is on the Trust's approach to speaking up, aligned to national Freedom to Speak Up policy and guidance. It also addresses the more specific requirements in the Public Interest Disclosure Act 1998.
- 3.3.13 Settlement agreements containing clauses seeking to prevent disclosures protected under the Public Interest Disclosure Act 1998 are not acceptable.
- 3.3.14 To be covered by the Public Interest Disclosure Act 1998 when you raise your concern (to be able to claim the protection that accompanies it) you must reasonably believe two things:
- 3.3.14.1 You are acting in the public interest (so your concern needs to be more than a personal grievance). For example a bullying culture (across a team or organisation rather than individual instances of bullying).
- 3.3.14.2 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
  - cover up of any wrongdoing in the above categories.

- 3.3.15 Staff are encouraged to raise internally, before involving any external parties, regulatory bodies i.e., CQC or the media. Please refer to the process in Appendix 2 or the list of alternative bodies to report to in Section 3.5
- 3.3.16 The whistleblowing helpline provides free and impartial advice for NHS and social care employees.
- 3.3.17 Employees are protected by law if they disclose certain matters which are considered to be reasonable. Therefore, you will **not** be at risk of losing your job or suffering any detriment (such as a reprisal or victimisation). One or more of the following factors, relative to the nature of the external contact, would be taken into consideration in deciding whether such a disclosure will be protected.
- The disclosure must be in the public interest.
  - It must be a serious matter relating to one of the following: a crime, a breach of legal obligation, a miscarriage of justice, a danger to health, safety or the environment.
  - The disclosure itself must not involve the committing of an offence.
  - The disclosure must not be for personal gain.
  - An assessment of whether media disclosure was justifiable would also include whether the issue had first been raised first with the Trust through one of the routes set out in this policy.
- 3.3.18 Additional support is available for staff at every stage of this process via the Trust's Employee Wellbeing Services, Human Resources and from trade union safety representatives.

#### 3.4 Investigation & Confidentiality

- 3.4.1 There are a range of processes available in the Trust to support staff who wish to raise work-related concerns, including the person's immediate supervisor or more senior manager in the department, other members of the directorate management team and HR processes including those relating to dignity and respect and issue resolution.
- 3.4.2 The Freedom to Speak Up Guardian acts as a safety net, complementing these other routes for raising issues or concern, for example in situations where staff do not feel confident to speak up via other routes or the issue remains unresolved after the route map for raising concerns has been followed.
- 3.4.3 The Trust will consider all issues or concerns raised formally log and through the Freedom to Speak Up process to identify the most appropriate route for investigation and resolution.
- 3.4.4 The Trust may decide that an issue or concern would be better managed by another process; for example, the process for dealing with bullying and harassment. If so, the Trust will discuss this approach with the staff person raising the issue or concern.
- 3.4.5 If the issue or concern can be managed simply and easily by the Advocate/Guardian and it does not have wider safety implications that require further consideration, the Advocate/Guardian should be able to facilitate resolution at a local level within 48 hours.
- 3.4.6 Where the issue cannot be resolved immediately by the Guardian or Advocate in liaison with the person raising concerns and the relevant management team. Where this is not possible the Trust will ensure that an investigation or review process is put in place, led by someone suitably independent. Where possible, this will be via an existing HR or

other established Trust procedure. In all cases the Trust will ensure that people raising concerns feel safe within the agreed process and that there is independent oversight of the actions taken. In a minority of cases where there are recurrent themes which cannot easily be addressed by direct investigation, a tailored review led by someone independent may be initiated. The Trust will ensure the lead has adequate knowledge and experience of understanding the impact of unconscious bias and the complexities of intersectionality, particularly in relation to those with protected characteristics. The rationale for a review and its scope will be clearly communicated to stakeholders before it begins. Reviews of this nature are distinct from investigations. They will be objective and evidence based and will produce a report within a reasonable agreed timescale, that focuses on learning lessons to address current issues or to prevent problems recurring.

3.4.7 Investigations or reviews will consider the specific issues or concerns raised and where appropriate will also support the identification of wider learning for the organisation.

3.4.8 Any employment issues identified during the investigation will be kept separate and managed under established HR procedures.

3.4.9 The Trust hopes that staff will feel comfortable in speaking up openly, although it is recognised that staff may want to raise their concerns confidentially. In these circumstances the trust will keep the reporter's identity confidential, unless required to disclose it by law (for example, by the police). Staff can choose to speak up anonymously but in doing so, it may make it more difficult for the trust to investigate thoroughly and provide feedback on the outcome.

### 3.5 **Alternative Reporting Channels**

3.5.1 There will be occasions where a member of staff doesn't feel able to raise a concern with their direct line of management or supervisor – possibly because they are 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 Advocate or Guardian and Union safety representative.

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

- NHS England for concerns about:
  - How NHS trusts and foundation trusts are being run
  - Other providers with an NHS provider licence
  - NHS procurement, choice and competition
  - the national tariff
  - primary medical services (general practice)
  - primary dental service
  - primary ophthalmic services
  - Local pharmaceutical services
- Care Quality Commission for quality and safety concerns
- Health Education England for education and training in the NHS

### 3.6 **National Guardian Freedom to Speak Up**

3.6.1 The Trust's Freedom to Speak Up Guardian is registered with the national office and is supported by a National Guardian. The National Guardian can independently review how staff have been treated having raised concerns where NHS trusts and foundation trusts

may have failed to follow good practice. The National Guardian will work with some of the bodies listed above to take action where needed.

### **3.7 Expectations for staff**

- 3.7.1 Speak up – we will listen. Speaking up about any concern you have at work is really important. In fact, it is vital because it will help us to keep improving our services for all patients and the working environment for our staff.
- 3.7.2 You may feel worried about raising a concern, and we understand this, but please don't be put off. In accordance with our duty of candour, our senior leaders and entire board are committed to an open and honest culture. We will look into what you say and you will always have access to the support you need.
- 3.7.3 The process for following up an issue or concern will be discussed with the person speaking up and they will be kept informed of progress and the outcome of the investigation or review. Feedback to the person raising concerns will provide as much information as possible to the individual raising concerns without breaching data protection rules or infringing a duty of confidence owed by the Trust to someone else.

### **3.8 Consequential Behaviours and Bullying**

- 3.8.1 The Trust will carefully consider all issues raised. It is important to reassure staff that they are not required to evidence proof when raising their concerns (so long as there is no malicious intent). There won't be any negative consequences for them if the subsequent investigation or review does not find evidence to support the issues or concerns. Where this is the case, the conclusion and an explanation for this will be fed back to the person speaking up.
- 3.8.2 Where issues or concerns raised are knowingly false or malicious, however, this would breach the expectations set out in the Trust's Behavioural Framework and appropriate action may be taken in relation to the individual involved.
- 3.8.3 Managers need to take all reasonable steps to ensure that an individual who has raised a concern is not bullied or victimised by staff.
- 3.8.4 Managers should be very clear that victimisation of someone who has spoken up is not acceptable and will be dealt with in line with Trust policy.

### **3.9 Re-building Relationships and Teams**

- 3.9.1 After a person has spoken up, we recognise that this can sometimes create stresses and strains on relationships and where necessary the Trust will work with trade unions and others to support individuals and teams to resolve these.
- 3.9.2 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. Health and wellbeing support will be offered with signposting to occupational health.
- 3.9.3 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.

#### 3.9.4 Having clear processes in place reduces:

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

3.9.5 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.

### **4.0 Implementation Plan**

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

4.2 The latest approved version of this Policy will be posted on the Trust Intranet site for all members of staff to view. New members of staff will be signposted to how to find and access this guidance during Trust Induction.

### **5.0 Monitoring compliance with this Policy**

5.1 Regular meetings (as a minimum on a monthly basis) will take place involving the Freedom to Speak Up Guardian, the trust Chief Executive, the Executive Director of Quality, Governance & Performance Assurance, the Head of Employee Relations and the Head of Investigations & Learning will review all recent (live and closed) Freedom to Speak Up concerns to ensure senior executive visibility of all concerns raised through the Freedom to Speak Up process. This group will also be responsible for identifying and agreeing any action plans required to progress concerns and assist in breaking down any barriers being experienced in the progression of any live concerns.

5.2 The Freedom to Speak Up Guardian will provide a monthly briefing paper to the Executive Director of Quality, Governance & Performance Assurance for verbal presentation to the Trust Management Group (TMG), a written paper will be tabled quarterly.

5.3 The Freedom to Speak Up Guardian will provide a written paper to the Executive Director of Standards and Compliance to be tabled quarterly to the Trust Audit Committee.

5.4 The Freedom to Speak Up Guardian will also present in person to the Trust Board twice a year.

### **6.0 References**

6.1 This policy operates in conjunction with the following documents:

- [National Guardian's Office](#)
- <https://youtu.be/B8z7jYf4GL0>
- [The Public Interest Disclosure Act - GOV.UK](#)

### **7.0 Appendices**

Appendix 1 – Roles and Responsibilities

Appendix 2 – Freedom to Speak Up – Process flowchart

## **Appendix 1 - Roles & Responsibilities**

### **Managers**

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. The role of line managers in this situation is to be open to issues raised, protect confidentiality, act on or appropriately escalate concerns raised.

Managers should ensure that all staff have a clear understanding about what speaking up refers to, and the Freedom to Speak Up 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.

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

Many staff will be anxious when raising an issue or 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. Issues and 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.

In many cases the line manager will be able to resolve the matter quickly and, in others there may be a need to investigate and, for serious or repeated issues, refer these appropriately. In some situations, the Trust's offer of Mediation may be a helpful option to explore. The Diversity and Inclusion service can support with this.

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.

When things go wrong, we need to make sure that lessons are learnt and things are improved. By talking about lessons learned and seeking views to identify better ways of working helps to reinforce that raising concerns is everyone's responsibility.

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

All Executive Directors have the obligation to support Freedom to Speak Up within the Trust in addition within the Freedom to Speak Up commitment to everyone speaking up and in line with current NGO guidance.

We have designated enhanced roles including the Freedom to Speak Up Guardian and Board Members who have essential roles and responsibilities.

### **Chief Executive and the Chair**

The Chief Executive is responsible for appointing the Freedom to Speak Up Guardian and is ultimately accountable for ensuring that Freedom to Speak Up arrangements meet the needs of the workers in their Trust.

The Chief Executive and the Chair are responsible for ensuring the annual report contains information about Freedom to Speak Up and that the Trust is engaged with both the regional Guardian network and the National Guardian's Office.

Both the Chief Executive and the Chair are key sources of advice and support for their Freedom to Speak Up guardian and meet with them regularly.

### **Executive Lead for Freedom to Speak Up**

The Executive lead is responsible for:

- Ensuring they are aware of latest guidance from National Guardian's Office
- Overseeing the creation of the Freedom to Speak Up vision and strategy
- Ensuring the Freedom to Speak Up guardian role has been implemented, using a fair recruitment process in accordance with the example job description and other guidance published by the National Guardian's Office
- Ensuring that the Freedom to Speak Up Guardian has a suitable amount of ring-fenced time and other resources and there is cover for planned and unplanned absence
- Ensuring that a sample of speaking up cases have been quality assured
- Conducting an annual review of the strategy, policy and process
- Operationalising the learning derived from speaking up issues
- Ensuring allegations of detriment are promptly and fairly investigated and acted on
- Providing the board with a variety of assurance about the effectiveness of the Trust's strategy, policy and process.

### **Non-Executive Lead for Freedom to Speak Up**

The Non-Executive lead is responsible for:

- Ensuring they are aware of latest guidance from National Guardian's Office Holding the Chief Executive, the Executive Freedom to Speak Up lead and board to account for implementing the speaking up strategy. Where necessary, they should robustly challenge the board to reflect on whether it could do more to create a culture responsive to feedback and focused on learning and continual improvement.
- Role-modelling high standards of conduct around Freedom to Speak Up, acting as an alternative source of advice and support for the Freedom to Speak Up Guardian.

### **Director of People and Organisational Development**

The Director of People and OD is responsible for:

- Ensuring that the Freedom to Speak Up Guardian has the support of HR staff and appropriate access to information to enable them to triangulate intelligence from speaking up issues with other information that may be used as measures of Freedom to Speak Up culture or indicators of barriers to speaking up
- Ensuring that HR culture and practice encourage and support speaking up and that learning in relation to workers' experience is disseminated across the trust
- Ensuring that workers have the right knowledge, skills and capability to speak up and that managers listen well and respond to issues raised effectively.
- Ensure that in line with the guidelines from the National Guardians Office that any member of staff who is suspended from work is given information on how to access the Freedom to Speak up Guardian for support but not for advice.

### **Personal Responsibility**

All staff have a responsibility to address situations at work where the standards we aspire to or where Trust values are not met and if they cannot be resolved, to raise them appropriately as concerns.

Staff with line management service responsibility or clinical responsibilities have a duty to listen to concerns raised by other staff and respond to them appropriately.

Any adverse incident or near miss involving a patient, visitor, staff member or contractor should be reported via Datix, and a line manager should be informed as soon as possible.

All staff members who have been named as being able to contribute information have a responsibility to cooperate with investigations by providing evidence and information which they might have about the concern, and to take on board learning which comes out of any investigation.

## Appendix 2 – Process Flowchart

