

Whistleblowing policy

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Author(s) name: Tricia Phillips

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3	1 April 2020	Corporate Governance teams	Updated for change of contract points
1.1	April 2021	Tricia Phillips	POD review and accessibility. Contact information update.
1.2	23 July 2021	POD team	Ratified by director of people and corporate affairs senior management team

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Introduction

Speaking up about any concern at work is important. In fact, it's vital because it will help NHS Kernow Clinical Commissioning Group (NHS Kernow) to keep improving services for patients and the working environment for colleagues. Senior leaders and the governing body of NHS Kernow are committed to an open and honest culture. Any colleague who wishes to raise a concern will be fully supported.

Purpose

This standard integrated policy was one of several recommendations of the review by Sir Robert Francis into whistleblowing in the NHS, aimed at improving the experience of whistleblowing in the NHS. This policy has been produced nationally by NHS England and NHS improvement (NHSEI) and has been adopted by NHS Kernow to help to normalise the raising of concerns for the benefit of all colleagues and patients.

This document is a key element of the NHS Kernow's standards of business conduct and should be read in conjunction with the NHS code of conduct and section 9 of the constitution.

No one will be discriminated against or suffer a detriment because of making such a disclosure. This applies equally to member practices or employees of NHS Kernow.

Should colleagues have a concern about their own employment or issues that affect them personally, they should refer to the [grievance and dignity at work policy](#).

Definitions

Whistleblowing

Whistleblowing is the term used when a worker contacts their employer with a concern about the organisation and its services. The concern will typically, although not always, be regarding something they have witnessed at work.

Responsibilities

Governing body and executive team

The deputy director of corporate governance, as the whistleblowing guardian, holds lead responsibility in NHS Kernow for dealing with concerns raised and can report directly to the accountable officer on issues of concern.

The lay member for governance and vice chair is the designated whistleblowing champion for NHS Kernow and is available to assist and support colleagues when required.

These postholders will create a culture of openness and transparency that welcomes the opportunity to address and resolve concerns as quickly as possible. They will respond positively to escalated concerns, by taking or arranging appropriate action.

Senior managers

Senior managers will:

- champion this policy and ensure effective implementation
- ensure all managers understand their responsibilities in relation to this policy
- respond positively to any concerns raised and take appropriate action as required

Line managers

Line managers will:

- respond positively to any concerns and take appropriate action
- ensure anyone raising a concern has support within a non-punitive framework
- foster and promote an open culture
- provide regular opportunities for colleagues to speak up
- discuss concerns at both an individual and team level
- respond to concerns seriously and consider them fully, sympathetically and fairly

People and organisational development

The people and organisational development (POD) team is responsible for ensuring all colleagues have the awareness and appropriate training to support them to raise concerns. They can advise on the implementation of the policy.

Colleagues

All colleagues have the right and a responsibility to bring to the attention of the organisation, any matter where the interest of themselves or others within the organisation may be at risk. They can contact a POD team member, a trade union representative or their appropriate professional body for advice and guidance at any stage of the process.

What concerns can be raised?

Concerns about risk, malpractice or any wrongdoing that could be harming the services commissioned by NHS Kernow. Some examples of this might include but are not restricted to:

- unsafe patient care
- unsafe working conditions
- inadequate induction or training for colleagues
- lack of, or poor response to a reported patient safety incident
- bullying within a team
- suspicions of fraud

Confidentiality

Colleagues who raise a genuine concern under this policy, will not be at risk of losing their job or suffering any form of reprisal as a result. The harassment, victimisation or bullying of anyone raising a concern, will not be tolerated. Such behaviour could result in disciplinary action.

NHS Kernow hopes that colleagues will feel comfortable raising a concern openly with their line manager or a member of the executive team in the first instance. However, colleagues can also raise concerns confidentially if they do not wish for their identity to be known. There may be instances where anonymity makes a complaint more difficult to investigate. Occasionally it might not be possible to resolve a concern without revealing someone's identity. An example of this would be if it was needed by the police or evidence was needed in court. If this should happen, colleagues would be advised how to proceed.

If there was any immediate risk to safety, the organisation might have to act with speed and efficiency, in which case a support plan would be agreed to support the colleague fully.

Who can raise concerns?

Anyone who works or has worked in the NHS, or for an independent organisation that provides NHS services can raise concerns. This includes agency workers, temporary workers, students, volunteers, member practices of NHS Kernow and governors.

How to raise a concern

Stage 1

Wherever possible, colleagues should raise concerns through informal discussions with their manager. The line manager should acknowledge receipt of the concern and meet with the colleague within 7 working days.

Should a line manager be unsure how to respond, they should initially contact their relevant people partner or Emma Goudge, head of POD for advice, emmagoudge@nhs.net.

Stage 2

If unable to raise the matter with their line manager, or if the concern has not been dealt with satisfactorily under stage 1, colleagues can raise the matter with our:

- speak up guardian, Trudy Corsellis on 07881 804867 or email trudy.corsellis@nhs.net
- head of POD, Emma Goudge, email emmagoudge@nhs.net

The speak up guardian has been given special responsibility and training to deal with whistleblowing concerns and will make contact and arrange a meeting within 14 days to resolve the matter or agree on appropriate action to be taken. Colleagues can be accompanied at these meetings should they wish to be, by another colleague or a trade union representative.

The speak up guardian will also treat concerns confidentially, unless otherwise agreed. They will ensure colleagues who raise concerns receive timely support to progress their concern.

Stage 3

If these channels have been followed and there is still a concern, or if it is so serious that it cannot be discussed as described in stage 2, colleagues should contact Kate Shields, accountable officer, at kateshields@nhs.net.

The accountable officer will acknowledge receipt of the concern and arrange a meeting within 14 days to resolve the issue or take appropriate action.

If appropriate colleagues may also contact:

- Chris Blong, lay board member for governance and special responsibility for whistleblowing, email christopher.blong@nhs.net or chris.blong@aol.com.
- Paul Cook, chair of NHS Kernow governing body, email paul.cook10@nhs.net.

Stage 4

Colleagues can also contact external bodies to raise 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 services
- primary ophthalmic services

- local pharmaceutical services

Contact the Care Quality Commission (CQC) for quality and safety concerns.

Contact Health Education England for education and training in the NHS.

Fraud can also be reported to the local anti-crime specialist Tony Hall, 0845 300 3333 or 07580 971240 or the NHS fraud and corruption reporting line: 0800 028 4060. There is also an [online reporting form](#) available.

Advice and support

Local support can be sought from:

- line managers
- speak up guardian, Trudy Corsellis
- POD team
- [Speak Up Direct](#) which is a free, independent, confidential advice service

Investigation

When issues are raised, it may be necessary for someone who is independent from the issue to carry out a proportionate investigation. They will usually be from a different part of the organisation. Once the investigation is complete, they will contact the person who has raised the concern, to discuss their findings.

The investigation will be objective, and evidence based and will produce a report that focuses on identifying and rectifying any issues and learning lessons to prevent problems recurring. It may be necessary for a complaint to be looked at under another process; for example, the organisation's process for dealing with bullying and harassment. If so, this will be explained.

Where an investigation identifies improvements that can be made, these actions will be tracked to ensure the changes take place and work effectively. Lessons will be shared with teams across the organisation, or more widely, as appropriate.

Raising or receiving concerns outside of NHS Kernow

As a commissioning organisation, NHS Kernow colleagues will often visit providers of services and may have concerns which relate to the providers rather than NHS Kernow itself. Similarly, non-NHS Kernow colleagues may opt to raise concerns about other organisations to us.

Where possible, these concerns should be redirected and reported via the provider's own whistleblowing arrangements. The concerns should also be raised with NHS

Kernow's designated officers, particularly if those concerns relate to that provider's handling of the whistleblowing concern. Further action may be taken, as appropriate.

Governing body oversight

The governing body will be given high level information about all concerns raised by colleagues through this policy and about action that's taken to address any problems. NHS Kernow will include similar high-level information in the annual report. The governing body, and in particular the whistleblowing champion, fully support colleagues raising concerns and encourage colleagues to speak up.

Review

The effectiveness of this policy and local process will be reviewed annually, with any changes and outcomes also published as appropriate.

Making a protected disclosure

There are very specific criteria that need to be met for a colleague to be covered by whistleblowing law when they raise a concern. There is a defined list of prescribed persons, to whom colleagues can make a protected disclosure. Independent advice about protected disclosures can be obtained from the whistleblowing helpline for the NHS and social care, public concern at work, a legal representative or a trade union.

National guardian freedom to speak up

The new national guardian can independently review how colleagues have been treated having raised concerns where clinical commissioning groups, NHS trusts and foundation trusts may have failed to follow good practice, working with some of the bodies listed above to take action where needed.

Implementation plans and monitoring effectiveness

Applications and outcomes should be monitored annually, in partnership with local employee representatives.

Monitoring information should be analysed and used to review and revise policies and procedures to ensure their continuing effectiveness.

Applications and outcomes, from both employer and employees, should be recorded and kept for a minimum of 1 year.

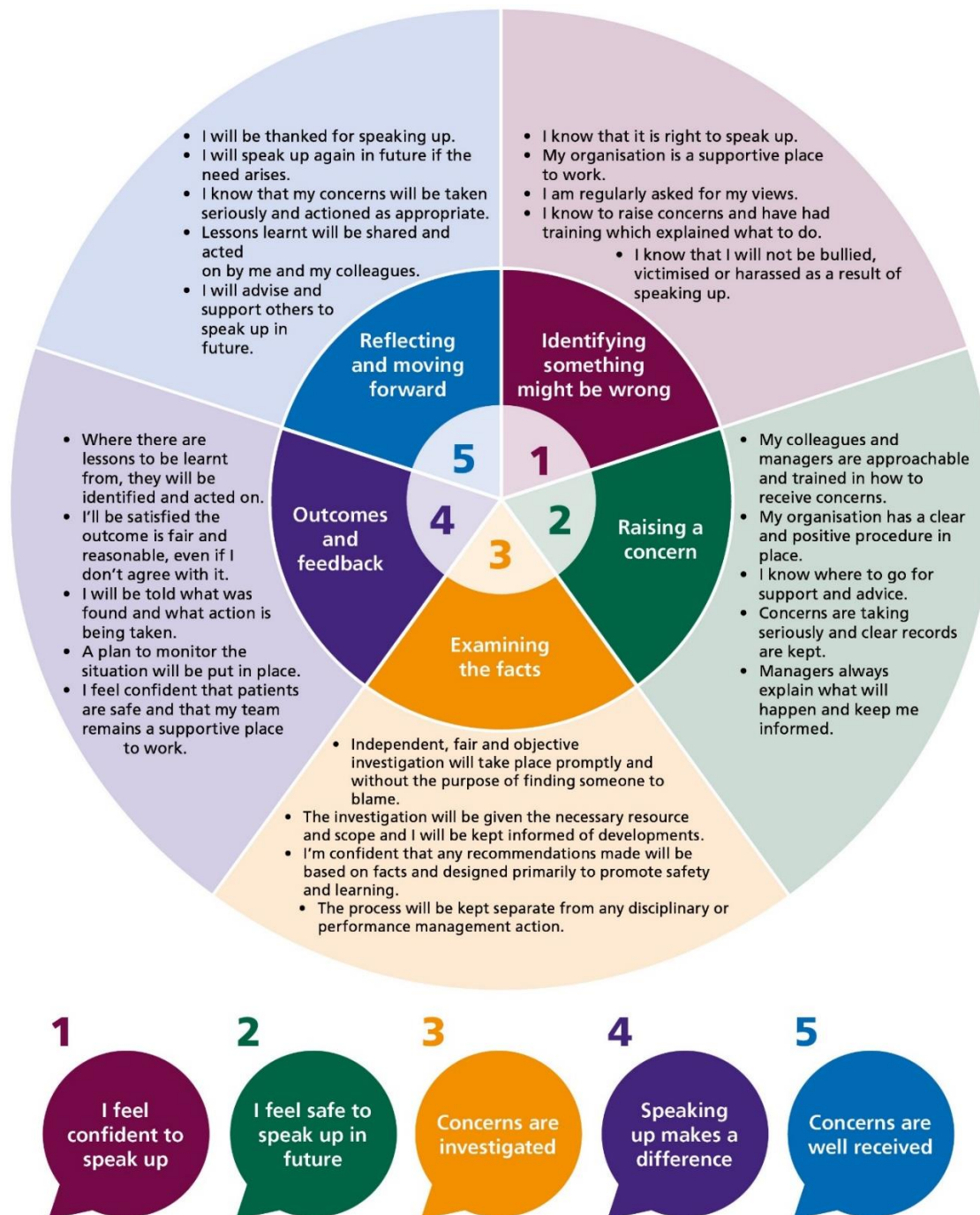
Update and review

This policy should be reviewed every year.

Policies referred to in this document

- [grievance and dignity at work policy](#)
- [disciplinary policy and procedure](#)
- [complaints and compliments policy](#)
- [antifraud and bribery policy](#)
- [health and safety policy](#)
- [incident management policy](#)

Appendix 1: A vision for raising concerns in the NHS



Source: Sir Robert Francis QC (2015) freedom to speak up: an independent report into creating an open and honest reporting culture in the NHS.

Appendix 2: Equality impact assessment

Name of policy or service to be assessed: Whistleblowing policy

Department or section: People and organisational development (POD)

Date of assessment: 30 January 2021

Person(s) responsible for the assessment: Tricia Phillips, POD

Is this a new or existing policy? Existing

Aims, objectives and purpose of the policy

Describe the aims, objectives and purpose of the policy:

To set out the process by which an employee can raise a concern about a possible risk, wrongdoing or malpractice that has a public interest aspect to it.

Who is intended to benefit from this policy, and in what way?

Any person who had previously experienced detriment prior to the successful conclusion of the whistleblowing procedure.
Any employee who required a process in which to raise their concern.

What outcomes are wanted from this policy?

That the process by which an employee can raise a concern about a possible risk, wrongdoing or malpractice that has a public interest aspect to it, is clearly set out and understood.

What factors or forces could contribute or detract from the outcomes?

Lack of employee, line manager, designated officer or authorised external body understanding of the process.

Who are the main stakeholders in relation to the policy?

Employees, designated officers, named appeal persons.

Who implements the policy, and who is responsible for the policy?

Employees, team managers and designated officers implement the policy. POD is responsible for updating the policy.

Differential impacts

Does this have a positive or negative impact on black, Asian and minority ethnic (BAME)? How will any negative impact be mitigated?

There is currently no information to indicate that this document will disadvantage or have a negative impact on this group if implemented and operated as described within this policy and procedure.

Does this have a positive or negative impact on people who identify as male, female or intersex? How will any negative impact be mitigated?

There is currently no information to indicate that this document will disadvantage or have a negative impact on this group if implemented and operated as described within this policy and procedure.

What is the positive or negative differential impact on people from the perspective of disability? How will any negative impact be mitigated?

Employees with a learning disability may have more difficulties understanding the process.

Designated officers of POD team members can provide advice and guidance.

Does this have a positive or negative impact on people who identify as heterosexual, lesbian, gay, bisexual, pansexual or asexual? How will any negative impact be mitigated?

There is currently no information to indicate that this document will disadvantage or have a negative impact on this group if implemented and operated as described within this policy and procedure.

What is the positive or negative differential impact on people from the perspective of age? How will any negative impact be mitigated?

There is currently no information to indicate that this document will disadvantage or have a negative impact on this group if implemented and operated as described within this policy and procedure.

What is the positive or negative differential impact on people from the perspective of religion or belief? How will any negative impact be mitigated?

There is currently no information to indicate that this document will disadvantage or have a negative impact on this group if implemented and operated as described within this policy and procedure.

What is the positive or negative differential impact on people from the perspective of marriage and civil partnership? This is particularly relevant for employment policies. How will any negative impact be mitigated?

There is currently no information to indicate that this document will disadvantage or have a negative impact on this group if implemented and operated as described within this policy and procedure.

Does this have a positive or negative impact on people who identify as trans or transgender, non-binary or gender fluid? How will any negative impact be mitigated?

There is currently no information to indicate that this document will disadvantage or have a negative impact on this group if implemented and operated as described within this policy and procedure.

Does this have a positive or negative impact on people who are pregnant, breast feeding mothers, or those on maternity leave? How will any negative impact be mitigated?

There is currently no information to indicate that this document will disadvantage or have a negative impact on this group if implemented and operated as described within this policy and procedure.

Other identified groups

There is currently no information to indicate that this document will disadvantage or have a negative impact on other identified groups if implemented and operated as described within this policy and procedure.

Human rights values

How have the core human rights values of fairness, respect, equality, dignity and autonomy been considered in the formulation of this policy, service or strategy?

This policy and procedure are based on the principles of openness and intelligent transparency and therefore supports these principals.

Which of the human rights articles does this document impact?

- ☐ To life
- ☐ Not to be tortured or treated in an inhuman or degrading way
- ☐ To liberty and security
- ☐ To a fair trial
- ☐ To respect for home and family life, and correspondence
- ☒ To freedom of thought, conscience and religion
- ☐ To freedom of expression
- ☐ To freedom of assembly and association
- ☐ To marry and found a family
- ☒ Not to be discriminated against in relation to the enjoyment of any of the rights contained in the European Convention
- ☐ To peaceful enjoyment of possessions

What existing evidence (either presumed or otherwise) do you have for this? How will you ensure that those responsible for implementing the policy are aware of the human rights implications and equipped to deal with them?

This policy and procedure are based on the principles of openness and intelligent transparency.

Public Sector (Social Value) Act 2012

NHS Kernow is committed and obliged to fulfil the requirements of the Public Sector (Social Value) Act 2012. This Act requires the organisations to consider how services commissioned or procured might improve the economic, social and environmental wellbeing of an area.

Please describe how this will support and contribute to the local system, wider system and community.

Please consider:

- The inclusion of small medium size enterprises (SMEs) in the process and supply chain
- Economic – promote skills, tackle worklessness, maintain employment, increase volunteer hours to support the community and promote inclusion
- Social – reduce anti-social behaviour, tackle exclusion by promoting inclusion including to vulnerable groups
- Environmental – support local, reduce congestion.

This policy might contribute to the reduction of anti-social behaviour, tackle exclusion and promoting inclusion including vulnerable groups as it encourages workers to contact their employer with a concern about the organisation and its services.

Describe how the policy contributes towards eliminating discrimination, harassment and victimisation.

The policy has a section on [how to raise your concern](#) which sets out our obligations and principles around eliminating discrimination, harassment and victimisation for whistleblowers and those dealing with whistleblowing complaints.

Describe how the policy contributes towards advancing equality of opportunity.

This policy is designed around giving all groups the right and means to raise a concern. It allows for various routes to achieve this, giving choice to the whistleblower.

Describe how the policy contributes towards promoting good relations between people with protected characteristics.

N/A.

If the differential impacts identified are positive, explain how this policy is legitimate positive action and will improve outcomes, services and/or the working environment for that group of people.

N/A.

Explain what amendments have been made to the policy or mitigating actions have been taken, and when they were made.

N/A.

If the negative impacts identified have been unable to be mitigated through amendment to the policy or other mitigating actions, explain what your next steps are using the following equality impact assessment action plan.

N/A.

Signed (completing officer): Jo Tomlinson

Date: 30 September 2021

Signed (head of department or section): Emma Goudge

Date: 30 September 2021