Torbay and South Devon
NHS Foundation Trust

FREEDOM TO SPEAK UP: RAISING CONCERNS (WHISTLEBLOWING) POLICY (H30)

If you require a copy of this policy in an alternative format (for example large print, easy read) or would like any assistance in relation to the content of this policy, please contact the Equality and Diversity team on 01803 656680.

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Amendment History

Issue	Status	Date	Reason for Change	Authorised
2	Approved		Update of Guardians	-
3	Approved	March 2019	General review and audit. Updated list of Guardians.	HR Advisor
3.1	Approved	July 2021	Updated wording around People Hub Team & People Directorate / contact details / logo / Version / date	People Hub

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*This policy is based upon the *Freedom to Speak Up: Raising Concerns (whistleblowing) Policy for the NHS* produced by NHS England and NHS Improvement in April 2016.

1 Speak up – we will listen

1.1 Speaking up about any concern you have at work is really important. In fact, it's vital because it will help us to keep improving our services for all patients and the working environment for our staff.

1.2 You may feel worried about raising a concern, and we understand this. But please don't be put off. This Trust takes our duty to provide safe, effective and compassionate care to our patients and clients and to a safe, supportive environment for our staff very seriously. Our Board and leadership at all levels are committed to an open and honest culture. We will look into what you say and you will always be supported to raise your concerns.

2 National policy

2.1 A 'standard integrated policy' was one of 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.

2.2 A national policy has been developed by NHS Improvement and NHS England. It is expected that this policy is adopted by all NHS organisations in England to help to normalise the raising of concerns for the benefit of all patients.

2.3 The Trusts local whistleblowing policy has been aligned with the national policy, and now provides more detail about how we will respond to your concern.

3 What concerns can I raise?

3.1 You can raise a concern about **risk, malpractice or wrongdoing where** you think this is harming, or has the potential to harm, the people we provide for, the safety of the service we deliver or the staff – paid and unpaid – who work in the Trust. Just a few examples of this might include, but are by no means restricted to:

- unsafe patient or client care
- unsafe working conditions
- inadequate induction or training for staff or volunteers
- lack of, or poor, response to a reported safety incident
- suspected fraud, which can also be reported to our local counter-fraud team (See appendix A for contact details)
- a bullying culture (across a team or organisation. Individual instances of bullying will be processed under the Trusts Acceptable Behavior Policy).

For further examples, please see the Health Education England video available on ICON.

3.2 Remember that if you are a health and social care professional you may have a professional duty to report a concern. **If in doubt, please raise it.**

3.3 Don't wait for proof. We want you to raise the matter while it is still a concern. It doesn't matter if you turn out to be mistaken as long as you are genuinely troubled.

3.4 This policy is not for people with concerns about their employment that affect only

them. For example, a complaint about pay or an individual's behavior towards them would be better suited to our Grievance Policy or Acceptable Behavior Policy, which are available on ICON under employment policies.

4 Feel safe to raise your concern

4.1 If you raise a genuine concern under this policy, you will not be disadvantaged in any way – there is no risk of losing your job or suffering any form of reprisal as a result. This Trust will not tolerate the harassment or victimisation of anyone raising a concern. Nor will we tolerate any attempt to bully you into not raising any such concern. Any such behaviour is a breach of our values as a Trust and a NHS organisation and, if upheld following investigation, could result in disciplinary action.

4.2 Provided you are acting on genuinely held concerns, it does not matter if you are mistaken or if there is an innocent explanation for your concerns. However, the Trust will not condone individuals maliciously making false allegations and will treat such actions as a disciplinary offence.

5 Confidentiality

5.1 The Trust wants you to feel secure in 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).

5.2 You can choose to raise your concern anonymously, without giving anyone your name, but that may make it more difficult for us to investigate thoroughly and give you feedback on the outcome.

6 Who can raise concerns?

6.1 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 and governors.

7 Who should I raise my concern with?

7.1 The Trust has a network of Freedom to Speak Up Guardians who can provide an independent and impartial source of advice and support to staff at any stage of raising a concern. The Guardians have access to anyone in the organisation, including the Chief Executive who is their sponsor, or if necessary, outside the organisation.

7.2 Step One

In many circumstances the easiest way to get your concern resolved will be to raise it with your line manager or lead clinician, so it can be resolved locally. If your concern relates to Safeguarding Adults or Safeguarding Children, the appropriate Safeguarding Lead should be contacted. Similarly, if your concern relates to fraud or corruption the Local Counter Fraud Specialist should be contacted.

7.3 Step Two

If raising your concern with your line manager (or lead clinician or tutor) does not resolve the matter, or you do not feel able to raise it with them, you can contact the Director of the

People Directorate, who will listen to your concerns and commission a proportionate investigation in accordance with section 9.

7.4 Step Three
If your concern remains unresolved, or you feel the matter is so serious that you cannot discuss it with any of the above, please contact the Chief Executive, who will listen to your concerns and ensure there is an investigation in accordance with section 9.

7.5 Step Four
Ultimately, if your concern remains unresolved, please contact the Freedom to Speak Up Non-Executive Director (NED) who has been appointed by the Chairman to give independent oversight and advice to the Trust Board on the Trust's adherence to this policy and all related national guidance. Concerns raised with the designated NED will be alerted to the Chairman and the Board if this policy is not being fairly or appropriately applied and they will monitor the actions taken in response. Where appropriate the Senior Independent Director will be commissioned to undertake a proportionate investigation.

7.6 For all designated persons identified in section 7.1 to 7.5 please refer to appendix A for contact details. All these people are being trained in receiving concerns and will give you information about where you can go for more support.

7.7 If for any reason you do not feel comfortable raising your concern internally, you can raise concerns with external bodies, detailed in section 11.

8 How should I raise my concern?

8.1 You can raise your concerns with any of the people listed above in person, by phone or in writing (including email).

8.2 Whichever route you choose, please be ready to explain as fully as you can the information and circumstances that gave rise to your concern.

9 What will we do?

9.1 This Trust is committed to the recommendations made by Sir Robert Francis QC in the Freedom to Speak Up review and the vision for raising concerns in the NHS, and will respond in line with them (see Annex B).

9.2 We are committed to listening to our staff, learning lessons and improving our care to the people we serve. When a concern is received, it will be recorded on either the Freedom to Speak Up Guardians Confidential Reporting System or the Trust's Incident Reporting System. This is to make sure there is a central record of concerns and the actions taken to resolve these concerns. The record will detail the date the concern was received, a summary of the concerns, the actions taken in response and dates when you have been given updates or feedback.

9.3 If you do have any personal interest in the concern you are raising, we ask that you make this clear, from the outset, to the person to whom you are raising the concern. They may decide that your concern would be better looked at under another process; for example, our process for dealing with acceptable behaviour. If so, they will discuss that with you.

9.4 The manager/director to whom you have the raised the concern will write to you within five working days setting out their understanding of your concern and how they propose to handle it. You will be provided with a named contact and informed whether you are needed to have any further involvement in the investigation of your concern.

9.5 Investigation

9.5.1 Where you have been unable to raise, or quickly resolve the matter with your line manager, the designated person (outlined in section 7.3-7.5) will commission a proportionate investigation. The investigation will be led by someone suitably independent, usually from a different part of the organization.

9.5.2 Wherever possible we will carry out a single investigation. For example, where a concern is raised about a patient safety incident, we will usually undertake a single investigation that looks at your concern and the wider circumstances of the incident.

9.5.3 The investigation will be objective and draw on the evidence available, and will be completed within a reasonable timescale (which we will notify you of). Once concluded, a report will be produced that focuses on identifying and rectifying any issues, and learning lessons to prevent problems recurring.

9.5.4 If employment issues are identified during the investigation that affects only you, these will be considered separately using the relevant Trust People Hub policies.

9.6 Communicating with you

We will treat you with respect at all times and we will show our appreciation to you for raising your concerns. We will discuss your concerns openly and respectfully 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 investigation report with you. However, we may not be able to share precise actions where this would infringe a duty of confidentiality owed by us to someone else.

9.7 How will we learn from your concern?

The focus of the investigation will be on improving the service we provide for patients and clients and the working environment for our staff and volunteers. Where it identifies improvements that can be made, we will monitor the actions to ensure necessary changes are made, and are working effectively. Lessons will be shared with teams across the Trust, or more widely, as appropriate.

9.8 Board oversight

The board will be given high level information about all concerns raised by our staff under this policy and what we are doing to address any issues that need improvement. We will include similar high level information in our public Annual Report. The Trust Board is genuinely supportive to staff raising concerns and wants you to feel free to speak up.

10 Advice and support

10.1 Details on the local support available to you can be found on ICON. However, you can also contact the Whistleblowing Helpline for the NHS and Social Care on 08000 724 725, your professional body or trade union representative.

11 Raising your concern with an outside body

11.1 This policy has been developed to ensure that the Trust can resolve the vast majority of concerns raised by staff. In circumstances where all internal methods have been exhausted and you reasonably believe that the appropriate action has not been taken, or you do not feel it is appropriate to raise the issue internally, you can raise your concern outside the

Trust with:

- NHS Improvement for concerns about:
  - How NHS trusts and foundation trusts are being run
  - Other providers with an NHS provider license
  - NHS procurement, choice and competition
  - The national tariff

- 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

- NHS Protect for concerns about fraud and corruption.

11.2 Making a 'protected disclosure'

There are very specific criteria that need to be met for an individual to be covered by whistleblowing law when they raise a concern and to be able to claim the protection that accompanies it. There is also a defined list of 'prescribed persons', 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, Public Concern at Work or a legal representative.

11.3 National Guardian Freedom to Speak Up

The new 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, working with some of the bodies listed above to take action where needed.

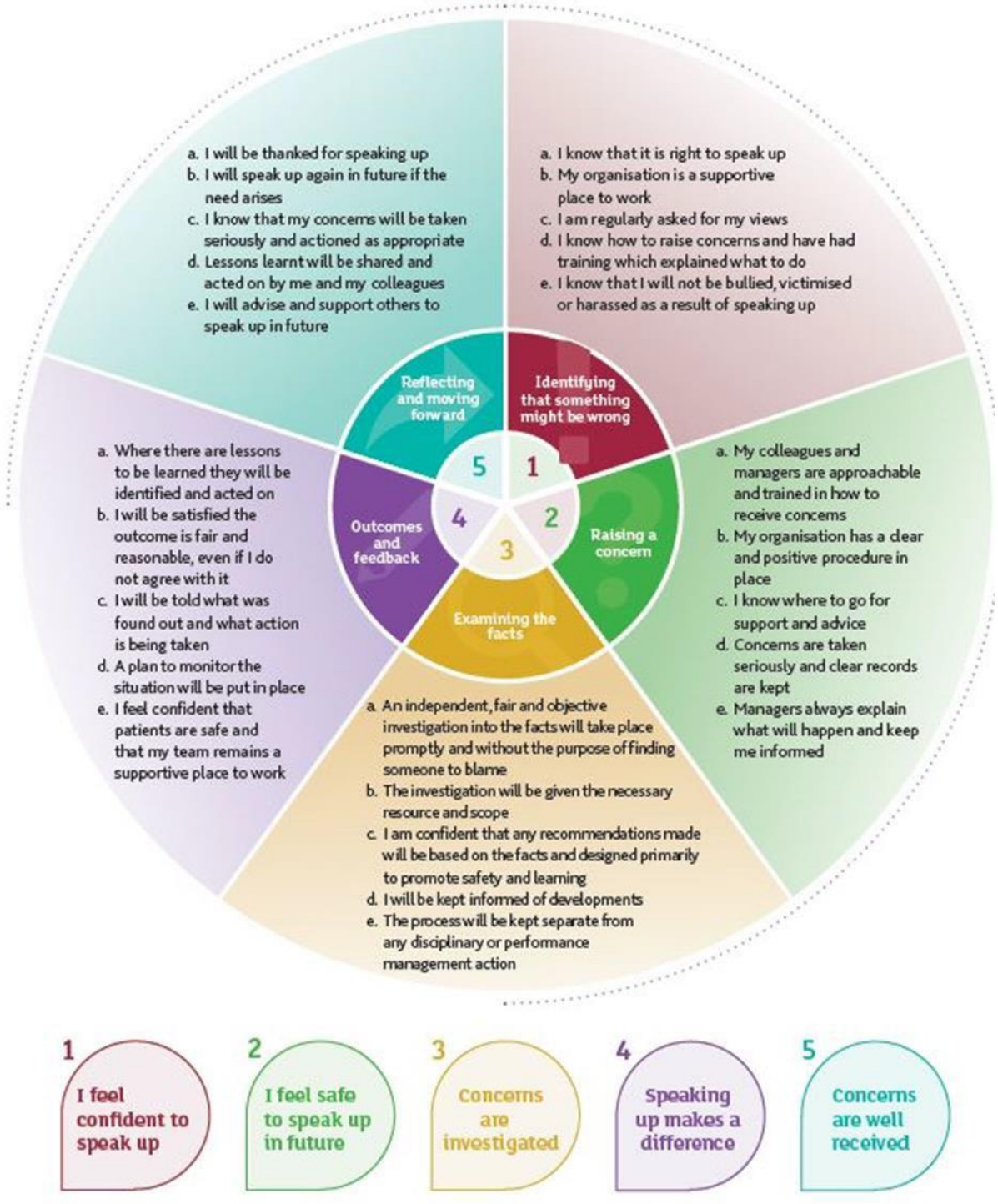
12 Review

The Trust will review the effectiveness of this policy and local process at least annually, in partnership with Trade Union representatives with the outcome published and changes made as appropriate.

13. Appendix A - Contact details for raising concerns and whistleblowing

Job Role	Name	Telephone number	E-mail address
Local Counter Fraud Specialist	Kev Forrest	Mob: 07585405047 01803 656438	Kevin.forrest@nhs.net
Safeguarding Adults Lead	Tanya Drew	01803 655857	Tanya.drew@nhs.net
Named Nurse for Safeguarding Children	Phillipa Hiles Acute) Jane Wilkinson (Community)	01803 655720 01803 208659	safeguardingchildnamednurse@nhs.net jane.wilkinson@nhs.net
Director of the People Directorate	Judy Falcao	01803 655700	judy.falcao@nhs.net
Freedom to Speak Up Non-Executive Director	Jon Welch	01803 883035 07766 055887	Jon.welch@nhs.net
Freedom to Speak Up Guardians	**Freedom to Speak Up Guardians** Sarah Burns Andrew Fordyce Liz Tooby Tierney Leaver **Diversity &Inclusion Guardians** Julia Pinder Julian Wright		Generic email: tsdft.guardian@nhs.net Generic email: tsdft.equalguard@nhs.net
Chief Executive	Liz Davenport	01803 655703	Liz.davenport@nhs.net
Chairman	Richard Ibbotson	01803 655704	Richard.ibbotson1@nhs.net

14. Appendix B - 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*.