

Freedom to Speak Up: Raising Concerns Policy

V6.2

June 2021

Summary

Freedom to **Speak up**

You are **free to speak up**
- Speaking up should be seen as 'Business as Usual'

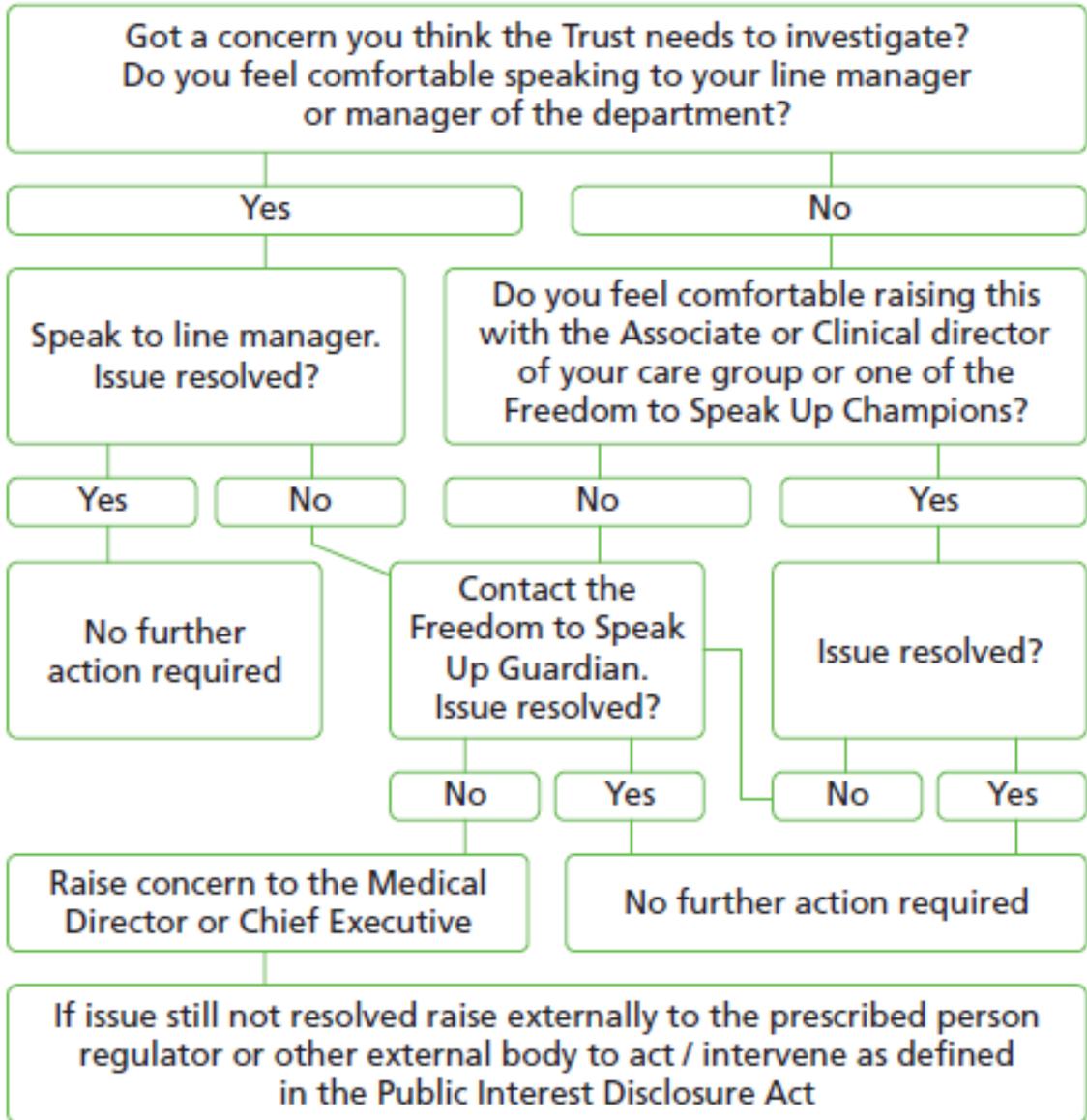


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Data Protection Act 2018 (General Data Protection Regulation – GDPR) Legislation

The Trust has a duty under the DPA18 to ensure that there is a valid legal basis to process personal and sensitive data. The legal basis for processing must be identified and documented before the processing begins. In many cases we may need consent; this must be explicit, informed and documented. We cannot rely on opt out, it must be opt in.

DPA18 is applicable to all staff; this includes those working as contractors and providers of services.

For more information about your obligations under the DPA18 please see the *Information Use Framework Policy* or contact the Information Governance Team

rch-tr.infogov@nhs.net

1. Introduction

1.1. **Speak up – we will listen**

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.

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.

1.2. This version supersedes any previous versions of this document.

2. Purpose of this Policy/Procedure

2.1. The objective of this policy is to identify the appropriate action to be taken by staff wishing to raise concerns about themselves, the welfare, care and treatment of patients or the Trust's policies, organisation and funding of services. However, it should be noted that speaking up (whistleblowing) is not to be used where other more appropriate Trust policies and procedures are applicable (i.e., grievances, disciplinary, safeguarding etc.).

2.2. The Trust is confident that if members of staff accept their responsibility for Speaking up in accordance with this policy, issues can be resolved internally without external interventions.

3. Scope

This policy applies to all Trust employees including agency staff, and students. All individuals performing functions in relation to the Trust, such as volunteers and contractors are also encouraged to use this policy. However it should be noted that the protection provided by the Public Interest Disclosure Act does not cover volunteers.

4. Definitions / Glossary

- **Agency Worker** - an individual who is supplied by a temporary work agency, to work temporarily under the supervision of the hirer; and who has a personal contact with the agency to provide their services
- **Anonymously** - undertaking an action in a way that prevents that person from being identified
- **Concern** - a matter of interest or importance to someone that causes the person anxiety or worry.
- **Confidential** - information that is intended to be kept secret
- **Disclose** - to make *that which would normally be confidential* known.

- **Duty of Candour** - a legal duty on the organisation to inform and apologise to patients if there have been mistakes in their care that have led to significant harm.
- **Risk** - the likelihood that something will / could go awry
- **Unprofessional Conduct** - conduct that is unbecoming of the post holder / employee, which violates the code of ethics
- **Fraud** - wrongful or criminal deception intended to result in financial and/or personal gain
- **Harassment** - unwanted behaviour towards someone which offends them or makes them feel distressed or intimidated
- **Impartial** - when someone does not support any of the sides involved in an argument
- **Victimisation** - treatment that is unbecoming, that arises because someone has complained about discrimination or helped someone who has been discriminated against
- **Volunteer** - any person who freely offers to work for the organisation without receiving any kind of payment or benefit
- **Whistleblowing** - the act of an employee/worker exposing any kind of activity that is deemed illegal, unethical, or not correct within the organization

5. Ownership and Responsibilities

5.1. *Role of the Managers*

General Managers, Clinical Directors, Head of Nursing, Heads of Department, Managers, Supervisors and Lead Clinicians have responsibility for:

- ensuring staff are aware of the policy; have access to it and are familiar with the options available to them to raise a concern.
- developing a working environment where staff feel confident about raising concerns
- being approachable and fostering a climate of openness and mutual respect;
- supporting and reassuring those raising concerns, ensuring no mistreatment occurs
- handling concerns raised fairly and professionally in accordance with the principles of this and any other relevant Trust policies and procedures as appropriate
- ensuring appropriate and effective action is taken to prevent and/or manage any
- mistreatment/victimisation to ensure its non-recurrence
- ensuring learning from concerns raised is shared.

5.2. **Role of Individual Staff**

To help the Trust maintain the highest possible standards at all times, staff members have a responsibility to:

- report any concern about which they have reasonable belief that a malpractice or wrong doing has or is likely to occur
- think about how the concern can be discussed informally, for example, at supervision or departmental meetings
- speak out early if they believe something is wrong; this could stop the issue becoming serious, dangerous or damaging
- seek independent advice if unsure whether or how to raise a concern

6. **Standards and Practice**

6.1. **What concerns can I raise?**

6.1.1 You can raise a concern about risk, malpractice or wrongdoing you think is harming the service we deliver. Just a few examples of this might include (but are by no means restricted to):

- unsafe patient care
- unsafe working conditions
- inadequate induction or training for staff
- lack of, or poor, response to a reported patient safety incident
- suspicions of fraud (which can also be reported to our local counter-fraud team ext 8057)
- a bullying culture (across a team or organisation rather than individual instances of bullying).

6.1.2 For further examples, please see the Health Education England video. <https://www.youtube.com/watch?v=zjau1Ey0di8>

6.1.3 Remember that if you are a healthcare professional you may have a professional duty to report a concern. If in doubt, please raise it.

6.1.4 Don't wait for proof. We would like 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.

6.1.5 This policy is not for people with concerns about their employment that affect only them – that type of concern is better suited to our Grievance and Disputes Policy and Procedure.

6.2. **Feel safe to raise your concern**

6.2.1. If you raise a genuine concern under this policy, you will not be at risk of losing your job or suffering any form of reprisal as a result. 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 any such concern. Any such behaviour is a breach of our values as an organisation and, if upheld following investigation, could result in disciplinary action.

6.2.2. Provided you are acting honestly, it does not matter if you are mistaken or if there is an innocent explanation for your concerns.

6.3. **Confidentiality**

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 that may make it more difficult for us to investigate thoroughly and give you feedback on the outcome.

6.4. **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.

6.5. **Who should I raise my concern with?**

6.5.1. In many circumstances the easiest way to get your concern resolved will be to raise it formally or informally with your line manager (or lead clinician or tutor). Where you don't think it is appropriate to do this, you can use any of the options set out below in the first instance.

6.5.2. If raising it with your line manager (or lead clinician or tutor) does not resolve matters, or you do not feel able to raise it with them, you can contact one of the following people:

- The Freedom to Speak Up Guardian rchtfreedomtospeakup@nhs.net – this is an important role identified in the Freedom to Speak Up review to act as an independent and impartial source of advice to staff at any stage of raising a concern, with access to anyone in the organisation, including the chief executive, or if necessary, outside the organisation.
- Freedom to speak Up Champions listed in Appendix 3

6.5.3. If you still remain concerned after this, you can contact:

- The Executive Directors with responsibility for whistleblowing Director of Nursing, Midwifery and AHPs ex 2263
- Chief Executive ex 2263.
- The non-executive director with responsibility for whistleblowing ext 2263.

6.5.4. All these people have been trained in receiving concerns and will give you information about where you can go for more support.

6.5.5. If for any reason you do not feel comfortable raising your concern internally, you can raise concerns with external bodies, listed on pages 8 and 10.

6.6. **Advice and support**

6.6.1. Details on the local support available to you can be found here:

<http://intranet-rcht.cornwall.nhs.uk/fab-trust/looking-after-your-team/freedom-to-speak-up/>

However, you can also contact the Whistleblowing Helpline for the NHS and social care, your professional body or trade union representative.

6.7. **How should I raise my concern?**

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

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

6.8. **What will the Trust do?**

6.8.1. The Trust is committed to the principles of the Freedom to Speak Up review and its vision for raising concerns, and will respond in line with them.

6.8.2. We are committed to listening to our staff, learning lessons and improving patient care. On receipt the concern will be recorded and you will receive an acknowledgement within two working days. The central record will record the date the concern was received, whether you have requested confidentiality, a summary of the concerns and dates when we have given you updates or feedback.

6.8.3. **Investigation**

Where you have been unable to resolve the matter quickly (usually within a few days) with your line manager, we will carry out a proportionate investigation – using someone suitably independent (usually from a different part of the organisation although sometimes from an external, independent third party) and properly trained – and we will reach a conclusion within a reasonable timescale (which we will notify you of).

Wherever possible we will carry out a single investigation (so, 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). 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.

If your concern suggests a Serious Incident has occurred, an investigation will be carried out in accordance with the Serious Incident Framework.

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.

Any employment issues (that affect only you and not others) identified during the investigation will be considered separately.

Depending on the nature of the matter, an investigation may be commissioned from an independent, suitably experienced and independent third party. In this context and with respect to the Trust's responsibilities with regards data protection legislation, the Trust remains the data controller and the investigator becomes the data processor. This means that the Trust remains responsible for the personal data that you/others involved in the investigation may provide. In commissioning an investigation (internal or external), the Trust may need to share its outcomes and or the full report with other NHS bodies and/or NHS regulators including NHS England/Improvement and the Care Quality Commission.

The Trust will take all steps to protect your data and handle your concerns in confidence.

6.8.4. Communicating with you

We will treat you with respect at all times and will thank you for raising your concerns. 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 a summary of the outcomes of the investigation report with you, taking into account the Trust's responsibilities with regards data protection and confidentiality to all individuals involved. The full investigation report will not be shared with you.

6.8.5. How will we learn from your concern?

The focus of the investigation will be on improving the service we provide for patients. 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.

6.8.6. **Board oversight**

The board will be given high level information about all concerns raised by our staff through this policy and what we are doing to address any problems. We will include similar high level information in our annual report. The board supports staff raising concerns and wants you to feel free to speak up.

6.8.7. **Review**

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

6.9. ***Raising your concern with an outside body***

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

- NHS Improvement 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
- 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.

6.10. ***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 (to be able to claim the protection that accompanies it). There is also a defined list of 'prescribed persons', similar to the list of outside bodies on page 8, 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.

6.11. **National Guardian Freedom to Speak Up**

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

7. **Dissemination and Implementation**

7.1 This policy will be circulated to all staff via the daily bulletin.

7.2 This policy will be uploaded onto the Trusts document library. Details of its availability will be provided by the Trusts communication bulletin.

8. **Monitoring compliance and effectiveness**

Element to be monitored	Staff raising concerns
Lead	Freedom to Speak Up Guardian
Tool	Raising concerns register
Frequency	Quarterly Report to be produced
Reporting arrangements	Quarterly report to the Quality Assurance Committee Annual Report to Trust Board
Acting on recommendations and Lead(s)	The Quality Assurance Committee will undertake subsequent recommendations any or all deficiencies. Required actions will be identified and completed in a specified timeframe
Change in practice and lessons to be shared	Required changes to practice will be identified and actioned as soon as possible. Lessons will be shared with all the relevant stakeholders

9. **Updating and Review**

This policy will be reviewed every 3 years or in response to national guidance.

10. **Equality and Diversity**

10.1. This document complies with the Royal Cornwall Hospitals NHS Trust service Equality and Diversity statement which can be found in the ['Equality, Inclusion & Human Rights Policy'](#) or the [Equality and Diversity website](#).

Equality Impact Assessment

The Initial Equality Impact Assessment Screening Form is at Appendix 2.

Appendix 1. Governance Information

Document Title	Freedom to Speak Up: Raising Concerns Policy V6.2		
This document replaces (exact title of previous version):	Freedom to Speak Up: Raising Concerns Policy V6.1		
Date Issued/Approved:	28 th May 2021		
Date Valid From:	1 st June 2021		
Date Valid To:	4 th October 2022		
Directorate / Department responsible (author/owner):	Joanne Burton, Freedom to Speak Up Guardian		
Contact details:	Mobile number 07717 785332		
Brief summary of contents	The objective of this policy is to identify the appropriate action to be taken by staff wishing to raise concerns about themselves, the welfare, care and treatment of patients or the Trust's policies, organisation and funding of services.		
Suggested Keywords:	Whistleblowing, Raising Concerns, Speaking Up		
Target Audience	RCHT ✓	CFT	KCCG
Executive Director responsible for Policy:	Director of Nursing, Midwifery and AHPs		
Approval route for consultation and ratification:	Trust Board of Directors		
General Manager confirming approval processes	Louise Dickinson, Deputy Director Corporate Nursing		
Name of Governance Lead confirming approval by specialty and care group management meetings	Louise Dickinson, Deputy Director Corporate Nursing		
Links to key external standards	Freedom to Speak Up CQC		
Related Documents:	<ul style="list-style-type: none"> • RCHT Grievance and Disputes Policy and Procedure. • RCHT Dignity at work Policy • RCHT Equality and Human Rights Policy • RCHT Counter Fraud and Corruption policy • Sir Robert Francis QC (2015) <i>Freedom to Speak Up: an independent report into creating an open and honest reporting culture in the NHS.</i> 		

	<ul style="list-style-type: none"> Public Interest Disclosure Act 1998 (as amended) Raising and acting on concerns about patient safety (GMC) Raising concerns-guidance for nurses and midwives (NMC) 				
Training Need Identified?	Yes – Freedom to Speak Up is included in the Corporate Induction and Mandatory training programme.				
Publication Location (refer to Policy on Policies – Approvals and Ratification):	<table border="1"> <tr> <td>Internet & Intranet</td> <td>✓</td> <td>Intranet Only</td> <td></td> </tr> </table>	Internet & Intranet	✓	Intranet Only	
Internet & Intranet	✓	Intranet Only			
Document Library Folder/Sub Folder	Chief Executive / Corporate Services				

Version Control Table

Date	Version No	Summary of Changes	Changes Made by (Name and Job Title)
Oct 2004	V1.0	Initial issue	Charles Mason HR
Mar 2007	V2.0	Policy review	Jo Perry Director HR
August 2010	V3.0	Change of title Additional detail concerning external disclosures	Graham Shaw Acting Director HR
Nov 2012	V3.1	Formatted in line with the revised Trust Policy on Policies document.	Helen Strickland HR Business Partner
Dec 2010	V3.2	New CEO details Formatted in line with new Policy on Policies document National NHS Whistleblowing Helpline details included	Helen Strickland HR Business Partner

Dec 2015	V4.0	<ul style="list-style-type: none"> • Process ownership clarified; Trust Raising Concerns lead identified. • Framework for investigating, reporting, escalating and monitoring concerns raised established • Established mechanism to enable compilation of a central record of concerns • Chief Executive and Raising Concerns Support Officer details updated • Updated to ensure accuracy and compliance with legislative changes (Enterprise and Regulatory Reform Act 2013) and to take into consideration the good practice set out in the Francis '<i>Freedom to Speak Out</i>' and '<i>Learning not blaming</i>' Reports. 	Helen Strickland HR Business Partner
Sept 2016	V4.1	Minor amendments for accuracy and to ensure compliance with the 'Freedom to Speak Up: Raising Concerns (Whistleblowing) Policy for the NHS	Helen Strickland HR Business Partner
June 2017	V4.2	Appendix 3: Key Contacts (Internal) updated.	Helen Strickland HR Business Partner
March 2018	V5.0	Complete review to ensure consistency with the National Policy.	Louise Dickinson Freedom to Speak Up Guardian.
March 2019	V6.0	Section 6.6 re-written in line with national guidance	Louise Dickinson Freedom to Speak Up Guardian.
July 2020	V6.1	Page 2 'division' changed to 'care group' on flowchart and page 7 'director' changed to 'directors' as there are now 2, then placed on latest Trust template.	Joanne Burton Freedom to speak up Guardian
April 2021	V6.2	<p>Change of Executive Director lead to Director of Nursing, Midwifery and AHPs and inclusion of additional FtSU Champions</p> <p>Clarification and further detail added to the commissioning of investigations, including handling of personal data and sharing of reports thereof (sections 6.8.3 and 6.8.4)</p>	Sian Millard Company Secretary (in consultation with Joanne Burton, FtSU Guardian and Mark Scallan, Head of Information Governance)

All or part of this document can be released under the Freedom of Information Act 2000

This document is to be retained for 10 years from the date of expiry.

This document is only valid on the day of printing

Controlled Document

This document has been created following the Royal Cornwall Hospitals NHS Trust Policy for the Development and Management of Knowledge, Procedural and Web Documents (The Policy on Policies). It should not be altered in any way without the express permission of the author or their Line Manager.

Appendix 2. Equality Impact Assessment

Section 1: Equality Impact Assessment Form						
Name of the strategy / policy / proposal / service function to be assessed Freedom to Speak Up: Raising Concerns Policy V6.2						
Directorate and service area: Corporate Services			Is this a new or existing Policy? Existing			
Name of individual/group completing EIA Joanne Burton Freedom to speak up Guardian			Contact details: 01872 254993			
1. Policy Aim Who is the strategy / policy / proposal / service function aimed at?		To develop a working environment where staff feel able to raise concerns about unlawful conduct, financial malpractice, dangers to the public and staff, damage to the environment or professional misconduct without fear of detriment of victimisation. To protect staff from being subjected to a detriment by the Trust for making a protected disclosure.				
2. Policy Objectives		To raise staff awareness of the Freedom to Speak Up: Raising Concerns (Whistleblowing) Policy. To encourage staff to raise their concerns as early as possible using the policy. To promote a culture of honesty and openness, giving staff the confidence to raise concerns without fear of mistreatment.				
3. Policy Intended Outcomes		Staff feel confident and are aware of how to raise concerns under the Freedom to Speak Up: Raising Concerns (Whistleblowing) Policy. That the Trust is aware of potential unlawful conduct, financial malpractice, dangers to the patients, public and staff, damage to the environment or professional misconduct at the earliest opportunity. That this will help deliver a safe service and protect the interests of patients, staff and the Trust.				
4. How will you measure the outcome?		Please see Section 8 of the policy				
5. Who is intended to benefit from the policy?		Staff, the Trust				
6a). Who did you consult with?		Workforce	Patients	Local groups	External organisations	Other
		X				
b). Please list any groups who have been consulted about this procedure.		Please record specific names of groups: Executive Team				
c). What was the outcome of the consultation?		Approved				

7. The Impact				
Please complete the following table. If you are unsure/don't know if there is a negative impact you need to repeat the consultation step.				
Are there concerns that the policy could have a positive/negative impact on:				
Protected Characteristic	Yes	No	Unsure	Rationale for Assessment / Existing Evidence
Age		X		
Sex (male, female non-binary, asexual etc.)		X		
Gender reassignment		X		
Race/ethnic communities /groups		X		
Disability (learning disability, physical disability, sensory impairment, mental health problems and some long term health conditions)		X		
Religion/ other beliefs		X		
Marriage and civil partnership		X		
Pregnancy and maternity		X		
Sexual orientation (bisexual, gay, heterosexual, lesbian)		X		
<p>If all characteristics are ticked 'no', and this is not a major working or service change, you can end the assessment here as long as you have a robust rationale in place.</p> <p>I am confident that section 2 of this EIA does not need completing as there are no highlighted risks of negative impact occurring because of this policy.</p>				
Name of person confirming result of initial impact assessment:			Joanne Burton Freedom to speak up Guardian	
<p>If you have ticked 'yes' to any characteristic above OR this is a major working or service change, you will need to complete section 2 of the EIA form available here:</p> <p>Section 2. Full Equality Analysis</p>				
<p>For guidance please refer to the Equality Impact Assessments Policy (available from the document library) or contact the Human Rights, Equality and Inclusion Lead debby.lewis@nhs.net</p>				

Appendix 3. List of Freedom to Speak Up Champions

Joanne Burton - Freedom to Speak up Guardian

Mobile: 07717 785332

Rcht.freedomtospeakup@nhs.net

- Samantha Abbott samantha.abbott5@nhs.net
- Katherine Amies katherine.amies@nhs.net
- Ashley Baker ashley.baker1@nhs.net
- Philip Bond philip.bond2@nhs.net
- Diane Brown diane.brown19@nhs.net
- Joanne Burton joanne.burton6@nhs.net
- Zoe Cooper zoe.cooper2@nhs.net
- Louise Dickinson louise.dickinson2@nhs.net
- Susan Foley susan.foley1@nhs.net
- Hayley Howes hayley.howes@nhs.net
- Alexandra James alexandra.james1@nhs.net
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- Ali Thornton ali.thornton@nhs.net
- Bill Thornton bill.thornton@nhs.net
- Caroline Vinnicombe caroline.vinnicombe@nhs.net
- Beverly Wills beverly.wills@nhs.net
- Carol Richards carolrichards11@nhs.net
- Thomas Curtis tomas.curtis@nhs.net

Appendix 4. Example process for raising and escalating a concern

Step one

If you have a concern about a risk, malpractice or wrongdoing at work, we hope you will feel able to raise it first with your line manager, lead clinician or tutor (for students). This may be done orally or in writing.

Step two

If you feel unable to raise the matter with your line manager, lead clinician or tutor, for whatever reason, please raise the matter with our local Freedom to Speak Up Guardian(s):

Joanne Burton

07717 785332

rcht.freedomtospeakup@nhs.net

This person has been given special responsibility and training in dealing with whistleblowing concerns. They will:

- treat your concern confidentially unless otherwise agreed
- ensure you receive timely support to progress your concern
- escalate to the board any indications that you are being subjected to detriment for raising your concern
- remind the organisation of the need to give you timely feedback on how your concern is being dealt with
- ensure you have access to personal support since raising your concern may be stressful.

If you want to raise the matter in confidence, please say so at the outset so that appropriate arrangements can be made.

Step three

If these channels have been followed and you still have concerns, or if you feel that the matter is so serious that you cannot discuss it with any of the above, please contact [*chief executive, medical director, responsible officer, nursing director, nominated non-executive director*].

Step four

You can raise concerns formally with external bodies [*relevant list of prescribed bodies to be provided, similar to that on page 10*].

Appendix 5. 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*.

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