

Brighton and Sussex University Hospitals

Freedom to speak up: raising concerns (whistleblowing) policy and procedure

Version:	V4.1
Category and number:	HR007
Approved by:	Board of Directors
Date approved:	28 March 2018
Name of author:	Freedom to Speak Up Guardian
Name of responsible committee/individual:	Quality and Risk Committee / Director of Nursing and Patient Safety
Date issued:	28 March 2018
Review date:	March 2021
Target audience:	Clinical and Corporate Directorates, and all staff
Accessibility	This document is available in electronic format only unless otherwise requested

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1 INTRODUCTION

- 1.1** All staff at one time or another have concerns about what is happening at work. Usually these are easily resolved. However, when the concern feels serious because it is about a possible danger, professional misconduct or financial malpractice that might affect patients, colleagues or the Trust itself, it can be difficult to know what to do. Whilst Whistleblowing has been the subject of much adverse attention in the NHS, staff at Brighton and Sussex University Hospitals NHS Trust are actively encouraged to raise any concerns they have. Being honest and open is an intrinsic part of the Patient First programme at our Trust.
- 1.2** This 'standard integrated policy' was one of a number of recommendations of the review by Sir Robert Francis into whistleblowing in the NHS. It is aimed at improving the experience of whistleblowing in the NHS. The policy (which was produced by NHS Improvement and NHS England) has to be adopted by all NHS organisations in England as a minimum standard to help normalise the raising of concerns for the benefit of all patients.
- 1.3** Our local process has been integrated into the national policy. It adheres to the principles of the national policy and provides more details on how we will look into a concern at Brighton and Sussex University Hospitals NHS Trust.
- 1.4** The Board of Directors and the staff trade unions are committed to this policy. If staff raise a genuine concern under this policy, they will not be at risk of losing their job or suffering any detriment (such as a reprisal or victimisation). Provided individuals have a reasonable belief that they are acting in the public interest, it does not matter if they are mistaken or if there is an innocent explanation for their concerns. Staff will not be asked to "prove it".
- 1.5** This assurance does not extend to someone who maliciously raises a matter they know to be untrue; disciplinary action may be taken against someone who raises a matter maliciously.
- 1.6** The underlying message for staff is:

“Seen Something – Say Something”

2 WHAT CONCERNS CAN BE RAISED?

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 no means restricted to):

- Unsafe patient care
- Unsafe working conditions
- Inadequate induction or training of staff
- Lack of, or poor, response to a reported patient safety incident
- Suspicions of fraud
- A bullying culture including harassment and hate crime (across a team or whole organisation rather than individual instances)

- Anything to do with the BSUH Charity (i.e. poor fundraising practice)

3 STAFF CONFIDENCE

3.1 With these assurances, the Trust hopes that staff will raise their concern openly.

3.2 It is recognised that there may be circumstances when staff would prefer to speak to someone in confidence first. If this is the case, staff are asked to say so at the outset. If staff ask to remain anonymous, the Trust will not reveal their identity without their consent unless required by law. Staff should understand that there may be times when the Trust is unable to resolve a concern without revealing their identity, for example where their personal evidence is essential. In such cases, this will be discussed with the individual to agree whether and how the matter can best proceed.

3.3 Staff are asked to remember that if they do not tell the Trust their name, it will be much more difficult to look into the matter and harder for the Trust to assure protection and give feedback. Accordingly staff should not assume that the Trust can offer the assurances given in 1.4 in the same way if they report a concern anonymously.

4 WHO CAN RAISE A CONCERN?

4.1 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, and volunteers.

5 HOW TO RAISE A CONCERN

5.1 If staff are unsure about how to raise a concern, or do not know who best to raise the concern with, they can seek advice from the Freedom to Speak Up Guardian. The Guardian's primary role is to support the raising of patient safety concerns but they can also advise staff and help identify the appropriate place to take other concerns to. There are a number of ways to contact the Freedom to Speak up Guardian:

By e-mail to fts@bsuh.nhs.uk

By telephoning or texting 07387259307 or telephoning 01273 696955 ext 62870

All contacts will be treated confidentially and our Guardian will not share the information staff give them with anyone without the member of staff's permission unless the Guardian believe what they have been told may need to be disclosed for the safety of others or is potentially a criminal act.

The flow chart in Appendix 1 shows the process for raising a concern. Local advice and support is available from a number of sources detailed in Appendix 2 and on the Staff Info-net Freedom to Speak Up pages. Independent advice is also available from trade union representatives, NHS whistleblowing helpline or the charity Public Concern at Work for example.

5.2 Individuals are asked to remember that they do not need to have firm evidence before raising a concern. However it is helpful to explain as fully as possible the information or circumstances that gave rise to their concern.

5.3 Step One

5.3.1 If staff have a concern about a risk, unsafe clinical practice or wrongdoing at work, it is expected that they will raise it with their line manager, lead clinician or educational supervisor. This can be done verbally or in writing.

5.3.2 Staff should continue to use the Trust's risk reporting system (Datix) to record any patient safety incidents, near misses or clinical care concerns.

5.4 Step Two

5.4.1 If staff feel unable to raise the matter with their line manager or lead clinician, or are worried that the concern has not been addressed, they should raise the matter with a senior manager or Director within their division. Alternatively the issue can be raised with a member of the Human Resources department or a trade union representative.

5.4.2 Staff who want to raise the matter in confidence should say so at the outset so that appropriate arrangements can be made.

5.5 Step Three

5.5.1 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 anyone else, please contact either The Chief Executive, Executive Medical Director, Director of Nursing and Patient Safety, Joanna Crane, Nominated Non-Executive Director, or Caroline Owens Freedom to Speak Up Guardian.

5.6. RAISING CONCERNS EXTERNALLY

5.7 It is hoped that this policy gives staff the reassurance needed to raise any concerns internally within the Trust. It is also recognised that there may be circumstances where staff can properly report a concern to an outside body, such as:

- NHS Improvement for concerns about:
 - How NHS trusts and foundation trusts are being run
 - Other providers within 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.

5.7.1 The Trust would prefer staff to raise a matter with the appropriate regulator rather than not at all. Staff considering this option can obtain independent advice if they wish.

5.7.2 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 list of 'prescribed persons', a member of staff 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 NHS and social care, Public Concern at Work (contact details in Appendix 2) or a Legal Representative.

6 HOW CONCERNS WILL BE HANDLED

6.1 Once an individual has reported their concern, the recipient of the concern (line manager, lead clinician, trade union representative, director, Local Counter Fraud Specialist etc.) will assess it and consider what action may be appropriate. This may involve an informal review, an internal enquiry or a more formal investigation. The member of staff will be told who will be handling the matter, how they can contact them and whether further information or assistance may be required. The member of staff will be contacted by the recipient of the concern with a summary of the concern, a proposal of how this will be handled and a timeframe for feedback. If there is a misunderstanding of the concern or there is any information missing, staff should let the recipient of the concern know.

6.2 If staff need additional support when English is not their first language, an interpreter can be made available when raising their concern to ensure that it is fully understood. Where this would be helpful, staff are asked to inform the recipient of the concern.

6.3 When staff raise a concern it will be helpful to know if they have any suggestions for how the matter might be best resolved. If the concern falls more properly within the Trust's Grievance, Dignity at Work or other relevant policy, the member of staff will be told.

6.4 Whenever possible, staff will be given feedback on the outcome of any investigation. Staff should be aware that the Trust may not be able to tell them about the precise actions that have been taken where this would infringe a duty of confidence owed to another person. While the Trust cannot guarantee that it will respond to all matters in a way that the member of staff may wish, it will strive to handle the matter fairly and properly.

7 RESPONSIBILITIES

7.1 All Staff

7.1.1 All staff have a professional duty and responsibility to ensure that any concerns they have are reported. For staff who are licenced with a regulatory body (eg. GMC, NMC and HCPC) this is also a requirement of their professional codes of conduct.

7.1.2 This duty requires staff to be honest, open and truthful in all their dealings with patients, visitors and each other.

7.2 Managers and Clinical Leaders

7.2.1 Managers and Clinical Leaders have a responsibility to bring this policy to the attention of their staff.

7.2.2 Managers and clinical leaders have a responsibility for promoting a culture of openness, transparency and candour.

7.2.3 They must treat any concern raised seriously and deal with it promptly and confidentially, giving the employee full support during the whole process. This may involve arranging for an interpreter to be present when meeting with the individual.

7.2.4 Managers must ensure that adequate time is allowed for trade union representatives to undertake their role, recognising the importance of professional representatives in helping to keep the organisation safe.

7.2.5 Managers may seek advice from the Freedom to Speak Up Guardian or access Top Tips and other support materials available on the Freedom to Speak Up Guardian pages of the Staff Info-net.

7.3 Board of Directors

7.3.1 The Board of Directors is committed to this policy. In order to discharge its responsibilities this will include:

- Ensuring that high standards of patient centred care and behaviours are set and maintained across the organisation as identified through our commitment to Patient First.
- Establishing an organisational culture where patients and staff are listened to.
- Taking all concerns seriously, dealing with them thoroughly, expeditiously, confidentially and fairly
- Training and providing guidance to its managers and clinical leaders in dealing with issues of concern.

- Developing and deploying reliable and transparent measures for the culture and health of the Trust's workplaces.
- Ensuring a responsive system of warning signs is in place to prevent danger, professional misconduct or financial malpractice.
- Ensuring organisational learning takes place at all levels when patient, visitor or staff safety is at risk of or has been compromised.
- Provide support to the Guardian in the form of 1-1 meetings with the CEO and Director of Nursing as the executive lead for Freedom to Speak Up together with the non-executive lead. Plus an annual meeting with the CEO and access within 24 hours should the Guardians need to raise concerns
- Training, resources and time for the role and meetings.

7.4 Human Resources Department

7.4.1 The Human Resources (HR) department will be responsible for advising all parties on this policy and for providing specific management and staff guidance.

7.4.2 It is recognised that raising a concern particularly when it is a serious one can be worrying and sometimes distressing for staff. It is therefore important that staff are supported to maintain good health and wellbeing during this time. Support is available to staff using this policy and HR can assist managers with referral to the Trust's professional counselling and or Occupational Health services for fitness to work advice.

7.5 Elected Trade Union Representatives

7.5.1 The role of the elected trade union representatives is to act as an advocate for staff and to provide them with advice and support to help address concerns and problems in a constructive and timely way. This may include accompanying an employee to any formal meeting.

7.5.2 Where a trade union is also a professional representative (for example, the Royal College of Nursing) their role will also be to ensure professional standards of service and conduct are upheld. They will therefore have a duty to pursue professional concerns about the standards independently of individual members of staff.

8 MONITORING COMPLIANCE & EFFECTIVENESS

8.1.1 The Quality and Risk Committee will receive reports from the Freedom to Speak up Guardian to provide assurance that the policy is working effectively i.e. that issues raised are being dealt with in an appropriate and timely

manner and that individuals raising concerns under this policy are being protected from detrimental treatment, dismissal or other disadvantage as a result of raising their concern

- 8.1.2 There will be liaison between the Freedom to Speak Up Guardian and other groups (for example, HR and Patient Safety) to triangulate any recurrent themes which might arise.

8.2 Monitoring Oversight

- 8.2.1 The Chief Executive is responsible for this policy.
- 8.2.2 The Freedom to Speak Up Guardians will monitor the daily operation of the policy and if staff have any comments or questions these should be directed to the Director of Nursing in the first instance.

8.3 The National Guardian and the National Guardians Office

- 8.3.1 The National Guardian can independently review how staff have been treated having raised concerns where NHS trusts and foundations trusts may have failed to follow good practice, working with some bodies listed in Appendix 3 to take action where needed.

Appendix 1 Raising a Concern Flow chart

Raising Concerns, Freedom to Speak Up Flowchart

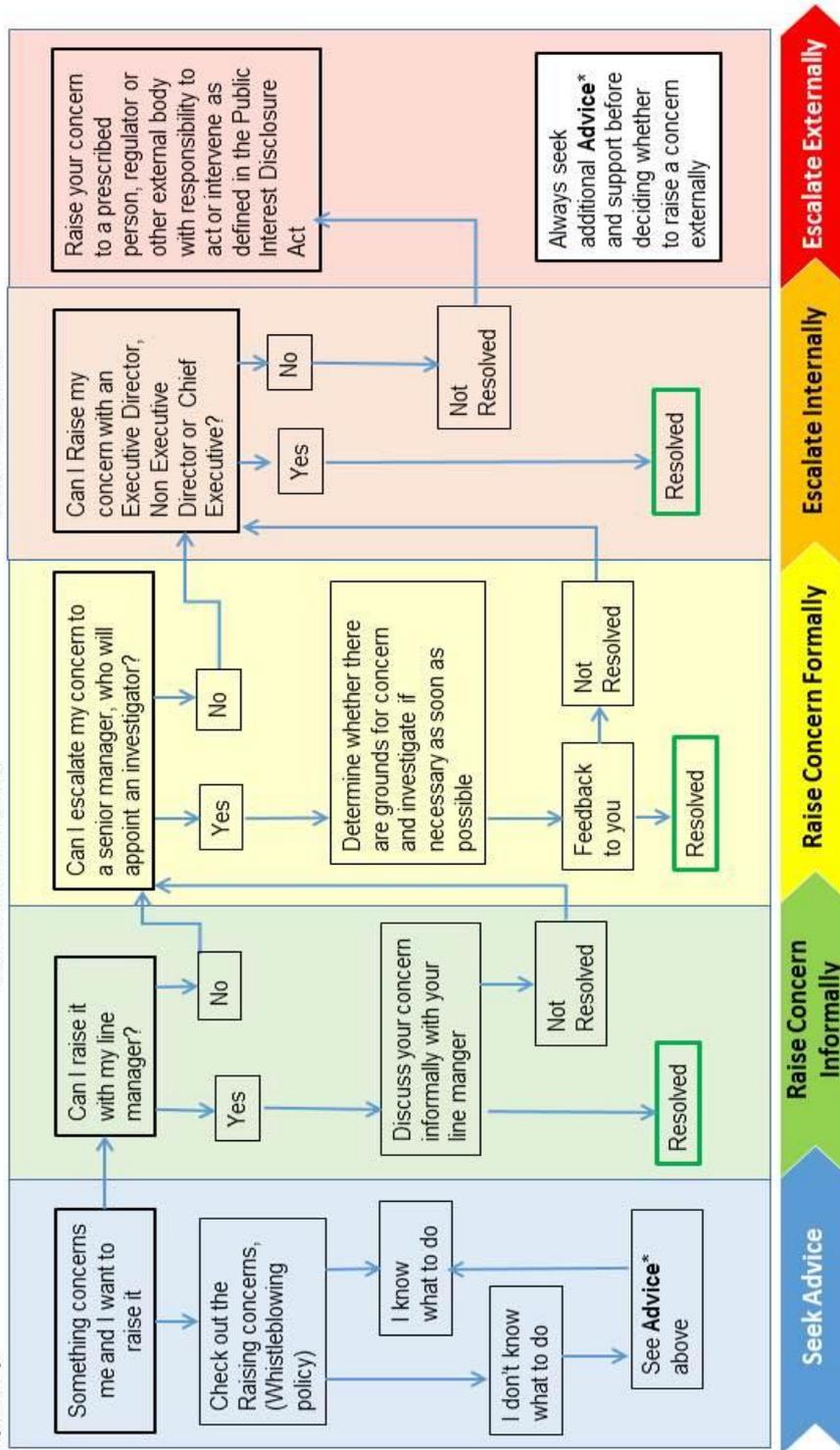
Speaking Up about any concern at work is really important, but not always easy to do. If you are worried about a risk, malpractice or wrongdoing that you think is harming the service we deliver please speak up

Advice* on how to raise concerns, speak to:

Professional Regulator
Trade Unions
National Whistleblowing Helpline 0800 072 4725
Public Concern at Work www.pcaaw.co.uk
0207 7404 6609

Freedom to Speak Up Guardian
07387259307

Counter Fraud Specialist 01273 696955 x 5024
Mobile 07979 503243



Appendix 2 Sources of Support for Raising a Concern

BSUH

- Line Manager, Lead Clinician, Educational Supervisor
- Freedom to Speak Up Guardian, Caroline Owens, fts@bsuh.nhs.uk 07387259307
- Junior Doctors Guardian – Gemma Stockford, Guardian of Safe Working Hours Guardian@bsuh.nhs.uk 07503 295911
- Connections Connections@bsuh.nhs.uk 07768 855 394 ext 7452
- Counter Fraud Specialist / Compliance Manager, Philip Major, philip.major@bsuh.nhs.uk 01273 696955 ext 5024 or 07979 503243.
- Risk Management Team 01273 696955 (ext 8073)
- Member of the Patient Safety team 01273 696955 ext 63025
- Health and Safety Team 01273 696955 (ext 8073)
- Equality Diversity and Inclusion Team (ext 67251)
- Union Representative and Staff Side
- BME Network <https://nww.bsuh.nhs.uk/working-here/bme-black-and-minority-ethnic-network/> Caroline Browne Communication Officer BME Network Core Group 01444 441 881
- LGBT Forum LGBT.ForumMailbox@bsuh.nhs.uk

See Staff Info-net

<https://nww.bsuh.nhs.uk/working-here/freedom-to-speak-up-whistleblowing/sources-of-support/>

NHS Whistleblowing Helpline 08000 724725

<http://wbhelpline.org.uk/wp-content/uploads/2014/04/Raising-Concerns-at-Work.pdf>

Public concern at Work – 02074046609

www.pcaw.co.uk

Appendix 3 External bodies and their areas of responsibility

- NHS Improvement for concerns about:
 - How NHS trusts and foundation trusts are being run
 - Other providers within 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.

- The Charity Commission for concerns about Charity operations or finances

- Fundraising Regulator for concerns about Charity fundraising

- For a full list of prescribed people and bodies see:
Whistleblowing: list of prescribed people and bodies
<https://www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies--2/whistleblowing-list-of-prescribed-people-and-bodies>

Appendix 4 – Handling Raising concerns - practical tips for managers

As a manager you can lead by example:

- Be clear to staff what sort of behaviour is unacceptable and practise what you preach.
- Encourage staff to ask what is appropriate if they are unsure before – not after – the event.
- If you find wrongdoing or a potential risk to patient safety, take it seriously and deal with it immediately.

Responding to a concern:

- Thank the staff member for telling you, even if they may appear to be mistaken.
- Respect and heed legitimate staff concerns about their own position or career.
- Manage expectations and respect confidentiality.
- Discuss reasonable timeframes for feedback with the member of staff.
- Remember there are different perspectives to every concern raised.
- Determine whether there are grounds for concern and investigate if necessary as soon as possible.
- If the concern is potentially very serious or wide-reaching, consider who should handle the investigation and know when to ask for help. Raise the issue with your line manager or a senior manager or Human Resources as appropriate.
- If asked, put your response in writing.
- Always remember that you may have to explain how you have handled the concern.
- Feedback any outcome and/or remedial action you propose to take to the staff member but take care not to infringe any rights or duties you may owe to other parties.
- Consider with your senior manager, reporting to an appropriate regulator the outcome of any genuine concern where malpractice or a serious safety risk was identified and addressed.
- Record-keeping – it makes sense to keep a record of any serious concern raised with those designated under the policy, anonymising these where

necessary to provide an accurate reflection of events. Managers should retain and store confidential records of how they have dealt with the concern at departmental level for a minimum of 3 years.

Refresh, communicate and promote:

- Once you have good arrangements in place – make sure people know about them. Consider how to include your night, bank and agency staff? (Remember to update any staff seconded to other departments or organisations when they return to your area, or those seconded from other organisations into the Trust). Consider how you will engage your team in feeling confident in raising any concerns?
- Getting the message across to staff can be done in a number of ways: face-to-face, in regular 121 meetings, at team meetings or briefings, as part of your departmental/ward induction, in writing, at other meetings.
- Once your team are briefed, you can engage them in rolling out the message by using case studies in team or staff meetings. The Independent Patient Safety Ombudsman can help you source some materials or help you develop your own.
- Consider using 'After Action Review' to encourage learning and improve your service.
- A well-run team should periodically review its raising concerns arrangements to ensure they work effectively and that your team still have confidence in them.
- Arrange regular feedback sessions with your senior managers to evaluate progress and collect and analyse data on the nature and number of concerns raised in your area.
- Check the process you are using is adequate to track the actions taken in relation to concerns made and to ensure appropriate follow-up action has been taken to resolve problems.

Points to consider when implementing and reviewing raising concerns arrangements in your own team

- How many concerns have been raised and how have they been dealt with? ie openly, with staff supported and encouraged to raise their concerns?
- Have any events come to your attention that might indicate that a staff member has not been fairly treated as a result of raising a concern?

- Look at significant adverse incidents/incident management systems or regulatory intervention – could the issues have been picked up or resolved earlier? If so, why weren't they?
- Compare and correlate data with information from other departments/wards
- Find out what is happening on the ground – Be honest with yourself, do your staff feel that they can come to you with their concerns without any negative repercussions for them personally?
- Consider communication key findings from a review or investigation to your team. This will demonstrate that you are listening and willing to learn and show that are willing to put things right and improve the service.
- Refresh the raising concerns arrangements within your team at least once a year. Regular communication to staff about arrangements and outcomes is also recommended. For example this can be via 121's, team meetings, briefings, training or a newsletter.
- Think about the good news – share your success stories with your team and the rest of the organisation.

Appendix 5 – Template Letter for Managers (to be adapted)

{Date}

Private & Confidential

{Name and Address}

Dear {Name}

Thank you for raising your concerns with the {Trust or Deanery} and I confirm that I have been asked to address those concerns using the “Raising Concerns” policy and procedures. I appreciate that it may have been difficult for you to come forward with your concerns and I would like to reassure that I will deal with this matter as sensitively and speedily as possible.

The concerns that you raised on {date} relate to {detail the concerns raised}

First of all, I would like to arrange to informally meet with you and have the following dates and times available.

{dates, time, venue}

Please let me know which of these dates may be convenient, or contact me to arrange an alternative date and time. Once we meet, I will be able to understand your concerns more fully, and identify any supporting documents or information that I need to source, and then what the next steps should be. After this initial step, I will then decide whether or not your concerns can be dealt with informally through discussion and education/awareness-raising, or whether a more formal investigation is appropriate.

I will of course inform you of my decision, identifying any timescales for the actions I need to take, and also a review date for us to meet so that I can feedback to the steps the Trust has taken. {Note: For minor issues, a telephone conversation may be sufficient}.

Once again, thank you for raising your concerns and I look forward to meeting with you as soon as possible.

Yours sincerely

{Name}

{Job Title}

{Contact phone numbers}

{Email address}

Appendix 6 Due Regard Assessment Tool

To be completed and attached to any policy when submitted to the appropriate committee for consideration and approval.

		Yes/No	Comments
1.	Does the document/guidance affect one group less or more favourably than another on the basis of:		
	Age	Yes	There is a potential for age differences to prevent staff raising concerns
	Disability	Yes	Need to ensure we have a variety of communication methods to ensure access to this policy information
	Gender	Yes	There is a potential for staff to not raise concerns to someone of a different gender to themselves
	Gender Identity	Yes	There is potential for staff who identify in this group not to raise concerns.
	Marriage and Civil Partnership Status	No	
	Pregnancy and Maternity status	No	
	Race	Yes	There is potential for staff who identify in this group not to raise concerns, eg perhaps fear of racist behaviour. Differing cultures would not highlight the inefficiencies of their line manager however serious.
	Religion or belief	No	
	Sexual orientation including lesbian, gay and bisexual people	Yes	There is potential for staff who identify in this group not to raise concerns.
2.	Is there any evidence that some groups are affected differently and	No	No evidence as yet however the reported

	what is/are the evidence source(s)?		data will be reviewed.
3.	If you have identified potential discrimination, are there any exceptions valid, legal and/or justifiable?	No	
4.	Is the impact of the document/guidance likely to be negative?	No, positive	
5.	If so, can the impact be avoided?	N/A	
6.	What alternative is there to achieving the document/guidance without the impact?	N/A	
7.	Can we reduce the impact by taking different action and, if not, what, if any, are the reasons why the policy should continue in its current form?	Yes	Brief all staff and be aware of different groups within the Trust and within departments offering encouragement and support. This approach can also be reviewed following the data review.
8.	Has the policy/guidance been assessed in terms of Human Rights to ensure service users, carers and staff are treated in line with the FREDA principles (fairness, respect, equity, dignity and autonomy)	Yes	

If you have identified a potential discriminatory impact of this policy, please refer it to the Director of Human Resources Team, together with any suggestions as to the action required to avoid/reduce this impact.

For all other “Protected Characteristics” please contact the Head of Equality, Diversity and Human Rights

Appendix 7 - Plan for Dissemination of Policies

To be completed and attached to any document which guides practice when submitted to the appropriate committee for consideration and approval.

Title of document:	Freedom to speak up: raising concerns (whistleblowing) policy and procedure		
Date finalised:	28 March 2018	Dissemination lead: Print name and contact details	FTSUG 07387259307
Previous document already being used?	Yes (Please delete as appropriate)		
If yes, in what format and where?	On line to replace V3 <u>HR007 Raising Concerns (Whistle Blowing) Policy and Procedure</u>		
Proposed action to retrieve out of date copies of the document:	Suggest removal from info-net		
To be disseminated to:	How will it be disseminated, who will do it and when?	Format (i.e. paper or electronic)	Comments:
All Staff	FTSUG arrange to update info-net	electronic	
	Note policy update in presentations or meetings delivered/attended by FTSUG	Face to face	
	Article in Buzz	Paper and electronic	

Dissemination Record - to be used once document is approved

Date put on register / library of policies:		Date due to be reviewed:	
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Disseminated to:	Format	Date	No. of	Contact details /
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(either directly or via meetings, etc.)	(i.e. paper or electronic)	disseminated :	copies sent:	comments: