

RAISING CONCERNS SPEAK UP SAFELY (WHISTLEBLOWING) POLICY	<b>Policy Title:</b>	<b>RAISING CONCERNS SPEAK UP SAFELY (WHISTLEBLOWING) POLICY</b>
	<b>Name of Originator/Author:</b>	Derek Eaves – Freedom to Speak Up Guardian Carol Love-Mecrow – Freedom to Speak Up Guardian Sharon Phillips – Risk and Standards Manager
	<b>Director Lead:</b>	Diane Wake, Chief Executive
	<b>Target Audience:</b>	This policy demonstrates the Trust’s commitment to support and encourage staff if they have a concern to raise it and to show them how they can do this.  It applies equally to all staff working now or who worked with the Trust previously and those who carry out work on the Trust’s behalf including; Bank Staff, those on honorary contracts, students, those on research agreements, agency staff, voluntary workers and contractors.
	<b>Version:</b>	V4
	<b>Ratification Committee</b>	CQSPE
	<b>Date of Final Ratification at Committee:</b>	26/09/2017
	<b>Review Date:</b>	March 2020
	<b>Registration Requirements Outcome Number(s) (CQC)</b>	All standards
	<b>Relevant Documents /Legislation/Standards</b>	NHS Improvement (2016) <a href="#">Freedom to Speak up: raising concerns (whistleblowing) Policy for the NHS</a> <a href="#">HC (90) 9 – Department of Health Guidance, Maintaining High Professional Standards in the Modern NHS</a> <a href="#">Public Interest Disclosure Act 1998 and subsequent amendments</a>
	<b>Contributors:</b>	Adapted from the NHS improvement (2016) Freedom to speak up : raising concerns (whistleblowing) policy for the NHS Freedom to Speak up Guardian
<b>The electronic version of this document is the definitive version</b>		

## CHANGE HISTORY

Version	Date	Reason
1.	2007	Policy development
2	Oct 2012	Reviewed and updated
3	July 2016	Policy replaces the previous Whistleblowing Policy and has been reviewed and updated in line with new national legislation
4	September 2017	Reviewed and updated to combine two previous documents into one and to take account of National Guardian Office recommendations

**A translation service is available for this document. The Interpretation/Translation Policy, Guidance for Staff is located on the intranet under Trust-wide Policies.**

## Contents

		<b>Page</b>
1	Introduction	4
2	Statement of Intent	4
3	Definitions	4-6
4	Duties	6-7
5	Who can raise a concern	7
6	What concerns should I raise	7
7	Confidentiality	9
8	How to raise a concern	9
9	Support and communication	9
10	Training	9
11	Process For Monitoring Compliance	10
12	Equality Impact Assessment	10
13	References And Further Reading	10
Appendix 1	Outside Bodies	11
Appendix 2	Concerns: Guidance For Managers And Investigators	12

# THE DUDLEY GROUP NHS FOUNDATION TRUST

## RAISING CONCERNS (INCLUDING WHISTLE BLOWING) POLICY

### 1. INTRODUCTION

- 1.1** Raising concerns about any aspect of work is vital if an organisation is to learn and move forward. The Trust recognises that individuals may be worried to speak up but it actively encourages staff to raise concerns in a no blame or recrimination culture. It welcomes concerns being raised no matter how big or small and it is focused on the benefits from voicing concerns as a way to learn, make changes and improve the working place for our staff and ensure the safety of our patients and visitors.
- 1.2 FEEL SAFE TO RAISE A CONCERN** - The Trust actively encourages staff to raise concerns at the earliest opportunity about safety, malpractice or wrongdoing at work. If a genuine concern is raised through this policy the individual will not be at risk of losing their job, or having penalties and there will be no reprisals as a result. They will have protected disclosure and /or regulator disclosure protection (refer to section 3). The Trust will continue to fully support staff even if they are found to be mistaken or their concerns prove not to be founded. The Public Trust Disclosure Act gives statutory protection to employees and workers who disclose information reasonably and responsibly in the public interest concerning malpractice in the workplace.
- 1.3** The Trust will not tolerate the harassment or victimisation of anyone raising a concern, nor will the Trust tolerate any attempts by its staff to bully individuals into not raising a concern or to give an instruction to cover up or not to raise or pursue any concern. Even if this is a person in authority such as a Manager or Director, the staff member should not agree to remain silent. If this occurs and is upheld following an investigation this will result in disciplinary action.

### 2. STATEMENT OF INTENT

This policy is designed to provide guidance and support when raising concerns and applies equally to all staff working within the Trust and those who carry out work on the Trust's behalf, including; Bank Staff, those on honorary contracts, research agreements, agency staff, voluntary workers and contractors. The policy is consistent with the National Policy 'Freedom to Speak Up: Raising Concerns (whistleblowing) Policy (NHS Improvement 2016) developed following the Francis Inquiry.

It establishes clear principles and processes to enable staff to express their concerns by encouraging all staff to feel confident when raising concerns and to question an act where concerns about practice are experienced or witnessed

### 3. DEFINITIONS

- 3.1 Concern-** A concern can be anything that is thought to be a risk to staff, patients or the organisation. It can relate to risk, malpractice, wrongdoing or omission, basically anything that is thought may harm the service. Please note it does not need to be a concern with the potential for catastrophic consequences but can be any level of potential/actual risk. Sometimes this

can be a theme of minor concerns which can accumulate and have a negative impact.

The following are a few examples (NHS Improvement 2016) to put this into context but this list is by no means exhaustive:

- Unsafe patient care
- Unsafe working conditions
- Inadequate induction or training for staff
- Lack of, or poor, response to a reported patient incident
- Suspicions of fraud
- A bullying culture (across a team or organisation rather than individual instances which would be managed through the Trust [Anti-Bullying and Harassment Policy](#))

Remember that if you are a healthcare professional there may be a professional duty to report a concern. Don't wait for proof, 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.

**Protected Disclosure** - The Public Interest Disclosure Act (1998) - is where a worker has a reasonable belief that their disclosure is in the public interest and is protected by law and shows one or more of the following:

- A criminal offence has, is being or is likely to be committed.
- A person has failed, is failing, or is likely to fail to comply with a legal obligation to which he or she is subject.
- Professional malpractice/misconduct or a failure to comply with any rules, regulations or codes of practice.
- A miscarriage of justice has occurred, is occurring or is likely to occur.
- The health and safety of an individual/s has been, is being or is likely to be endangered
- Sexual, physical or psychological abuse of patients, or other unethical conduct.
- The occurrence of any of the above has been, is being or is likely to be deliberately concealed.

**(Please note that this list is not exhaustive)**

The Trust will fully support staff making a disclosure even if they are found to be mistaken or their concerns prove not to be founded. In very rare circumstances an investigation may discover the individual raising a concern has intentionally made malicious allegations which they know to be untrue. If so the individual will not be protected under the Public Trust Disclosure Act and will be subject to an investigation in line with the Disciplinary Policy.

**3.3 Regulatory Disclosures:** A disclosure that identifies a breach in the standards and regulations that apply either professionally or to the NHS nationally.

- Regulatory bodies may include: Health and Safety Executive; Care Quality Commission (CQC), NHS Improvement
- Professional Regulatory Bodies would include: General Medical Council (GMC), Nursing Midwifery Council (NMC), Health Protection Agency (HPA) and Health & Care Professions Council (HCPC)

**3.4 Staff:** for the purpose of this policy these are individuals who currently or who have formally worked for the organisation both on substantive and Bank contracts. The term also encompasses those on honorary contracts, students, those on research agreements, agency staff, voluntary workers and contracted staff.

#### **4. DUTIES (RESPONSIBILITIES)**

##### **4.1 Chief Executive**

The Chief Executive has overall responsibility for ensuring the Trust has in place an effective framework that encourages and supports its staff to raise concerns without recriminations, for these to be investigated and actions implemented and learning ensured as a consequence.

##### **4.2 Board of Directors**

The Board of Directors has overall responsibility for monitoring compliance with and effectiveness of this policy and will ensure that effective management systems are in place.

##### **4.3 Raising Concerns Executive and Non-Executive Leads**

The Freedom to Speak Up Executive and Non-Executive Leads are responsible for providing assurance to the Board of Directors that the organisation has an embedded organisation-wide framework for staff to feel free to speak up and raise concerns. The Non- Executive Lead is responsible for challenging the Executive Directors for this assurance.

##### **4.4 Freedom to Speak Up Guardian**

The Freedom to Speak Up Guardian acts 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 of the organisation.

The guardian will escalate to the Board any indications that you are being subjected to any detriment for raising your concern, remind the organisation of the need to give you timely feedback on how your concern is being dealt with and direct you to where you can have access to personal support since raising your concern may be stressful.

If staff are unsure who to raise a concern with or are unhappy with how it is progressing the guardian will provide support to you to enable you take forward any issues.

The guardian will publicise about the importance of Speaking Up and lessons learned, retain a database of concerns and provide quarterly reports to the Board of Directors.

##### **4.5 Guardian of Safe Working (Junior Doctors)**

The Guardian of Safe Working is an appointment in response to the new Junior Doctor contract proposals to ensure they have someone who they can go to if they feel that safe working is being put at risk because of being asked to work excessive hours. The guardian acts as a champion for safe working and escalates any concerns brought to them by junior doctors. This role works together with the Trust's Freedom to Speak Up Guardians.

#### **4.6 Risk and Standards Team**

The Risk and Standards team acts as a secondary source of advice to staff at any stage of raising a concern.

#### **4.7 Director of Human Resources and Department**

The Director of Human Resources and his Department will provide support and assistance to staff who want to raise a concern and with any investigation.

#### **4.8 Line Managers/Senior Managers/Director Managers**

Line Managers/Senior Managers/Director Managers are responsible for:

- Ensuring that all staff are both aware of this policy and feel safe to raise concerns without fear of any reprisals.
- Informing the Risk and Standards Team of concerns.
- On receipt of a concern, listen, respect and support the member of staff
- Ensuring that confidentiality is maintained.
- Determining what appropriate corrective action is required following an investigation and providing assurance to the Risk and Standards Team.

#### **4.9 Investigation Lead**

The Investigating Lead (may be the Line Manager) will be appointed following determination of the level of investigation, appropriateness of independence and availability. They will be responsible to ensure all parties are treated fairly, ensure communication is maintained with the member of staff and provision of feedback.

#### **4.10 All Staff**

All staff have a right and duty to raise any matters of concern they have associated with the Trust and its delivery of care.

### **5 WHO CAN RAISE A CONCERN AND HOW?**

Anyone who works or has worked in the Trust can raise a concern in line with this policy. This includes all substantive staff, agency workers, temporary workers, students, volunteers and Governors.

Concerns can be raised in person, by phone, in writing or by email.

### **6 WHO SHOULD I RAISE MY CONCERN WITH?**

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). However, 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. Also, if raising it with your line manager (or lead clinician or tutor) does not resolve matters you can contact one of the following people:

- Our Freedom to Speak Up Guardians: Derek Eaves, ext. 3418, Carol Love-Mecrow, ext.2212. Both can be contacted on their internal email addresses or through the address: [raising.concerns@dgh.nhs.uk](mailto:raising.concerns@dgh.nhs.uk)
- Our risk and standards team: Sharon Phillips (Deputy Director of Governance) ext. 1089

- Guardian for Safe Working (for working conditions concerns for Junior Doctors) (refer section 4. 3) - Mr Babar Elahi (mobile via switch board)

You could also contact:

- The Chief Executive: Diane Wake, ext. 2102
- Our non-executive director with responsibility for Speaking Up: Doug Wulff (via trust email or in person)

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

If for any reason you do not feel comfortable raising your concern internally, you can raise concerns with external bodies (see Appendix 1).

On the front page of the Trust intranet (the Hub) is a whistle symbol. Further information on this subject such as a factsheet, guide for managers and videos are available there.

## **7. WHAT WILL THE NAMED PERSONS ABOVE DO?**

### **7.1 Initially**

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. A central record will be kept with the date the concern was received, whether you have requested confidentiality (see below), a summary of the concern and dates when we give you updates or feedback.

### **7.2 Investigation**

When you raise an initial concern or when you have been unable to resolve the matter with your line manager, we will carry out a proportionate investigation – using someone suitably independent (usually from a different part of the organisation) 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.

We may decide that your concern would be better looked at under another process; for example, it may be more appropriate to manage under one of the following policies:

- [Fraud and Corruption Policy](#)
- [Anti Bullying and Harassment Policy](#)
- [Safeguarding Children Policy](#)
- [Safeguarding Adults Policy](#)
- [Anti Bribery Policy](#)



If so, we will discuss that with you. The Trust encourages its staff to still raise their concerns to enable an initial discussion. This will determine if the concerns would be better looked at under a different process.

## **8 CONFIDENTIALITY/ANONYMITY**

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.

When a concern is raised anonymously it is likely to be more difficult to investigate so it is desirable that raised concerns should not be anonymous. If this occurs, however, the Trust will still investigate the issue to the fullest extent possible and ensure appropriate action is taken.

## **9 SUPPORT, COMMUNICATION AND LEARNING**

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.

Raising concerns can place a significant amount of pressure on the individual and they may require additional support.

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.

## **10 TRAINING**

How to raise concerns and the Trust framework to support this is included in the Trust Induction. All Managers who receive or who are required to investigate concerns are required to attend the training. The Trust provides formal and bespoke training and support which includes:

Investigation Training - This includes generic training to complete an investigation, the role of the Freedom to Speak up Guardian and how to receive concerns (training is arranged by the Human Resources Department).

Support - The Human Resource Department offer support and Guidance to all staff members involved in the completion of an investigation.

The Freedom to Speak Up Guardian offers support and Guidance to all involved in the investigation.

## 11. PROCESS FOR MONITORING COMPLIANCE

Element to be monitored	Lead	Tool	Frequency	Reporting arrangements	Acting on recommendations and Lead(s)	Change in practice and lessons to be shared
Compliance to the process and learning	Freedom to Speak up Guardian	Data base analysis and verbal feedback	Quarterly	Board of Directors receives a quarterly report on compliance to the process and any learning	Depending on compliance, outcome and clinical or operational area– Director Lead / Manager assigned	Depending on compliance, outcome and clinical or operational area– Director Lead / Manager assigned

## 12 EQUALITY IMPACT ASSESSMENT

The Dudley Group NHS Foundation Trust is committed to ensuring that, as far as is reasonably practicable, the way we provide services to the public and the way we treat our staff reflects their individual needs and does not discriminate against individuals or groups on any grounds.

## 13 REFERENCES AND FURTHER READING

British Medical Association (BMA) (2016) [Guide to raising concerns](#). [Accessed 22/06/2016]

Health & Care Professions Council (HCPC) Whistleblowing. [www.hcpc-uk.org/registrants/raisingconcerns/whistleblowing](http://www.hcpc-uk.org/registrants/raisingconcerns/whistleblowing)

[Accessed 22/06/2016]

Nursing and Midwifery Council (NMC) (2015) Raising concerns: Guidance for nurses and midwives. [www.nmc-uk.org/Nurses-and-midwives/Raising-and-escalating-concerns](http://www.nmc-uk.org/Nurses-and-midwives/Raising-and-escalating-concerns)

[Accessed 22/06/2016]

NHS Improvement (2016) [Freedom to speak up : raising concerns \(whistleblowing\) policy for the NHS](#). London: NHS Improvement NHS England. [Accessed 22/06/2016]

Francis, R (2013) [Report of The Mid Staffordshire NHS Foundation Trust Public Inquiry](#). [Accessed 22/06/2016]

## **APPENDIX 1 OUTSIDE BODIES**

**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 and the national tariff

**Care Quality Commission** for quality and safety concerns

**Health Education England** for education and training in the NHS

**NHS Protect** for concerns about fraud and corruption (Hotline 0800 028 4060).

**National Speak up Guardian Office** for support and advice or if you have concerns about how the Trust has dealt with your concern  
Alternatively, you can also contact the Whistleblowing Helpline for the NHS and social care, your professional body or trade union representative.  
(Details of these can be found in the Trust Staff Factsheet on Raising Concerns)

## APPENDIX 2

### CONCERNS: GUIDANCE FOR MANAGERS AND INVESTIGATORS

Once a concern is raised a face to face meeting is to be offered to enable reassurance and support and confirm the details of the concern. If this is not possible this may be done by telephone or by written correspondence.

- Thank the person for coming forward and raising the concern.
- Ensure with the staff member that there will be no repercussions
- Listen carefully and ensure it is understood what is being raised.
- Confirm the concerns are suitable to be managed through this policy. Other potential policies are listed in this document. If the correct policy is not clear support and guidance can be gained from the Human Resource department.
- Determine if there are any immediate risks or actions that are required.
- Inform Safeguarding Leads (Adults/Children) and the Local Counter Fraud Specialist if that is appropriate
- Respect confidentiality and explain when this may not be possible.
- Identify any potential conflicts of interest and discuss these and agree a way forward.
- Maintain communication, support and feedback to the staff member
- At all times - gain advice from senior staff if unsure how to progress

The proportionate level of investigation (informal or formal) and who will lead the investigation needs to be decided – see outline below.

Investigation	Criteria
Informal Local	<ul style="list-style-type: none"> <li>• Local concern and can be managed at local level</li> <li>• Staff member wants an answer/reassurance/ immediate action</li> <li>• Does not require formal investigation</li> </ul>
Formal Local	<ul style="list-style-type: none"> <li>• Local concern isolated to one area</li> <li>• Less complex can be managed at local level</li> <li>• Local Lead Investigator may be Lead/Manager can investigate own area</li> <li>• Delivery of local resolutions/actions/changes</li> </ul>
Formal Wider than local implications	<ul style="list-style-type: none"> <li>• Complex cannot be managed at local level</li> <li>• May/does have trust wide implications</li> <li>• Lead investigator will be independent to the area</li> <li>• Resolutions/actions/changes will need to be driven corporately</li> </ul>
Formal External	<ul style="list-style-type: none"> <li>• Required when the integrity of the investigation may be challenged or when it is difficult for the organisation to be objective</li> <li>• May require external support from specialist groups or organisations</li> </ul>

Assistance for all formal investigations can be given by the Human Resources Department. The investigator will:

- Ensure objectivity and treat all parties fairly
- Maintain factual and concise records
- Produce a factual report that confirms the outcome of the investigation and any actions/recommendation and lessons learnt to prevent recurrence.

If unsure of anything throughout the process ask for advice (Human Resources, Freedom to Speak Up Guardian, Risk and Standards Team etc). The Trust also has 'A practical guide for senior staff and managers to develop an open culture and support speaking up'. This is available on the 'Raising Concerns' section on the Hub.