

Raising Concerns (Whistleblowing) Policy

2019 - 2022

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			Directorate Governance and Assurance Team
Title	Raising Concerns (Whistleblowing) Policy		
Amendments	October 2019: Updated further to Counter Fraud Team's review – minor changes to Paragraphs 6 (footnote), 11.1 and Appendix A (1.4).		
Purpose	To demonstrate the CCGs' commitment to an open and transparent culture for its workforce and to set out the arrangements in place for raising concerns.		
Superseded Documents	<ul style="list-style-type: none"> Greater Nottingham CCGs' Raising Concerns (Whistleblowing) Policy Mid-Nottinghamshire CCGs' Raising Concerns (Whistleblowing) Policy 		
Audience	All employees of the six Nottingham and Nottinghamshire CCGs (including those working within the organisation in a temporary capacity).		
Consulted with	N/A		
Equality Impact Assessment	Completed – no potential adverse or positive impacts identified.		
Approving Body	Governing Bodies	Date approved	July 2019
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<p>This is a controlled document and whilst this policy may be printed, the electronic version available on the CCGs' document management systems is the only true copy. As a controlled document, this document should not be saved onto local or network drives.</p>			

Nottingham and Nottinghamshire CCGs' policies can be made available in alternative formats, such as easy read or large print, and may be available in alternative languages, upon request. Please contact ncccg.notts-committees@nhs.net

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1. Introduction

- 1.1 This policy applies to the Nottingham and Nottinghamshire Clinical Commissioning Groups (NHS Nottingham City CCG, NHS Nottingham West CCG, NHS Nottingham North and East CCG, NHS Rushcliffe CCG, NHS Mansfield and Ashfield CCG and NHS Newark and Sherwood CCG), hereafter referred to as 'the CCGs'.
 - 1.1.1 All CCGs have a responsibility for ensuring that high standards of business conduct are maintained across their organisations and all Governing Body members are expected to show leadership by example in order to successfully influence the behaviour of staff. As such, members of Governing Bodies and their established committees must at all times comply with the expectations set out in the *Standards for members of NHS Boards and Clinical Commissioning Group Governing Bodies in England*.
 - 1.2 The CCGs' Governing Bodies and Executive Management and Senior Leadership Team are committed to creating an open, transparent and supportive culture for their workforce. The CCGs recognise the valuable contribution their employees make to the running of public services, and to the protection of the public interest. People are encouraged to speak up with any genuine issues that are concerning them and, under this policy, can do so in confidence and without the fear of reprisal.
 - 1.3 Whistleblowing can inform those who need to know about unsafe working practices, potential environmental problems, fraud, corruption, bribery, cover-ups, bullying and many other problems. Often it is only through whistleblowing that this information comes to light and can be addressed before any real damage is done.
 - 1.4 The Governing Bodies would prefer that matters are raised when they are just a concern, instead of waiting for confirmation. As long as individuals are acting in good faith, it does not matter if there has been a mistake.
 - 1.5 A whistleblowing concern should not be confused with a grievance, which is a personal complaint about an individual's own employment situation. The CCGs' Grievance Procedure should be referred to for further information on this.
 - 1.6 The CCGs will not tolerate the harassment or victimisation of anyone raising a genuine concern under this policy and individuals will not be at risk of losing their job or suffering any form of retribution as a result. The Governing Bodies are committed to this policy, and the public interest principle that it promotes.

1.7. Whilst the CCGs have established aligned governance arrangements and a joint staffing structure, it is important to remember that any legal requirements interest remains the responsibility of each individual organisation. This policy has been developed for implementation across the CCGs to ensure a consistent approach and aligned working practices; however, each CCG will need to continue to be able to demonstrate its own compliance with the relevant legislation and national guidance.

2. Definitions

2.1 The following terms and definitions apply for the purposes of this policy and its associated procedure (provided at **Appendix A**):

Term	Definition
Whistleblowing	Someone ‘whistleblows’ when they tell their employer, a regulator, the police, or the media about a dangerous, improper, or illegal activity that they have become aware of through the course of their work.
Concern	<p>For the purpose of this policy, a concern can be defined as a reasonable and honest suspicion about a possible fraud, danger, or other serious risk that threatens patients, colleagues, stakeholders, the public, or the organisation’s reputation.</p> <p>Whilst this is not an exhaustive list, examples of incidents that may constitute a cause for concern are:</p> <ul style="list-style-type: none"> • Victimisation or harassment of a colleague. • Criminal acts. • Unethical practices, not necessarily of a criminal nature. • Issues regarding staff conduct, including concerns related to equality and diversity. • Serious maladministration. • Dangerous acts (or omissions) that create a

Term	Definition
	<p>hazard to health, safety or the environment.</p> <ul style="list-style-type: none"> • Fraud, bribery or corruption¹. • Non-compliance with the CCGs' Conflicts of Interest Policy or Gifts Hospitality and Sponsorship Policy. • Non-compliance with a legal obligation.
<p>External Disclosure</p>	<p>This is the term used for raising a whistleblowing concern externally, for example, with a regulator or independent supervisory body, or as appropriate, the police, MPs, or the media.</p> <p>Further information on making external disclosures is set out at Appendix A.</p>
<p>The Public Interest Disclosure Act (The Act)</p>	<p>The Act protects workers from detrimental treatment or victimisation from their employer if, in the public interest, they blow the whistle on wrongdoing.</p>

3. Scope

- 3.1 This policy relates to all employees and appointees of the CCGs and others working within the organisation in a temporary capacity. These are collectively referred to as 'individuals' hereafter.
- 3.2 This policy specifically applies to issues of concern relating to the activities of the CCGs. If any issues of concern are identified by individuals within the CCGs that relate to other organisations (from which the CCGs commission services), then these should be brought to the attention of the relevant Commissioning Manager (or appropriate senior manager within the CCGs) at the earliest convenience. Any such instance would not be classified as whistleblowing or treated in accordance with this policy.

4. Purpose

- 4.1 The CCGs take all whistleblowing concerns seriously. Therefore, the purpose of this policy is to ensure that individuals feel empowered and assured that it

¹ *If the concern is regarding fraud, bribery or corruption, then the CCGs' Fraud, Bribery and Corruption Policy 2019-2020 should be referred to for guidance on how to report this."*

is acceptable and safe to speak up about any concerns they may have, as long as they are made in good faith.

- 4.2 This policy is designed both to inform individuals of how they can raise concerns, both internally and externally, and to protect them from suffering any detriment.

5. The Public Interest Disclosure Act 1998

- 5.1 Under the [Public Interest Disclosure Act \(PIDA\) 1998](#), a protected disclosure can be made, if in the reasonable view of the individual, it is “in the public interest”. PIDA also affords protection to those who may suffer victimisation where they have made such a disclosure.
- 5.2 In line with the Act, the CCGs undertake that no reprisals will be taken against individuals who raise genuine concerns, internally or externally. The CCGs will not tolerate the harassment of anyone raising a genuine concern and it will be a disciplinary matter to victimise bona fide whistleblowers.
- 5.3 However, this assurance will not extend to individuals who maliciously raise concerns they know to be untrue. All concerns raised will be treated in good faith, however if it is found that an individual has done so with improper motives, disciplinary proceedings may commence against that individual.

6. Confidentiality

- 6.1 The best way for individuals to raise concerns is to do so openly, as this makes it easier for the CCGs to gain more information in order to better investigate the matter.
- 6.2 However, the CCGs recognise that individuals may wish to raise their concerns in confidence, so if an individual asks that their identity be protected, then it will not be disclosed without their consent.
- 6.3 If a situation arises where a concern cannot be resolved without revealing an individual's identity, then it will be discussed with the individual whether and how the matter can proceed. It should be remembered that if identity is withheld, it will be much more difficult to look into the matter and give feedback, or to protect the individual's position.

7. Roles and Responsibilities

7.1 Governing Bodies

The Governing Bodies are responsible for ensuring that there is an effective system in place for individuals to raise concerns. They are also responsible for promoting a culture of openness and transparency, where individuals feel empowered and assured that they are able to discuss their concerns without fear of reproach.

7.2 All Managers

All managers have a responsibility to:

- Ensure this policy is adhered to.
- Contribute to a culture where individuals feel safe to discuss concerns.
- Take concerns seriously and handle them in accordance with **Appendix A – Procedure for Reporting Concerns** and **Appendix B – Handling Whistleblowing: Practical Tips for Managers**.
- Recognise that raising a concern can be a difficult experience for individuals.
- Seek appropriate advice as necessary and communicate relevant findings to others where appropriate.

7.3 Associate Director of Governance

The Associate Director of Governance has delegated responsibility from the Governing Bodies for dealing with concerns, where an individual feels unable for whatever reason, to contact their line manager directly.

8. Freedom to Speak Up Guardian

Where individuals still have concerns but feel unable to raise these with their Manager or the Associate Director of Governance; the Lay Chair of the Governing Bodies (who is the CCGs' appointed Freedom to Speak up Guardian) can also provide an independent and impartial source of advice to staff at any stage of raising a concern.

9. Equality and Diversity Statement

- 9.1 The Nottingham and Nottinghamshire CCGs pay due regard to the requirements of the Public Sector Equality Duty (PSED) of the Equality Act 2010 in policy development and implementation, both as commissioners and as employers.

- 9.2 As a commissioning organisation, we are committed to ensuring our activities do not unlawfully discriminate on the grounds of any of the protected characteristics defined by the Equality Act, which are age, disability, gender re-assignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
- 9.3 We are committed to ensuring that our commissioning activities also consider the disadvantages that some people in our diverse population experience when accessing health services. Such disadvantaged groups include people experiencing economic and social deprivation, carers, refugees and asylum seekers, people who are homeless, workers in stigmatised occupations, people who are geographically isolated, gypsies, roma and travellers.
- 9.4 As employers, we are committed to promoting equality of opportunity in recruitment, training and career progression and to valuing and increasing diversity within our workforce.
- 9.5 To help ensure that these commitments are embedded in our day-to-day working practices, an Equality Impact Assessment has been completed for, and is attached to, this policy.

10. Communication, Monitoring and Review

- 10.1 The CCGs will establish effective arrangements for communicating this policy and will provide appropriate training to line management in relation to their responsibilities.
- 10.2 The Audit and Governance Committees will review the effectiveness of the CCGs' whistleblowing arrangements on an annual basis.
- 10.3 The Associate Director of Governance will monitor the use of this policy on an ongoing basis.
- 10.4 This policy will be reviewed by the Governing Bodies every three years or in light of any legislative changes.
- 10.5 Any individual who has queries regarding the content of this policy, or has difficulty understanding how this policy relates to their role, should contact the CCGs' Associate Director of Governance.

11. Interaction with other Policies

11.1 This procedure should be read in conjunction the following CCG policies:

- Fraud, Bribery and Corruption Policy 2019-2020.
- Management of Conflicts of Interest Policy.
- Gifts, Hospitality and Sponsorship Policy.

12. References

This policy has been developed with guidance from the following publications and websites:

- NHS Improvement and NHS England (2016). [Freedom to speak up: raising concerns \(whistleblowing\) policy for the NHS](#)
- NHS Employers (2018), [Whistleblowing: Raising concerns at work](#)
- HM Government (2018). [Whistleblowing for employees](#)
- [Public Concern at Work](#)

Appendix A – Procedure for Reporting Concerns

1. Internal Reporting

1.1 Where there is a concern, the CCGs hope that individuals will feel able to raise it with their line manager in the first instance. This may be done verbally or in writing.

1.2 If an individual feels unable to discuss their concern with their line manager, or is unsatisfied with the response from their line manager, then they should raise the matter with:

Lucy Branson
Associate Director of Governance
Tel: 0115 8839538 (ext. 39538)

This member of staff has been delegated responsibility by the Governing Bodies for dealing with whistleblowing concerns.

1.3 If an individual still has concerns about raising the matter with either of the above, they can contact the CCGs' Freedom to Speak Up Guardian:

Jon Towler
Lay Chair of the Governing Bodies
Email: jon.towler@btinternet.com

1.4 Alternatively, if the concern is about fraud, corruption or bribery, then the CCGs' nominated Local Counter Fraud Specialist may also be contacted:

Email: taelor.martin@nhs.net
Tel: 0115 883 5319 or
Mobile: 07464 251746

1.5 If the concern is about conflicts of interest then the CCGs' Conflicts of Interest Guardian should also be contacted. Details are provided in the CCGs' Managing Conflicts of Interest Policy.

1.6 Individuals should report matters where they are still concerns, rather than waiting for proof or investigating concerns themselves.

1.7 At the time of raising the concern, the individual should state whether they wish to remain anonymous whilst the concern is being investigated. Any personal interest in the matter being reported should also be stated at this time.

- 1.8 The manager (or other individual mentioned in paragraphs 1.2, 1.3 and 1.4 above as appropriate) will convene a meeting to discuss the issue with the individual raising the concern, who may wish to be accompanied by a Union representative or a colleague or friend not acting in a professional capacity. Advice from other professionals may be sought as considered appropriate. This meeting will take place no later than **three working days** of the issue being reported.
- 1.9 The manager (or other individual mentioned in paragraphs 1.2, 1.3 and 1.4 above as appropriate) will provide the individual with a summary of the concern in writing. It is important that the factual accuracy of this is checked by the individual raising the concern to ensure there are no misunderstandings or inaccuracies.
- 1.10 Those receiving concerns will ensure that they are given full and sympathetic consideration. This is likely to result in one of the following:
- A further investigation being completed under the relevant CCG Policy and Procedure.
 - The concern being forwarded to another body or organisation for their attention.
 - The issue not being considered a priority for attention at present, but the situation continuing to be monitored.
- 1.11 A response detailing the agreed course of action will be provided to the individual raising the concern within **10 working days** from when the concern was first raised.
- 1.12 Wherever possible, feedback will be provided on the outcome of any investigation. However, individuals may not be able to be informed of the precise actions taken where this would infringe a duty of confidence owed to another person.
- 1.13 Whilst no guarantees can be given that all matters will be responded to in the way that individuals might wish, all concerns will be handled fairly and properly in accordance with this policy and procedure.
- 1.14 Those receiving concerns should ensure that the following details are recorded and forwarded to the Associate Director of Governance following feedback to the individual concerned:
- Details of the concern and the date it was raised.

- Who raised the concern (stating 'unable to disclose' where anonymity is requested).
- Who the concern was raised with.
- Details of action taken.

2. External Disclosures

- 2.1 Any individual that does not wish to raise their concern internally, or feels that a concern previously raised has not been properly addressed under this policy and procedure, is able to raise their concern externally. The [Public Interest Disclosure Act \(PIDA\) 1998](#) provides further information on this.
- 2.2 Individuals are advised to seek advice from the organisation Public Concern at Work (see **Appendix C**) before making an external disclosure. They will be able to provide free, independent and confidential advice in relation to concerns and also advise on any legal implications.
- 2.3 All NHS employees must fulfil their duty of confidentiality to the CCGs. Unauthorised disclosure of personal information about any patient or colleague will be regarded as a most serious matter, which may result in disciplinary action.
- 2.4 In cases where employees are considering disclosing confidential information (even if their opinion is that it would be in the public interest) they should first seek specialist advice. Organisations from which advice may be sought is given at **Appendix C**.

Appendix B – Handling Whistleblowing: 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 you what is appropriate if they are unsure before – not after – the event. If you find wrongdoing or a potential risk is present, 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 promises of confidentiality.
- Discuss reasonable timeframes for feedback with the member of staff.
- Remember there are different perspectives to every story.
- 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. 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 whistleblower, but be careful if this could infringe any rights or duties you may owe to other parties.

This information has been adapted from 'Speak up for a healthy NHS: How to implement and review whistleblowing arrangements in your organisation.'

Appendix C – External Contacts

Public Concern at Work (PCAW)

PCAW is an independent charity, who have trained advisers to offer free, confidential practical and legal advice if you have concerns with regard to your organisation.

Telephone:

Whistleblowing Advice Line: 020 7404 6609

General enquiries: 020 3117 2520

Email:

UK enquiries: whistle@pcaw.org.uk

UK helpline: helpline@pcaw.org.uk

The National Whistleblowing Helpline

The National Whistleblowing Helpline provides free, confidential, and independent advice for those working in the NHS.

Telephone:

08000 724 725

Email:

enquiries@wbhelpline.org.uk

Health and Safety Executive (HSE)

The HSE can advise on matters relating to the health or safety of any individual at work or affect the health and safety of any member of the public arising out of, or in connection with, the activities of persons at work.

Telephone:

0845 300 9923

Appendix D – Equality Impact Assessment

Date of assessment:	July 2019			
Name of Policy:	Raising Concerns Policy			
For the policy, and its implementation, please answer the questions against each of the protected characteristic and inclusion health groups:	Has the risk of any potential adverse impact on people in this protected characteristic group been identified, such as barriers to access or inequality of opportunity?	If yes, are there any mechanisms already in place to mitigate the adverse impacts identified?	Are there any remaining adverse impacts that need to be addressed? If so, please state any mitigating actions planned.	Are there any positive impacts identified for people within this protected characteristic group? If yes, please briefly describe.
Age²	No	N/A	N/A	N/A
Disability³	No	N/A	N/A	N/A
Gender reassignment⁴	No	N/A	N/A	N/A
Marriage and civil partnership⁵	No	N/A	N/A	N/A
Pregnancy and maternity⁶	No	N/A	N/A	N/A
Race⁷	No	N/A	N/A	N/A

² A person belonging to a particular age (for example 32 year olds) or range of ages (for example 18 to 30 year olds).

³ A person has a disability if she or he has a physical or mental impairment which has a substantial and long-term adverse effect on that person's ability to carry out normal day-to-day activities.

⁴ The process of transitioning from one gender to another.

⁵ Marriage is a union between a man and a woman or between a same-sex couple.

Same-sex couples can also have their relationships legally recognised as 'civil partnerships'.

⁶ Pregnancy is the condition of being pregnant or expecting a baby. Maternity refers to the period after the birth, and is linked to maternity leave in the employment context. In the non-work context, protection against maternity discrimination is for 26 weeks after giving birth, and this includes treating a woman unfavourably because she is breastfeeding.

⁷ Refers to the protected characteristic of race. It refers to a group of people defined by their race, colour, and nationality (including citizenship) ethnic or national origins.

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Religion or belief⁸	No	N/A	N/A	N/A
Sex⁹	No	N/A	N/A	N/A
Sexual orientation¹⁰	No	N/A	N/A	N/A
Carers¹¹	No	N/A	N/A	N/A

⁸ Religion refers to any religion, including a lack of religion. Belief refers to any religious or philosophical belief and includes a lack of belief. Generally, a belief should affect your life choices or the way you live for it to be included in the definition.

⁹ A man or a woman.

¹⁰ Whether a person's sexual attraction is towards their own sex, the opposite sex, to both sexes or none. <https://www.equalityhumanrights.com/en/equality-act/protected-characteristics>

¹¹ Individuals within the CCGs which may have carer responsibilities.