

Freedom to speak up raising concerns (whistleblowing) Policy for the NHS)

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<i>Name of Director Sponsor</i>	Charlotte Dillaway, Director of Strategy and Planning
Name of originator/author:	Michelle Angell, AD of Assurance
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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.

2. This policy

This 'standard integrated policy' was one of a number of recommendations of the review by Sir Robert Francis into whistleblowing in the NHS, aimed at improving the experience of whistleblowing in the NHS. It is expected that this policy (produced by NHS Improvement and NHS England) will be adopted by all NHS organisations in England as a minimum standard to help to normalise the raising of concerns for the benefit of all patients.

Our local process has been integrated into the policy and provides more detail about how we will look into a concern.

3. What concerns can I raise?

You can raise a concern about **risk, malpractice or wrongdoing** you think is harming the service we *commission*. 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)
- a bullying culture (across a team or organisation rather than individual instances of bullying).

Details of the CCG Local Counter Fraud Specialists are published on the CCG's website and on notice boards within Pearl House.

For further examples, please see the [Health Education England video](#).

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

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.

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 policy.

4. Feel safe to raise your concern

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.

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

5. 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. 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 and governors.

7. 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.¹ But 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.

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:²

- our Freedom to Speak Up Guardian (or equivalent designated person) is the, Lay Member for Governance and Conflicts of Interest Guardian, *E-mail:* cpr.ccg@nhs.net *Tel:* 01268 464621, 12 Castle Road, Rayleigh, Essex SS6 7QF – 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

Accountable Officer, or if necessary, outside the organisation.

- our Director of Strategy and Planning.
- our AD of Assurance.

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

- our executive lead with responsibility for whistleblowing. Chief Nurse, E-mail: patricia.dorsi@nhs.net Tel: 01268 464620, 12 Castle Road, Rayleigh, Essex SS6 7QF.
- our non-executive director with responsibility for whistleblowing *Lay Member for Patient and Public Involvement* E-mail: cpr.ccg@nhs.net Tel: 01268464621, 12 Castle Road, Rayleigh, Essex SS6 7QF.

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, listed on page 8.

¹ The difference between raising your concern formally and informally is explained in our local process. In due course NHS England and NHS Improvement will consider how recording could be consistent nationally, with a view to a national reporting system.

² Annex A sets out an example of how a local process might demonstrate how a concern might be escalated.

8. Process - how to raise a concern

- 4.1. Directly employed staff - there is an informal and a formal procedure available to employees of Castle Point & Rochford CCG. The informal procedure requires the individual to report their concerns to their line manager. The formal procedure requires the individual to report their concern direct to the Executive Nurse.
- 4.2. Castle Point & Rochford CCG aims to deal with concerns quickly and as near to the source of concern as possible. For this reason we encourage you to follow the informal route first, but if you feel uncomfortable speaking to your line manager, or the informal approach does not work, the formal route is available. Staff may also wish to discuss the matter with their trade union, which can provide support, advice and guidance.
- 4.3. Whichever procedure is used, we are clear that all managers must take such concerns seriously, and to consider them fully and sympathetically.
- 4.4. Members and employees of member practices who are not directly employed by Castle Point & Rochford CCG, but who have an involvement in our activities, either through a contract or service level agreement, agency work, or working as part of a partnership arrangement, should raise concerns directly to the Executive Nurse.
- 4.5. So long as a disclosure is not made for personal gain and that there is a reasonable belief that the information and any allegation are substantially true, individuals have the full protection of the Public Interest Disclosure Act against any kind of victimisation.

9. Advice and support

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

<http://castlepointandrochfordccg.nhs.uk/component/search/?searchword=whistleblowing&searchphrase=all&Itemid=435>

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

10. How should I raise my concern?

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

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

11. What will we do?

We are committed to the principles of the Freedom to Speak Up review and its vision

for raising concerns, and will respond in line with them (see Annex B).

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.

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) 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 incident³). 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, our process for dealing with bullying and harassment. If so, we will discuss that with you.

³ If your concern suggests a Serious Incident has occurred, an investigation will be carried out in accordance with the [Serious Incident Framework](#).

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

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 the full investigation report with you (while respecting the confidentiality of others).

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.

Governing Body oversight

The Governing Body 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 Governing Body supports staff raising concerns and wants you to feel free to speak up.

Review

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

12. 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 Counter Fraud Authority](#) for concerns about fraud and corruption.

13. 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.

14. National Guardian Freedom to Speak Up

The new National Guardian (once fully operational) 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.

15. Monitoring

- 151 This policy will be monitored and reviewed regularly by the Director of Strategy and Planning with the support of the AD of Assurance and Policy Advisory Group (PAG).
- 152 All Whistleblowing cases will be referred to the Executive Nurse who will maintain a log and report regularly to the Audit Committee.

16. Equality Impact Assessment

		Yes/No	Comments
1.	Does the policy/guidance affect one group less or more favourably than another on the basis of:	No	No the policy is applied equally
	<ul style="list-style-type: none"> • Race/Ethnicity 		
	<ul style="list-style-type: none"> • Nationality 		
	<ul style="list-style-type: none"> • Gender 		
	<ul style="list-style-type: none"> • Religion or belief 		
	<ul style="list-style-type: none"> • Sexual orientation including lesbian, gay and bisexual people 		
	<ul style="list-style-type: none"> • Age 		
	<ul style="list-style-type: none"> • Disability 		
2.	If you have identified potential discrimination, are any exceptions valid, legal and/or justifiable?	No	
3.	Is the impact of the policy/guidance likely to be negative?	Potentially	The implementation of the policy could result with individuals wishing to seek reprisal and this could potentially impact more on minority groups
4.	If so can the impact be avoided?	Yes	There is a need to ensure that no one experiences any victimisation and that the Public Interest Disclosure Act 1998 is enforced by the CCG.
5.	What alternatives are there to achieving the policy/guidance without the impact?		Ensuring that all staff understand the implications should they fail to comply with the Public Interest Disclosure Act 1998.
6.	Can we reduce the impact by taking different action		Provide training in relation to equality and diversity and dignity at work.
7.	Actions/Recommendations		Ensure all staff fully understand the CCG's Whistleblowing Policy and processes through 1-1 with line manager.

Annex A: 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. This may be done orally or in writing.

Step two

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

Lay Member for Governance and Conflicts of Interest Guardian, *E-mail:*
cpr.ccg@nhs.net *Tel:* 01268464621, 12 Castle Road, Rayleigh, Essex SS6 7QF

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 Governing Body 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 *[Accountable Officer, responsible officer, Chief Nurse, nominated Lay Member]*.

Step four

You can raise concerns formally with external bodies *[relevant list of prescribed bodies to be provided, similar to that on page 8]*.

Annex B: A vision for raising concerns in the NHS



Source: Sir Robert Francis QC (2015) *Freedom to Speak Up: an independent report into creating an open and honest reporting culture in the NHS*.

Management guidance

Introduction

1. This management guidance supplements the whistle-blowing policy and lists some of the issues that come into play when a whistle-blowing incident occurs.

Overall responsibility for whistle-blowing cases

2. Overall responsibility for whistle-blowing cases rests with the Chief Nurse who shall co-ordinate Castle Point & Rochford CCG whistle-blowing arrangements.
3. The co-ordinator needs to be a director, to have influence at Governing Body level, and to show that we take accusations seriously.

The project team

4. The co-ordinator will form a team to investigate and manage any whistle-blowing incident. This team should have a range of knowledge and skills.
5. Wherever possible, the team should have someone who works in the same area as the whistleblower e.g. finance, quality. They will help the project team to find out normal operational protocols and good practice.
6. The co-ordinator will tell the whistleblower who is in the project team, and whether they are likely to work together.
7. The team must also do its best to keep the whistleblower anonymous. If it is not possible to do this, they must tell the whistleblower as soon as possible.
8. **Size of team** - the number of people in the project team dealing will depend on the whistleblowing incident involved. It is unlikely that a team will have fewer than three people (the coordinator, a case manager and a contact officer – see later notes).

The team should be as small as possible, to make sure the investigation is discreet, but still be able to deal with all the issues involved properly.

9. The team should also be senior enough to be able to bring in extra resources to help them if required.
10. The case manager has responsibility for the day-to-day management and progress of the project (under the overall strategic direction of the co-ordinator).
11. **Conflict of interest** - the people involved in any project team must not have any conflict of interest through personal relationships with those being investigated or with the whistleblower.

12. The person who may have to make a judgement on the findings of the investigation should not carry out the direct investigation. There will therefore need to be clear boundaries within the project team if the co-ordinator is to make the decision based upon an investigation led by the case manager. If the co-ordinator is heavily involved in the investigation, then the decision needs to be taken by another Executive.
 13. **Local Counter Fraud Specialist and other fraud investigations** - some whistle-blowing cases may have to involve the Local Counter Fraud Specialist. It may also be necessary to liaise with the police. If the Local Counter Fraud Specialist is involved, they will dictate the process (*please refer to the CCG's Counter Fraud and Bribery Policy*).
- Note:** not every whistle-blowing case will involve fraud or corruption. A fraud or corruption investigation may start in ways that may not involve any element of whistle-blowing.
14. **HR involvement** - where there are potential issues round the whistleblower's continued employment in their current job, the Castle Point & Rochford CCG HR function provided by the CSU **must** be involved from the start, and must be included in the project team. This is likely to be the case for most whistleblowing cases, but not all. Sometimes someone with only remote contacts with a particular person or work team may blow the whistle on their activities, and then the Castle Point & Rochford CCG HR function may not need to be involved.
 15. **Other experts** - depending on the case, other experts may need to be called in to work with the project team. For example IT experts may be needed if computers and technology may have been used in the alleged wrongdoing, or have been used to remove evidence or audit trails. For similar reasons, finance experts / accountants / auditors or HR professionals may also be needed. In difficult cases, you will need to involve the Local Counter Fraud Specialist because of their experience in dealing with complex investigations.
 16. **Trade union and professional bodies' involvement** - working with the whistleblower's trade union representatives (and / or representatives of their professional body) must be discussed with them as soon as possible. If the whistleblower is happy with such contact then the coordinator must talk to the whistleblower's local trade union representative or professional body representative as soon as possible.
 17. In certain exceptional scenarios, it may be good to include these representatives within the whistle-blowing team itself. This will make sure that the team considers the welfare and best interests of the whistleblower during what will undoubtedly be a stressful time for them.
 18. In project meetings where confidential aspects relating to the investigation are to be discussed, it is recognised that this may lead to a conflict of interest for the trade union (e.g. if they are also the trade union for the person being investigated). In this case, the representatives must

be left out of these particular discussions.

19. All representatives are accountable to the project team. If there is a conflict of interest, then the representative must withdraw from the project team.

Communications between the team and the whistleblower

20. **The contact officer** - one person within the team should be allocated to the whistleblower as the main point of contact. They will be the main resource for support and advice to the person.

They will also provide the main link between the whistleblower and the project team if new issues arise.

21. It is important that any person carrying out this difficult role receives appropriate training and support. Because the contact person who supports the whistleblower may suffer from 'reflected' stress, the contact officer role should not be the same person for every whistleblowing case.
22. The co-ordinator should talk to the whistleblower about whether the contact officer is at the right level, compared to them. Ask if they feel comfortable liaising with someone who is senior to them, or whether they might find it easier to confide in someone who is at a similar level to themselves in the organisation.
23. All potential contact officers should receive training in basic counselling.

Counselling

24. Whistle-blowing puts a lot of pressure on the whistleblower, and they may need significant support. They should be regularly offered counselling. There are three main options for providing this. Either (i) an outside counsellor commissioned by Castle Point & Rochford CCG on an ad hoc basis, (ii) a person who is part of a commissioned service that provides other counselling services on a regular basis to Castle Point & Rochford CCG or (iii) an internal counsellor who understands our ways of working but is one step removed from the whistle-blowing project team. The decision will depend upon the needs of the individual and the cost and availability of resources.

Planning the project and supporting the staff member

25. **Plan of action** - the project team must start by agreeing a project plan for dealing with the whistle-blowing situation. The plan must be flexible enough to deal with problems such as people not being available to interview, or not being able to get hold of documents and other evidence. The team must draw up key project milestones and timescales, and give the whistleblower an outline of the plan and likely timescales.

26. **Frequency of contact** – the contact officer must contact the whistleblower regularly to keep them up to date and check their wellbeing. The whistleblower can make the contact if that is easier. Throughout the process, the whistleblower must be continually reminded that other support and counselling is available. They should be asked to be honest about their working environment so that they can work somewhere else if necessary. If that is the case, the contact officer must tell the Castle Point & Rochford CCG HR function immediately, explaining about the whistleblowing context, so they can go on the redeployment register to help find them alternative work. If the Castle Point & Rochford CCG HR function is already part of the project team, then the Castle Point & Rochford CCG HR function representative will normally initiate this process.
27. **Progress updates** - the contact officer must keep the whistleblower informed about progress on the inquiry. They must support and reassure the whistleblower in this difficult period of their working lives. Such support may be even more important when the police are involved and the whistleblower may be involved in a long drawn out criminal process.
28. **Outcomes** - the whistleblower must be told the outcome of the investigation. They should again be offered counselling and support and an opportunity to discuss the impact of the investigation on their working arrangements. In many instances there will not be any repercussions or consequences. In others, the whistleblower may feel unable to return to their normal place of work because of the difficulties the investigation has created.
29. **Finding alternative work** - if the whistleblower says that they want to work somewhere else, then, as long as they acted in good faith, we will do our best to find them alternative employment within the organisation and at a similar grade and status. In this regard, whistleblowers will get priority – even above that given to potentially redundant employees who may be on the redeployment list. If finding suitable alternative employment is proving difficult, the whistleblower should be consulted about other options, such as opportunities working for other similar organisations.
30. **Links with other employers** - we may enter into reciprocal arrangements for establishing opportunities for whistleblowers employed by similar organisations. Equality of opportunity requirements in the various organisations may mean that the person has to apply for permanent positions. To overcome this, we can consider temporary secondments to other organisations to help their placement. This will only be for as long as it takes to highlight appropriate vacant positions in Castle Point & Rochford CCG.
31. **Note:** in reaching any reciprocal agreement, the current employing organisation must state in writing that they believe the whistleblower acted in good faith.32. **Providing emotional support** - the whistleblower must be made to feel confident and supported that their concerns are being treated seriously. They must not be allowed to feel

isolated, unwanted or unappreciated. At this period of their working life, issues that would normally be fairly mundane or straightforward can appear to the whistleblower to be much more important and more serious. The co-ordinator must make sure that basic counselling training is given to contact officers so that they can help the whistleblower to place such things in proper perspective.

33. **Limits and boundaries to supporting the whistleblower** - members of the whistle-blowing team should ensure that boundaries are maintained to avoid any accusations that they have provided advice that could be construed as being against Castle Point & Rochford CCG best interests. This is difficult, because they need to balance the need to support the person who made the whistle-blowing claims. Staff involved must beware of accidentally making comments in a supporting and empathetic role that may be seen as creating a potential conflict of interest or making an admission of liability on behalf of Castle Point & Rochford CCG.
34. **Links with external support agencies** – Castle Point & Rochford CCG will develop links with charities such as Public Concern at Work. The contact officer will encourage the whistleblower to contact such organisations. They may also need to refer the whistleblower to occupational health. The whistleblower should be told about all of the counselling and support options, and be regularly reminded about them throughout the project. These offers should be in writing, and kept on file.
35. **Support for partners and family** - if appropriate, counselling should also be offered the whistleblower's partner, if it appears that the whistle-blowing is creating additional stress within the relationship. Any such instances should be authorised by the whistle-blowing case manager. Counselling may also be offered to close family members living with the whistleblower at the discretion of the case manager.
36. **Whistleblower's sickness** - if the whistleblower becomes ill with stress or anything that can be related to the whistle-blowing incident, then the contact officer should write to them, asking how they would like to be kept informed (telephone, letter, e-mail, through trade union or friends, etc).
37. If a whistleblower takes sickness absence from work, for matters related to the whistle-blowing (usually anxiety or stress), then as soon as possible, the payroll service should be told to continue full pay for the foreseeable future. The person will still be recorded as sick and will still need to provide proper documentation in support of their sickness (medical certificates).

Another categorisation may be used to record this sickness.

38. The Castle Point & Rochford CCG HR function provided by the CSU should make a note about how this sickness is reported to future employers. While Castle Point & Rochford CCG owes a duty of care to report the actual level of sickness, it should be provided with a note that given the unique circumstances, it ought to be put to one side for

determining the person's normal sickness record.