

Freedom to Speak Up Policy



Please complete the table below:

To be added by corporate team once policy approved and before placing on website

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| Policy ref no: | 42 |
| Responsible Executive Director: | Sarah Truelove, Deputy Chief Executive and Chief Finance Officer |
| Author and Job Title: | Laura Davey, Corporate Manager |
| Date Approved: | July 2022 |
| Approved by: | Governing Body |
| Date of next review: | July 2022 |

Policy Review Checklist

| | Yes/ No/NA | Supporting information |
|--|-------------------|--|
| Has an Equality Impact Assessment Screening been completed? | Yes | See appendix 1 |
| Has the review taken account of latest Guidance/Legislation? | Yes | |
| Has legal advice been sought? | No | |
| Has HR been consulted? | Yes | |
| Have training issues been addressed? | Yes | See implementation plan at appendix 2 |
| Are there other HR related issues that need to be considered? | No | |
| Has the policy been reviewed by JCC? | N/A | Seen by Staff Partnership Forum |
| Are there financial issues and have they been addressed? | No & N/A | |
| What engagement has there been with patients/members of the public in preparing this | None | Not required as this is a staff policy |

| | Yes/ No/NA | Supporting information |
|--|------------|---|
| policy? | | |
| Are there linked policies and procedures? | Yes | Shown in section 17 of this policy |
| Has the lead Executive Director approved the policy? | Yes | |
| Which Committees have assured the policy? | Yes | Staff Partnership Forum for comment and approval will be from Governing Body |
| Has an implementation plan been provided? | Yes | See appendix 2 |
| How will the policy be shared with | Yes | Details of how the policy will be shared are shown in the implementation plan |
| Will an audit trail demonstrating receipt of policy by staff be required; how will this be done? | No | |

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Raising Concerns Policy

1 Introduction

BNSSG Clinical Commissioning Group is committed to conducting its business with honesty and integrity. It expects all staff to maintain high standards in accordance with its Constitution, and will continue to maintain and develop a culture of openness and accountability and a supportive environment, in which staff can raise any issues or concerns in a timely manner.

Our senior leaders and Governing Body are committed to an open and honest culture in line with our values.. We will look into what you say and you will always have access to the support you need.

We will foster a culture of safety and learning in which all staff feel safe to raise concerns and we will continue to develop and maintain a culture of openness and accountability, creating a supportive environment in which staff can raise any issues or concerns.

Our investigations into concerns will be objective and evidence-based, and will produce a report that focuses on identifying and rectifying any issues, and learning lessons to prevent problems recurring.

If you have a reasonable belief that it would be in the public interest to raise a concern you should do so using this policy.

2 Purpose and scope

The aims of this policy are:

- To encourage and support staff to raise any concerns and to report any suspected wrongdoing in regard to the CCG's obligations as soon as possible
- To assure staff that their concerns will be taken seriously and thoroughly investigated as appropriate and that their confidentiality will be maintained
- To assure staff that they will be supported and will not suffer any detrimental treatment as a result of raising a concern in good faith
- To reassure staff that if they raise any concerns, which they reasonably believe to be in the public interest, they will be protected from reprisals or victimisation.
- To provide staff with a framework as to how to raise any concerns
- To ensure that staff receive a response to their concerns within an appropriate timeframe and know what to do if they are not satisfied with any action

This policy applies to all Governing Body members, sub-committee members, employees, workers, trainees, agency, bank staff, contractors, students and

volunteers within the CCG. This policy sets out the framework in which concerns can be raised.

This policy is not intended to cover members of the public or staff from other bodies and organisations who wish to raise concerns and this includes CCG committee members who are not directly employed by the CCG. When members of the public or staff from other bodies and organisations wish to raise concerns, these will be investigated through the CCGs complaints process or other appropriate channel depending on the circumstances. The principles of confidentiality expressed in this policy will extend to these occasions. Where necessary these concerns will be shared with other relevant organisations to enable an investigation to take place.

There may be times when concerns are better processed in line with another CCG policy. Where a concern affects one individual it is expected that this will be addressed through the Grievance Policy. If an individual has concerns that they are subject to personal bullying and harassment this should be addressed through the CCGs Bullying and Harassment Policy. There may be instances where personal issues are raised through such policies that are recognised to have a wider impact and this will be dealt with in parallel to this policy.

This policy reflects the recommendation made in the Francis Report that the reporting of incidents of concern relevant to patient safety, compliance with fundamental standards or some higher requirement of the employer needs to be not only encouraged but insisted upon. The policy also reflects the principles and recommendations made in the Freedom to Speak Up Review that the purpose of all that we do must be to protect patients and the public interest.

The CCG recognises that settlement agreements containing clauses that seek to prevent disclosures protected under the Public Interest Disclosure Act 1998 are unacceptable.

The CCG is clear that any bullying and oppressive behavior is unacceptable and will not be tolerated. All members of staff are valued by the CCG and no one should feel discriminated or penalised for raising concerns.

3 Duties and responsibilities

Freedom to Speak Up Guardian

The Freedom to Speak Up Guardian is responsible for helping to nurture a culture of openness, by acting as an independent and impartial source of advice to staff at any stage of raising a concern.

Freedom to Speak Up Champions

The Freedom to Speak Up Champions will be trained to provide advice to staff on their concerns, co-ordinate arrangements for investigations and where necessary, escalate to the Freedom to Speak up Guardian. They will support the CCG and the Freedom to Speak Up Guardian in nurturing a culture of openness and honesty.

Human Resources

Provide support, guidance and advice to managers, employees and workers in line with this policy for any concerns raised, as well as to individuals considering raising a concern under this policy.

Executive Team

The Executive Team are responsible for reviewing all concerns escalated to them in accordance with this policy. As recommended by the independent freedom to speak up review, the best evidence suggests that a good safety culture is most successfully embedded in organisations where responsibility and accountability for local policy and procedures for raising concerns, sit with the executive team. The Executive Team is therefore responsible for ensuring this policy is properly applied.

All managers/clinical leaders

Managers and clinical leaders are key to developing a culture of safety and learning in which all staff feel safe to raise a concern about anything they believe is harming the services we deliver. Managers and clinical leaders hold a responsibility to process and investigate all such concerns effectively in line with this policy.

All staff

All staff have a responsibility to read and understand this policy and to support the principles set out within it.

4 Definitions/explanations of terms used

Raising a concern (formerly known as whistle blowing) is the disclosure of information which relates to any suspected or likely wrongdoing or dangers at work. Individuals may at any point be concerned about issues that they may see or hear about during their course of employment.

A concern under this policy is any concern in which it is honestly believed will harm the service we deliver.

The Freedom to Speak Up Guardian is a designated role assigned to someone who will operate independently, impartially and objectively, whilst working in partnership with individuals and groups throughout the organisation including the Senior Leadership Team. The Freedom to Speak Up Guardian will support staff with any concerns raised as set out in this policy.

The Freedom to Speak Up Champions will be two CCG employees who will raise the profile of raising concerns through this policy and signposting to the Freedom to Speak up Guardian. In the absence of the Freedom to Speak up Guardian, these Champions will be the contact point for staff as a safe and impartial person to raise concerns to.

5 Raising a Concern

A concern can be raised about any risk, malpractice, fraud or wrongdoing in the CCG or that is harming the service(s) the CCG commissions. This was formerly known as Whistleblowing.

There may be times when the CCG decides that the concern would be better looked at under another process; for example, bullying and harassment. If so, this will be discussed with the individual raising the concerns. Any employment issues that affect only the member of staff who raised the concern will be addressed through the CCGs Grievance Policy.

The CCG treats confidentiality in the highest regard and we hope staff will feel comfortable in raising concerns openly. The CCG recognises however that individuals may want to raise concerns confidentially and will respect your wishes at all times unless disclosure is required by law for example to the Police. You can also choose to raise a concern anonymously without sharing your name or contact details with anyone, including the person you are raising your concern with. Please note that in these circumstances this may make it more difficult for the CCG to undertake a thorough investigation and to give you feedback on the outcome.

You can raise a concern about risk, malpractice or wrongdoing you think is taking place in the CCG or that is harming a 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
- a bullying culture (across a team or the CCG rather than individual instances)
- a criminal offence has or is likely to be committed;
- a miscarriage of justice;
- a person or the organisation has failed, is failing or is likely to fail to comply with any legal obligation(s) i.e. breaking the law;
- Poor clinical practice, a breach of the professional codes of conduct, is putting patients at risk;
- A system failure likely to impact patient care has not been identified or resolved by a person or the organisation;
- Poor financial malpractice has, is or is likely to take place including financial fraud or mismanagement;
- There is a risk or danger of damage to the environment;
- The health and safety of any individual (including mental and/or physical issues) has been, is being or is likely to be endangered in any way;
- The unauthorised disclosure of confidential information;

- There is a breach of the Clinical Commissioning Group's internal policies or procedures;
- There is conduct taking place that is likely to damage our reputation and/or the public perception of the integrity of the Clinical Commissioning Group has been, is or is likely to be undermined in any way;
- The actions of the Clinical Commissioning Group are creating a risk or danger to patients, the public and employees; or
- The deliberate concealment of any of the above matters

Individuals are encouraged to raise concerns about issues that may appear on the surface to be inconsequential or unimportant or isolated incidents. This is because these concerns may when considered alongside other information be a critical part of a wider problem that needs to be tackled. The CCG encourages individuals to raise any matters at the earliest opportunity rather than wait for proof or further incidences to take place. This supports the CCG in taking action whilst the matter is still a concern rather than when it has escalated further. It doesn't matter if you turn out to be mistaken as long as you are genuinely troubled.

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 concerns. 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. It should be noted however, that abuse of this process through the raising of unfounded malicious allegations will also be regarded as a disciplinary matter.

Staff may want to take independent advice before raising a concern. For advice and guidance at any stage of the process employees can also contact Human Resources, a Trade Union representative, an appropriate professional regulatory body, or refer to guidance issued by any of them. Staff can get free, independent and confidential advice using the contact details listed in section 12 of this policy.

6 Procedure for Raising a Concern

Employees should raise concerns in line with the following procedure.

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).

The Corporate Team will maintain a Serious Concerns Log and hold a record of all investigations and their outcomes.

Stage 1 (Informal)

Wherever possible, concerns should be discussed and resolved informally. Any staff (including workers, agency staff and contractors) who have concerns about any wrongdoing within the CCG, should in the first instance raise their concerns with their line manager.

If your concern is about your line manager, you should take the matter up with the next line of management.

A number of processes exist for concerns to be discussed in a positive way as part of everyday practice this includes, team meetings, regular 1:1's and performance development reviews and this is encouraged by the CCG to ensure any concerns are dealt with as early as possible.

Where a concern is raised informally you will be asked to complete a Raising Concerns Form to submit to your line manager.

Your manager will then investigate the concerns and provide the Freedom to Speak up Guardian with a copy of the Raising Concerns Form detailing the outcomes of the investigation. They will also, taking into account confidentiality share the outcome with the individual who raised the concerns.

Concerns raised with a manager are not expected to be complex and it is expected investigations would be completed within 20 working days with responses available in 5 working days. If you request a formal response to your concerns this can be provided by the manager investigating but they may initially take a less formal approach and verbally confirm you of the outcome.

Where informal mechanisms do not resolve the concern, the further stages listed below provide a formal procedure within which to address the concerns.

Stage 2 (Formal Concerns)

There may be times when it may be more appropriate to raise your concern directly with the Freedom to Speak up Champions or Freedom to Speak Up Guardian or, where you have exhausted stage 1 of this policy and are not satisfied with the response you have received.

Your issue will be acknowledged by the Freedom to Speak Up Champion or Freedom to Speak up Guardian within 3 working days.

The Freedom to Speak up Champion or Freedom to Speak up Guardian will through the Corporate Team ensure an individual at the appropriate level investigates the concerns raised.

Where the concern relates to the Chief Executive or Clinical Chair the Freedom to Speak up Guardian will work with the other party to investigate the concerns raised.

Where the concern relates to both the Chief Executive and Clinical Chair the Freedom to Speak up Guardian will liaise with another CCG lay member who together, will be responsible for identifying an appropriate route for investigation. This can include making a request for an independent investigation.

The CCG expects to complete investigations within 20 working days. If the issue is complex and more than 20 working days is needed to investigate the matter you will be informed of this. Please note you may also at any point be asked to attend additional meetings to support further investigation.

Following completion of the investigation the outcome will be reported to the Freedom to Speak up Guardian. They will then where possible taking account of confidentiality, ensure you are notified of the outcome of the investigation including what action has been taken as a result of your concerns. Where action is not considered practicable or appropriate, you will be advised of the reasons for this. This response will normally be available 5 working days following the completion of an investigation.

Any individuals who are involved in the investigation must treat all matters as strictly confidential.

The outcomes of investigations will be recorded on the Serious Concern Log.

Stage 3 (Internal Review)

If for any reason you are dissatisfied with the outcome of stages 1 and 2 of this process the Freedom to Speak up Guardian, through the Corporate Manager, will initiate an internal review. In doing this the matter will be raised with the Chief Executive and/or Clinical Chair (unless the matter of the investigation affects either) who will review the circumstances surrounding the concern/s and determine if any further action is required or possible. The review will be completed within 20 working days and where appropriate taking into account confidentiality the outcome of this review will be reported back to you within 5 working days.

The outcomes of internal reviews will be recorded on the Serious Concern Log.

In the event that the Internal Review involves the Chief Executive and/or Clinical Chair, alternative arrangements will be made with the Freedom to Speak up Guardian and the Corporate Manager to commission an alternative route for investigation.

Stage 4 (Independent External Review)

If the investigation finds the allegations unsubstantiated and all internal procedures have been exhausted, but the member of staff raising a concern is not satisfied with the outcome of the investigation, the CCG recognises the lawful rights of employees and ex-employees to make disclosures to prescribed bodies (such as the Health and Safety Executive, relevant audit body, or the regulators), or, where justified, elsewhere.

7 Procedure in Relation to Adult and Childrens Safeguarding

If you have a concern about an Adult and Child Safeguarding issue you should seek advice from the Designated Safeguarding Lead Nurse, a senior manager, a director, or the Freedom to Speak up Guardian and follow the procedure set out in the appropriate Safeguarding Policy.

8 Procedure in Relation to Suspected Fraud

All instances of fraud should be reported to the Local Counter Fraud Specialist (LCFS) or the Chief Financial Officer.

Employees can also call the NHS Counter Fraud Authority Fraud and Corruption Reporting Line, powered by Crimestoppers, 24/7 on free phone 0800 028 40 60 or use the online reporting tool at www.reportnhsfraud.nhs.uk. This allows staff who are unsure of internal reporting procedures to report their concerns in the strictest confidence. Any caller who wishes to remain anonymous may do so.

9 Representation

Employees (including workers, agency staff and contractors) raising a concern under this policy may choose to be represented or supported by either an employee of the Clinical Commissioning Group or a Trade Union Representative.

10 Independent Advice

If you are unsure whether to use this procedure or if you want independent advice at any stage you may want to consider contacting the Human Resource Service or your Trade Union Representative.

11 Promoting Learning

The CCG promotes a learning culture and will ensure learning from concerns raised will be used to drive forward a process of improvement. The CCG will ensure that staff are not inappropriately penalised for any mistakes. A summary of learning arising from concerns will be documented on the serious concerns log. Actions to take forward will be monitored by the Corporate Team and Freedom to Speak Up Guardian. This may mean changes need to be made to the way a team or an individual works and where this is the case the team and/or individual will be involved in this process of change.

12 Contacts

Freedom to Speak Up Guardian – Can be found on the Hub and in the Staff Handbook

Freedom to Speak Up Champions – Can be found on the Hub and in the Staff Handbook

Human Resources– 0300 123 6220 then option 2 (Please specify your call is in relation to BNSSG CCG and you will be appropriately directed)

Local Counter Fraud Specialist – Can be found on the Hub and in the Staff Handbook

Protect (formerly Public Concern at Work) – 02031 172520

NHS Counter Fraud Authority Fraud and Corruption Reporting Line - 0800 028 40 60

Speak Up Helpline for NHS and Social Care – 08000 724725

13 Training requirements

Training and support will be available to all line managers in the implementation and application of this policy. Please contact the Corporate Team for further information.

14 Equality Impact Assessment

An equality and impact assessment can be found at Appendix 1

15 Implementation and Monitoring Compliance and Effectiveness

This policy will be reviewed every 3 years but can be reviewed at any time if the CCG deems it necessary to do so or a review is requested by management or staff. An implementation plan can be found at Appendix 2.

16 Countering Fraud

The CCG is committed to reducing fraud in the NHS to a minimum, keeping it at that level and putting funds stolen through fraud back into patient care. Therefore, we have given consideration to fraud and corruption that may occur in this area and our responses to these acts during the development of this policy document.

17 References, acknowledgements and associated documents

This policy should be read in association with the following:

- Constitution
- Conflicts of Interest Policy

- Gifts and Hospitality Policy
- Grievance Policy
- Child Safeguarding Policy
- Adult Safeguarding Policy
- Bullying and Harassment Policy
- Fraud and Bribery Policy

18 Appendices

18.1 Appendix 1 - Equality Impact Assessment

18.2 Appendix 2 - Implementation Plan

Appendix 1 – Equality Impact Assessment

| Equality Impact Assessment Screening | | |
|--|--|-----------------------------------|
| Query | Response | |
| What is the aim of the document? | Provide advice and guidance on raising a concern (Whistleblowing) | |
| Who is the target audience of the document (which staff groups)? | All staff groups. | |
| Who is it likely to impact on and how? | Staff | Support staff in raising concerns |
| Does the document affect one group more or less favourably than another based on the 'protected characteristics' in the Equality Act 2010: | Age (younger and older people) | No |
| | Disability (includes physical and sensory impairments, learning disabilities, mental health) | No |
| | Gender (men or women) | No |
| | Pregnancy and maternity | No |
| | Race (includes ethnicity as well as gypsy travellers) | No |
| | Sexual Orientation (lesbian, gay and bisexual people) | No |
| | Transgender people | No |
| | Groups at risk of stigma or social exclusion (e.g. offenders, homeless people) | No |
| | Human Rights (particularly rights to privacy, dignity, liberty and non-degrading treatment) | No |

