

Freedom To Speak Up Policy (whistleblowing)

Policy author	Lead Freedom to Speak Up Guardian
Accountable Executive Lead	Executive Director for Information Technology and Digital
Approving body	Trust Board
Policy reference	SWBH/HR/008

ESSENTIAL READING FOR THE FOLLOWING
STAFF GROUPS:

1 – All employees

STAFF GROUPS WHICH SHOULD BE AWARE OF
THE POLICY FOR REFERENCE PURPOSES:

1 – All employees

POLICY APPROVAL
DATE:

December 2023

POLICY
IMPLEMENTATION
DATE:

January 2024

DATE POLICY TO
BE REVIEWED:

December 2026

DOCUMENT CONTROL AND HISTORY

Version No	Date Approved	Date of implementation	Next Review Date	Reason for change (e.g. full rewrite, amendment to reflect new legislation, updated flowchart, etc.)
1	November 2023	January 2024	December 2026	Replacement of the whistleblowing policy.

Freedom to speak up policy (whistleblowing)

KEY POINTS

1. This policy replaces the previous whistleblowing policy and is in line with the national NHS England freedom to speak up policy template.
2. If you have a concern about anything that inhibits you to undertake your role safely or a colleague to undertake their role, please use this policy so we can look into this.
3. If you have a concern relating to your wellbeing or the wellbeing of a colleague please use this policy so we can look into this.
4. Colleagues who raise a concern through this process are protected against victimisation by legislation and a commitment by the organisation.
5. You are encouraged to speak up openly, but we understand the need for colleagues wishing to raise concerns confidentially or anonymously.
6. You are encouraged to raise your concern via your line manager in the first instance, however if you are unable to you are welcome to utilise the various mechanism to speak up outlined in the policy.

PLEASE NOTE THAT THIS LIST IS DESIGNED TO ACT AS A QUICK REFERENCE GUIDE ONLY AND IS NOT INTENDED TO REPLACE THE NEED TO READ THE FULL POLICY

Freedom To Speak Up Policy (whistleblowing)

Contents	Page Number
1. Speak up- we will listen	5
2. Purpose and Scope (This policy)	5
3. What Can I speak up about	5
4. Other polices to which this policy relates	5
5. We want you to feel safe to speak up	6
6. Who can I speak up to?	7
7. How should I speak up?	8
8. Advice and support	8
9. What will we do?	8
10. Auditable standards/process of monitoring effectiveness	10
11. Awareness and training	10
12. Equality and diversity	11
13. Review	11

APPENDICES

Appendix A What will happen when I speak up?	12
Appendix B Making a protected disclosure	13
Appendix C Freedom to Speak Up SOP	14

Freedom To Speak Up Policy (whistleblowing)

1. INTRODUCTION

- 1.1 We welcome speaking up and we will listen. By speaking up at work you will be playing a vital role in helping us to keep improving our services for all patients and the working environment for our staff.
- 1.2 This policy is for all our workers. The NHS People Promise commits to ensuring that “we each have a voice that counts, that we all feel safe and confident to speak up, and take the time to really listen to understand the hopes and fears that lie behind the words”.
- 1.3 We want to hear about any concerns you have, whichever part of the organisation you work in. We know some groups in our workforce feel they are seldom heard or are reluctant to speak up. You could be an agency worker, bank worker, locum or student. We also know that workers with disabilities, or from a minority ethnic background or the LGBTQ+ community do not always feel able to speak up.

2 Purpose and Scope

- 2.1 The Policy is applicable to all workers within the organisation.
- 2.2 The policy aims to ensure colleagues understand the process of raising concerns and the support available to them.
- 2.3 Clarify the responsibility of the organisation and colleagues as required under the public interest disclosure act 1998.

3 Other Policies to Which This Policy Relates

- Incident reporting policy (Org/050)
- Grievance and Disputes policy (HR/007)
- Counter fraud, Bribery and corruption policy (Finance/01)
- Dignity at work policy (HR/009)
- Disciplinary policy (HR/003)

4 What can I speak up about?

- 4.1 You can speak up about anything that gets in the way of patient care or affects your working life. That could be something which doesn't feel right to you: for example, a way of working or a process that isn't being followed; you feel you are being discriminated against; or you feel the behaviours of others is affecting your wellbeing, or that of your colleagues or patients.
- 4.2 Speaking up is about all of these things.
- 4.3 Speaking up, therefore, captures a range of issues, some of which may be appropriate for other existing processes (for example, HR or patient safety/quality)

some examples include Grievance and Dispute policy, Safeguarding Vulnerable Adults Policy, Safeguarding Children Policy, and Dignity at Work Policy. That's fine. As an organisation, we will listen and work with you to identify the most appropriate way of responding to the issue you raise.

5. We want you to feel safe to speak up (Public disclosure act 1998)

5.1 Your speaking up to us is a gift because it helps us identify opportunities for improvement that we might not otherwise know about. The Trust encourages anyone who has any concerns to raise them at the earliest opportunity.

5.2 We will not tolerate anyone being prevented or deterred from speaking up or being mistreated because they have spoken up.

5.3 The Public Interest Disclosure Act 1998, is the law that safeguards whistleblowers from negative treatment or unfair dismissal it covers a criterion of concerns which can be deemed a public interest disclosure, The Public Disclosure Act 1998 Refers to any disclosure of information which, in the reasonable belief of the worker making the disclosure, tend to show one or more of the following;

- That a criminal offence has been, is being committed or is likely to be committed.
- That a person has failed, is failing or is likely to fail to comply with any legal obligation to which he is subject.
- That a miscarriage of justice has occurred, is occurring or is likely to occur.
- That the health or safety of any individual has been, is being or is likely to be endangered.
- That the environment has been, is being or is likely to be damaged or
- That information tending to show any matter failing within any one of the above has been, is being or likely to be deliberately concealed.

5.4 You can find more information regarding this via the link in annex B.

5.5 The trust remains committed to protecting colleagues when they do speak up.

6 Who can I speak up to?

6.1 Speaking up internally.

6.2 You can also contact people who hold responsibility for speaking up as listed below:

- Senior manager, partner or director with responsibility for the subject matter you are speaking up about.
- The patient safety team or clinical governance team (where concerns relate to patient safety or wider quality) swb-tr.RiskManagement@nhs.net].
- Local Counter Fraud Specialist Please refer to the Trust's Counter Fraud and Bribery Policy or The Counter Fraud Authority for further information. 07436 268747 or NHSCFA by calling 0800 028 40 60.
- Our Freedom to Speak Up Guardians can be found on this [link](#), who can support you to speak up if you feel unable to do so by other routes. Alternatively, you can contact the interim speak up lead for the Trust. The Guardians and lead for speaking up will ensure that people who speak up are thanked for doing so, that the issues they raise are responded to, and that the person speaking up receives feedback on the actions taken. You can find out more about the guardian role [here](#).
- Our HR team swb-tr.SWBH-GM-HR-Enquiries@nhs.net
- Our Senior Executive lead responsible for Freedom to Speak Up can be found on this [link](#), - they provide senior support for our speaking-up guardians and lead for speaking up, and are responsible for reviewing the effectiveness of our FTSU arrangements.
- We have a Non-Executive Director responsible for Freedom to Speak Up can be found on this [link](#). This role is specific to organisations with boards and can provides more independent support for the Guardian; provide a fresh pair of eyes to ensure that investigations are conducted with rigor; and help escalate issues, where needed.

6.3 Other links that may be useful to contact to speak up to include;

- Staff Side (the Trade Unions)- [Trade Unions that make up Staff Side \(swbh.nhs.uk\)](https://www.swbh.nhs.uk)
- EDI [Equality, Diversity and inclusion \(swbh.nhs.uk\)](https://www.swbh.nhs.uk)
- Staff Networks;
- BME Network- [BME Network \(swbh.nhs.uk\)](https://www.swbh.nhs.uk)
- LGBT Network-[LGBT – Staff Network \(swbh.nhs.uk\)](https://www.swbh.nhs.uk)
- Disability and Long Term Condition Networks-[Disability & Long Term Conditions Staff Network \(swbh.nhs.uk\)](https://www.swbh.nhs.uk)
- Muslim Liaison Group- [Muslim Liaison Group \(swbh.nhs.uk\)](https://www.swbh.nhs.uk)
- Chaplaincy- [Chaplaincy/Spiritual Care Service \(swbh.nhs.uk\)](https://www.swbh.nhs.uk)

6.4 Speaking up externally

6.5 If you do not want to speak up to someone within your organisation, you can speak up externally to:

- Care Quality Commission (CQC) for quality and safety concerns about the services it regulates – you can find out more about how the CQC handles concerns here.
- NHS England for concerns about:
 - GP surgeries
 - dental practices
 - optometrists
 - pharmacies
 - how NHS trusts and foundation trusts are being run (this includes ambulance trusts and community and mental health trusts)
 - NHS procurement and patient choice
 - the national tariff.

6.6 NHS England may decide to investigate your concern themselves, ask your employer or another appropriate organisation to investigate (usually with their oversight) and/or use the information you provide to inform their oversight of the relevant organisation. The precise action they take will depend on the nature of your concern and how it relates to their various roles.

6.7 Please note that neither the Care Quality Commission nor NHS England can get involved in individual employment matters, such as a concern from an individual about feeling bullied.

6.8 NHS Counter Fraud Authority for concerns about fraud and corruption, using their online reporting form or calling their freephone line 0800 028 4060.

6.9 If you would like to speak up about the conduct of a member of staff, you can do this by contacting the relevant professional body such as the General Medical Council, Nursing and Midwifery Council, Health & Care Professions Council, General Dental Council, General Optical Council or General Pharmaceutical Council.

6.10 Appendix B contains information about making a 'protected disclosure'.

7. How should I speak up?

7.1 You can speak up to any of the people or organisations listed above in person, by phone or in writing (including email).

7.2 Confidentiality

7.3 The most important aspect of your speaking up is the information you can provide, not your identity.

7.4 You have a choice about how you speak up:

- Openly: you are happy that the person you speak up to knows your identity and that they can share this with anyone else involved in responding.
- Confidentially: you are happy to reveal your identity to the person you choose to speak up to on the condition that they will not share this without your consent.
- Anonymously: you do not want to reveal your identity to anyone. This can make it difficult for others to ask you for further information about the matter and may make it more complicated to act to resolve the issue. It also means that you might not be able to access any extra support you need and receive any feedback on the outcome.

8. Advice and support

8.1 You can find out about the local support available to you at Sandwell & West Birmingham NHS Trust via the wellbeing team [. Your local staff networks can be a valuable source of support.

8.2 You can access a range of health and wellbeing support via NHS England:

- Support available for our NHS people.
- Looking after you: confidential coaching and support for the primary care workforce.

8.3 NHS England has a Speak Up Support Scheme that you can apply to for support. You can also contact the following organisations:

- Speak Up Direct provides free, independent, confidential advice on the speaking up process.
- The charity Protect provides confidential and legal advice on speaking up.
- The Trades Union Congress provides information on how to join a trade union.
- The Law Society may be able to point you to other sources of advice and support.
- The Advisory, Conciliation and Arbitration Service gives advice and assistance, including on early conciliation regarding employment disputes.

9. What Will we do?

- 9.1 The matter you are speaking up about may be best considered under a specific existing policy/process; for example, our process for dealing with bullying and harassment. If so, we will discuss that with you. If you speak up about something that does not fall into an HR or patient safety incident process, this policy ensures that the matter is still addressed.
- 9.2 What you can expect to happen after speaking up is shown in **Appendix B**.
- 9.4 **Appendix C** is a standard operating procedure (SOP) which details the process and flowchart for raising a concern.

9.3 Resolution and investigation

- 9.4 We support our managers/supervisors to listen to the issue you raise and take action to resolve it wherever possible. In most cases, it's important that this opportunity is fully explored, which may be with facilitated conversations and/or mediation.
- 9.5 Where an investigation is needed, this will be objective and conducted by someone who is suitably independent (this might be someone outside your organisation or from a different part of the organisation) and trained in investigations. It will reach a conclusion within a 12 weeks period, if we require longer due to the complexities we will keep you updated.), and a report will be produced that identifies any issues to prevent problems recurring.
- 9.6 Any employment issues that have implications for you/your capability or conduct identified during the investigation will be considered separately.

9.7 Communicating with you

- 9.8 We will treat you with respect at all times and will thank you for speaking up. We will discuss the issues with you to ensure we understand exactly what you are worried about. If we decide to investigate, we will tell you how long we expect the investigation to take and agree with you how to 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 and recognising that some matters may be strictly confidential; as such it may be that we cannot even share the outcome with you).

9.9 How we learn from your speaking up

- 9.10 We want speaking up to improve the services we provide for patients and the environment our staff work in. Where it identifies improvements that can be made, we will ensure necessary changes are made, and are working effectively. Lessons

will be shared with teams across the organisation, or more widely, as appropriate.

9.11 Review

9.12 We will seek feedback from workers about their experience of speaking up. We will review the effectiveness of this policy and our local process annually, with the outcome published and changes made as appropriate.

9.13 Senior leaders' oversight

9.14 Our most senior leaders will receive a report at least annually providing a thematic overview of speaking up by our staff to our FTSU guardian(s).

10. Auditable standards/process of monitoring effectiveness

10.1 The freedom to speak up team will review the themes of concerns which captures data relating to the theme of the concern, the professional group of the colleague raising the concern, on quarterly bases, in line with the data submission intervals required by the national guardians office.

10.2 The board will receive high level information regarding the concerns raised and the actions taken to provide assurance.

10.3 The FTSU improvement tool is designed to help the trust identify strengths in ourself, our leadership team and our organisation – and any gaps that need work. It should be used alongside Freedom to speak up: A guide for leaders in the NHS and organisations delivering NHS services.

10.4 Completing this improvement tool will demonstrate our senior leadership team, our board or any oversight organisation the progress we have made developing our Freedom to Speak Up arrangements.

11. Training and awareness

11.1 Awareness of the existence of this Policy will be made via the usual Trust communication mechanisms; these include the connect page and communication bulletins.

11.2 Individual managers will be responsible for making employees aware of the processes and procedures set down in this Policy.

12. Equality and Diversity

12.1 Promoting equality and addressing health inequalities are at the heart of the origination's values. Throughout the development of the policies and processes cited in this document, we have:

- Given due regard to the need to eliminate discrimination, harassment and victimisation, to advance equality of opportunity, and to foster good relations between people who share a relevant protected characteristic (as cited

under the Equality Act 2010) and those who do not share it; and

- Given regard to the need to reduce inequalities between patients in access to, and outcomes from healthcare services and to ensure services are provided in an integrated way where this might reduce health inequalities.

13. Review

13.1 The policy will be reviewed every 3 years

Appendix A:

What will happen when I speak up?

We will:

- Thank you for speaking up
 - Help you identify the options for resolution
 - Signpost you to health and wellbeing support
 - Confirm what information you have provided consent to share
 - Support you with any further next steps and keep in touch with you.

Steps towards resolution:

- Engagement with relevant senior managers (where appropriate)
 - Referral to HR process
 - Referral to patient safety process
 - Other type of appropriate investigation, mediation, etc.

Outcomes:

The outcomes will be shared with you wherever possible, along with learning and improvement identified

Escalation:

- If resolution has not been achieved, or you are not satisfied with the outcome, you can escalate the matter to the senior lead for FTSU or the non-executive lead for FTSU
- Alternatively, if you think there are good reasons not to use internal routes, speak up to an external body, such as the CQC or NHS England

Appendix B:

Making a protected disclosure

Making a 'protected disclosure'

A protected disclosure is defined in the Public Interest Disclosure Act 1998. This legislation allows certain categories of worker to lodge a claim for compensation with an employment tribunal if they suffer as a result of speaking up. The legislation is complex and to qualify for protection under it, very specific criteria must be met in relation to who is speaking up, about what and to whom. To help you consider whether you might meet these criteria, please seek independent advice from the [Protect](#) or a legal representative.