



Freedom to Speak Up (Raising Concerns) Policy

Document Author: Freedom To Speak Up Guardian

Date Approved: April 2018



Document Reference	PO – Freedom to Speak Up – August 2021
Version	2.2
Responsible Committee	Trust Management Group
Responsible Director (title)	Executive Director of Quality, Governance and Performance Assurance/ Deputy Chief Executive
Document Author (title)	Freedom to Speak Up Guardian
Approved By	Trust Management Group
Date Approved	April 2018
Review Date	August 2021
Equality Impact Assessed (EIA)	Yes (Screening)
Protective Marking	Not Protectively Marked

Document Control Information

Version	Date	Author	Status (A/D)	Description of Change
0.1	19/02/13	Matthew Hammonds	D	Draft of new policy
0.2	12/04/13	Matthew Hammonds	A	Approved policy for issue
0.3	21/10/15	Cath Cox	D	Draft revision after Freedom to Speak Up Review.
0.4	10/02/16	Cath Cox	D	Revised to include guidance
1.0	08/07/16	Rebecca Mallinder	A	Final amends made following HR Policy Group and JSG
1.1	19/07/16	Rebecca Mallinder	A	Amended due to the Trust Guardian recruitment
1.2	03/08/17	Jock Crawford	A	Amended due to changes in terminology used and new appointment of Advocates
1.3	March 2018	Jock Crawford	D	Format change – New YAS visual identity. Review of policy
2.0	April 2018	Levi MacInnes	A	Policy approved at April TMG
2.1	August 2020	Ruth Parker	D	Date agreed by TMG for review date extension
2.2	March 2021	Risk Team	D	Extension agreed by TMG to August 2021

A = Approved D = Draft

Document Author = Jock Crawford, Freedom to Speak up Guardian

This document is controlled.

If you would like to suggest amendments to this document please contact the document author.

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Staff Summary

Yorkshire Ambulance Service NHS Trust is wholly committed to honesty, openness and accountability.
Having an open reporting culture is key to the delivery of safe and compassionate care.
Raising concerns can save lives, jobs, money and the reputation of professionals and organisations
The Trust recognises that it is sometimes not easy for employees to raise concerns and has established an appropriate and safe process for staff wishing to raise concerns.
Anyone who works (or has worked) in the NHS, or for an independent organisation that provides NHS services, including agency workers, temporary workers, students and volunteers, can raise concerns.
We encourage staff to raise concerns first via their line manager or supervisor. If it cannot be resolved at this level staff should raise concerns via another manager and if at this point resolution is still not reached the Freedom to Speak Up (FTSU) process can be accessed.
This policy supports the principles of the Public Interest Disclosure Act 1998 that no employee will be victimised for raising genuine concerns internally.
Any genuine concern will be investigated swiftly and effectively to minimise any risk to patients or staff.
Managers need to take all reasonable steps to ensure that an individual who has raised a concern is not bullied or victimised by staff.

After a concern has been raised, it is important to spend time with all those concerned, to help re-build relationships and teams with support from HR and trade unions if needed.

1.0 Introduction

- 1.1 Yorkshire Ambulance Service NHS Trust (the Trust) is wholly committed to honesty, openness and accountability. We support and endorse the findings and recommendations of the independent Freedom to Speak Up Review of February 2015.
- 1.2 Having an open reporting culture is key to the delivery of safe and compassionate care. For it to be effective, the raising of concerns (often referred to as “whistleblowing”) should be embraced as a normal part of employment practice, where staff feel confident and safe to speak up without fear of any repercussion or reprisal.
- 1.3 Raising concerns can save lives, jobs, money and the reputation of professionals and organisations. It is a valuable early alert system, which when communicated and dealt with properly, contributes towards quality care and compassion along with staff and patient well-being.

2.0 Purpose/Scope

- 2.1 This policy outlines the commitment of the Trust to honesty, openness and accountability within the organisation.
- 2.2 This policy and accompanying guidance have been written with due consideration of the NHS Constitution, the law, the recommendations of the Francis Report and the Freedom to Speak Up Review, to outline clearly the process employees should follow in order to raise genuine concerns.
- 2.3 The Trust recognises that it is sometimes not easy for employees to raise concerns and has established an appropriate and safe process for staff wishing to raise concerns. The Trust has an established ‘Behavioural Framework’ which clearly supports and underpins this process.

3.0 The Process

3.1 When should staff raise a concern?

- 3.1.1 Anyone who works (or has worked) in the NHS, or for an independent organisation that provides NHS services, including agency workers, temporary workers, students and volunteers, can raise concerns.
- 3.1.2 All employees are encouraged to raise genuine concerns regarding the following:
 - Abuse of clients / patients.
 - Clinical malpractice, including ill treatment of a patient or client.
 - Criminal offences, which have been committed or are likely to be committed.
 - Financial malpractice, including fraud or suspected fraud.
 - Disregard for legislation, particularly in relation to Health and Safety at work.
 - Damage or the risk of damage to the environment or Trust property.
 - Failure to comply with any legal duty

- A deliberate attempt to cover up any of the above

(This list is not exclusive or exhaustive)

3.2 Freedom to Speak Up – Internal Process

- 3.2.1 A structured internal process has been developed to enable staff who wish to raise a concern to do so within a clear framework. The Freedom to Speak Up Route Map is accessible via the Freedom to Speak Up page on Pulse:
<http://pulse.yas.nhs.uk/StaffHandbook/StandardsandCompliance/Pages/Freedom-to-Speak-Up.aspx>
- 3.2.2 The Trust has a FTSU Guardian in place and this person will have regular and direct contact with the Chief Executive and will also be the key link to the National Guardian's Office.
- 3.2.3 The Trust has also appointed a number of Freedom to Speak Up (FTSU) Advocates who represent all areas of the Trust. These are staff members who have volunteered to take a lead role in this work and will be available for advice and support should staff prefer not to take the matter via their usual management line. Contacts details for the FTSU Guardian and Advocates can be found on the Freedom to Speak Up page on Pulse: <http://pulse.yas.nhs.uk/StaffHandbook/StandardsandCompliance/Pages/Freedom-to-Speak-Up.aspx>

3.3 Support for staff raising concerns

- 3.3.1 The Trust will not tolerate an organisational culture where poor patient care is accepted and ignored.
- 3.3.2 This policy supports the principles of the Public Interest Disclosure Act 1998 that no employee will be victimised for raising genuine concerns internally.
- 3.3.3 The Trust will provide the necessary and appropriate support to any member of staff who raises a genuine concern. This will include support for release of time and expenses. These will be reviewed on a case by case basis via the Risk & Safety Team.
- 3.3.4 The Trust aims to provide a working environment where employees feel empowered, confident and safe to raise issues internally.
- 3.3.5 Any action taken as a result of an employee raising a concern will be treated in the strictest of confidence accepting that dealing with concerns may require some information being used.
- 3.3.6 Any genuine concern will be investigated swiftly and effectively to minimise any risk to patients or staff.
- 3.3.7 It is the responsibility of every employee to raise genuine concerns when there is a possibility of risk to patients or colleagues. Healthcare Professionals also have a professional responsibility to raise concerns when they have one that could impact on the quality & safety of care.

3.3.8 We encourage staff to raise concerns first via their line manager or supervisor. If it cannot be resolved at this level staff should raise concerns via another manager and if at this point resolution is still not reached the Freedom to Speak Up (FTSU) process can be accessed. Staff can also still raise concerns with their Union safety representative at any point.

3.3.9 Settlement agreements containing clauses seeking to prevent disclosures protected under the Public Interest Disclosure Act 1998 are not acceptable.

To be covered by whistleblowing law when you raise your concern (to be able to claim the protection that accompanies it) you must reasonably believe two things:

i. you are acting in the public interest (so your concern needs to be more than a personal grievance)

ii. your disclosure tends to show past, present or future wrongdoing that falls into one or more of the following categories:

- criminal offence
- failure to comply with a legal obligation
- miscarriage of justice
- danger to the health or safety of any individual
- damage to the environment and/or
- covering up the wrongdoing in the above categories.

3.3.10 Additional support is available for staff at every stage of this process via the Trusts Employee Wellbeing Services and from trade union safety representatives.

3.4 Investigation & Confidentiality

3.4.1 Where staff have been unable to resolve the matter with their line manager, the trust will investigate – using someone suitably independent (usually from a different part of the organisation) and properly trained – and will reach a conclusion within a reasonable timescale. The investigation will be objective and evidence based, and will produce a report that focuses on learning lessons to prevent problems recurring.

3.4.2 The trust may decide that a concern would be better managed by another process; for example, the process for dealing with bullying and harassment. If so, the trust will discuss this approach with the staff member raising the concern. Reports of fraud should be made to the trust's local counter-fraud team.

3.4.3 Any employment issues identified during the investigation will be kept separate.

3.4.4 The trust hope staff will feel comfortable raising concerns openly, although it is recognised that staff may want to raise their concerns confidentially. In these circumstances the trust will keep the reporter's identity confidential, unless required to disclose it by law (for example, by the police). Staff can choose to raise their concern anonymously but in doing so, it may make it more difficult for the trust to investigate thoroughly and provide feedback on the outcome.

3.5 Roles & Responsibilities

- 3.5.1 Managers should ensure that all staff have a clear understanding about what raising concerns refers to, and the process. It is important to consider how to engage and communicate with staff to ensure that they are familiar with policies and procedures and feel supported in using them. Managers should ensure that they are aware of the options for reporting routes as outlined in Trust policy.
- 3.5.2 The line manager will typically be the person that staff will come to when they have concerns and managers are therefore ideally placed to cascade information and champion a positive culture.
- 3.5.3 Staff should familiarise themselves with the process for raising concerns and should, if possible, raise their concerns with their immediate line manager in the first instance.
- 3.5.4 Many staff will be anxious when raising a concern and as the first point of contact the manager can do a great deal to help reduce some of the anxiety that staff face. Concerns will vary both in nature and severity and it is important that staff know the available reporting channels and have confidence that their concerns will be addressed effectively.
- 3.5.5 In many cases the line manager will be able to quickly put the matter right informally, in others there may be a need to investigate and, for serious or repeated issues, refer these appropriately.
- 3.5.6 Encouraging a healthy dialogue which enables staff to question and challenge in a very informal way, as part of team meetings, staff briefings and 1:1s are effective ways of making the raising of concerns more normalised as part of everyday practice.
- 3.5.7 By talking about lessons learned and seeking views to identify better ways of working helps to reinforce that raising concerns is everyone's responsibility.
- 3.5.8 A strong organisational approach to raising concerns not only promotes the value of openness, transparency and candour, but encourages staff to treat patients with compassion, respect and dignity.

3.6 Alternative Reporting Channels

- 3.6.1 There will be occasions where a member of staff doesn't feel able to raise a concern with their direct line of management or supervisor – possibly because he/she is involved or in cases where the concern wasn't addressed by them in the first instance. For these situations, it is important that staff are aware of other reporting channels, for example, another member of the management team, Chief Executive, Freedom to Speak Up Advocate or Guardian and Union safety representative.
- 3.6.2 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

4.0 Expectations for staff

4.1 Consequential behaviours and bullying

- 4.1.1 It is important to be clear on the Trust's view on false allegations and the action that will be taken if a concern is raised maliciously.
- 4.1.2 It is also important however, to reassure staff that they are not required to evidence proof of their concerns and if they are genuinely mistaken, there will be no action taken against them.
- 4.1.3 Managers need to take all reasonable steps to ensure that an individual who has raised a concern is not bullied or victimised by staff.
- 4.1.4 Managers should be very clear that victimisation of someone who has raised a concern and the raising of malicious false allegations are not acceptable and will be dealt with formally.

4.2 Re-building relationships and teams

- 4.2.1 After a concern has been raised, it is important to spend time with all those concerned, to help re-build relationships and teams with support from HR and trade unions if needed.
- 4.2.2 The emotional impact on all those directly involved cannot be underestimated. Having access to external mediation and early reconciliation can be helpful in managing any breakdown of relationships within teams and in continuing to support individuals who have raised concerns.
- 4.2.3 Sometimes the employment relationship breaks down irretrievably therefore it is important for managers to explore options for redeployment where the person raising concerns feels unable to return to their post or team. In these situations advice should always be sought from HR.
- 4.2.4 Having clear processes in place reduces:
- sickness absence
 - low staff morale
 - poor relations/performance
 - time consuming formal proceedings such as grievances or tribunals
- 4.2.5 In cases where colleagues subject a member of staff to any form of victimisation as a result of raising a concern and the employer cannot evidence that all reasonable

measures were put in place to minimise the risk of any such victimisation – then the employer may be held vicariously liable.

5.0 Implementation Plan

- 5.1 This policy will be reviewed in five years' time unless legislative or other changes necessitate an earlier review.
- 5.2 The latest approved version of this Policy will be posted on the Trust Intranet site for all members of staff to view. New members of staff will be signposted to how to find and access this guidance during Trust Induction'.

6.0 Monitoring compliance with this Policy

- 6.1 Regular meetings (as a minimum on a monthly basis) will take place involving the Freedom to Speak Up Guardian, the trust Chief Executive, the Executive Director of Quality, Governance & Performance Assurance, the Executive Director of Workforce and Organisational Development and the Head of Investigations & Learning will review all recent (live and closed) FTSU concerns to ensure senior executive visibility of all concerns raised through the FTSU process. This group will also be responsible for identifying and agreeing any action plans required to progress concerns and assist in breaking down any barriers being experienced in the progression of any live concerns.
- 6.2 The FTSU Guardian will provide a monthly briefing paper to the Executive Director of Quality, Governance & Performance Assurance for verbal presentation to the Trust Management Group (TMG), a written paper will tabled quarterly.
- 6.3 The FTSU Guardian will provide a written paper to the Executive Director of Standards and Compliance to be tabled quarterly to the trust Audit Committee.
- 6.4 The FTSU Guardian will also present in person to the Trust Board twice a year.

7.0 References

7.1 This policy operates in conjunction with the following documents:

- Freedom to Speak Up – Route Map
- Freedom to Speak Up (Raising Concerns) – Guidance Document
- FTS Guardians – Contact List
- YAS Behavioural Framework
- Issue Resolution (Grievance) Policy
- Bullying & Harassment Policy

8.0 Appendices

8.1 Appendix 1 Freedom to Speak Up – Guidance for Staff

Appendix 1

Freedom to Speak Up – Guidance for Staff

1. Background

Yorkshire Ambulance Service NHS Trust (the Trust) is wholly committed to honesty, openness and accountability. We support and endorse the findings and recommendations of the independent Freedom to Speak Up Review of February 2015.

Having an open reporting culture is key to the delivery of safe and compassionate care. For it to be effective, the raising of concerns (often referred to as “whistleblowing”) should be embraced as a normal part of employment practice, where staff feel confident and safe to speak up without fear of any repercussion or reprisal.

Raising concerns can save lives, jobs, money and the reputation of professionals and organisations. It is a valuable early alert system, which when communicated and dealt with properly, contributes towards quality care and compassion along with staff and patient well-being.

A member of staff may have a concern about inappropriate patient care, a breach of health and safety malpractice or fraud. No matter what the issue is, it is important it is dealt with effectively.

The Freedom to Speak Up Review led by Sir Robert Francis QC recognises that much progress had been made in the NHS since the report into the failings at Mid Staffordshire. However, there are still issues that need to be addressed as a priority if we are to continue building a culture of improvement and learning.

Ignoring concerns is not an option. Doing so risks the reputation of the Trust and damages the public confidence in the services we provide.

2. Raising Concerns v Issue Resolution (Grievance)

For all staff and managers, making an early distinction between raising a concern and raising an issue is important and will ensure that matters are dealt with via the most appropriate process. The Issue Resolution (Grievance) Policy is in place to enable employees to deal with individual or collective issues between themselves and their employer.

If a member of staff or a manager is unsure about the most appropriate process to follow, advice can be sought from the Freedom to Speak Up Guardian or Advocate, the HR department or from trade union representatives.

An issue (grievance) relates to a personal complaint made by an individual about their own employment situation, as opposed to being in the public interest.

However it is important to be aware that personal complaints may uncover an underlying issue which, when investigated, may be in the public interest – for example where the complaint is in relation to bullying and harassment.

In such cases managers will need to carefully consider and assess the facts and decide on the best course of action. It is important to keep a record of how the decision was reached in case of being asked to provide evidence by a regulator, employment tribunal or court.

3. Difficult Conversations

The nature of raising concerns can often lead to difficult conversations and the way in which they are handled by both parties can impact on more than the situation in question. Some situations can be complex so it's good to be prepared, understand the different approaches available and seek assistance when needed.

Having sensitive or difficult issues is an integral part of raising concerns for both staff and managers and there are some practical steps you can take to ensure the best possible outcome when raising, discussing and dealing with concerns.

Having a planned conversation at the first available opportunity is key. Take time to find out the facts and check YAS policies. If at this stage you feel you need support then seek this from a senior manager, HR or trade union representative.

ACAS guidance outlines some helpful steps managers can take for both informal and formal conversations:

- set the tone
- be calm and professional
- reassure your staff member
- focus on the issue not the person
- make notes
- keep an open mind
- ask questions and explore the issue together

Individuals raising concerns will be assured that the matter will be investigated and they will receive feedback on the concern.

The individual will be provided with copies of the conversation paperwork and will be referred to appropriate local policies.

It is important that staff feel supported during and after time the concern is raised and the support required can be discussed at the initial meeting.

Staff confidence can be damaged if appropriate feedback is not given after a concern has been raised.

4. Supporting staff

For staff to raise concerns, they need to feel supported and empowered to do so at an early stage. One way to encourage this is to regularly talk about the importance and benefits at team meetings and during 1:1s.

Responding positively to a concern is key. Managers need to be approachable, open and prepared.

Understanding the Trust's Raising Concerns Policy will help managers and staff to identify roles and responsibilities and when to seek advice.

Staff should be given the opportunity to raise any concerns during their PDR.

5. Protecting and informing staff throughout the process

Two of the main reasons people are reluctant to raise a concern are fear of any repercussions and lack of feedback. A positive raising concerns culture, where staff feel they can raise any issues with their line manager; and managers are open and honest with staff throughout the process, providing feedback where possible, can help to alleviate these.

There are lots of ways managers and champions can support staff following the point at which a concern is raised.

Counselling, stress management or, in some cases mediation, can support an individual through what can be a daunting time.

6. Continual improvement checklist

Learn from concerns. Consider ways to develop positive solutions and offer training and development where possible.

Keep the Board informed and share learning to help prevent recurrence of the issue elsewhere in the organisation.

Work with other forums and parts of the organisation to raise issues – ensuring system wide learning.

Spread positive outcomes (the individual doesn't have to be named) and help encourage other staff to do the same.

Provide feedback to the individual who raised the concern and spend time helping to re-build working relationships where they may have been broken

Speak regularly to the member of staff who raised the concern to ensure they haven't suffered any untoward consequences, paying attention to their emotional and physical wellbeing.