Raising Concerns Policy

# Document Control:

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| Policy Name | Raising concerns policy |
| Policy Number | MSEICB 023 |
| Version | 1.0 |
| Status | Draft ICB Policy for review |
| Author / Lead | Viv Barnes, Governance Lead |
| Responsible Executive Director | Chief People Officer |
| Responsible Committee | Audit Committee |
| Date Ratified by Responsible Committee | 11 March 2022 |
| Date Approved by Board/Effective Date | 1 July 2022 |
| Next Review Date | 1 July 2025 |
| Target Audience | * Mid and South Essex (MSE) Integrated Care Board (ICB) members and staff (including temporary/bank/agency/work experience staff, students and volunteers). * Consultants engaged by the ICB. * Staff from other MSE Integrated Care Partnership (ICP) organisations who are members of ICB Committees/Sub-Committees and other groups. |
| Stakeholders engaged in development of Policy (internal and external) | * Governance Leads. * CCG Freedom to Speak Up Guardians * MSE Staff Engagement Group. * CCG Audit Committees in Common. |
| Impact Assessments Undertaken  *(Delete if non-applicable)* | * Equality and Health Inequalities Impact Assessment * Quality Impact Assessment * Privacy Impact Assessment * Environmental Impact Assessment |

**Version History**

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| --- | --- | --- | --- |
| Version | Date | Author (Name and Title) | Summary of amendments made |
| 0.1 | 4/1/22 | Viv Barnes, Director of Governance & Performance | First draft ICB policy for review by Governance Leads |
| 0.2 | 11/1/22 | Viv Barnes | Revised draft following review by Governance Leads |
| 0.3 | 31/1/22 | Viv Barnes | Minor revisions to reflect Staff Engagement Group feedback |
| 0.4 | 1/3/22 | Viv Barnes | Further revisions to reflect feedback from FTSU Guardians |
| 0.5 | 3/6/22 | Viv Barnes | Final amends prior to adoption |
| 1.0 | 1/7/22 | Viv Barnes | Final approved policy |
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## Introduction

1.1 Speaking up about any concern you have at work is really important. In fact, it’s vital because it will help the Integrated Care Board (ICB) to keep improving our services for all patients and the working environment for our staff.

1.2 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.

## Purpose

2.1 Everyone has a duty, as set out in the NHS Constitution, to raise concerns about potential risks, malpractice or wrongdoing, breaches of the law and regulations or dangerous practice so as not to compromise patient safety, care or dignity. All staff have a duty to listen to patients, their carers and relatives, to be open with them and to contribute to a climate in which the truth can be heard and errors can be addressed and learned from. This is referred to as our “duty of openness, transparency and candour”. This policy provides guidance to support staff raise concerns and provides the ICB’s reassurance to staff that it is safe and acceptable to do so. The policy also ensures that any such concerns raised are considered and addressed in an appropriate way as early as possible.

## Scope

3.1 This policy applies to:

* Mid and South Essex (MSE) Integrated Care Board (ICB) members and staff (including temporary/bank/agency/work experience staff, students and volunteers).
* Consulants engaged by the ICB.
* Staff from other MSE Integrated Care Partnership (ICP) organisations who are members of ICB Committees/Sub-Committees and other groups.

## Definitions

* Concern – an allegation of wrongdoing in respect of the activities of the ICB corporately or as a commissioner of NHS services or in relation to persons employed by the ICB (including Board Members). The wrongdoing disclosed must be in the public interest, that is it must affect others such as the general public.
* Grievance - an actual or supposed circumstance regarded as just cause for complaint.
* PIDA – Public Interest Disclosure Act 1998.
* Victimisation - this occurs when an individual is treated less favourably by colleagues or their employer because they have exercised their legal rights under the PIDA, or other legislation, or because they have assisted someone else to do so.
* Freedom to Speak Up – a positive culture where people feel they can speak up and their voices will be heard and their suggestions acted upon.
* Whistleblowing - the term used when a person, usually an employee, passes on information concerning wrongdoing within a private, public, or government organisation that is deemed illegal, illicit, unsafe, fraud, or abuse of taxpayer funds.

## Roles and Responsibilities

### **Integrated Care Board**

* + 1. The ICB Board is responsible for receiving assurance that the ICB has in place a robust system for meeting its statutory obligations around whistleblowing.
    2. The ICB Board will be given high level information about all concerns raised through this policy and what we are doing to address any problems. We will include similar high level information in our annual report. The ICB Board supports the raising of concerns and wants you to feel free to speak up.

### **Audit Committee**

* + 1. The Audit Committee is the committee responsible for monitoring the day to day implementation of this policy. Through its membership (particularly the Non-Executive Members), intelligence about implementation of the policy and any remedial actions arising from the investigation of concerns raised under the policy will be shared with the Quality Committee (in suitably anonymised form)

### **Chief Executive**

The Chief Executive is the Board member with executive responsibility for the Raising Concerns policy.

### **Chief People Officer**

The Chief People Officer has been delegated authority by the Chief Executive for the day to day implementation of the Raising Concerns policy.

Freedom to Speak Up Guardian

* + 1. The Freedom To Speak Up (FTSU) Guardian is George Wood, Non-Executive Member of the ICB Board. The FTSU Guardian is impartial and will support individuals to speak up and facilitate the provision of a response to the matters they raise, even if in the case of employees who no longer work for the ICB. The FTSU Guardian will ensure that people who speak up are thanked, that the issues they raise are responded to, and make sure that the person speaking up receives feedback on the actions taken.
    2. The FTSU Guardian is responsible for ensuring they are aware of latest guidance from National Guardian’s Office and holding the Chief Executive, Executive Lead and the ICB Board to account for addressing any barriers to speaking up and fostering a positive culture of speaking up. They also collect and report anonymised data on the cases raised with them to the National Guardian’s Office on a quarterly basis so that this information can be used to assist in learning and improvement.
    3. Where necessary, the FTSU Guardian should robustly challenge the Board to reflect on whether it could do more to create a culture that is both responsive to feedback and focused on learning and continuous improvement across the entire organisation. They will:
* Role-model high standards of conduct around Freedom to Speak Up.
* Act as an alternative source of advice and support for Freedom to Speak Up.
* Oversee any speaking up concerns regarding Board members.

### **Policy Author**

* + 1. The policy author will have responsibility for reviewing and updating the policy on an annual basis or should legislation, guidance, organisational change or other circumstances necessitate an earlier review.

Human Resources

* + 1. Human Resources (HR) have a responsibility to:
* Provide support, guidance and advice to Board Members, managers and staff throughout the process.
* Advise the ICB with regard to any changes in legislation and best practices with regard to whistleblowing.
* Work with the ICB to ensure that communication and training are provided as necessary to implement this policy.

### **Local Counter Fraud Specialist**

* + 1. The Local Counter Fraud Specialist (LCFS) is responsible for taking forward all anti-fraud work locally and in accordance with national standards and reporting directly to the Director of Finance.
    2. Adhering to NHS Counter Fraud’s standards is important in ensuring that the organisation has appropriate Whistleblowing procedures in place and the LCFS can effectively respond to system weaknesses and investigate allegations of fraud and corruption.
    3. It is the LCFS’s role to investigate any allegations of fraud. When investigating, the LCFS will need to liaise with employees within the organisation such as HR to obtain relevant documentation which may support or disprove any allegations of fraud. The LCFS will conduct risk assessments in relation to their work to prevent fraud, bribery and corruption.

### **Line Managers**

* + 1. All managers should ensure:
* That employees are given every opportunity to contribute their views on all aspects of the ICB’s business, and that of the wider NHS, especially with regard to the delivery of patient care**.**
* That a climate exists where employees feel that their views will be welcome, appreciated and, where appropriate, acted on positively**.**
* That any concerns raised are taken seriously**.**
* That any issue is investigated properly and that the employee is kept advised of progress**.**
* That any action necessary to resolve the issue is taken**.**
* That no employees who express their views and concerns in accordance with this policy will be in any way penalised for doing so.
* That a culture of openness is promoted throughout the organisation.

### **All Staff**

* + 1. All staffshould:
* Raise concerns relating to patient care, fraud or any other relevant concerns in accordance with this policy
* Exhaust the avenues within the policy before considering approaching external agencies or the media.
* Maintain the confidentiality of patients and of the ICB (notwithstanding the provisions of the PIDA). Advice should be sought from an individual’s trade union or professional association before disclosing confidential information, even if it is deemed to be in the public interest. Unauthorised disclosure of personal information about any patient or colleagues will be regarded as a serious matter and may lead to disciplinary action.

## Policy Detail

### **What concerns can I raise?**

* + 1. 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 Specialist (Eleni Gill, email: [eleni.gill@wmas.nhs.uk](mailto:eleni.gill@wmas.nhs.uk), tel: 07827 308906).
* a bullying culture (across a team or organisation rather than individual instances of bullying).
  + 1. For further examples, please see the [**Health Education video**](https://www.youtube.com/watch?v=zjau1Ey0di8).
    2. 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.
    3. 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 [insert link].

### **Feel safe to raise your concerns**

* + 1. ICB employees who raise a concern under this policy will not be at risk of losing their 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.
    2. Provided you are acting honestly, it does not matter if you are mistaken or if there is an innocent explanation for your concerns.

### **Confidentiality**

* + 1. 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.

### **Who can raise concerns?**

* + 1. 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.
    2. Whilst this policy relates primarily to whistleblowing by NHS workers, on occasions members of the public may also raise whistleblowing concerns where attempts to resolve these concerns via other means such as the NHS complaints procedure have been disregarded or overruled without due cause. In such instances, the wrongdoing disclosed must be in the public interest, that is it must affect others and not just the individual.

### **Who should I raise my concern with?**

* + 1. In many circumstances the easiest way to get your concern resolved will be to raise it formally or informally with your line manager (or lead clinician or tutor). 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.
    2. 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:
* Freedom to Speak Up Staff Champions – see our [Speaking Up](https://nhs.sharepoint.com/sites/99F_Connect/SitePages/Speaking-Up.aspx) intranet page.
* An Executive Director of the ICB
  + 1. If you still remain concerned after this, you can contact:
* The ICB Chief Executive, Anthony McKeever (email: [ceooffice.mseics@nhs.net](mailto:ceooffice.mseics@nhs.net), tel: 07815 997253).
* Our FTSU Guardian, George Wood, email [george.wood5@nhs.net](mailto:george.wood5@nhs.net) – 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 chief executive, or if necessary, outside the organisation.
  + 1. All these people have been trained in receiving concerns and will give you information about where you can go for more support.
    2. If for any reason you do not feel comfortable raising your concern internally, you can raise concerns with a number of external bodies listed on page 19.
    3. The process for raising and escalating concerns is set out at Appendix B.

### **Advice and support**

* + 1. Details of the local support available to you can be found on the [Speaking Up](https://nhs.sharepoint.com/sites/99F_Connect/SitePages/Speaking-Up.aspx) page on the ICB intranet. However, you can also contact [Speak Up](https://speakup.direct/about-us/) for signposting, advice and guidance on raising a concern, your professional body or trade union representative.

### **How should I raise my concern?**

* + 1. You can raise your concerns with any of the people listed above in person, by phone or in writing (including email).
    2. Whichever route you choose, please be ready to explain as fully as you can the information and circumstances that gave rise to your concern.

### **What will we do?**

* + 1. 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 Appendix B).
    2. 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**

* + 1. 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 incident). 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.
    2. 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.[[1]](#footnote-1)
    3. Any employment issues (that affect only you and not others) identified during the investigation will be considered separately.

### **Communicating with you**

* + 1. 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?**

* + 1. 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.

### **Board oversight**

* + 1. The Board will be given high level information on a quarterly basis 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 Board supports staff raising concerns and wants you to feel free to speak up.

### **Raising your concern with an outside body**

* + 1. Alternatively, you can raise your concern outside the organisation with:

* [NHS England and NHS Improvement](https://www.england.nhs.uk/) for concerns about primary medical services (general practice), primary dental services, primary ophthalmic services, local pharmaceutical services, or concerns about how NHS trusts and foundation trusts are being run, other providers with an NHS provider licence, NHS procurement, choice and competition and the national tariff.
* [Care Quality Commission](https://www.cqc.org.uk/) for quality and safety concerns.

* [Health Education England](https://www.hee.nhs.uk/) for education and training in the NHS.
* [NHS Counter Fraud Authority](https://cfa.nhs.uk/) for concerns about fraud and corruption.

### **Making a protected disclosure**

* + 1. 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 19, who you can make a protected disclosure to. To help you consider whether you might meet these criteria, please seek independent advice from [Speak Up](https://speakup.direct/about-us/), [Protect](https://protect-advice.org.uk/) (previously Public Concern at Work), or a legal representative.

### **National Guardian’s Office**

* + 1. [The National Guardian's Office](https://nationalguardian.org.uk/) is an independent, non-statutory body with the remit to lead culture change in the NHS so that speaking up becomes business as usual. The office is not a regulator, but is sponsored by the CQC, NHS England and NHS Improvement. The National Guardian’s office provides challenge, learning and support to the healthcare system as a whole by reviewing organisation’s speaking up culture and the handling of concerns where they have not followed good practice.

## Monitoring Compliance

7.1 Staff will be informed of this policy through team meetings and the policy will be available to all staff on the ICB intranet or by request to the Governance Lead.7.2 This policy will be monitored and reviewed regularly by the Chief People Officer.

7.2 The Freedom to Speak Up Guardian will also meet with the Executive Lead throughout the year to provide feedback on concerns being raised and trends to ensure these continue to be monitored and under review.

## Staff Training

8.1 All key staff listed within this policy with responsibilities in relation to Whistleblowing will received appropriate training on how to receive and deal with concerns.

8.2 Training for staff is available through the National Guardian’s Office ([Training for Workers](https://nationalguardian.org.uk/speaking-up/training-for-workers/)). The ICB’s FTSU Guardian will be required to undertake the foundation training provided by the National Guardian’s Office ([Training for Guardians](https://nationalguardian.org.uk/for-guardians/training-for-guardians/)) and to keep this training regularly updated.

## Arrangements for Review

9.1 This policy will be reviewed no less frequently than every two years. An earlier review will be carried out in the event of any relevant changes in legislation, national or local policy/guidance, organisational change or other circumstances which mean the policy needs to be reviewed.

9.2 If only minor changes are required, the sponsoring Committee has authority to make these changes without referral to the Integrated Care Board. If more significant or substantial changes are required, the policy will need to be ratified by the relevant committee before final approval by the Integrated Care Board.

## Associated Policies, Guidance and Documents

* [Standard Integrated Freedom To Speak Up Policy for the NHS](https://www.england.nhs.uk/publication/freedom-to-speak-up-raising-concerns-whistleblowing-policy-for-the-nhs/).
* [National Guardian's Office Freedom to Speak Up Policy Review Framework](https://nationalguardian.org.uk/learning-resources/speaking-up-resources/).
* [ICB Constitution](https://www.midandsouthessex.ics.nhs.uk/publications/nhs-mid-and-south-essex-icb-constitution/).

#### Associated ICB Policies

* Compliments, Concerns and Complaints Policy.
* Grievance Policy.
* Incident Reporting Policy.
* Bullying and Harassment Policy.
* Standards of Business Conduct Policy.
* Counter Fraud, Bribery and Corruption Policy.
* Conflicts of Interest Policy.

## References

* [Public Interest Disclosure Act 1998.](https://www.legislation.gov.uk/ukpga/1998/23/contents)

## Equality Impact Assessment

12.1 The EIA has identified no equality issues with this policy.

12.2 The EIA is included at Appendix A.

## Appendix A - Equality Impact Assessment

**INITIAL INFORMATION**

|  |  |
| --- | --- |
| **Name of policy:** Raising Concerns Policy    **Version number (if relevant):** 1.0 | **Directorate/Service**: People / HR |
| **Assessor’s Name and Job Title:** Viv Barnes, Governance Lead | **Date:** 4 January 2022 |

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| **OUTCOMES** |
| *Briefly describe the aim of the policy and state the intended outcomes for staff* |
| This procedure is designed to enable people to raise serious concerns (i.e. to blow the whistle) safely so that such issues are raised at an early stage and in the right way so that they can be dealt with responsibly, openly and professionally. The procedure clarifies that ICB employees raising these concerns will not be at risk of losing their job or suffering any form of retribution as a result. |
| **EVIDENCE** |
| *What data / information have you used to assess how this policy might impact on protected groups?* |
| The ICB monitors the composition of its workforce under the nine protected equality characteristics and reports on this annually. This information helps the ICB to assess the potential impact of its policies upon staff. |
| *Who have you consulted with to assess possible impact on protected groups? If you have not consulted other people, please explain why?* |
| The MSE Staff Engagement Group have been consulted on the policy and any comments will be considered before the policy is published. The policy is also based on good practice taken from national bodies such as NHS England and The National Guardian’s Office. |

**ANALYSIS OF IMPACT ON EQUALITY**

The Public Sector Equality Duty requires us to **eliminate** discrimination, **advance** equality of opportunity and **foster** good relations with protected groups. Consider how this policy / service will achieve these aims.

N.B. In some cases it is legal to treat people differently (objective justification).

* ***Positive outcome*** *– the policy/service eliminates discrimination, advances equality of opportunity and fosters good relations with protected groups*
* ***Negative outcome*** *–**protected group(s) could be disadvantaged or discriminated against*
* ***Neutral outcome***  *–**there is no effect currently on protected groups*

Please tick to show if outcome is likely to be positive, negative or neutral. Consider direct and indirect discrimination, harassment and victimisation.

| Protected  Group | Positive  outcome | Negative  outcome | Neutral  outcome | Reason(s) for outcome |
| --- | --- | --- | --- | --- |
| Age |  |  | X | There is a risk that staff from protected groups may be reluctant to use the policy because of fear of discrimination, harassment or victimisation, however it is considered that this risk will be minimised by the assurances given in the policy that employees will not be penalised for raising honest concerns and by the regular monitoring of cases. |
| Disability  (Physical and Mental/Learning) |  |  | X | As above |
| Religion or belief |  |  | X | As above |
| Sex (Gender) |  |  | X | As above |
| Sexual  Orientation |  |  | X | As above |
| Transgender/Gender Reassignment |  |  | X | As above |
| Race and ethnicity |  |  | X | As above |
| Pregnancy and maternity (including breastfeeding mothers) |  |  | X | As above |
| Marriage or Civil Partnership |  |  | X | As above |

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| **MONITORING OUTCOMES** |
| Monitoring is an ongoing process to check outcomes. It is different from a formal review which takes place at pre-agreed intervals. |
| *What methods will you use to monitor outcomes on protected groups?* |
| An anonymised summary of whistleblowing cases reported to the National Guardian’s Office will be produced quarterly by the FTSU Guardian. Where possible, the summary will identify if the case relates to member/s of a protected group and will identify any lessons learned in this respect. It is also expected that any impact on staff members from protected groups will be identified as a result of staff exercising their right to raise a grievance in accordance with the ICB’s Grievance Procedure and that any implications will be addressed by local HR action, including proposing amendments to this policy. |

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| **REVIEW** |
| *How often will you review this policy / service?* |
| Every two years or earlier in the event of any relevant changes in legislation, national or local policy/guidance, organisational change or other circumstances which mean the policy needs to be reviewed. |
| *If a review process is not in place, what plans do you have to establish one?* |
| N/A |

## Appendix B – 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 one of our staff Freedom to Speak Up Champions whose names are listed on our [Speaking Up](https://nhs.sharepoint.com/sites/99F_Connect/SitePages/Speaking-Up.aspx) intranet page.

You can also raise the matter with any of the ICB’s Executive Directors.

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, you can contact either:

Anthony McKeever, Chief Executive (email: [ceooffice.mseics@nhs.net](mailto:ceooffice.mseics@nhs.net), tel: 07815 997253).

Or

George Wood, Freedom to Speak Up Guardian ([george.wood5@nhs.net](mailto:george.wood5@nhs.net)).

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 ICB Board 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.

**Step four**

You can raise concerns formally with external bodies.

* [NHS England and NHS Improvement](https://www.england.nhs.uk/) for concerns about primary medical services (general practice), primary dental services, primary ophthalmic services, local pharmaceutical services, or concerns about how NHS trusts and foundation trusts are being run, other providers with an NHS provider licence, NHS procurement, choice and competition and the national tariff.

**Telephone**: 0300 311 22 33

**Email**: [england.contactus@nhs.net](mailto:england.contactus@nhs.net)

**Post**: NHS England, PO Box 16738, Redditch, B97 9PT

* [Care Quality Commission](https://www.cqc.org.uk/) for quality and safety concerns.

**Telephone**: 03000 616161

**Email**: [enquiries@cqc.org.uk](mailto:enquiries@cqc.org.uk)

**Post**: CQC National Correspondence, Citygate, Gallowgate, Newcastle upon Tyne NE1 4PA

**Online**: [www.cqc.org.uk/GiveFeedback](http://www.cqc.org.uk/GiveFeedback)

* [Health Education England](https://www.hee.nhs.uk/) for education and training in the NHS

**Online:** [www.hee.nhs.uk/about/contact-us-0](http://www.hee.nhs.uk/about/contact-us-0)

* [NHS Counter Fraud Authority](https://cfa.nhs.uk/) for concerns about fraud and corruption.

**Phone:** 0800 028 4060

**Online:** <https://cfa.nhs.uk/reportfraud>

## Appendix C - Management guidance

**Introduction**

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 whistleblowing cases**

Overall responsibility for whistleblowing cases rests with the Chief Executive who shall appoint a co-ordinator for each whistleblowing case.

The co-ordinator should be a director so that they have influence at Board level and to demonstrate that the ICB takes accusations seriously.

**The case project team**

The co-ordinator will form a case project team (‘team’) to investigate and manage any whistle- blowing incident. This team should have a range of knowledge and skills.

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.

The co-ordinator will tell the whistleblower who is in the project team, and whether they are likely to work together.

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.

**Size of team** - the number of people in the 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.

The team should also be senior enough to be able to bring in extra resources to help them if required.

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).

**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.

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.

**Local Counter Fraud Specialist and other fraud investigations** - some whistleblowing 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 and/or the Police involved, they will dictate the process.

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 whistleblowing.

**HR involvement** - where there are potential issues round the whistleblower’s continued employment in their current job, HR 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.

**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, the Local Counter Fraud Specialist will need to be involved because of their experience in dealing with complex investigations.

**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.

In certain exceptional scenarios, it may be helpful 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.

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.

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**

**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.

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.

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.

All potential contact officers should receive training in basic counselling.

**Counselling**

Whistleblowing 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

1. an outside counsellor commissioned by the ICB on an ad hoc basis.
2. a person who is part of a commissioned service that provides other counselling services on a regular basis to the ICB.
3. 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**

**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.

**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 HR immediately, explaining about the whistle- blowing context, so they can go on the redeployment register to help find them alternative work. If HR is already part of the project team, then the HR representative will normally initiate this process.

**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.

**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.

**Finding alternative work** - if the whistleblower says that they want to work somewhere else, then, as long as they acted in good faith, the ICB will do its 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.

**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 the ICB.

Note: in reaching any reciprocal agreement, the current employing organisation must state in writing that they believe the whistleblower acted in good faith.

**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.

**Limits and boundaries to supporting the whistleblower** - members of the whistleblowing team should ensure that boundaries are maintained to avoid any accusations that they have provided advice that could be construed as being against the ICB’s 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 the ICB.

**Links with external support agencies** – the ICB 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.

**Support for partners and family** - if appropriate, counselling should also be offered to 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 whistleblowing case manager. Counselling may also be offered to close family members living with the whistleblower at the discretion of the case manager.

**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).

If a whistleblower takes sickness absence from work, for matters related to the whistleblowing (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.

HR should make a note about how this sickness is reported to future employers. Whilst the ICB 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.

1. If your concern suggests a Serious Incident has occurred, an investigation will be carried out in accordance with the Serious Incident Framework. [↑](#footnote-ref-1)