



# Freedom to Speak Up: Raising Concerns Policy

Policy number and category	HR 20	Human Resources
Version number and date	7	February 2022
Ratifying committee or executive director	Transforming our Staff Experience and Culture sub-group of the People Committee	
Date ratified	February 2022	
Next anticipated review	February 2025	
Executive director	Executive Director of Quality & Safety (Chief Nurse)	
Policy lead	Lead Freedom to Speak Up Guardian	
Policy author (if different from above)	As Above	
Exec Sign off Signature (electronic)		
Disclosable under Freedom of Information Act 2000	Yes	

## Policy context

This policy integrates the National Guardian's Office Policy on Freedom to Speak Up (FTSU) following the Sir Robert Francis review into whistleblowing in the NHS. It also incorporates learning and recommendations from other speaking up reviews of NHS organisations to include most recently, the West Suffolk Review (2021). All NHS Organisations in England are expected to implement this minimum standard to help normalise the raising of concerns to protect patient safety and improve the working experience of us all. This policy outlines the commitment to speaking up and following up and explains the Freedom to Speak Up Guardian role. It also lists useful internal and external contacts. Speaking up and raising concerns can take many forms to include approaching your line manager, emailing your Matron, chatting to the FTSU Champions and phoning the Guardians. You can contact the FTSU Guardians confidentially at any stage of raising your concern and the service will provide you with support, guidance and a further conversation if you wish. We will also provide you with a psychologically safe space to raise your concerns. Our contact details are: [bsmhft.speakup@nhs.net](mailto:bsmhft.speakup@nhs.net) or secure voicemail: **0121 301 3940**

## Policy requirement (see Section 2)

To ensure that any concerns raised at work are handled sensitively and appropriately.  
To outline a clear procedure for reporting any concern within the workplace where other avenues have failed, are inappropriate or where barriers exist.  
To confirm the responsibilities of managers, colleagues and Trades Unions Representatives.

## Table of Contents

<b>1. Introduction.....</b>	<b>3</b>
<b>2. The Policy.....</b>	<b>4</b>
<b>3. Procedure.....</b>	<b>4</b>
3.1 What can you speak up about. ....	4
3.2 Feel safe to raise a concern - freedom from Detriment .....	5
3.3 Confidentiality .....	5
3.4 Anonymity.....	6
3.5 Who can raise concerns.....	6
3.6 Who can you raise a concern with .....	6
3.7 Advice and Support.....	7
3.8 How can you speak up .....	7
3.9 Listening to your concerns .....	7
3.10 What could happen next.....	7
3.11 Communication with the Reporter .....	8
3.12 How will Team BSMHFT learn from concerns raised .....	8
3.13 Raising a concern with an external body .....	9
3.14 Making a “protected disclosure” .....	10
3.15 Training .....	11
3.16 Monitoring effectiveness.....	11
3.17 Review .....	11
<b>4. Responsibilities .....</b>	<b>12</b>
<b>5. Development and Consultation.....</b>	<b>15</b>
<b>6. Reference Documents .....</b>	<b>15</b>
<b>7. Bibliography .....</b>	<b>15</b>
<b>8. Glossary .....</b>	<b>15</b>
<b>9. Audit and Assurance.....</b>	<b>16</b>
<b>10. Appendices.....</b>	<b>17</b>

## 1. Introduction

### ✚ Rationale (why):

Speaking up about any concerns you have at work is essential and helps to improve patient care and the working environment for everyone. Team BSMHFT is committed to establishing an open and honest culture through speaking up when things go wrong in line with our values of Compassion, Inclusion and Commitment.

We will listen to your concerns, ensure that they are followed up and provide you with support and guidance throughout the process. This may include knowing how to raise concerns in other ways and signposting to other sources of support if appropriate.

Speaking up is directly linked to improvements in patient care and your working experience. Health trusts that have a healthy speaking up culture are also more likely to receive a well led rating from the CQC.

Currently, Team BSMHFT has Freedom to Speak Up Guardian/s (FTSU G) with a designated Lead Guardian who are employed by the Trust. Plans are in place to extend the service and roll out a network of FTSU Champions who will support you locally. Freedom to Speak Up Champions have responsibility for awareness raising of speaking up, signposting and support.

Guardians approach their work independently using their judgement and experience and have positive working relationships with the Executives, the Board, and the People Team.

### ✚ Scope (when, where and who):

This policy applies **to all colleagues** - locum, permanent, and fixed term contract employees (including apprentices, secondees and students) who hold a contract of employment or engagement with the Trust. It also applies to external contractors/ partners, agency workers, medical staff, volunteers, bank staff, Non-Executive Directors and other workers who are assigned to us.

Raising concerns can take place using a variety of channels; this policy focusses on the **Freedom to Speak Up** route specifically.

Routes to raising concerns

1. Raise concerns through the Freedom to Speak Up service
2. Raise concerns with your manager
3. Raise concerns within your department
4. Raise concerns with an appropriate external organisation

**Please note** – This policy does not cover concerns raised by Service Users /Patients and Carers who are directed to the Trust complaints process or can raise concerns externally

### ✚ Principles (beliefs):

This policy is primarily for concerns where the interests of others or of the organisation itself are at risk. Its aim is to ensure that all those who work for us and with us understand how to raise a concern and encourages them to do so in a psychologically safe environment.

Team BSMHFT is committed to creating an anti-racist and anti -discriminatory organisation, ensuring that no colleague, whatever your role or engagement with us experiences any disadvantage or

detriment from speaking up. Harassment or victimisation of anyone raising a concern will not be tolerated. Any such behaviour is a breach of our values as an organisation and, if upheld following investigation, could result in disciplinary action.

## **2. The policy**

All colleagues have a responsibility to raise any concern which may impact on patient safety, staff well-being and the organisation. You should be supported and encouraged to raise any matter or concern, expect a response to any concern you've raised and feedback on any action taken from the service that accepts and follows up the concern.

All concerns considered under this policy will be given independent, impartial and compassionate consideration and the individual treated with respect and understanding in recognition that raising a concern can sometimes be a difficult experience.

This policy recognises that even when colleagues do not specifically cite FTSU when they raise concerns to a person in a position of authority, responses should be treated in the spirit of this policy with advice and guidance sought from the Guardians.

For Freedom to Speak up to have real meaning, there must be a clear separation between the consideration of concerns raised under this policy and the addressing of concerns about performance and behaviour.

Reporters can access support from the Trust's wellbeing offer which includes the Occupational Health (OH) provider, confidential counselling services, spiritual care colleagues and Trade Union Representatives.

## **Professional Codes of Practice**

Importantly, professional codes of practice require you to protect patients and clients and to take appropriate steps if you suspect a colleague may not be fit for practice. We will support you in line with these codes of practice. In Team BSMHFT these are the General Medical Council (GMC), Nursing Medical Council (NMC) and Health and Care Professions Council (HCPC).

## **3. The procedure**

### **3.1 What can you speak up about.**

For process flowcharts, please see Appendix 4

Speaking up is an opportunity to learn, develop and improve. Welcoming speaking up, however it happens, is an integral aspect of leadership. As well as raising concerns Team BSMHFT also encourages all colleagues to speak up with suggestions for improvement as well. As previously set out in this policy the principles and procedures are the same.

If you have a concern about risk, malpractice, or wrongdoing which you believe is harming a patient, colleague, service area or BSMHFT in general you **must** speak up. A concern might include but is not restricted to:

- Unsafe patient care
- Unsafe patient practice
- Unsafe working conditions
- A criminal offence is, has or is likely to be committed
- Failure to comply with a legal obligation

- A miscarriage of Justice is occurring, or likely to occur
- Improper use of public funds
- Endangering the Health and Safety of an individual (s)
- Damage to the environment
- Showing undue favour over a contractual matter or to a job applicant
- Racial and other forms of discrimination against colleagues and patients
- Malpractice and Professional Misconduct
- Inadequate induction or training of colleagues
- Lack of, or poor response to a reported patient safety incident
- Bullying and harassment of an individual and or a culture across a team, service, and the wider Trust
- Experiencing disadvantageous behaviour or behaviour that is intimidating or demeaning resulting from speaking up
- Fraud- Where the issue raised relates to potential fraud, as part of the investigation process the Executive Director of Resources will be notified to ensure that the Counter Fraud team are involved as appropriate. (See Trust Counter Fraud intranet pages).
- The deliberate concealment of any information relating to any of the above

Do remember that you do not need to wait for proof to speak up, as early action can often resolve a concern. Providing you are acting honestly it does not matter if you are mistaken or if there is an innocent explanation for your concerns.

### **If in doubt, please speak up**

If a concern raised to the Freedom to Speak Up Guardian is not thought to be a speaking up issue, we can support you to access the most appropriate policy or signpost you to other areas of support.

We encourage you to raise any concerns with your line manager or a senior manager, although it is accepted that this may not always be possible for a variety of reasons. You can have a conversation with the Freedom to Speak Up Champions or the Freedom to Speak Up Guardians at any point even if you have raised a concern via a different route. You can also raise concerns with a Trade Union representative, a trusted colleague, or a member of The People Team. These are all examples of speaking up.

## **3.2 Feel safe to raise a concern - Freedom from Detriment**

The Trust Board, the Chief Executive and the Trade Unions are committed to this policy. If a person raises a concern with a reasonable belief and in good faith it does not matter if they are mistaken. You do not need to provide evidence in order to speak up and can be assured that you will not be at risk of losing your job or suffering any other form of detriment (such as reprisal or victimisation) as a result of raising a concern.

Team BSMHFT will not tolerate any harassment or victimisation (including informal pressures) of any individual who has spoken up and will treat this as a serious disciplinary issue. Please refer to Appendix 9 for examples of detriment and relevant guidance.

## **It is both a ‘right’ and a ‘duty’ that you raise any concerns.**

Team BSMHFT will also ensure that contracts of employment and settlement agreements do not include confidentiality or “gagging” clauses which seek to prevent disclosure of information in the public interest.

The Trust Board and the Guardians understand and recognise that some colleagues face additional barriers to speaking up and as a result may be less likely to. For example, bank colleagues, trainees and individuals with protected characteristics. The Guardians will work proactively with the Trust Board and senior managers to identify and remove barriers to enabling inclusive conversations for everyone.

### **3.3 Confidentiality**

Raising a concern with the Guardians is confidential. It is hoped that colleagues will feel comfortable raising a concern openly but if not, it is possible to raise a concern with a Guardian but to request your identity remains confidential to others.

There are always some limitations to confidentiality. This may be in situations where the Trust is required to disclose it by law (for example, to the police) or where is not able to resolve the concern without revealing the person’s identity (for instance because evidence is needed in a court of law).

Raising a concern does not give the Reporter the automatic right to disclose confidential information gained through their employment e.g. that relates to treatment of patients, personal details about colleagues, the business of the organisation or is covered by the Data Protection Act. This does not prevent the raising of concerns, for example, about the treatment of patients.

### **3.4 Anonymity**

Colleagues can choose to raise a concern anonymously with FTSU, without giving anyone their names, but that approach may make it more difficult to investigate thoroughly and to provide feedback on the outcome.

Anonymous information about any concern will be passed to the most appropriate Executive Director who will assess the issues for risk and initiate an investigation if warranted.

### **3.5 Who can raise concerns**

Anyone who works (or has worked) in the NHS, or for an independent organisation that provides NHS services can raise concerns. This includes those specified in the scope above

### **3.6 Who can you raise a concern with**

Speaking up can take many forms. From a quick discussion with your line manager to a suggestion for improvement submitted as part of an organisational suggestion scheme, raising an issue with a FTSU Guardian, or bringing a matter to the attention of a regulator.

In most situations, a conversation informally or formally with your line manager can often be the quickest route to resolve a concern. However, the Guardians understand that in some circumstances this may not always be appropriate; for example, you may have tried to raise your concern before, you may not have felt listened to; you may be fearful of repercussions and or you feel that your concern may not have been adequately addressed.

If you find yourself in any of these or other similar situations, the Guardians will support you by providing an independent and impartial source of advice at any stage of raising your concern, with immediate access to anyone in the organisation, including the Chief Executive, and externally if necessary.

You can also approach the Clinical Governance team on [bsmhft.clinicalgovernance@nhs.net](mailto:bsmhft.clinicalgovernance@nhs.net) and if your concerns persist you can contact The Executive Director and or Non-executive Director with responsibility for Freedom to Speak Up. These colleagues have responsibility within their portfolio to lead on FTSU across the Trust in receiving concerns and will provide you with information about where you can go for more support.

You may sometimes feel uncomfortable raising the concern internally. If this is the case you can raise concerns with external bodies such as the National Guardian's Office (NGO) or CQC but wherever possible, we'd encourage you to use the Speaking Up processes outlined in this policy.

### 3.7 Advice and Support

The following local support is available to you from:

- Your line manager and senior manager
- FTSU Champions (Coming soon)
- The People Team

Details on other sources of local support such as Inclusion advisors, Staff networks, Spiritual Care team, and Trade Union representatives are available to you and can be found on the Trust Connect pages.

You can also contact the **Whistleblowing Helpline** for the NHS and social care (0800 724 725), or your professional body

### 3.8 How can you speak up

When you speak up, the Guardian service is committed to providing you with a psychologically safe, inclusive and supportive environment. A concern can be raised by phone or text or by leaving a secure voice message on the Guardians voicemail: **0121 301 3940**. Only the Guardians have access to this. You can also approach the Guardians in person or can write or email them using their contact details: [bsmhft.speakup@nhs.net](mailto:bsmhft.speakup@nhs.net) The Guardians can also be contacted via Teams. Every effort will be made to respond to you as soon as possible and within 2 working days of initial contact and within 24 hours when relating to patient safety. The Guardians do not provide a 24 hour emergency service so any patient safety concerns must be raised in line with the existing policy: [Incident Management Policy.pdf](#)

Please refer to Appendix 2 for further contact details

### 3.9 Listening to your concerns

Everyone who speaks up will always be thanked. Concerns will be recorded confidentially on the Freedom to Speak Up secure database as per agreement with the Reporter. It is important to note that no other personnel have access to this database.

The FTSU database will record the date the concern was received, the area you work in, whether you have requested confidentiality, and a summary of the concerns raised. Sometimes someone

speaking up may only require advice or guidance. In these instances, the Guardians will continue to offer guidance and support until the concern is resolved for the Reporter.

On occasions, the Guardians may suggest that a concern raised is better served by another process; for example, the processes in place dealing with bullying and harassment. If so, this will be discussed with you, and advice and guidance given as above.

### **3.10 What could happen next**

Some concerns may need to be investigated further or if the Reporter requests that this happens. If this is the case, the Guardians will escalate the concerns to the appropriate leader or service (Please see Appendix 4). The Trust is responsible for investigating a concern and after an assessment of the concerns raised, will produce a plan of action.

Wherever possible a single investigation will be carried out. For example, where a concern is raised about a patient safety incident, it will usually undertake a single investigation that looks at the concern and the wider circumstances of the incident. The Terms of Reference for any investigation will be agreed and shared with the Guardians to ensure the scope of any investigation satisfactorily reflects your concerns. The Guardians will also ask the Trust to consider any potential or perceived conflicts of interest when confirming the personnel overseeing any investigation.

The FTSU service have produced operational guidance for managers and The People Team, <https://bsmhftnhsuk.sharepoint.com/sites/connect-raisingaconcern/SiteAssets/Forms/AllItems.aspx?id=%2Fsites%2Fconnect-raisingaconcern%2FSiteAssets%2FSitePages%2FFTSU-resources%2FFTSU-Guidance-for-The-People-Team-and-Managers%2Epdf&parent=%2Fsites%2Fconnect-raisingaconcern%2FSiteAssets%2FSitePages%2FFTSU-resources> This outlines the expectations of the Guardians when a complaint is raised and the importance of listening and following up on a concern. It also outlines the processes in place if a concern is raised about a member of the board.

### **3.11 Communication with the Reporter**

When a colleague raises a concern, they will be treated with compassion, respect, and civility. If concerns result in an investigation, BSMHFT will be responsible for investigating the concerns within a certain timeframe, reaching a decision on the merits of the concern, and communicating the outcome to the Reporter. If a concern is raised anonymously, the Guardian will be responsible for communicating the outcome to the Reporter. Wherever possible, the investigation report will be shared with the Reporter (whilst respecting the confidentiality of others).

During this process the Guardian will keep in touch with the Reporter and provide support and guidance as required. Please refer to Appendix 6 for flowcharts.

#### **To ensure independence and impartiality:**

The investigator *will not* be a Freedom to Speak Up Guardian and *will not* be responsible for making a decision on the merits of the concern and *will not* be responsible for feeding back the outcome of any investigation.

### **3.12 How will Team BSMHFT learn from concerns raised**



Investigations will focus on improvements to providing safe and high- quality care for our patients in addition to the working experience of colleagues. Where improvements are identified, they will be independently overseen ensuring that any changes in practice and or processes are implemented, are working effectively, and are regularly reviewed. Anonymised case studies will be shared with teams and colleagues across the organisation to demonstrate the impact and value of speaking up. Permission will always be sought from Reporters in these instances.

The Board is fully supportive of making speaking up ‘business as usual’.

Reporters of concerns will be asked for feedback about the FTSU service they have received so that improvements can be made. We may sometimes ask for any themes to be shared anonymously across the Trust for learning and development. Consent will be sought if this is asked of individuals and great care will be taken to ensure that colleagues are not identified in any way.

The Freedom to Speak Up Lead will write a 6 monthly report of all concerns raised and report quarterly to the National Guardian’s office. These reports will maintain the confidentiality of those speaking up and will be protected to ensure that the identity of the Reporter is not revealed, unless consent for this is expressly sought.

The Freedom to Speak Up team will report and escalate any concerns through the governance and assurance process within the trust.

### **3.13 Raising a concern with an external body**

#### **Whistle Blowing**

If a colleague reports wrongdoing that they believe is in the public interest, this is referred to as ‘whistle blowing.’ Individuals with these concerns can report them internally to the Freedom to Speak Up Guardian or they can report them externally.

It is hoped that colleagues will raise concerns internally in the first instance and that internal processes are exhausted first. However, if an individual believes the issues they wish to raise warrant external disclosure, or, are in the public interest, they can pursue the matter via external routes.

Colleagues can raise concerns 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 03000 616161 or [cqc.org.uk/contact-us/general-enquiries](https://www.cqc.org.uk/contact-us/general-enquiries)

**NHS England** for concerns about:

- primary medical services (general practice)
- primary dental services

- primary ophthalmic services
- local pharmaceutical services

**Health Education England** for education training in the NHS

**NHS Local Counter Fraud Specialist (LCFS)** for concerns about fraud and corruption: [Counter Fraud \(sharepoint.com\)](https://sharepoint.com).

**NHS and Social Care Whistleblowing Helpline** you can call anonymously on 08000 724 725 or via their website <https://speakup.direct>

The independent whistleblowing charity **Protect** 020 3117 2520 or via their website: <https://protect-advice.org.uk>

### **National Guardian Freedom to Speak Up**

The National Guardian can independently review how colleagues have been treated having raised concerns where NHS trusts and foundation trusts may have failed to follow good practice. They may work with some of the bodies listed above to take action where needed. <https://www.nationalguardian.org.uk/>

### **3.14 Making a “protected disclosure”**

**Protected disclosures** are those that are made in the genuine interest of the public. In this instance, the Trust encourages colleagues to obtain further advice on the Public Interest Disclosure Act (1998) before pursuing this course of action.

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', [blowing the whistle to a prescribed person- list of prescribed](#) who you can make a protected disclosure to.

To help you consider whether you might meet these criteria, please seek independent advice from the Whistleblowing Helpline for the NHS and social care, Public Concern at Work 1998 (PIDA), a legal representative and or the National Guardians Office.

In certain circumstances, wider disclosure, for example to the Police, an MP, or the media, may also be protected under the Public Interest Disclosure Act 1988. A number of additional tests will apply when wider disclosures are made:

*Firstly the employee must:*

- Make the disclosure in good faith
- Reasonably believe that the information, and any allegation contained in it, are substantially true; and
- Not act for personal gain

*In addition one or more of the following conditions must be met:*

- a) Whether there is good reason to believe that the individual who raised the concern would suffer a detriment by their employer or any of its employees, if the matter was raised internally or with the appropriate “Prescribed Body”.
- b) In the absence of an appropriate “Prescribed Body” or “Person”, the employee reasonably believes that the disclosure to the employer would result in destruction or concealment of information about the wrongdoing.
- c) The employee has previously disclosed substantially the same information to his / her employer or to a “Prescribed Body” or “Person”.

[blowing the whistle to a prescribed person- list of prescribed  
NHS England » Whistleblowing](#)

**Please note-** The National Guardian’s Office is a ‘prescribed person.’

### **3.15 Training**

The FTSU Guardians will receive specialist training and can book ‘Support surgery’ slots at the National Guardians Office. Support is also provided from other FTSU Guardians within the local network, and via update training. In order to exercise their independence, the FTSU Guardians are not managed by the Trust via a line management system except for annual leave and sickness etc. Colleagues, managers and senior leaders will undertake Freedom to Speak Up training (e-learning packages) which can be accessed through the BSMHFT Learning Zone.

### **3.16 Monitoring effectiveness**

The success and effectiveness of this policy will be monitored as follows:

- Cases will be reviewed quarterly by the FTSU team and themes identified, both in the nature of the complaint and the areas/services involved
- When and where necessary, the Guardians will challenge senior leaders where the response to FTSU concerns is lacking, protracted or inadequate
- The Non-Executive Lead for FTSU can challenge the Chief Executive, Lead Executive for FTSU and the Board to reflect on whether they could do more to create a healthy and effective speaking up culture
- The NHS Staff Survey asks questions about speaking up culture and arrangements. This information will be analysed and used to drive improvements in services and teams
- The Chair of the Board and Non-Executive Lead for FTSU provide casework quality assurance
- The Trust Board will be given high level information about all concerns raised through this policy and what actions have been taken
- The Trust will include similar high- level information in its annual report
- The NGO can conduct a review of the handling of speaking up cases if it receives information that the Trust may not have responded in accordance with good practice

### **3.17 Review**

This document will be reviewed each year to ensure that the contact numbers for prescribed organisations and individuals are up-to-date, and that the processes are still effective and valid.

The policy will be renewed as per Trust policy cycle i.e. 3 years from initial approval and thereafter on a triennial basis unless organisational changes, legislation, guidance or non-compliance prompt an earlier review.

Reviews have been informed by feedback from colleagues who have spoken up, audits, quality assurance findings and gap analysis against recommendations from the National Guardian.

#### 4. Responsibilities

Post(s)	Responsibilities	Ref
All Colleagues	<p><b>All health care professionals have a duty to report any concerns they may have about patient care or safety.</b></p> <p>Raise concerns in good faith with a true belief that a malpractice has occurred and to:</p> <p>Ensure that any potential investigation is not jeopardised by discussing concerns with others</p> <p>Accept professional accountability and maintaining the standards of professional practice as set by the appropriate regulatory body</p> <p>Take reasonable care of health and safety at work for themselves, team, patients and other</p> <p>Act in accordance with the express and implied terms of their contract</p> <p>Not discriminate against patients or employees and to adhere to equal opportunities and equality and human rights legislation</p> <p>Protect the confidentiality of personal information</p> <p>Be honest and truthful</p> <p>Reporting all incidents and concerns immediately</p> <p>Cooperate with any investigations conducted under this policy</p>	
Line Managers	<p><b>Managers should under this policy:</b></p> <p>Encourage colleagues to raise concerns at the earliest opportunity,</p> <p>Work to identify and reduce barriers to speaking up for groups of staff that are less likely to speak up</p> <p>Take any complaints/concerns made by colleagues seriously</p>	

Post(s)	Responsibilities	Ref
	<p>Seek guidance and support from the Guardians</p> <p>Respond to any complaints/concerns positively within the prescribed timescales</p> <p>Maintaining confidentiality</p> <p>Be approachable and create a positive speaking up culture</p> <p>Ensure that there is a fair and timely process for investigation</p> <p>Maintain good communication with colleagues who raise the concern</p> <p>Acting consistently, fairly and reasonably</p> <p>Ensure the concern is reported through the Incident reporting system (Eclipse)</p> <p>Undertake an investigation if appropriate. This may require seeking further advice.</p> <p>Recognise the difficult position colleagues may be in, providing appropriate support.</p> <p>Take prompt action to resolve the concern or refer it to an appropriate person.</p> <p>Inform and escalate to senior managers as appropriate.</p> <p>Ensure that colleagues who genuinely report concerns are not victimised or treated detrimentally in any way due to their actions under this policy.</p> <p>Securely retain any evidence and/or documentation passed to them to be given to any investigation team which is subsequently appointed. Some circumstances may require that evidence is left in situ.</p> <p>When the concern is raised via FTSU, managers will provide timely and regular feedback regarding timescales and the status of any investigation as requested by the Guardians.</p>	
Associate Directors	To ensure that any concern is taken seriously and given due diligence to resolve. Reporting managers are fulfilling the duties required of them under this policy and under the Freedom to Speak Up operational guidelines.	
Policy Lead	To ensure that the policy is in line with current legislation, good practice guidelines, NGO policy, case reviews and is adhered to correctly.	
Deputy Director of People and	To ensure the requirements of the policy are met in terms of the organisations response to the raising of a concern.	

Post(s)	Responsibilities	Ref
Organisational Development	<p>To provide a monthly report to Trust Board on all active concerns under investigation (reported internally or externally), including outcomes.</p> <p>Monitor complaints to highlight any trends, lessons learnt and potential impact on equality targeted groups, reporting quarterly to the People Committee.</p>	
Executive Directors	<p>The <b>Trust Board</b> are responsible for the following under this policy to:</p> <p>ensure that any concern is taken seriously and given due diligence to resolve.</p> <p>Receive the 6 monthly report on Speaking Up</p> <p>Ensure that recommended actions following investigations are prioritised and actioned</p> <p>Provide an organisational culture where colleagues are encouraged to raise concerns, are supported when they do, and concerns are followed up.</p>	

Post(s)	Responsibilities	Ref
	<p><b>The Freedom to Speak up Guardian is responsible for:</b></p> <p>Being an expert in all aspects of raising and handling concerns</p> <p>Offering support and advice to colleagues who wish to raise a concern or are handling concerns</p> <p>Watch over any concerns that have been raised</p> <p>Safeguarding the interests of the individual raising a concern</p> <p>Provide indicative timeframes for the investigation</p> <p>Provide feedback on the status of the investigation</p> <p>Ensuring concerns are escalated as appropriate</p> <p>Share the recommendations and outcomes of the investigation report once complete and identify themes</p> <p>Challenge senior leaders or investigators where the response to FTSU concerns is lacking, protracted or inadequate</p> <p>Taking an independent and objective view</p> <p>Reporting to the board and externally (Lead Guardian)</p> <p>Completing such reports as required by The Trust Board, NGO and any other regulatory body</p>	

**5. Development and Consultation process** consisting of:

Consultation summary	
<b>Date policy issued for consultation</b>	29/10/2021
<b>Number of versions produced for consultation</b>	V2.0
<b>Committees / meetings where policy formally discussed</b>	<b>Date(s)</b>
PDMG policy Group	16/12/2021

Where received	Summary of feedback	Actions / Response
TOCSE- Sub Committee	Requires amendment	Included in V2.0

## 6. Reference documents

This policy links to the following policies:

- [Dignity at Work Policy](#)
- [Disciplinary Policy](#)
- [Equality Inclusion and Human Rights policy](#)
- [Duty of Candour Policy](#)
- [Local Counter Fraud, Bribery and Corruption Policy](#)
- [Health and Safety Policy](#)
- [Security Management Policy](#)

## 7. Bibliography:

- NHS Employers Guidance on Whistleblowing
- Francis Review Report “Freedom to Speak Up” February 2015
- West Suffolk Review, NHSE/I- Published 9 December 2021
- Public Interest Disclosure Act 1998
- Enterprise & Regulatory Reform Act 2013 (changes to PIDA Act 1998)
- Employment Rights Act 1996
- NHS National Whistleblowing Policy – Published 1 April 2016
- Department for Business, Energy & Industrial Strategy (BEIS) – Guidance on Whistleblowing - List of “Prescribed People and Bodies” Dated 1 October 2017

## 8. Glossary:

**Speaking up:** The National Guardians’ office ([www.nationalguardian.org.uk](http://www.nationalguardian.org.uk)) states “Workers can speak up about anything that gets in the way of high-quality effective care, or that affects their working life. It is something that should happen as ‘business as usual’. Speaking up may take many forms including a quick discussion with a line manager, a suggestion for improvement submitted as part of an employee suggestion scheme, raising an issue with a Freedom to Speak Up Guardian, or bringing a matter to the attention of a regulator.

**Whistleblowing:-** Some people may interpret all or some of the above actions as ‘whistleblowing’, others may only associate ‘whistleblowing’ with something that is ‘formal’, or a matter that is escalated outside an organisation, or to describe something that may qualify for ‘protection’ under the Public Interest Disclosure Act. The Trust preferred term is “Speaking Up”

## 9. Audit and Assurance

Elements to be Monitored	Lead	Tool	Frequency	Reporting Committee
--------------------------	------	------	-----------	---------------------



Thematic trends and lesson learnt from concerns	Lead FTSU Guardian		6 monthly  Quarterly	Trust Board  People Committee
Progress of FTSU active cases  Escalation of cases if delayed	Lead FTSU Guardian	FTSU Tracker	Weekly  After 3 months	Trust Board People Committee  Deputy Director of People, Chief Executive
Case management of investigations and FTSU related concerns	Deputy Director of People and Organisational Development	FTSU Tracker	Quarterly	People Committee
Concerns recorded on Trust Risk monitoring system ( Eclipse)	Associate Director of Clinical Governance		Quarterly	Trust Board

## 10. Appendices

Appendix 1 – Equality Impact Assessment

Appendix 2 - Process for raising and escalating a concern

Appendix 3 – FTSU Cycle Picture

Appendix 4 - BSMHFT Raising concerns flow chart

Appendix 5 - Expectations

Appendix 6 - Timescales for the FTSU process

Appendix 7 - Public Interest Disclosure Act 1998 (PIDA)

Appendix 8 – Contacts

Appendix 9 – Detriment

## Equality Analysis Screening Form

A word version of this document can be found on the HR support pages on Connect

<http://connect/corporate/humanresources/managementsupport/Pages/default.aspx>

<b>Title of Proposal</b>	Freedom to Speak Up policy		
<b>Person Completing this proposal</b>	Lead Guardian	<b>Role or title</b>	Freedom to Speak Up Guardian
<b>Division</b>	Human Resources	<b>Service Area</b>	Workforce & Inclusion – Corporate HQ
<b>Date Started</b>	October 2021	<b>Date completed</b>	October 2021
<b>Main purpose and aims of the proposal and how it fits in with the wider strategic aims and objectives of the organisation.</b>			
<p>Freedom to Speak Up Guardians have been in place following the recommendations of the Sir Robert Francis Freedom to Speak Up Review (2015). Guardians support Trusts create an open and honest reporting culture, helping to create and monitor the right conditions where NHS staff can confidently speak up. Speaking up also underpins the strategic drivers of the NHS People Plan and is integral to the Trust's 5 year strategy. Speaking up safeguards' patient safety and quality as concerns are followed up, acted upon, leading to learning and improvement. The same principles apply to the working experience of our colleagues. Team BSMHFT is committed to making the organisation an anti-racist and anti-discriminatory place to work and a positive speaking up culture is fundamental in achieving this.</p>			
<b>Who will benefit from the proposal?</b>			
All colleagues			
<b>Impacts on different Personal Protected Characteristics – Helpful Questions:</b>			
<i>Does this proposal promote equality of opportunity?</i> <i>Eliminate discrimination?</i> <i>Eliminate harassment?</i> <i>Eliminate victimisation?</i>		<i>Promote good community relations?</i> <i>Promote positive attitudes towards disabled people?</i> <i>Consider more favourable treatment of disabled people?</i> <i>Promote involvement and consultation?</i> <i>Protect and promote human rights?</i>	
<b>Please click in the relevant impact box or leave blank if you feel there is no particular impact.</b>			
<b>Personal Protected Characteristic</b>	<b>No/Minimum Impact</b>	<b>Negative Impact</b>	<b>Positive Impact</b>
<b>Please list details or evidence of why there might be a positive, negative or no impact on protected characteristics.</b>			

<b>Age</b>			x	Promotes active monitoring of groups with protected characteristics who may face additional barriers when speaking up. Ongoing commitment to identify and remove barriers and to adapting underpinning processes. Data around protected characteristics of those speaking up is recorded by the Guardians and reflected in the People Committee quality reports for assurance. This is relevant to all protected characteristics.
Including children and people over 65 Is it easy for someone of any age to find out about your service or access your proposal? Are you able to justify the legal or lawful reasons when your service excludes certain age groups				
<b>Disability</b>			x	Guardians will employ reasonable adjustments for those speaking up and will challenge the Trust if this is lacking.
Including those with physical or sensory impairments, those with learning disabilities and those with mental health issues Do you currently monitor who has a disability so that you know how well your service is being used by people with a disability? Are you making reasonable adjustment to meet the needs of the staff, service users, carers and families?				
<b>Gender</b>			x	Guardians will strive to be as assessable as possible enabling those with flexible working arrangements to access the service.
This can include male and female or someone who has completed the gender reassignment process from one sex to another Do you have flexible working arrangements for either sex? Is it easier for either men or women to access your proposal?				
<b>Marriage or Civil Partnerships</b>			x	Guardians are expected to possess knowledge of employment law especially with regard to the Equality Act (2010)
People who are in a Civil Partnerships must be treated equally to married couples on a wide range of legal matters Are the documents and information provided for your service reflecting the appropriate terminology for marriage and civil partnerships?				
<b>Pregnancy or Maternity</b>			x	The Guardians will ensure that colleagues who are taking maternity/paternity/adoption leave have access to the Guardians.
This includes women having a baby and women just after they have had a baby Does your service accommodate the needs of expectant and post natal mothers both as staff and service users? Can your service treat staff and patients with dignity and respect relation in to pregnancy and maternity?				
<b>Race or Ethnicity</b>			x	Guardians will participate in BAME allyship network meetings
Including Gypsy or Roma people, Irish people, those of mixed heritage, asylum seekers and refugees				

What training does staff have to respond to the cultural needs of different ethnic groups?				
What arrangements are in place to communicate with people who do not have English as a first language?				
<b>Religion or Belief</b>			x	As above
Including humanists and non-believers				
Is there easy access to a prayer or quiet room to your service delivery area?				
When organising events – Do you take necessary steps to make sure that spiritual requirements are met?				
<b>Sexual Orientation</b>			x	As above
Including gay men, lesbians and bisexual people				
Does your service use visual images that could be people from any background or are the images mainly heterosexual couples?				
Does staff in your workplace feel comfortable about being 'out' or would office culture make them feel this might not be a good idea?				
<b>Transgender or Gender Reassignment</b>			x	Guardians will continue to work collaboratively with the LGBTQ+ network
This will include people who are in the process of or in a care pathway changing from one gender to another				
Have you considered the possible needs of transgender staff and service users in the development of your proposal or service?				
<b>Human Rights</b>				Speaking up is integral to protecting patient care and preventing harm
Affecting someone's right to Life, Dignity and Respect?				
Caring for other people or protecting them from danger?				
The detention of an individual inadvertently or placing someone in a humiliating situation or position?				
<b>If a negative or disproportionate impact has been identified in any of the key areas would this difference be illegal / unlawful? I.e. Would it be discriminatory under anti-discrimination legislation. (The Equality Act 2010, Human Rights Act 1998)</b>				
	<b>Yes</b>	<b>No x</b>		
<b>What do you consider the level of negative impact to be?</b>	<b>High Impact</b>	<b>Medium Impact</b>	<b>Low Impact</b>	<b>No Impact</b>
				x
If the impact could be discriminatory in law, please contact the <b>Equality and Diversity Lead</b> immediately to determine the next course of action. If the negative impact is high a Full Equality Analysis will be required.				

If you are unsure how to answer the above questions, or if you have assessed the impact as medium, please seek further guidance from the **Equality and Diversity Lead** before proceeding.

If the proposal does not have a negative impact or the impact is considered low, reasonable or justifiable, then please complete the rest of the form below with any required redial actions, and forward to the **Equality and Diversity Lead**.

**Action Planning:**

How could you minimise or remove any negative impact identified even if this is of low significance?

FTSU Guardians will work with the organisation to reduce impact of any detriment experienced by reporter of concerns

How will any impact or planned actions be monitored and reviewed?

Feedback from reporters of concerns

FTSU guardians escalating concerns through governance routes

Analysis of NHS Staff Survey data and WRES/WDES and other metrics

How will you promote equal opportunity and advance equality by sharing good practice to have a positive impact other people as a result of their personal protected characteristic.

Good practice is shared in the Regional Guardian's network as well as the National Guardians Office via the 100 voices initiative.

Please save and keep one copy and then send a copy with a copy of the proposal to the Senior Equality and Diversity Lead at [bsmhft.hr@nhs.net](mailto:bsmhft.hr@nhs.net) . The results will then be published on the Trust's website. Please ensure that any resulting actions are incorporated into Divisional or Service planning and monitored on a regular basis.

## APPENDIX 2

### PROCESS FOR RAISING AND ESCALATING A CONCERN

#### STEP ONE

Speaking up and raising concerns can take many forms.

From a quick informal discussion with your line manager/ supervisor or clinical tutor (students), making a suggestion for patient improvement via an electronic survey, taking part in discussions in a team meeting, a confidential chat in RMS, a text/ telephone call to a FTSU Guardian, emailing your ward manager or Matron and chatting to a Freedom to Speak up Champion on your break.

You can raise a concern in **any of these ways**.

In most situations, your line manager/ supervisor or clinical tutor may be the quickest route to helping you resolve the issue.

#### STEP TWO

If you feel unable to raise a concern in any of the ways described above, or you feel there are barriers (of any kind) to raising your concern, then contact the Freedom to Speak Up Guardians:

TELEPHONE: **0121 301 3940**

E-MAIL: [bsmhft.speakup@nhs.net](mailto:bsmhft.speakup@nhs.net)

POSTAL ADDRESS:

[Freedom to Speak Up Guardian c/o:](#)

[The Uffculme Centre, Queensbridge Road, Moseley, Birmingham B13 8QY](#)

The Guardians have been given special responsibility and training in dealing with concerns.

They will:

- Treat your concern confidentially unless otherwise agreed
- Ensure you receive timely guidance and support to progress your concern
- Escalate to the Lead Executive for Freedom to Speak up any indications that you have experienced disadvantageous treatment as a result of raising or having raised a 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, as raising your concern may be stressful

If you want to raise the matter in confidence, please say so at the outset so that appropriate arrangements can be made.

#### STEP THREE

If these channels have been followed and you still have concerns, or if you feel that the matter is so serious that you cannot discuss it with any of the above, please contact the Chief Executive, Chief Medical Officer, Chief Nurse or nominated Non-Executive Director as per list in appendix 8

#### STEP FOUR

You can raise concerns formally with external bodies as listed in 3.13 of this policy

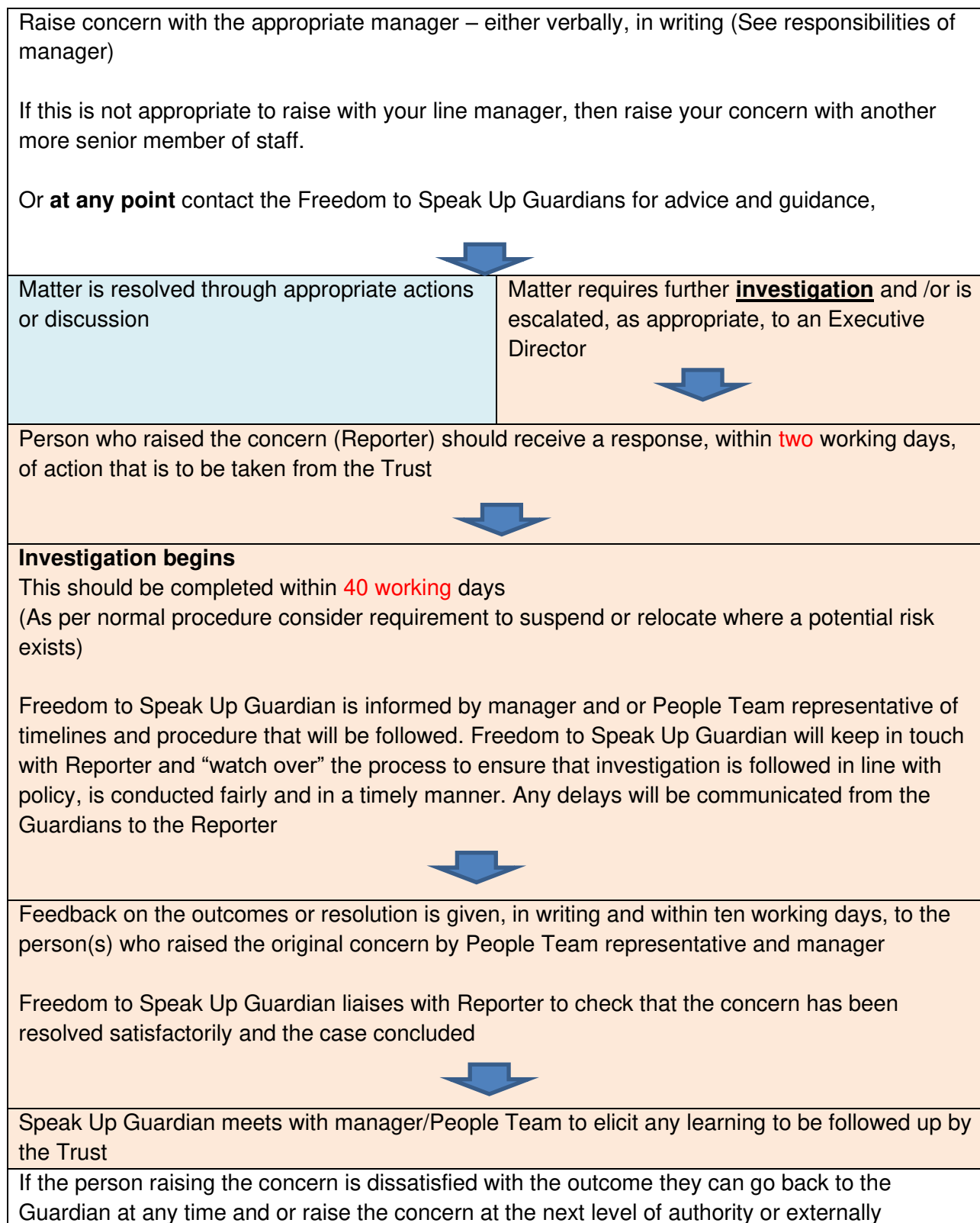
## APPENDIX 3

A vision for raising concerns in the NHS, taken from the report, by Sir Robert Francis QC, 2015



## APPENDIX 4

### BSMHFT Raising concerns flow chart





## **APPENDIX 5**

### **EXPECTATIONS: WHAT YOU CAN EXPECT WHEN YOU RAISE A CONCERN**

#### **We will:**

- Treat you with respect at all times and thank you for raising your concern
- Treat your concern confidentially unless otherwise agreed
- Understand that you may be upset, nervous or worried about raising your concern
- Advise you if the concern raised should be referred to a different process e.g. Fraud investigation,
- Ask you what your expectations are in terms of an outcome from the concerns you have raised
- Agree a Terms of Reference for an investigation with managers based on the information you provide
- Agree with managers an appropriate investigator who has not been involved in the concern, or in any other processes and inform you who this will be
- Advise that you may need to be part of the investigation along with other colleagues in the area i.e. interviewed by the investigator
- Provide indicative timeframes for the investigation
- Discuss and agree how you will be kept informed of progress including ensuring you have support of FTSU Guardian or other appointed persons to support you through the process
- Ensure Managers communicate the outcomes of the investigation report to you once complete
- Identify sources of support that are available for you
- Safeguard colleagues against any disadvantageous behaviour as a result of speaking up
- Ensure that if other processes run parallel to the investigation e.g. disciplinary issues as a result of poor care, these will be investigated and managed separately from the concern raised.
- Meet with Managers and The People Team to elicit and identify learning and to consider recommendations
- Share improvements and lessons learnt with the relevant service and across BSMHFT as appropriate

### **EXPECTATIONS OF YOU ONCE A CONCERN HAS BEEN RAISED**

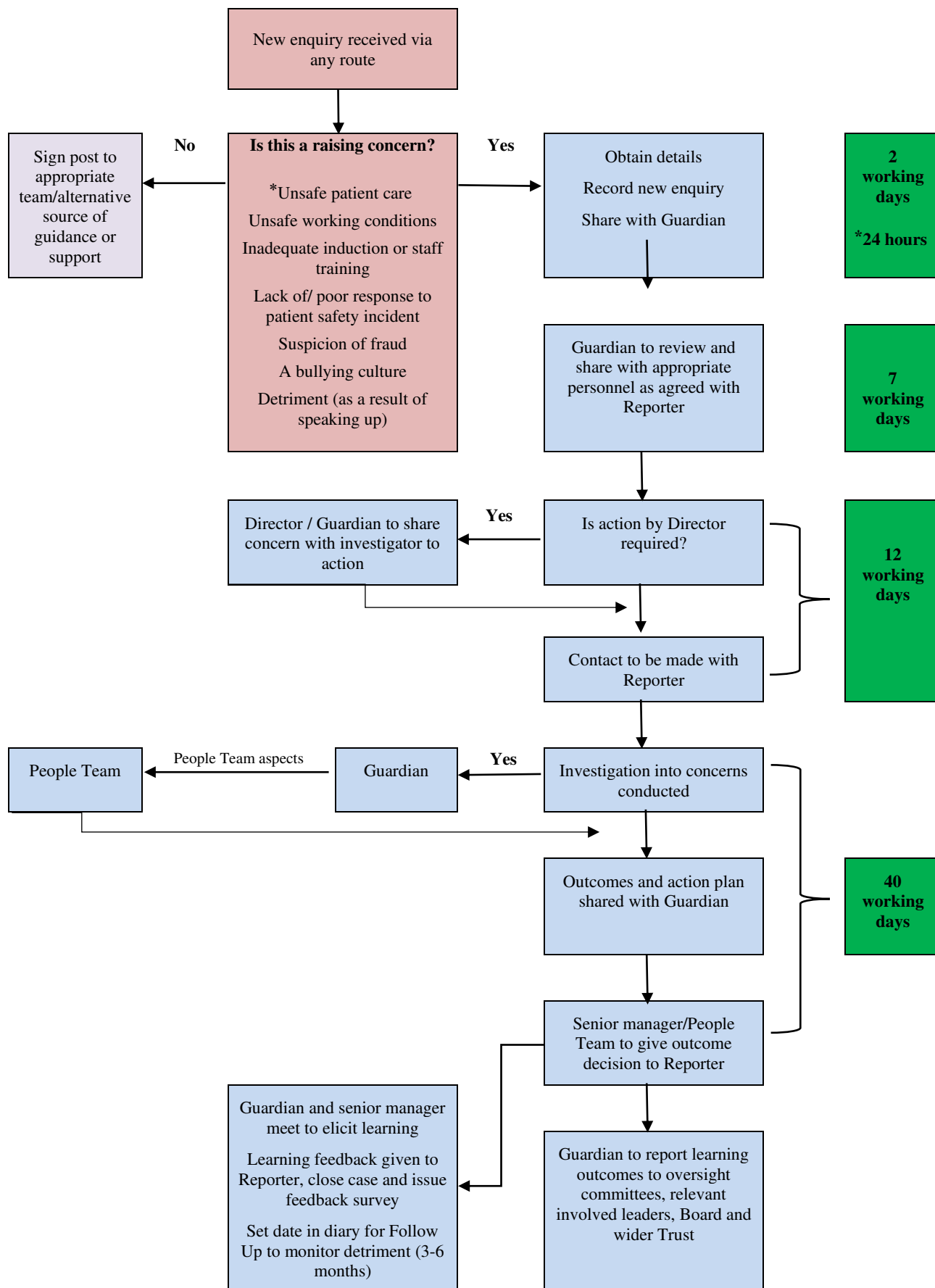
#### **You will:**

- Act professionally
- Be prepared to provide the information and facts you possess and answer questions to the best of your ability (not vague assertions)
- Express yourself as calmly as possible
- Explain what your expected outcome is
- Raise the matter according to this policy
- The Freedom to Speak up process is for the benefit of all of us in Team BSMHFT and the patients we care for. We assume the process will be used in good faith
- Understand that the investigation will find out the facts independently
- Accept that the investigation will be reasonable and fair

- Provide feedback to the FTSU Guardian on your experience of raising a concern. You may be sent an electronic feedback form
- Report immediately to the FTSU Guardians or named director any actual or perceived incidents of detriment as a result of speaking up

### **Speak Up again in future if the need arises**

## APPENDIX 6 TIMESCALES FOR THE FREEDOM TO SPEAK UP PROCESS



Note:

Days are calculated as working days.

Periods of time can be extended depending on the complexity of the investigation.

\* Any cases that exceed 3 months will be reported to the Executives as an exception by the FTSU Guardian.

Advice and support can be sought at any stage from the helplines identified in the policy, The People Team or from Trade Union Representatives.

## APPENDIX 7

### Public Interest Disclosure Act 1998 (PIDA)

Employees who raise a concern about possible malpractice are protected in two ways.

Firstly, statutory protection against victimisation is provided by the Public Interest Disclosure

Act 1998 (PIDA). PIDA covers trainees, agency staff, contractors, home workers and every professional in the NHS.

The PIDA encourages people to raise concerns about malpractice in the workplace, and requires the Trust to respond by addressing the message, not acting against the messenger. It does this by preventing an employer (the Trust) taking disciplinary action against, or victimising, an employee who genuinely raises a concern.

It provides protection for a disclosure made in good faith to a manager or employer or outside bodies where the whistle-blower has a reasonable belief that the alleged malpractice has occurred, is occurring or is likely to occur.

It is imperative that users of this policy understand that the commencement of an investigation does not presume guilt.

## APPENDIX 8

### Contact List

The list below is not exhaustive but indicates colleagues in the organisation who are able to give advice and guidance when concerns are raised.

(Please note – not all names of individuals are listed – please refer to Trust directory)

Role	Name	Contact
<b>Freedom To Speak up Guardians</b>	Emma Randle Lucy Thomas	<a href="mailto:bsmhft.speakup@nhs.net">bsmhft.speakup@nhs.net</a>
<b>Freedom to Speak up Champions</b> (Coming soon)		
<b>Executive Director of Quality and Safety (Chief Nurse)*</b>	Sarah Bloomfield	<a href="mailto:s.bloomfield4@nhs.direct">s.bloomfield4@nhs.direct</a>
<b>Deputy Director of People and Organisational Development</b>	Byron Currie	<a href="mailto:byron.currie@nhs.net">byron.currie@nhs.net</a>
<b>Non-Executive Director (s)*</b>	Phillip Gayle	<a href="mailto:p.gayle@nhs.net">p.gayle@nhs.net</a>
<b>The People Team</b>		<a href="mailto:bsmhft.hrsupport@nhs.net">bsmhft.hrsupport@nhs.net</a>
<b>Staff Side Representatives</b>		Refer to Connect pages
<b>Inclusion Advisers</b>		<a href="mailto:bsmhft.hrsupport@nhs.net">bsmhft.hrsupport@nhs.net</a>

\* With portfolio oversight for Freedom to Speak up

## APPENDIX 9 DETRIMENT

Detriment can be described as any treatment which is disadvantageous and/or demeaning and may include being ostracised, given unfavourable shifts, being overlooked for promotion, or moved from a team. We know from the data published by the National Guardians Office, that a small minority of staff feel that they experience detriment as a result of speaking up. Speaking up should not be at the expense of careers, friendships or well-being. Those that experience detriment or hear of it happening to others may be hesitant in speaking up in the future. This damages the speaking up culture in an organisation and can also compromise patient or public safety.

1. Refer to the national guidance on recording and reporting data March 2020: [Recording Cases and Reporting Data \(nationalguardian.org.uk\)](https://nationalguardian.org.uk)

This document includes a broad definition of 'detriment' based on ACAS guidance. If there are any specific aspects of this guidance that are unclear, please refer back to the National Guardian Office (NGO) and request an on line meeting by emailing via: [enquiries@nationalguardianoffice.org.uk](mailto:enquiries@nationalguardianoffice.org.uk). More information from ACAS can be found [HERE](#)

2. The wording below is taken from the Ask Me Anything webinar with Dr Henrietta Hughes on 19th May 2020:

*"If a worker reports that they feel as though they are suffering detriment as a result of speaking up when they raise a concern the case should be recorded as involving detriment. A case should also be recorded as involving detriment if the FTSU guardian believes that this is the case according to our guidance, even if the person speaking up does not mention this. As this is a data point that is recorded when a case is raised, and the definition accounts for subjective feelings about detriment, unless a mistake has been made, this should not be altered later on"*

3. NHS staff who have spoken up have reported a variety of ways they were disadvantageously treated following this. Some of these common themes are illustrated below in the fourth annual survey of the Freedom to Speak Up Guardian network: [Annual Report 2020 - National Guardian's Office](#)
  - ***Being bullied, left out and treated negatively*** by their team, line managers, middle managers and senior managers. Poor treatment included being assigned 'horrible jobs' being offered less shifts/poorer options on shift rotas and being denied annual leave requests.
  - ***Being overlooked or denied access for promotion or training opportunities. Being perceived as a 'troublemaker' after speaking up***
  - ***Being told they were wrong*** to go to their FTSU Guardian
  - ***Resigning and leaving the organisation*** due to their treatment following speaking up

Please note the examples above are not exhaustive.

### 4. Guidance on how to manage detriment cases

- 4.1 There are many examples of detriment and these can range from outright bullying and harassing behaviours to more subtle examples of disadvantageous behaviour such as being refused a bank shift with no clear rationale. Any perceived or actual examples of disadvantageous behaviour should be formally escalated through the Dignity at Work route.
- 4.2 If an individual suffers in terms of their confidence, anxiety, mental health or increase in work related stress a complaint through the Dignity At Work route may not be the best approach as it may lead to further anxiety. In such cases the Trust support mechanisms should be offered to the individual for example counselling, mediation / facilitated conversations, psychological support, Spiritual Care, employee assistance, Occupational Health, mentoring, coaching or support from a Trade Union and or The People Team.

- 4.3 In all cases the Lead Executive for Freedom to Speak Up should be informed and a “Decision Making Group” (DMG) of all appropriate staff managing the case should be held to form agreement on how to move forward.
- 4.4 Upheld cases will be subject to the Trust’s Disciplinary Policy

## **5. Speaking up Support Scheme**

- 5.1 NHS England has a new [NHS England » Speaking Up support scheme](#). A redesign of the former Whistleblowers’ Support Scheme, it provides a range of support for NHS workers who have experienced challenges in moving forward with their professional or personal lives following a formal speak up process.
- 5.2 The free structured online programme includes health and wellbeing and psychological support, career coaching and personal development workshops.
- 5.3 This scheme can be considered if anyone has spoken up in team BSMHFT and may benefit from the scheme. Further information can be found here [further information](#) or alternatively email [england.speakingupscheme@nhs.net](mailto:england.speakingupscheme@nhs.net)