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**Freedom to Speak Up Policy**

**December 2023**

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 **The on-line version is the only version that is maintained. Any printed copies should, therefore, be viewed as ‘uncontrolled’ and as such may not necessarily contain the latest updates and amendments.**

**AMENDMENTS**

Amendments to the policy may be issued from time to time. A new amendment history will be issued with each change.

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# Introduction

1.1. The Humber and North Yorkshire Integrated Care Board (HNYICB) welcomes speaking up and will listen. By speaking up at work, you will be playing a vital role in helping us to keep improving services for all patients and service users.

1.2. The NHS People Promise commits to ensuring that “we each have a voice that counts, that we all feel safe and confident to speak up and take the time to really listen to understand the hopes and fears that lie behind the words.”

1.3.This policy recognises that all of us, at one time or another, has concerns about what is happening at work. You can speak up about anything that gets in the way of patient care or affects your working life. That could be something which doesn’t feel right to you, for example, a way of working or a process that isn’t being followed; unsafe working conditions; you feel you are being discriminated against; or you feel the behaviours of others is affecting your wellbeing, or that of your colleagues or patients/ service users. Speaking up is about all of these things.

1.4. Speaking up, therefore, captures a range of issues, some of which may be appropriate for other existing processes, for example, Human Resources, or patient safety/ quality. As an organisation, we will listen and work with you to identify the most appropriate way of responding to the issue you raise.

1.5. Although the HNYICB do not directly deliver care to patients, generally, any concerns at any of our partner organisations that are believed to be causing harm to patients can also be reported. These could include unsafe patient care or lack of, or poor response to a reported patient safety incident.

1.6. The HNYICB recognise that your speaking up provides the opportunity for improvement that we might not otherwise know about. The HNYICB are working towards creating an open, restorative and just culture for its staff, meaning that any action of speaking up will be listened to safely and respectfully.

**If in doubt – raise it**

**Speak up – we will listen**

# Purpose

2.1. This policy reflects the national standard policy published by NHS England in 2022 with the overarching purpose being to ensure that all matters raised are captured and considered appropriately.

2.2. The policy aims to:

* Encourage employees to feel confident in raising serious concerns regarding the practice of the HNYICB.
* Provide avenues for employees to raise those concerns and receive feedback on any action taken.
* Ensure that employees receive a response to their concerns.
* Reassure employees that they will be protected from possible reprisals, subsequent discrimination, victimisation or disadvantage if they have a reasonable belief that they are making the disclosure in the public interest.

# Definition/ Explanation of Terms

3.1. Although not all are directly referenced in this policy, the following definitions are important to consider in the broader context of it:

3.2. Freedom to Speak Up

 Freedom to Speak Up is the definition used to describe the process and arrangements in place within the NHS for staff to be able to raise concerns, safely. Freedom to Speak up is also about encouraging a positive culture where people feel they can speak up and their voices will be heard, and their suggestions acted upon.

 As detailed in section 1.3, raising a Freedom to Speak Up concern can be about anything that gets in the way of patient care or affects your working life. That could be something which doesn’t feel right to you, for example, a way of working or a process that isn’t being followed; unsafe working conditions; you feel you are being discriminated against; or you feel the behaviours of others is affecting your wellbeing, or that of your colleagues or patients/ service users. Speaking up is about all of these things.

3.3 Whistleblower

 A whistleblower is a worker who reports certain types of wrongdoing. This will usually be something that has been witnessed at work, although not always. The wrongdoing disclosed must be in the public interest. This means it must affect others, for example the general public.

 As a whistleblower, the individual is protected by law. They should not be treated unfairly because they have ‘blown the whistle.’ A concern can be raised at any time, about an incident that happened in the past, is happening now, or is believed could happen in the near future.

3.4. Protected disclosure

To be protected by whistleblowing law, a disclosure must be a qualifying disclosure. This means the worker making the disclosure believes that doing so is in the public interest and it relates to one of the following categories:

* Criminal offence
* Breach of a legal obligation
* Miscarriage of justice
* Endangering health and safety
* Damage to the environment
* Covering up wrongdoing in any of these categories

Workers have the right not to be subjected to any detriment as a consequence of making a disclosure. To qualify for protection when making a disclosure to a prescribed person, workers must have a reasonable belief that the matter falls within the prescribed person’s remit and that the information disclosed is substantially true. Meeting these criteria is referred to as making a protected disclosure.

3.5. Grievance

Personal grievances (for example, bullying, harassment, discrimination) are not covered by this policy or, whistleblowing law, unless it is in the public interest.

A grievance, by definition, is a formal complaint that is raised by an employee towards an employer within the workplace. A grievance can be triggered by any real or perceived problem by an employee’s experiences during employment, such as discrimination, harassment, unfair treatment or violation of work policy or contract terms. A grievance aims to correct the situation and protect the employees’ rights.

3.6. Discrimination

There are several types of discrimination defined under the Equality Act 2010. The most straightforward is Direct Discrimination. This means treating someone less favourably than someone else because of age, disability, gender reassignment, marital status, race, religion or belief, sex, sexual orientation or pregnancy and maternity. Indirect discrimination is when you treat someone the same as everyone else, but your treatment of the person has a negative effect on them because of their protected characteristic.

Further information about different types of discrimination is included in the ACAS booklet Equality-and- discrimination-understand-the-basics.

3.7. Harassment

In general terms is unwanted conduct affecting the dignity of employees in the workplace. It may be related to age, sex, race, disability, religion, sexual orientation, nationality or any personal characteristic of the individual, and may be persistent or an isolated incident. The key is that the actions or comments are viewed as demeaning and unacceptable to the recipient.

All employees are responsible for their own behaviour and should act at all times in a professional manner in line with the ICB values. Please note that people’s behaviour in the workplace can sometimes vary on a daily basis. This policy is not intended to deal with occasional lapses of good manners unless a pattern of behaviour emerges which is perceived to be offensive or intimidating.

3.8. Bullying

Is characterised as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means intended to undermine, humiliate, denigrate or injure the recipient. Making the individual feel upset, threatened, humiliated or vulnerable and behaviour which undermines self-confidence and may cause suffering and stress. For practical purposes those making a complaint usually define what they mean by bullying or harassment as something that has happened to them that is unwelcome, unwarranted and causes a detrimental effect. If employees complain they are being bullied or harassed, then they have a grievance which must be dealt with regardless of whether or not their complaint accords with a standard definition.

# Scope of the Policy

4.1. This policy applies to all ICB employees, those on temporary or honorary contracts, Provider Collaborative, Members of the Integrated Care Partnership (ICP), members of its committees and sub-committees, Non-executive Directors, any staff seconded to the ICB and contract and agency staff. Any reference to staff or individuals applies to all the aforementioned.

4.2. This policy covers all staff employed by the ICB while they are at work either within ICB premises or at any other location in pursuance of their normal work activities.

4.3. Staff working in ICB premises who are not ICB employees must follow the policy of their employer, however the results of risk assessments carried out in ICB premises that they work in must be shared with them and their risk assessments shared with ICB staff.

4.4. Where staff are not ICB employees, but they have concerns about patient safety and quality matters which relate to an organisation operating within the ICB, these issues can still be raised through this policy and through the supporting procedures available. Employees should contact the ICB using hnyicb.ftsu@nhs.net

# Duties/ Accountabilities and Responsibilities

5.1. **Executive Director Clinical and Care Professionals**

 The Executive Director of Clinical and Care Professionals holds professional accountability for this policy and is the ICB's designated Freedom to Speak Up Guardian. The Executive Director of Clinical and Care Professionals will make her or himself available to discuss any concerns but will also be supported to investigate any concerns.

5.2. **Executive Director of Corporate Affairs**

The Executive Director of Corporate Affairs will have an overview of the issues involved and will keep the ICB informed of the progress of any investigation as necessary. The Executive Director of Corporate Affairs will also have overall responsibility for the maintenance of this policy and any associated procedures.

5.3. **Deputy Director of Legal and Regulatory Functions**

 The Deputy Director of Legal and Regulatory Functions will be responsible for triaging referrals that are made. This will require close working with the Freedom to Speak Up Guardian who will complete the referral form at Schedule 1, should there be a referral made verbally.

Any referrals that come into the Freedom to Speak Up inbox will be reviewed; where necessary anonymised; and triaged to the relevant Place by the Deputy Director of Legal and Regulatory Functions.

Where any concerns raised relate to the Deputy Director of Legal and Regulatory Functions; or in the event of that individual being absent for a prolonged period of time, the Executive Director of Corporate Affairs will perform the functions of this post.

5.4. **Executive Director of People**

The ICB Director of People will be responsible for ensuring that where concerns are triaged as HR related, they have appropriate policies and procedures in place to support.

5.5. **Director of Nursing at Place**

The Director of Nursing in Place will be the first point of contact following a referral to the Freedom to Speak Up Guardian. The Director of Nursing in Place will either investigate the matter themselves or will identify an appropriate manager to investigate the concerns.

 Set out which groups / committees are responsible for the approval of this policy document.

5.6. **Non-executive Director Sponsor**

The Non-executive Director for Freedom to Speak Up can be approached with any concerns in the same way as the Executive Director Clinical and Care Professionals. Where the Non-executive Director is approached, they will liaise with the Deputy Director of Legal and Regulatory Functions to ensure that the matter is triaged in accordance with this policy.

5.7. **Managers**

Concerns will normally be reported to an employee’s line manager. The manager will be responsible for passing the details to the workforce team, or in cases of fraud to the Local Counter Fraud Specialist or Chief Finance Officer unless it is clear that the concerns are groundless. The Manager will also be responsible for seeking advice on whether concerns raised are covered under this policies or processes such as HR or patient safety/ quality.

5.8. **All staff**

All staff are responsible for being aware of this policy and for raising any concerns they have using it.

5.9. **Responsibilities for approval**

The ICB Board will review any reports submitted to it in respect of this policy and consider any necessary recommendation. These reports can be anonymised and/ or withheld from the public if required.

# Policy Document Requirements

6.1. **Policy Statement (s)**

 **6.1.1**

The ICB is committed to the principle of public accountability. The ICB will investigate genuine and reasonable concerns expressed by employees relating to malpractice within the ICB and will ensure that employees are not discriminated against or suffer a detriment as a result of making such a disclosure, as laid down by the Public Interest Disclosure Act 1998 (PIDA).

**6.1.2**

This policy incorporates the requirements of the Public Interest Disclosure Act 1998 (PIDA) and the Bribery Act 2010. Where instances of fraud are identified these should be reported immediately to the Chief Finance Officer or the Local Counter Fraud Specialist who, where appropriate, will arrange for the matter to be referred to the police for investigation and notified to NHS Protect. Please refer to the Local Anti- Fraud, Bribery and Corruption Policy. One of the basic principles of public sector organisations is the proper use of public funds and this would include the assets bought through public funds. It is, therefore, important that all ICB staff are aware of the rules against any acts involving bribery, dishonesty, corruption or damage to ICB property. For simplicity all such offences are hereafter referred to as “fraud”.

**6.1.3.**

Where safeguarding concerns are raised these should be reported immediately to the responsible safeguarding officer in line with the Safeguarding Policies published on legacy CCG and ICB websites.

**6.1.4.**

The three fundamental public service values underpinning the NHS and all public sector work, specified by the NHS Code of Conduct for Boards published by the NHS Executive in April 1994, are Accountability, Probity and Openness. All those who work in the public sector should be aware of, and act in accordance with, these values. Acting with honesty and integrity forms a cornerstone of the public sector values.

**6.1.5.**

The ICB is a public sector body, and its employees are required to be honest and impartial in the conduct of their business. All employees of the ICB should be aware of the Business Conduct Policy, published on the CCG legacy intranet and ICB’s intranet. The ICB is absolutely committed to maintaining an honest, open and well-intentioned atmosphere within the ICB.

**6.1.6** All employees have a duty to report instances where they witness others failing to demonstrate the expected levels of integrity in their working life. This will include bribery, fraud, corruption or bringing the ICB, the NHS or wider public service into disrepute.

6.2. **Policy Process**

**6.2.1 Who can speak up?**

Anyone who works in NHS healthcare, including pharmacy, optometry and dentistry. This encompasses any healthcare professionals, non-clinical workers, receptionists, directors, managers, contractors, volunteers, students, trainees, junior doctors, locum, bank and agency workers, and former workers.

**6.2.2.** **Who can I speak up to?**

* **Speaking up internally**

Most speaking up happens through conversations with supervisors and line managers where challenges are raised and resolved quickly. We strive for a culture where that is normal, everyday practice and encourage you to explore this option – it may well be the easiest and simplest way of resolving matters.

However, you have other options in terms of who you can speak up to, depending on what feels most appropriate to you (please also see Appendix 1).

* Senior manager, partner or director with responsibility for the subject matter you are speaking up about.
* The quality or patient safety team at Place.
* Local Counter Fraud (LCF) team (where concerns relate to fraud) - via the LCF Specialist, Nikki Cooper, on 07872 988939 or nikki.cooper1@nhs.net or Steve Moss, Head of Anti-Crime Services, on 07717 356707 or steven.moss@nhs.net
* Our HR team – hr.hnyy@nhs.net
* Our Freedom to Speak Up Guardian; Dr Nigel Wells ( nigelwells@nhs.net ), who can support you to speak up if you feel unable to do so by other routes. The guardian will ensure that people who speak up are thanked for doing so, that the issues they raise are responded to, and that the person speaking up receives feedback on the actions taken. You can find out more about the guardian role [here](https://nationalguardian.org.uk/for-guardians/job-description/).
* Our senior lead responsible for Freedom to Speak Up; Abigail Combes ( abigail.combes@nhs.net ), who can provide senior support for our speaking-up guardian and are responsible for reviewing the effectiveness of our FTSU arrangements.
* Our non-executive director responsible for Freedom to Speak Up: Mark Chamberlain ( mark.chamberlain15@nhs.net ) - this role is specific to organisations with boards and can provide more independent support for the guardian; provide a fresh pair of eyes to ensure that investigations are conducted with rigor; and help escalate issues, where needed.
	+ **Speaking up externally**

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

* The Care Quality Commission (CQC) for quality and safety concerns about the services it regulates.
* NHSE
* NHS Counter Fraud Authority for concerns about fraud and corruption, using their online reporting form or calling their freephone line 0800 028 4060.
* If you would like to speak up about the conduct of a member of staff, you can do this by contacting the relevant professional body such as the General Medical Council, Nursing and Midwifery Council, Health & Care Professions Council, General Dental Council, General Optical Council or General Pharmaceutical Council.

6.3. **How should I speak up?**

You can speak up to any of your ICB colleagues listed above in person, by phone or in writing (including email).

6.3.1. **Confidentiality**

The most important aspect of your speaking up is the information you can provide, not your identity. You have a choice about how you speak up:

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

In all circumstances, please be ready to explain as fully as you can the information and circumstances that prompted you to speak up.

 6.4. **Advice and support**

You can speak up to any of your ICB colleagues listed above in person, by phone or in writing (including email).

You can also find out about the local support available to you via the HNYICB Employee Assistance Programme. CiC is a free, confidential service to support the wellbeing of all staff within the ICB.

24/7 telephone access via a free-phone number to qualified counsellors - 0800 085 1376

For any further information or support, please email hny.wellbeing@nhs.net

NHS England has a [Speak Up Support Scheme](https://www.england.nhs.uk/ourwork/whistleblowing/whistleblowers-support-scheme/) that you can apply to for support. You can also contact the following organisations:

• [Speak Up Direct](https://speakup.direct/) provides free, independent, confidential advice on the speaking up process.

• The charity [Protect](https://protect-advice.org.uk/) provides confidential and legal advice on speaking up.

• The [Trades Union Congress](https://www.tuc.org.uk/joinunion) provides information on how to join a trade union.

• [The Law Society](https://www.lawsociety.org.uk/for-the-public/) may be able to point you to other sources of advice and support.

• [The Advisory, Conciliation and Arbitration Service](https://www.acas.org.uk/) gives advice and assistance, including on early conciliation regarding employment disputes.

If you do not feel comfortable / that it is appropriate to raise the issue with anybody within the ICB, then you can contact the NHS Whistleblowing Helpline on 08000 724 725 <http://wbhelpline.org.uk/>

6.5. **What will we do?**

The matter you are speaking up about may be best considered under a specific existing policy or process, for example, our process for dealing with bullying and harassment. If so, we will discuss that with you and signpost you accordingly. If you speak up about something that does not fall into a different policy or process, this policy ensures that the matter is still addressed.

**6.5.1. Resolution and Investigation**

We support our managers/supervisors to listen to the issue you raise and take action to resolve it wherever possible. In most cases, it’s important that this opportunity is fully explored, which may be with facilitated conversations and/or mediation.

Where an investigation is needed, this will be objective and conducted by someone who is suitably independent (this might be someone outside your organisation or from a different part of the organisation). It will reach a conclusion within a reasonable timescale (which we will notify you of), and a report will be produced that identifies any issues to prevent problems recurring.

Any employment issues that have implications for you or your capability/ conduct, that are identified during the investigation, will be considered separately.

**6.5.2. Communicating with you**

We will treat you with respect at all times and will thank you for speaking up. We will discuss the issues with you to ensure we understand exactly what you are worried about. If we decide to investigate, we will tell you how long we expect the investigation to take and agree with you how to keep you up to date with its progress. Wherever possible, we will share the full investigation report with you (while respecting the confidentiality of others and recognising that some matters may be strictly confidential; as such it may be that we cannot even share the outcome with you).

**6.5.3. How we learn from your speaking up**

We want speaking up to improve the services we provide for patients and the environment our staff work in. Where it identifies improvements that can be made, we will ensure necessary changes are made, and are working effectively. Lessons will be shared with teams across the organisation, or more widely, as appropriate.

**6.5.4. Review**

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

**6.5.5. Senior Leaders’ oversight**

The Board will receive a report at least annually providing a thematic overview of speaking up by our staff to our FTSU Guardian(s).

**6.5.6. What will happen when I speak up?**

**We will:**

Thank you for speaking up

\*

Help you identify the options for resolution

\*

Signpost you to health and wellbeing support

\*

Confirm what information you have provided consent to share

\*

Support you with any further next steps and keep in touch with you

**Steps towards resolution:**

Engagement with relevant senior managers (where appropriate)

\*

Referral to HR process

\*

Referral to patient safety process

\*

Other type of appropriate investigation, mediation etc.

**Outcomes**

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

**Escalation:**

If resolution has not been achieved, or you are not satisfied with the outcome, you can escalate the matter to the senior lead for FTSU or the non – executive lead for FTSU

\*

Alternatively, if you think there are good enough reasons not to use the internal routes, speak up to an external body such as CQC or NHS England.

**6.5.7.Making a protected disclosure**

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

# Training

7.1. The policy will be brought to the attention of all new employees as part of the induction process. Further advice and guidance is available from the Deputy Director of Legal and Regulatory Functions.

# Monitoring Compliance

8.1. Our senior lead responsible for Freedom to Speak Up is responsible for reviewing the effectiveness of our FTSU arrangements.

8.2. The implementation of this policy will be audited at appropriate intervals and reported to the ICB Governing Body.

8.3. The Board will receive a report at least annually providing a thematic overview of speaking up by our staff to our FTSU Guardian(s). No personal or identifiable information will be included in this report, to protect those raising concerns.

# Arrangements for Review

9.1. This policy will be reviewed biennially. Earlier review may be required in response to exceptional circumstances, organisational change or relevant changes in legislation / guidance.

# Dissemination

10.1. This policy will be disseminated to all staff through the internal communications methods and will be made available on the HNYICB internet.

# Associated Documentation

* HNYICB Code of Conduct and Behaviours Policy
* HNYICB Conflict of interest Policy (including Gifts, Hospitality and Sponsorship)
* HNYICB Health & Safety Policy
* HNYICB Risk Management Policy
* HNYICB Serious Incident and Incident Policy
* HNYICB Local Counter Fraud Policy
* HNYICB Dignity at Work Policy
* HNYICB HR Grievance Policy
* HNYICB HR Disciplinary Policy
* HNYICB HR Equality & Diversity Policy

# References

* Freedom to speak up : raising concerns (whistleblowing) policy for the NHS – April 2016.
* Public Interest Disclosure Act 1998 (PIDA)
* Bribery Act 2010
* NHS Code of Conduct for Boards - April 1994

# Appendices

Appendix 1 – Standard Operating Procedure

Appendix 2 - Anti-Fraud, Bribery and Corruption

# Impact Assessments

## Equality

NHS Humber and North Yorkshire ICB is committed to creating an environment where everyone is treated equitably and the potential for discrimination is identified and mitigated. It aims to design and implement services, policies and measures that meet the diverse needs of our service, population and workforce, ensuring that none are placed at a disadvantage over others.

An impact assessment has been completed and has identified no risks or areas of concern from the implementation of this policy.

## Bribery Act 2010

Due consideration has been given to the Bribery Act 2010 in the review of this policy document, further details can be found in appendix 2.

## General Data Protection Regulations (GDPR)

The ICB is committed to ensuring that all personal information is managed in accordance with current data protection legislation, professional codes of practice and records management and confidentiality guidance. More detailed information can be found in the Data Protection & Confidentiality Policy and related policies and procedures.



**Appendix 2**

**Anti-Fraud, Bribery and Corruption**

The ICB has a responsibility to ensure that all staff are made aware of their duties and responsibilities arising from the Bribery Act 2010.  Under the Bribery Act 2010 there are four criminal offences:

•           Bribing or offering to bribe another person (Section 1)

•           Requesting, agreeing to receive or accepting a bribe (Section 2);

•           Bribing, or offering to bribe, a foreign public official (Section 6);

•           Failing to prevent bribery (Section 7).

These offences can be committed directly or by and through a third person and, in many cases, it does not matter whether the person knows or believes that the performance of the function or activity is improper.

It should be noted that there need not be any actual giving and receiving for financial or other advantage to be gained, to commit an offence.

All individuals should be aware that in committing an act of bribery they may be subject to a penalty of up to 10 years imprisonment, an unlimited fine, or both.  They may also expose the organisation to a conviction punishable with an unlimited fine because the organisation may be liable where a person associated with it commits an act of bribery.

Individuals should also be aware that a breach of this Act renders them liable to disciplinary action by the ICB, whether or not the breach leads to prosecution.  Where a material breach is found to have occurred, the likely sanction will be loss of employment and pension rights.

To raise any suspicions of bribery and/or corruption please contact the Executive Director of Finance and Investment.  Staff may also contact the Local Counter Fraud Specialist (LCFS) at – Audit Yorkshire, email:  nikki.cooper1@nhs.net  or mobile 07872 988939.

The LCFS or Executive Director of Finance and Investment should be the contact for any suspicions of fraud. The LCFS will inform the Executive Director of Finance and Investment if the suspicion seems well founded and will conduct a thorough investigation.  Concerns may also be discussed with the Executive Director of Finance and Investment or the Audit Committee Chair.

If staff prefer, they may call the NHS Counter Fraud reporting line on 0800 028 40 60 between 8am-6pm Monday-Friday or report online at [www.reportnhsfraud.nhs.uk](http://www.reportnhsfraud.nhs.uk).  This would be the suggested contact if there is a concern that the LCFS or the Executive Director of Finance and Investment themselves may be implicated in suspected fraud, bribery or corruption.